



**GOVERNMENT OF GIBRALTAR**  
**PRESS OFFICE**  
No.6 Convent Place  
Gibraltar  
Tel: 70071; Fax: 74524

**PRESS RELEASE**

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Attached is the full text of the Chief Minister's address at the United Nations Committee of 24 on 7 June 2005.

Mr Chairman,

I am grateful to the Special Committee for once again agreeing to hear me as Chief Minister of the elected Government of Gibraltar and thus the voice of its colonial people. You have 16 Non Self Governing Territories left on your list. Gibraltar is one of them because it is a colony, because its people are a colonial people and because the Decolonisation Declaration (General Assembly (Resolution 1514(XXV)) applies to it. That is your mandate in the case of Gibraltar and that is the Sacred Trust that you are charged to uphold.

Mr Chairman, Gibraltar and its Government are friends of this Committee and its existence, and a supporter of its worthy work. With these credentials, I would respectfully invite the Committee to ask itself whether it believes that it is discharging its Sacred Trust in our case.

Every year you are generous with your time and indulgence to hear us – but you never reflect anything of what we say, believe or ask in your actions. Our arguments are heard, and then apparently ignored, without answer or action, victim to the seemingly overriding and paralysing effect of the words “dispute about Sovereignty”. It is as if a dispute about sovereignty stops, suspends, displaces or cancels everything else, even, apparently, the very applicability of fundamental human rights. Yet there is no basis for this either in your mandate or in the applicable General Assembly Resolutions. How could there be? This Committee is not concerned with Sovereignty disputes and has no mandate in such disputes. Despite that the General Assembly has placed Gibraltar (and two other territories affected by Sovereignty disputes) on the list of Non Self Governing Territories to which the Declaration applies and whose decolonisation you are charged to oversee. So it is clear that your action should not genuflect to the existence of the sovereignty dispute. Indeed, Mr Chairman, there seem to be occasions on which the protection of the interests of Sovereignty claimants seem to receive priority over assisting the colonial people of the Territory itself to achieve de-colonisation and to establish its rights in that regard. Mr Chairman, please allow me to illustrate these frank remarks.

This Special Committee has rightly resolved to be active. Mr Chairman, in your own address to the recent Decolonisation Seminar in St Vincent and the Grenadines you said: “It is not my intention – nor, I am sure, the intention of my colleagues on the Special Committee – to be party to a process of inaction, with the adoption of resolutions as our only goal”. I applaud that sentiment and sense of purpose. But, Mr Chairman, what does that mean in the case of Gibraltar, that represents one sixteenth of your case load?

The first of what I will call the “tools of activity” identified by the Committee for its work in this Decade is “the development of work programmes for individual Territories in which the participation of representatives of the Non Self Governing Territories should be ensured.” Yet at the request of Spain and/or Argentina, The Committee allows the Conclusions and Recommendations of the Regional Seminars to be qualified in this regard by the addition of the words “in which there is no dispute over sovereignty”. Why? What part of this Committees’ “sacred trust” is that designed to promote?

Indeed, it is incompatible with your mandate from the General Assembly contained in General Assembly Resolution 46/181 of 19 December 1991, which requests you to ensure the participation of the peoples of the Non Self Governing Territories in the implementation of your plan of action, without exception and certainly without any qualification that excludes the people of territories where there is a dispute about Sovereignty.

The second “tool of activity” used by the Special Committee is a visiting Mission by the Special Committee to a Territory. But the Committee has rejected my repeated invitations over many years to visit Gibraltar, and it has done so because of the existence of a sovereignty dispute.

The third “tool of activity” available to the Special Committee in the case of Gibraltar is its ability to recommend to the Fourth Committee that it refers the principles applicable to our de-colonisation to the International Court of Justice for an advisory opinion. We have repeatedly asked for this because others seek to deny us our right to self-determination on the basis of false assertions of international law principles and doctrines which they refuse to see tested in the International Court of Justice. This too the Special Committee declines to do because of the existence of a Sovereignty dispute.

