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Attached is the full text of the Chief Minister's address at the United Nations Committee of 24 on 6 June 2006.

Mr Chairman, distinguished Representatives, this is the eleventh successive year that I address you as Chief Minister of Gibraltar, that is as the head of the Government elected by the people of my small country – a country that is on your list of Non-Self Governing Territories.

Every year I come back here to address you, with my enthusiasm and conviction in the merit of our case undiminished by your failure, year in year out, to respond positively to anything that we say. We put what we believe are cogent arguments in support of our request that you engage in the case of Gibraltar as one of decolonisation by self-determination. Our arguments are not answered or rebutted, but we have not succeeded in persuading the Special Committee to shake itself free from 40 years of lethargic inactivity in relation to the case of Gibraltar. As a result most people in Gibraltar have come to regard the UN as irrelevant to our destiny, to our decolonisation and to our decisions about our future.

Last year, I reviewed the position of the Committee in the case of Gibraltar against what we saw as its duty and mandate, and I also robustly, but I hope also courteously and with the respect that is undoubtedly due to you, pointed out the shortcomings and failings as we see them, in the position that you take in this case.

What is this Committee's mandate? You have been tasked by the General Assembly in its founding resolution (1654 (XVI) of November 27 1961) with examining the application of the Declaration on Decolonisation (1514 (XV) 14 December 1960) and to make suggestions and recommendations on the progress and extent of the implementation of the Declaration. Your mandate is thus to oversee the implementation of the Declaration.

Last year I asked you to consider whether you were discharging your mandate in the case of Gibraltar. I asked whether you saw Gibraltar as a case of decolonisation, or as a sovereignty dispute? In other words do you see Gibraltar as a case of its people freely deciding its own future, as you all have done, or do you see it as a case of the UK and Spain transacting the sovereignty of Gibraltar between themselves regardless of the wishes of the Gibraltarians. Its got to be one or the other, and there's no point going on pretending that it can be otherwise. If you saw it as a sovereignty dispute, I asked whether this led you to take the view that sovereignty disputes override and extinguish the self-determination rights of a colonial people? And if you took the view that it did, I asked why you thought that in those circumstances you had any mandate or role at all in the case of Gibraltar? These are fundamental questions which the Special Committee must address. If the Declaration applies to Gibraltar, then the Committee cannot continue to act as if it did not, just because there is a competing Sovereignty claim. The Declaration clearly does apply to Gibraltar.

In Resolution 1810 (XVII) of 17 December 1962 (at paragraph 8(a)) the General assembly invited the Special Committee "to continue to seek the most suitable ways and means for the speedy and total application of the Declaration to all territories which have not yet attained independence". All

territories Mr Chairman, means all territories on your list, and that includes Gibraltar.

Indeed, this simply reflects the language of the Declaration itself, which at paragraph 5 says that it applies to "Trust and Non-Self Governing Territories or all other territories which have not yet attained independence," and "in accordance with their freely expressed will and desire".

That, Mr Chairman, is your mandate in the case of Gibraltar. You have no other and indeed there is no other that you can have under your founding resolution.

Some members of this Special Committee, and indeed some states members of these United Nations, may, erroneously, believe that the Declaration does not apply to Gibraltar (and other territories affected by a sovereignty dispute) because of Paragraph 6 of the Declaration which says that: -

"Any attempt aimed at the partial or total disruption of the national unity and the territorial integrity of a country is incompatible with the purposes and principles of the Charter of the United Nations." Such a view, as I will again argue later, can only derive from an erroneous interpretation of the Declaration and a blatant misapplication of that principle, that is, the principle of territorial integrity!

Since such a view is demonstrably wrong and legally and intellectually unsustainable, I believe that Gibraltar's decolonisation is indeed part of your mandate (albeit a part of your mandate that you are doing nothing to discharge). But if the view that the Declaration does not apply to Gibraltar were correct, then it begs several fundamental questions: why are we a listed Non-Self Governing Territory? Does this Special Committee have a mandate in the case of Gibraltar? Why do you consider the case of Gibraltar at all? If Gibraltar were a sovereignty dispute to which the principle of territorial integrity properly applied then you would have no mandate in our case, since your mandate relates to the implementation of the Declaration, and to nothing else.

Yet you do consider the case of Gibraltar and therefore it must be the case that you agree with me that the Declaration does apply to Gibraltar, that the case of Gibraltar is therefore within your mandate and that the exclusionary paragraph 6 of the Declaration does not apply to or contemplate the case of Gibraltar so as to disapply the Declaration from us.

If, as you appear to do, you accept that the Declaration applies to Gibraltar then, under the Declaration, you have only one function, one task and one duty and that is to assist Gibraltar to decolonise by the exercise of self-determination in accordance with our freely expressed will and desire, as the Declaration says. The Declaration does not offer any alternative principle to apply to the decolonisation of a Territory to which it applies.

