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Attached is the full text of the Chief Minister's address at the United Nations Fourth Committee on 7<sup>th</sup> October 2009.

**ADDRESS TO THE UNITED NATIONS FOURTH COMMITTEE  
BY THE HON. PETER CARUANA  
CHIEF MINISTER OF GIBRALTAR  
7<sup>TH</sup> OCTOBER 2009**

Mr Chairman, thank you for once again affording the people of Gibraltar the courtesy and consideration of allowing me to address this Committee on their behalf.

Over the years I have rehearsed here the arguments on both sides of the Gibraltar issue, particularly, of course, our own! I won't repeat them again this year. The Committee and the international community are well aware of them.

Spain says that a Treaty of 1713 that is now defunct and ignored in every other respect, has been condemned to the dustbin of early 18<sup>th</sup> century history and violates the principles of the Charter, nevertheless has the effect in the 21<sup>st</sup> century that the people of my small country, Gibraltar, uniquely, do not enjoy the right to self determination. Put another way: Spain asserts that the political future of my country and its people should be negotiated, decided and imposed upon it by others.

Pursuant to this remarkable position for this day and age, Spain asserts that our decolonisation can only be brought about by means of the transfer of our Sovereignty by the United Kingdom (who you still list as our so called administering power) to Spain, over our heads, contrary to and regardless of our wishes, and negotiated bilaterally between them. All as if we had no rights and our wishes counted for nothing.

Spain further claims to associate you all with this anachronistic approach by alleging that the doctrine of the UN reflected in General Assembly Resolutions of the 1960s requires this to be so.

We in Gibraltar do not agree with this. We will never do so. Nor am I aware of a single reputable international lawyer who is capable of objectivity in the issue of Gibraltar, who believes that the Spanish position is sustainable in international law, including the very UN doctrine that Spain tries to invoke. Little wonder then that our suggestion that the matter be referred to the International Court of Justice for an advisory opinion is not accepted by Spain.

As members of the free, democratic world, and subscribers to modern principles of human and political rights, we in Gibraltar believe that the political future of Gibraltar can only be decided or determined by us in accordance with our freely expressed wishes. The contrary view, that our future must be decided by others and imposed on us against our will, is not compatible or consistent with basic principles and values of democracy and human (including political) rights.

At the heart of the contrary view lies one fatal misconception of principle and one distortion of fact propagated with a view to invoking an inapplicable principle.

The **misconception** of principle is the failure to understand that the Sovereignty of Gibraltar is neither the United Kingdom's to give away, nor Spain's to demand by reference to a wholly unrealistic and unviable desire to return the map of the world to what it was 305 years ago, ignoring subsequent democratic, human rights and international legal principles! It is as if Spain thinks that mankind has stood still during the last 305 years, for her benefit in the matter of Gibraltar.

The **distortion** of fact (to attempt to apply the UN Charter principle of territorial integrity to the case of Gibraltar) is to ignore the fact that Gibraltar is **not** part of Spain, and therefore our decolonisation by self determination could not and does not disintegrate Spain's territorial integrity, rendering that particular principle entirely inapplicable to our case.

No competent international lawyer concerned to uphold their reputation will argue that it is possible under the UN Charter to decolonise a listed Non Self Governing Territory other than by the application of the principle of self determination. And no democrat should be willing to argue that either.

Mr Chairman, since the Special Committee on Decolonisation has taken to fabricating extraordinary rules which are unsustainable in international law and UN Doctrine, such as the suspension of self determination principles to territories affected by a sovereignty dispute (of course, under pressure from states that are sovereignty claimants!), we have been forced to bypass the Special Committee and secure our decolonisation by other means.

In doing so we have relied on General Assembly Resolution 2625 of 24 October 1970, in which a fourth decolonisation method is recognised as acceptable, namely, "any status suitable to its circumstances that is freely determined by the people of a territory in an act of self determination".

Mr Chairman, nobody who visits Gibraltar and observes its society and self government can objectively think that Gibraltar, in reality, remains a colony. The decolonisation of Gibraltar is no longer a pending issue. It has already happened in practice and in law by virtue of our new Constitution. Welcome as recognition by the Special Committee of that reality would be, its absence to date does not alter the facts as they are.

Gibraltar is a democratically advanced, modern, economically independent and prosperous, and politically, administratively and legislatively self governing country. The idea that its future status could be the subject of a political negotiation and deal by two other countries above our heads and against our wishes is frankly obscene and democratically unsustainable.

Another inescapable reality is that, unmeritorious as we believe Spain's position to be, it raises a **sovereignty** claim or dispute, and is thus not within the competence of the Special Committee on Decolonisation, who thus have no vires to consider it and should not do so. Spain claims Gibraltar's sovereignty. Decolonisation principles in the Charter exist only for the benefit of colonial peoples, not as a tool for the prosecution of territorial sovereignty claims by Member States, still less so at the expense of the very Charter rights of the colonial people themselves. This is the fundamental fallacy of Spain's position.