And so, Mr Chairman, I regret to say that, in the case of Gibraltar the Special Committee’s inactivity is self-imposed, despite the encouragement, pleas and arguments of the colonial people of the Territory.

Mr Chairman, for years it has been asserted at these United Nations that “In the process of decolonisation there is no alternative to the principle of self-determination”. (see, for example the Conclusions & Recommendations of the Fiji Seminar in 2002) which concluded precisely that. At the recent St Vincent’s seminar (and in the Papua New Guinea Seminar in 2004) these words were qualified by – yes, you guessed it – the words “and where there are no disputes over sovereignty”, so that it now reads “in the process of decolonisation, and where there are no disputes over sovereignty, there is no alternative to the principle of self-determination...”.

So, Mr Chairman, what is it about the mere existence of disputes over sovereignty that so mesmerises the Special Committee? Apparently, because of the mere existence of a dispute over sovereignty there can be no programme of work for Gibraltar with our participation or at all it seems, no visit to Gibraltar by the Special Committee, no reference of our case to the International Courts of Justice, indeed, now apparently no right to self-determination at all!

Mr Chairman, is it really the position of this Committee that the mere existence of a dispute about Sovereignty renders this Committee impotent, extinguishes the rights to self determination of the colonial people of your listed Non Self Governing Territory, and suspends the “Sacred Trust?” How can that be the Committee’s position? The right to self-determination of colonial people has been declared to be “a fundamental human right”!

The St Vincents and Papua New Guinea Seminar conclusions were that: “In the process of decolonisation, and where there are no disputes over sovereignty, there is no alternative to the principle of self determination, which is also a fundamental human right!”

Well, if it is a fundamental human right how can it be extinguished by the simple fact that your neighbour claims your sovereignty? What sort of “fundamental human right” is that? Sounds to me more like a superficial right to be enjoyed only where there are no inconvenient, extraneous diplomatic complications. How can this Committee subscribe to the view that the self determination of a colonial people is a “fundamental human right”, unless you happen to be unlucky enough to be the people of a colonial territory the sovereignty of which is claimed by someone else? In that case the so-called “fundamental human right” seems to become no right at all, let alone a fundamental or human one. Fundamental human rights cannot be that fickle. Nor can or should they

be modified, still less eliminated altogether, simply to accommodate the demands of two self interested member states at the drafting stage meetings of a Regional Seminar.

May I add Mr Chairman, that the qualification of the principle that in the process of decolonisation there is no alternative to the principle of self-determination, that is its qualification by excluding Territories where there is a sovereignty dispute, also flies in the face of established international law principles. For example, in the Namibia Case the International Court of Justice said: -

*“...the subsequent development of international law in regard to non-self governing territories, as enshrined in the Charter of the United Nations, made the principle of self-determination applicable to all of them.”*

“All of them” Mr Chairman includes Gibraltar.

The Court also said this: -

*“Even if integration of territory was demanded by an interested state, it could not be had without ascertaining the freely expressed will of the people – the very sine qua non of all decolonisation.”*

This is precisely what I mean when I say that the existence of a sovereignty dispute does not eliminate the self-determination of a colonial people.

And so, Mr Chairman, there is no legal, logical or moral basis to convert one territory's “fundamental human rights” into a non-right (of any sort) simply because there is a dispute about sovereignty. How can it be so? Mr Chairman, in your opening address to the recent St Vincent Seminar you spoke of the Special Committee's “sacred mandate of advancing the self-determination process for peoples of the remaining non-self governing territories”. You also said that “decolonisation is, undeniably, also a function of democracy”. Is it really your intention, Mr Chairman, to deny “a fundamental human right” and “a function of democracy” to the people of Gibraltar in 2005 simply because our neighbour claims a sovereignty that she has not owned for 301 years?

