



GOVERNMENT OF GIBRALTAR
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Attached is the full text of the Chief Minister's address at the United Nations Fourth Committee on 6th October 2010.

**ADDRESS TO THE UNITED NATIONS FOURTH COMMITTEE
BY THE HON. PETER CARUANA
CHIEF MINISTER OF GIBRALTAR
6TH October 2010**

Mr Chairman, once again I thank you for this annual opportunity to address you on behalf of the people of Gibraltar, as you conduct your annual review of the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples.

Of course Mr Chairman, in the case of Gibraltar there remains at these United Nations some Member States, led by the Kingdom of Spain, who continue to propagate and defend a sterile proposition, anchored in anachronistic, ambiguous and non binding Resolutions of a bye gone era when the world was a very different place.

They continue to argue that in the case of Gibraltar, the sacred principles of that Declaration in defence of the peoples of non self governing territories should be ignored and replaced instead by a bilateral negotiation between the UK and Spain, in which the wishes of the people of Gibraltar are to count for nothing at all in determining our future.

This proposition is not reconcilable with the principles and values of democracy, a fact which, curiously, leads Spain to think strengthens her argument since at the Committee of 24 in June this year, she said that the need to proceed to decolonise Gibraltar on this 18th century basis was made even more relevant by the fact that both the United Kingdom and Spain were members of the European Union and NATO Allies.

Mr Chairman, both of those organisations place respect for fundamental principles of democracy and human rights at the core of their positions on all issues, and I know of no other member of the European Union or of NATO who would be content to see European territory handed over from one country to another contrary to and trampling over the wishes of the people of the territory.

Faced with this inescapable dilemma, the Distinguished Representative of the Kingdom of Spain resorted to the quite extraordinary argument that the people protected by the Declaration were not the people who inhabit the listed Non Self Governing territory of Gibraltar but rather the people of Spain, in their capacity as descendants of the couple of hundred Spanish people who used to inhabit Gibraltar 306 years ago, and left in 1704!

Well Mr Chairman, tell that to the descendants of the dispossessed indigenous peoples of most ex colonies around the world who then went on to see the decolonisation of those territories brought about by the exercise of the right to self determination not by their own indigenous forefathers, but by the descendants of the very colonising people who had done the dispossessing! Of course, this includes the descendants of Spanish colonisers in many parts of south and central America.

But Spain is not content with overlooking her own colonial history in this way, and the decolonisation of Her own ex colonies by the descendants of Her own colonisers, which is the very opposite of the doctrine that she advocates now in the case of Gibraltar. The Spanish position seeks to convert the UN principle of the territorial integrity of States into some sort of right of restitution

of territory lost 304 years ago, on the basis that they are an enclave and a colony maintained on what Spain says is still the territory of Her State.

Of course, Spain argues this while happily sitting on a dozen separate enclaves on another continent, Africa, including two cities, in the territory of what would otherwise naturally be the territory of the Kingdom of Morocco. Spain passionately believes these to be Spanish by virtue of history, the passage of time (around 500 years) and the fact that the Kingdom of Morocco did not exist at that time in the same legal form as it exists now.

With respect, those distinctions seem wholly insufficient to justify Spain holding and advocating diametrically opposed positions in the cases of Gibraltar and her own enclaves in North Africa just 15 kilometres away from Gibraltar across the Strait of Gibraltar.

If the passage of history and time are enough in Spain's view, to displace the present day territorial rights of the descendants of the indigenous and dispossessed peoples of her enclaves in North Africa, then Spain cannot simultaneously argue that her own territorial rights to Gibraltar survive now despite the passage of our history and 306 years of time!

Indeed, Mr Chairman, the chronic weakness and unsustainability of her case were evident in Spain's own address to C24 this year. On the one hand she says that Gibraltar is her territory; and on the other hand she says that the Treaty of Utrecht, under which she ceded sovereignty to Britain in perpetuity remains valid and binding. Mr. Chairman, it cannot be both things – they are flat contradictions.

Mr Chairman, the fact that Gibraltar is today not part of Spain is not just because she lost it to military conquest in 1704. Gibraltar is not Spanish because she ceded it to Britain by the Treaty of Utrecht in 1713 – a Treaty which Spain maintains remains valid to this day, a ceding that she ratified several times in subsequent treaties during the decades that followed. It is thus a total distortion of historical fact for Spain to now argue that her territorial integrity is broken by the alleged colonial situation in Gibraltar, still less by its normal decolonisation. She had thus lost it long before it was colonised by Britain.

Nor are Spain's arguments made less incongruous by her address to this Committee last year. On that occasion she told you that the sovereignty of Gibraltar, which she had ceded to Britain by Treaty – the Treaty of Utrecht – should be returned to Spain in “the application of the decolonisation doctrine of the United Nations”.