The Declaration, while clearly excluding the right of self-determination in cases to which the principle of territorial integrity properly applies, creates no

mandate to promote the decolonisation of a territory in accordance with the principle of territorial integrity. In other words, while the principle of territorial integrity does, in a case to which it properly applies, operate to exclude the application of the right to self-determination, it does not thereby or therefore establish territorial integrity as a principle capable of application to the decolonisation of a listed Non Self Governing Territory.

As the International Court of Justice has made clear, territorial integrity is not a principle capable of being applied in the process of decolonisation of any listed territory.

So, either the Declaration applies to Gibraltar (which means decolonisation by the application of the only principle applicable in the process of decolonisation, namely of self-determination) or the Declaration does not apply to Gibraltar, in which case Gibraltar should not be regarded as a colony, but simply as a territory under sovereignty dispute, with no right to decolonisation, should not be on your list and is not covered by your mandate. The latter view is unsustainable given that we are a listed colony, and that even Spain advocates our decolonisation. The concept of decolonisation is not synonymous with the concept of satisfaction of a sovereignty claim, the same principles cannot be applied to both and you cannot therefore purport to satisfy a sovereignty claim under the guise of the decolonisation process. I have often complained to you about the obvious confusion of the concepts and principles of sovereignty dispute on the one hand and decolonisation on the other hand that so very obviously takes place in the handling here of the case of Gibraltar.

As I have argued every year, the self-determination of Gibraltar is not excluded by the principle of territorial integrity. And there are two reasons for this. Firstly, the principle of self-determination applies to every listed territory and is not applicable in the decolonisation process. Secondly, and in reality consequent on the first reason, on any proper interpretation of the principle of territorial integrity, as enunciated in Clause 6 of the Declaration, it simply does not apply to the facts of Gibraltar. Why? Because in the case of Gibraltar no-one is attempting anything that results in the disruption of the territorial integrity of Spain, since the territorial integrity of Spain does not include Gibraltar. And that, Mr Chairman, disposes of the applicability of that principle to the case of Gibraltar, because, as I explained to you last year, General Assembly Resolution 2526 (XXV) of 24 October 1970, makes it crystal clear that the facts of the Gibraltar case fall well outside of the situations in which the principle of territorial integrity can properly apply.

That Resolution deals precisely with the proper correlation between the principles of self-determination and territorial integrity and the circumstances in which the latter excludes the former.. It says, clearly (to the point that renders contradiction wholly irrational), that for the principle of territorial integrity to operate to exclude the right to self-determination, the country whose territorial integrity is allegedly being disrupted must be "possessed of a government representing the whole people belonging to the territory exercising self-determination". Mr Chairman, not even the Kingdom of Spain

claims or pretends that its Government represents the people of Gibraltar, or is the Government of the territory of Gibraltar.

Put in non-legal jargon, the only correct application of the principle of territorial integrity under the doctrine of the UN and international law is that a territory that is part of a state cannot invoke the right to self-determination under the Declaration or the Charter in order to secede from that state. For example, the people of Long Island or the people of Madeira are not entitled to invoke the right to self-determination under the Declaration or the Charter in order to split from and therefore disrupt the territorial integrity of the USA or Portugal respectively because they are a part of the territory of those countries. That is the correct application of the principle of territorial integrity, and it has no application to the decolonisation of a Non-Self Government Territory such as Gibraltar that is not a part of a Member State and is therefore not trying to secede from it and does not disrupt its territorial integrity..

All these arguments have been put to you before by me every year, that I have addressed you, as have the arguments that it is the clearly established jurisprudence of the International Court of Justice that the principle of self-determination applies to all the territories on the UN list, including therefore Gibraltar, that there is no other principle applicable in the process of decolonisation except the principle of self-determination and that the expression of the wishes of the people of the territory is a 'sine qua non' of all decolonisation. Mr Chairman, simply stated, there is no such thing in international law or UN doctrine as decolonisation by the principle of territorial integrity. It is a dialectic concoction, a creature of political expedience and 1960s machination, but nonetheless it is a legal and conceptual nonsense, which the people of Gibraltar simply will not allow to be used by others, including the UN, to deny us our legitimate aspirations and rights as a people to freely decide our own future.

Despite being repeatedly put to you, these arguments have never moved you to act differently in the case of Gibraltar. There is no reason to suppose that simply repeating those same arguments to you year after year, will alter that position.