In your address Mr Chairman, you also recalled the escape, not so long ago, of your own and other countries, from what you called “a position of political and constitutional deficiency”, namely colonial status. Mr Chairman, please allow me to ask you this rhetorical question: - if when your small country exercised its right to self-determination, a neighbour that used to have sovereignty of St Lucia 300 years earlier had disputed its sovereignty, would you have thought that the people of St Lucia did not, by virtue of that dispute enjoy the right to self-determination? Would you have believed that St Lucia could therefore be decolonised other than by the application of the principle of self-determination of its people?

[pause]

Mr Chairman, I need to return one more time to this Seminar Conclusion and Recommendation that “in the process of decolonisation, and where there are no disputes over sovereignty, there is no alternative to the principle of self-determination”. That is draft recommendation and conclusion number 11.

Mr Chairman, draft Conclusion & Recommendation number 39 reads as follows:-

*The participants recommended that the Special Committee integrate, to the extent possible, the recommendations of the Canouan Seminar into its relevant*

resolutions on decolonisation as those recommendations are important expressions of the will of the people of the Territories”.

Mr Chairman, can I respectfully ask which representative of which people of which Non Self Governing Territories expressed the will that the principle of self-determination should not apply where there is a sovereignty dispute as stated in Recommendation Number 11? Which such listed Territory expressed the view that the principle that in the process of decolonisation there is no alternative to the principle of self-determination should be subject to an exception in the case of territories where there is a sovereignty dispute? And can I also ask which Non Self Governing Territory expressed the will of its people to be that representatives of Non-Self Governing Territories in which there is a sovereignty dispute should not be allowed to participate in the development of work programmes for their Territory, as stated in Recommendation Number 7?

Mr Chairman, is it not the case that contrary to what Recommendation & Conclusion Number 39 says, neither Recommendation & Conclusion Number 7 or Number 11 expressed by any of the Territories as the will of its people? Is it not the case that these have been inserted, at the drafting stage and behind closed doors, by, or at the request of the representative of Argentina or Spain, and that it is simply a misrepresentation to say that Draft Recommendation Number 7 or 11 are the “important expression of the will of the peoples of the Territories”?

Mr Chairman, it is therefore not possible for the Special Committee to include these recommendation, on that basis, in its relevant decolonisation resolutions as called for by Recommendation & Conclusion Number 39.

Mr Chairman, all this denial of rights is inflicted on the people of Gibraltar under the pretext of the principle that “any attempt aimed at the partial or total disruption of the national unity and territorial integrity of a country is incompatible with the purposes and principles of the Charter of the United Nations.” But, Mr Chairman, can someone please tell me how my exercise of my right to self-determination would violate this principle? Whose national unity and territorial integrity would I now be disrupting? Certainly not that of the Member State Spain whose national unity and territorial integrity has not included Gibraltar since 1704!

It is therefore crystal clear that it is not properly and correctly arguable that territorial integrity is a relevant principle in the process of the decolonisation of Gibraltar. There is only one applicable principle and that is self determination.

And, Mr Chairman, the UN also say this in General Assembly Resolution 2625 (XXV) of 24<sup>th</sup> October 1970, adopting the “Declaration on Principles of International Law concerning friendly relations and Co-operation among states in accordance with the Charter of the United Nations.”

That is a hugely important Resolution because it constitutes the only explicit declaration by the UN on the very question of the interrelationship between the principles of self-determination on the one hand, and territorial integrity on the other.

That Declaration asserts the principle of self-determination and then declares the principle of territorial integrity in its classic expression, and in the terms upon which Spain cites it in the Gibraltar question, namely: -

“any attempt aimed at the partial or total disruption of the national unity and territorial integrity of a State or Country is incompatible with the purposes and principles of the Charter.”

Mr Chairman, Excellencies will be aware that this is the principle which Spain declares to be the one that UN doctrine requires to be applied in the case of the decolonisation of Gibraltar.