Mr. Chairman, this truly astonishing statement is worthy of closer analysis. In other words, not content with misapplying the principle of territorial integrity to seek to deny us the right to self determination, and not content with abolishing the relevance of the wishes of the people of Gibraltar in its decolonisation process in favour of a bilateral negotiation between the UK and her, Spain now urges you, in the name of my decolonisation, and supposedly in the application of the UN's principles of decolonisation, to help her recover a territory that she ceded in a Treaty which she herself maintains remains valid and binding. Put in shorthand: according to Spain, the Treaty remains valid in so far as Spain thinks it defeats my right to self determination, but not in so far as her surrender in it of Gibraltar's sovereignty in perpetuity!

Mr Chairman, in so far as concerns us, the people of Gibraltar, the Treaty of Utrecht is wholly irrelevant to the issue of our right to self determination. It

does not exclude Gibraltar's right to exercise self determination, and, even if it purported to, it would be incapable in modern international law and principles of defeating that right. But a Spain that argues that the Treaty of Utrecht remains valid and in force, cannot also argue that UN decolonisation doctrine entitles her to retrieve the sovereignty that she ceded under that very Treaty. In June, Spain told the Special Committee that Gibraltar had to be decolonised by the transfer of its Sovereignty to Spain because under the Treaty of Utrecht, Gibraltar could only choose between continuing to be British or reverting to being Spanish. We reject that those are the only choices available to the people of Gibraltar, but the Spanish logic is in any event demonstrably false.

The United Nations recognises integration with a member state as being a valid and effective means of decolonisation. Therefore, if Gibraltar were to integrate Gibraltar with the UK, Gibraltar would have been validly decolonised without the transfer of its sovereignty to Spain. Since integration in the UK would represent the purest form of British Sovereignty, which Spain says is one of two choices open to Gibraltar, it therefore make a nonsense of Spain's assertion that Gibraltar can only be decolonised by the transfer of sovereignty to her. Mr Chairman, I make this totally hypothetical analysis only to debunk the logic of Spain's argument.

Mr Chairman, Spain's attempt to abuse the decolonisation process to win a 306-year-old sovereignty claim, at the expense of the wishes of the people of Gibraltar cannot succeed, and is not entitled to succeed. Any suggestion that such an approach may be permissible under, still less required by international law, or that it may constitute the proper interpretation in 2010 of non binding and ambiguous General Assembly Resolutions of the 1960s is complete nonsense.

The UN principle of territorial integrity applied to the decolonisation process means, not that you can decolonise a territory by its application, but rather that the peoples of parts of an existing, established state cannot invoke the principle of self determination to claim a right to secede from that State.

Mr Chairman, Spain's pronouncements on Gibraltar are not clear as to whether she believes the issue to be of a political or legal nature, or both. But, in either or both cases Spain's position is untenable.

To the extent that she believes it to be a political problem, then her inescapable obligation as a leading European democracy is to apply democratic principles in the resolution of the dispute, whatever may be the effect of doing so on arguments devised by her before she became a democracy.

In her capacity as a leading European democracy the very notion that the sovereignty of any territory should pass from one State to another contrary to the wishes of its inhabitants should instinctively feel as obscene to her as it does to us.

And, to the extent that Spain believes the dispute to raise legal issues, then it is incumbent on Spain to be willing to test in the International Court of Justice her view of what she believes the relevant and applicable international law and legal principles to be. But she is not willing to do that either.

So, Mr Chairman, the bottom line is that we have a European democracy that wants the sovereignty of Gibraltar to be negotiated and transferred to her, regardless of and ignoring the wishes of Gibraltar's inhabitants, in breach of

all democratic and human rights principles, based on a unilateral assertion by her of international law, that she is unwilling to test in the International Court of Justice. This position is neither tenable nor defensible for Spain, and most modern, 21st century Spanish people find it embarrassing and would want no truck with it.

Mr. Chairman, all of this is the real backdrop to both the UN Consensus Decision and to the ongoing trilateral process of dialogue between the Governments of Spain, Gibraltar and the UK.

Bilateral discussions about Gibraltar between the UK and Spain under the Brussels Statement of 1984 have not occurred since 2002 and will not happen again. That declaration is a dead letter. The UK has promised us that. It has said the same thing to you in its Address to this Committee on each of the last two years, and will say it again this year. It has also said the same thing to its own parliament and to Spain. Reference to the obsolete Brussels Statement should therefore be dropped from the Consensus Decision, and a reference to the need to respect the wishes of the people of Gibraltar should be inserted.

Mr Chairman, finally, my Government remains committed to the Trilateral Forum of Dialogue, which is open agenda and in which any issue can therefore be raised for discussion. It is the only possible available dialogue about Gibraltar.

In it, we also remain committed to reaching agreements with Spain on matters of co-operation. However, I wish to make clear that we will never agree to cooperation that genuflects or makes concessions to, or nurtures and sustains Spain's position on sovereignty of my homeland, including the sovereignty of our territorial waters, which Spain disputes in flagrant breach of her legal obligations under the UN Convention on the Law of the Sea.