



**GOVERNMENT OF GIBRALTAR
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On the 30th May 2008 news broke in Gibraltar that the Spanish Ambassador to the UK had written to the Foreign Affairs Committee challenging and purporting to correct the evidence given to the Committee by the Chief Minister in relation to Gibraltar Territorial waters.

The Spanish Ambassador informed the Committee that when the Chief Minister told the Committee that Spain could not deny the existence of territorial waters because she had not entered a reservation to the relevant International Treaty, the Chief Minister had been mistaken, because (he said) Spain had entered “statements” and “declarations”.

It is not the Chief Minister, but the Spanish Ambassador who is mistaken. The Chief Minister has written to the Committee setting out the correct position, and showing why the Ambassador was wrong. A copy of that letter is attached to this Statement.

Spain indeed did not enter a reservation. She made a statement or declaration but (unlike a reservation) a statement or declaration does not modify the legal effect of the treaty in international law.

A summary of the correct position is as follows: -

- (1) The 1958 Convention on the Territorial Seas and Contiguous Zone has been applied to Gibraltar. It provides (Article 1) that the Sovereignty of a State extends beyond its land territory to a belt of sea adjacent to its coast. Spain did not enter any reservation to the above, such as would relieve her of the legal effects of this provision. The Treaty of Utrecht is totally irrelevant to the legal effect of the 1958 Convention.
- (2) Accordingly, British Sovereignty of Gibraltar’s “land territory” entitles it to Sovereignty of “a sea belt adjacent to its coast.” Britain has declared 3 miles.
- (3) The United Nations Law of the Sea Convention of 1982 has been extended to Gibraltar. It provides (Article 3) that every state has the right to establish the breadth of its territorial sea upto a limit not exceeding 12 nautical miles. The 3 miles declared by Britain is thus squarely within the entitlement bestowed by the

Convention. Spain has not entered a reservation to the above, and indeed she was precluded from doing so by the terms of the 1982 Convention (Article 309) itself.

- (4) Spain did make statements and declarations but, Article 310 of the 1982 Convention makes it clear that such statements and declarations cannot exclude or modify the legal effect of the provisions of the Convention in their application to Spain.
- (5) Accordingly, by virtue of these Conventions the UK has a treaty right to territorial waters in Gibraltar not exceeding 12 miles. The UK has declared 3 miles. Spain's statements and declarations have no legal effect in altering this position. Her political assertions to the contrary are thus unsustainable in international law, which is what the Chief Minister said to the Foreign Affairs Committee.

The Chief Minister said: "The above propositions are clear and unchallengeable. It is a pity that, as usual the GSLP/Liberal Opposition rushed out a statement saying that "Spain has now made it clear that Mr Caruana did not know what he was talking about because Spain had actually entered a reservation." The GSLP/Liberals also said that Spain "has exploited the way in which Mr Caruana, expressed himself." It is deeply regrettable that the Opposition always rushes to agree with others (whatever the implications for Gibraltar) when it thinks that by doing so it can harm the Government politically."

Enc. Letter dated 1st July 2008 from Chief Minister to Chairman of Foreign Affairs Committee of the House of Commons.