But, Mr Chairman, the Declaration adopted in Resolution 2526 (XXV) goes on to make it quite clear that this is not the effect or correct application of the principle of territorial integrity. After setting out the principle of self-determination the Resolution goes on to state the correct interplay between the principles of self-determination and territorial integrity, in the following terms: -

“Nothing in the foregoing paragraphs shall be construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States conducting themselves in compliance with the principle of equal rights and self-determination of peoples as described above and thus possessed of a government representing the whole people belonging to the territory without distinction as to race, creed or colour.”

That, Mr Chairman, Excellencies, is the proper meaning and effect, and proper application, of the principle of territorial integrity in relation to the principle of self-determination! Namely, that the principle of self-determination is not available to the people of part of an existing country to enable them to secede from it!

*“...Any action which would dismember or impair, totally or in part, the territorial integrity and political unity of sovereignty and independent States...possessed of a government representing the whole people belonging to the territory ...”.*

It is beyond rational dispute that Spain and its Government is not a State or Government representing the people of Gibraltar or the territory of Gibraltar and has not been for 300 years! It is not our self-determination now in 2005 that would disrupt Spain's territorial integrity. If anything disrupted it, it was the original act of colonisation in 1704! But that is not covered by the principle of territorial integrity correctly applied. The principle of territorial integrity can only be applied to prevent the dismemberment of a country today. It simply cannot be applied to restore the borders or territory of a country to what it was 300 years ago. Yet this is precisely the use to which Spain seeks to put it – and, to boot, to try and persuade you that, for that reason the colonial people of Gibraltar must be denied self-determination. It is a distortion by misapplication of UN doctrine and principles and of international law. Little wonder then that Spain refuses our invitation to refer the legal principles of the Gibraltar case to the International Court of Justice for an advisory opinion.

**Mr Chairman, I cannot conceive of a more offensive articulation of this erroneous application of the Principle of Territorial Integrity than that attributed in the draft Report to the Distinguished Representative of Argentina at the recent St Vincent's Seminar. He said that decolonisation and self-determination were not synonyms and that self-determination should not be applicable in the case of any partial or total disruption of a country's national unity and territorial integrity. Then, citing the case of the Falkland Islands, he said that self-determination had been ruled out due to the fact that the inhabitants of the Territory could not be distinguished from the occupying power as they were descendants of the population illegally transplanted there by the United Kingdom. This is a truly spectacular and extraordinary statement, which at a stroke illegitimises many of the independent countries which have decolonised by self-determination**

**during the last 70 years or so. Or perhaps he believes that self-determination was exercised by Indians in North America and Canada, Maori in New Zealand, Aborigines in Australia, and so on?**

Nor have I been able to identify the ancestral origins of the distinguished representative of Argentina who made those remarks, but I would bet my last dollar that he was not indigenous Indian. Much more likely that his ancestors were Spanish, the colonisers of Argentina before they exercised the right to self-determination there. Of course, I cannot say whether he would regard his ancestors to have been illegally transported there by Spain or whether they could be distinguished from the occupying power.

And so, Mr Chairman, I would once again, urge the Special Committee to deal with the case of Gibraltar in the manner that we have repeatedly asked as a case of decolonisation by self-determination, and not to disqualify itself from action by virtue of the mere existence of a sovereignty dispute. Sovereignty dispute is something different to and separate from the issue of decolonisation. A sovereignty dispute may of course survive decolonisation, as has indeed happened before, but it cannot prevent it. Solving a sovereignty dispute relating to a Territory is not a means of decolonisation of that Territory, unless this Committee is willing to endorse the view that a transfer of the sovereignty of the Territory from the colonial power to the sovereignty claimant against the wishes of the people of that Territory is an acceptable and valid method of decolonisation in the 21<sup>st</sup> Century.

Mr Chairman, I would now like to report to the Committee on two very important developments that have taken place in relation to Gibraltar since I addressed you last year.

Your Excellencies will be aware that year after year I have been urging this Special Committee and the Fourth Committee to stop endorsing and calling for bilateral negotiations between our colonial power, the UK, and the claimant of the sovereignty of our homeland Spain, aimed at overcoming all the differences between them. Last year, as in previous years, I told you that such bilateral dialogue violates our right to self-determination, and is actually a sham because it is wholly ineffective and incapable of achieving anything.