So, if International law and properly applied UN doctrine do not deny us self-determination, is there anything else that denies it to us, for example, the Treaty of Utrecht of 1713, which says that if Britain wants to surrender sovereignty of Gibraltar she must offer it first to Spain. This is Spain's argument, and indeed Britain's. But it is clearly fallacious, simply wrong! Because it is trite international law that a treaty that is inconsistent with the Charter of the United Nations is void, invalid and ineffective. We have already established that nothing in the UN Charter excludes our right to self-determination. Therefore, to the extent that anyone thinks that the Treaty of Utrecht does so, that Treaty is invalid in international law. The Charter invalidates Treaties incompatible with it, yet in our case it is being argued that a Treaty, namely the Treaty of Utrecht, invalidates the Charter. This is the wrong way round and is simply a misconceived, false and unsustainable proposition.

Mr Chairman, consider, in the above context, the position of the Special Committee in the case of Gibraltar, and consider also whether there is any proper basis whatsoever for such position: -

1. Despite the fact that international law clearly provides that the principle of self-determination applies to the decolonisation of all the listed territories, you do not pronounce yourselves to that effect in our case. On what basis?
2. Despite the fact that, as recently as 10 December 2004, in resolution 59/136 approving the report of the special Committee's work during 2004, the General Assembly requested you to continue to seek suitable means for the immediate and full implementation of the Declaration in all territories that have not yet exercised their right to self-determination, you continue to fail to do so in the case of Gibraltar. On what basis?
3. Despite the General Assembly call, in Resolution 55/146 of 8 December 2000, when launching the Second International Decade for the Eradication of Colonialism, for a "redoubling" of efforts to implement the plan of action to eradicate colonialism, the Special Committee takes no action in the case of Gibraltar, and worse, appears to believe that it cannot or should not take action. On what basis?
4. At paragraph 72 of your Report of the work of the Special Committee for 2005 you said that the Special Committee intends to continue and intensify its dialogue and co-operation with the Administering Powers for the purpose of furthering the cause of decolonisation through the development of programmes of work for the decolonisation of specific Territories. Despite this, you have failed and indeed declined my request to establish a programme of work in the case of Gibraltar. On what basis?

Indeed in a further example of how the principles entrusted to this Committee for the benefit of colonial peoples have become contaminated by the territorial ambitions of certain member states, the policy of establishing work programmes appears to have been disappplied to "cases where there is a sovereignty dispute". Why? On what basis? It can only be because this Committee is of the view that sovereignty disputes override the fundamental right of self-determination. Is that the case? If it is, then why bother continuing to consider our case, year after year? Is it to monitor whether the sovereignty dispute has been resolved regardless of our wishes? What has that to do with my decolonisation?

At paragraph 74 of the same report, you declare that you attach the utmost importance to visiting missions as a means of collecting adequate and first hand information on conditions in the Territories and on the wishes and aspirations of the peoples concerning their future status. You go on to declare that visiting missions are important in the context of furthering modalities and action plans for decolonisation and observing acts of self-determination.

I have been inviting you to send such a visiting mission to Gibraltar for 10 years, and offering to pay for it. You decline to do so – On what basis? Does the Committee not attach “the utmost importance” to visiting missions in the case of Gibraltar? Is the Committee not interested in collecting “adequate and first-hand information on conditions in Gibraltar” or on discovering the “wishes and aspirations” of its people concerning their future status? Does the Committee think that these things are irrelevant in the case of Gibraltar?

And if you are not interested in these things in the case of Gibraltar, what is your interest in the case of Gibraltar?

Does the Committee see its role and interest in the case of Gibraltar as pushing us along into accepting Spanish sovereignty against our wishes, in order to help Spain restore the map of one bit of the Iberian Peninsula to what it was 302 years ago? When you invite me to participate in your Regional Decolonisation Seminars, is it to help us to decolonise through self-determination, or is it to tell us that you want to restore Spain’s territorial integrity to what it was in 1704, regardless of our wishes? Is that the sacred trust and mission of this Special Committee in the case of Gibraltar in the Second International Decade on Decolonisation in the year 2006? If it isn’t, why does the Committee act or fail to act, as if it was? If it is, then you are acting outside of your mandate, outside of the Declaration, against the wishes of the people of Gibraltar, and this Committee is irrelevant to the people of Gibraltar and to our political journey as a people towards self-determination and decolonisation. We will never surrender our right to decide our own future and we will never subjugate it to Spain’s sovereignty claim.

The clearest example of the contamination of the work of this Committee by the undue influence of self interested Member States is to be found in the fact that this Committee allows into and then (when it is pointed out) fails to remove from the Recommendations & Conclusions of Regional Decolonisation Seminars, the outrageous and contradictory statement that “in the process of decolonisation, and where there are not disputes over sovereignty, there is no alternative to the principle of self-determination which is also a human right.”

So one must deduce from that statement that this Committee believes two things: -

1. That the right of self-determination is extinguished by the mere existence of a sovereignty dispute regardless of its merits; and
2. That even though self-determination is “a human right”, it can be overridden by the mere existence of a sovereignty dispute. No-one with a proper understanding of the concept of human rights could possibly subscribe to such an absurd proposition.