The quest by Spain to confuse the issue of our decolonisation with her sovereignty claim is an aberration which is unsustainable and indefensible in international law.

If Spain's position in the Gibraltar issue is a legal one, based in international law, then let us resolve it in the International Court of Justice. But, if in essence it be not a legal issue but a political issue, then there is no escaping the obligation of all the parties concerned to apply democratic principles to its resolution. What is in our view untenable for a democracy is to refuse to litigate the legal elements of a dispute, while seeking to apply non democratic principles to the resolution its political elements.

The acid test is this: How many of the countries represented here today that practice democracy and subscribe to basic human rights in your own countries and advocate the same to others, are really willing to countenance a situation in which a so called non self governing territory is passed from one country (the listed administering power) to another (the claimant) contrary to the wishes of its inhabitants, as if they had no democratic and human rights in the matter? I guess none of you.

Yet this, Mr Chairman is in effect what you appear, perhaps unwittingly, to countenance by allowing the so called consensus decision on the Gibraltar question to pass each year in its current text.

That resolution calls on the UK and Spain to resolve **their** differences over Gibraltar in a **bilateral** process between **them**. Quite apart from the unsustainable democratic deficit that such a process would represent, the so called Consensus Decision reflects neither the true position that exists nor indeed a consensus that includes both the UK and Spain. There is no such consensus even between them, let alone with us or with you!

The text of the Consensus Decision does not reflect the true position that exists because the bilateral Brussels Process to which it refers and lies at its core does not in fact exist. It has not met since 2001. And it has not met since 2001, because one of the two parties to it, the United Kingdom has made it clear that it will no longer participate in it to discuss our Sovereignty without our consent, which consent obviously is not and will never be forthcoming. Accordingly the text of the Decision does not reflect a consensus that includes both the UK and Spain.

This fact has been made clear to you by the United Kingdom itself. Last year the distinguished representative of the United Kingdom told you, in exercise of the UK's right of reply in the debate on the consensus decision, that although it would be part of the consensus it would not discuss sovereignty of Gibraltar with Spain under the Brussels Process without Gibraltar's consent, which would not be forthcoming. He made clear that this in turn rendered the Brussels Process unviable and defunct, and called on the Committee to review how in its deliberations in future it might take better account of the modern relationship between the UK and Gibraltar which clearly reflects the wishes of the people of Gibraltar. I expect that the UK will give you the same clear message again this year.

Mr Chairman, I would urge this Committee not to spend its valuable time debating, formulating and adopting Decisions which are based on a false premise, do not reflect the actual reality, and presuppose the existence of a consensus between the UK and Spain which actually does not exist. It is time to modernise and change the text of the Decision to better and more effectively reflect the factual and political realities relating to this issue. Failure to do so will mean that the Decision will continue to be factually incorrect, politically ineffective and irrelevant.

Mr Chairman, much more constructive and effective as a political process is the new Trilateral Dialogue Forum, between the Governments of Gibraltar, Spain and the United Kingdom, under which a third Ministerial Meeting took place in July in Gibraltar between the Spanish Foreign Minister, Sr Moratinos, the UK Foreign Secretary, Mr Miliband, and me.

I acknowledge and applaud the political commitment to the Trilateral Forum signalled by Sr Moratinos' historic and unprecedented visit to Gibraltar, where he was very welcome. It seems to us that this Forum is the only viable and meaningful way forward. I too wish to record the Gibraltar Government's own enduring commitment to this Forum, which continues to generate good discussions and agreements on

many important and worthwhile issues, and to bring about very significant improvements in the relations between Gibraltar and Spain.

The principal value, and only current use of this Forum, is the improvement in relations through an increase in co-operation. It seems to us, therefore, that it is important for the participants in the Forum to act, in other respects, consistently with these shared objectives. It is inconsistent and incompatible with and counterproductive to the work of the Forum for Spain to continue to adopt unnecessarily hostile and belligerent stances towards Gibraltar in other matters, as it is to continue to take actions which are unnecessarily provocative and endanger this new process.

Mr Chairman, I am alluding to issues such as the provocation of physical encounters between Spanish and Gibraltar authorities in Gibraltar waters, litigation within the EU by Spain with the apparent sole aim of undermining Gibraltar's economy, or the contamination of other business, such as regional environmental protection measures, by its use by Spain to prosecute its sovereignty claim.

We do not expect Spain to renounce its sovereignty claim by virtue only of the existence only of the Trilateral Forum, which is without prejudice to sovereignty, but we do expect, in the greatest possible measure, behaviour that is compatible and consistent with the stated and shared objectives and spirit of the Forum.