Last year, as in previous years, I told you that we will never agree to take part in dialogue structured bilaterally between our colonial power and the sovereignty claimant, because such a structure of dialogue intrinsically violates our political rights as a people. Nor will we take part in dialogue in which the UK and Spain can strike political deals, even in principle, about our rights and our future, above our heads, behind our backs or without our agreement.

Last year, as in previous years, I set out to you the policy that we have advocated since 1996, namely, that we would very much value dialogue with Spain, but for us the principle of consent and our right as a people to decide our own future is paramount. No dialogue could be fruitful or possible for us to take part in, whose purpose and structure was inconsistent with these principles. Dialogue, I told you, must be on an open agenda basis. Gibraltar must be able to take part fully, properly and safely. And most importantly, it must not have pre-determined outcomes or objectives. This means that the purpose of the dialogue cannot be to negotiate a total or partial transfer of sovereignty to Spain against our wishes.

Mr Chairman, I am happy to report to the Committee that, on this front at least, there has been a significant breakthrough. In December 2004 a new three-sided forum for

dialogue on Gibraltar separate from the Brussels Process, was established. It was established in the form of a Joint Statement issued by the British Foreign & Commonwealth Office, the Spanish Ministry of Foreign Affairs and the Government of Gibraltar. In this new forum, dialogue will be on an open agenda basis, each of the three parties will have its own separate voice and each will participate on the same basis; and any decisions or agreements reached within the forum must be agreed by all three participants.

I attached a copy of that Joint Statement dated 16<sup>th</sup> December 2004, to the written text of this address, by way of formal information to the Committee.

Mr Chairman, I applaud the decision of the Kingdom of Spain to facilitate the establishment of this new trilateral process of dialogue. I applaud also Spain's declared wish to normalise its relations with Gibraltar and its people, even though what we ultimately want is for Spain to recognise our right as a people to self-determination, and a withdrawal of her claim to the sovereignty of our homeland against our wishes. We take Spain at her word when she declares a wish to improve relations with the people of Gibraltar, but the people of Gibraltar will judge Her by Her actions, not by Her words.

Mr Chairman, good progress has been made in this regard since the new process of trilateral dialogue was established. Even though they were unjustifiable restrictions in the first place, I wish to formally acknowledge here Spain's removal of restrictions on cruise ships sailing directly between Gibraltar and Spanish ports, and also the removal of the ban on Gibraltar-bound civilian air flights diverting, in the event of bad weather, to nearby Spanish Airports. These are welcome first steps. I also acknowledge Spain's move to begin to improve the fluidity of traffic across our land frontier.

Mr Chairman, it is presumably the establishment of this new trilateral forum that explains the disappearance from this year's Seminar's Conclusions & Recommendations, of support for the bilateral process between UK and Spain under the Brussels Process. Recommendation 39 of the Madang Seminar said that the Special Committee should continue to encourage the ongoing negotiations between the Governments of the United Kingdom and Spain within the Brussels Process. The draft Canouan Report contains no such conclusion and recommendation, and I welcome this as the logical consequence of the establishment of the new process, since, in our view the two processes are incompatible with each other and cannot operate in parallel or at the same time. I hope that this will also be reflected in a further modification this year in the annual Consensus Resolution on Gibraltar at the UN.

The Government of Gibraltar will certainly continue to take part in this new process of dialogue, which is not incompatible with our right to self-determination and which is safe. But we will never compromise on our right to freely and democratically decide our own political future in accordance with our right to self-determination.

Finally, Mr Chairman, on 30<sup>th</sup> November 2004 a cross-party delegation from Gibraltar led by me held the first round of formal talks with the United Kingdom Government in relation to the extensive and detailed proposals that we have tabled for our constitutional advancement and modernisation leading to our decolonisation. Recent General Elections in the UK have delayed the programmed second round of Talks, but we will be pressing for it to take place soon.