Neither of those is logical, and neither has any basis whatsoever in the doctrine of the UN or in international law. Whose view is it? The participants in the seminar? No! It is introduced into the Recommendations, despite not having featured in the Seminar (let alone represented a consensus among

participants), later, in the drafting room by the Spanish and/or the Argentinian representative or the watchdogs of their positions.

And, Mr Chairman, when the Kingdom of Spain comes before you and says, "don't listen to a word they say", international law clearly establishes that they don't have the right to self-determination, and I say, "lets tests that proposition in the International Court of Justice" and I ask you to recommend such a referral to the Fourth Committee, you ignore that plea for action as well.

Mr Chairman, in the face of all of these positions and inactivity by the Special Committee in our case, the people of Gibraltar have come to believe that this Special Committee lacks either the inclination or the will to assist us in securing decolonisation in accordance with our wishes. Indeed the Committee appears unwilling even to declare the existence of our right to self-determination. This Committee has disregarded our pleas and arguments for four decades. We cannot let your inactivity in our favour at these United Nations, continue to condemn us to perpetual colonialism, and so we are moving on.

Mr Chairman, this is why we have proceeded, by ourselves and of our own motion and initiative, to seek to decolonise by the only means apparently available to us. That is, by exercising the right to self-determination by means of a referendum to accept and approve a new constitutional relationship with the UK, which is not colonial in nature, and which gives us that maximum degree of self government beyond which there is only independence.

We regard this as the application to Gibraltar of the so-called "Fourth Option", namely a status freely determined by the people of Gibraltar in an act of self-determination, as provided for in Resolution 2625 (XXV) of 24 October 1970. This option for decolonisation has been further validated by the General Assembly in its omnibus Resolution on decolonisation; For example, in the draft of that Resolution for this year at page 90 of your 2005 Report it recognises "that the specific characteristics and the sentiments of the peoples of the Territories require the flexible, practical and innovative approaches to the options of self-determination, without any prejudice to territorial size, geographical location, size of population or national resources."

Our new constitution has been negotiated by us and agreed with the United Kingdom. We shall soon put it to the people of Gibraltar in a referendum, which is an act of self-determination. You are very welcome to send an observer, or to play whatever other role you wish in the conduct of that Referendum, and I hereby invite you to do so.

We believe that, if the people of Gibraltar accept the Constitution in that act of self determination, you should cease to consider the case of Gibraltar and recommend to the General Assembly that we should be delisted. That is a matter for you, and for your unilaterally established delisting criteria. Whether you delist us or not, the fact will remain that the new Constitution will regulate and establish a relationship between Gibraltar and the UK which is not colonial in nature. It provides for almost total self-government (reserving as it does to the UK responsibility only for defence, external affairs and national

security. It is not therefore full self-government – but no objective observer would regard the relationship that it regulates as colonial in nature.

We would wish to be delisted at the UN and that will remain our objective. But, given your persistent refusal to help us in any meaningful way, or to even pronounce the existence of our right to self-determination, it will not surprise you that the people of Gibraltar should not regard delisting as the first and immediate objective, still less the test of the decolonisation as far as we are concerned.

Spain believes that because of the existence of its sovereignty claim, the only manner of decolonisation that the UN will endorse in the case of Gibraltar, is that our sovereignty should be transferred to Spain. You systematically fail to dispel that view and consequently, the people of Gibraltar do not relate to this Committee or see it, or the UN, as relevant to their decisions about the way forward for Gibraltar.

The position of the United Kingdom, our Administering Power, is that we do enjoy the right to self-determination but that it is constrained by the Treaty of Utrecht to the effect that we cannot opt for independence. We roundly reject the UK's view that our right to self-determination is constrained in that way or at all. The UK has already declared that the new Constitution establishes a relationship between Gibraltar and the UK that is non-colonial. The UK will, I believe also recognise and accept that the referendum will constitute an exercise of that right of self-determination. We hope that you will take the same view.

Finally, Mr Chairman, last year I told you that the Spanish, Gibraltar and UK Governments had agreed the establishment of a new trilateral dialogue forum, which has effectively replaced dialogue under the so-called Brussels Agreement. The new forum has met several times in formal session, hosted in turn by each of the three participating governments. These meetings have worked towards arriving at agreements to resolve several of the problem issues affecting people on both sides of the frontier between Gibraltar and Spain, in the hope of improving relations and the day to day lives of citizens on both sides. The parties are hopeful of important agreements soon in these areas, possibly even during this summer. We welcome the prospect of that, as we welcome and value the existence and objectives of the dialogue Forum. We look forward to continuing to engage constructively with Spain in that Forum.

We have clear disagreement on the important issues of sovereignty and self-determination, but that is no reason why the parties should not engage constructively with each other to improve relations and the lives of our respective citizens and to co-operate in as much friendship and civility as possible.