



FULL TEXT OF AN ADDRESS

TO THE

UNITED NATIONS

FOURTH COMMITTEE

BY THE

HON P R CARUANA

CHIEF MINISTER OF GIBRALTAR

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Your Excellencies, once again, I address you in my capacity as Chief Minister of Gibraltar, that is as head of the elected Government of Gibraltar, to assert on behalf of the people of Gibraltar our inalienable right to self determination, as the people of a Non Self Governing Territory and to reject the Kingdom of Spain's claim to recover the sovereignty of Gibraltar contrary to the unanimous wishes of its people.

The people of Gibraltar have a long tradition of democracy and self government. Accordingly, the only language that we understand is the language of democracy. And in the language of democracy the only acceptable currency is the wishes of the people, democratically expressed. We reject the aspirations of those who, even from within the EU, surprisingly, do not embrace these principles in the case of Gibraltar.

The Charter and Covenants of the UN, as well as settled body of international law, clearly makes the principle of self determination applicable to all Non Self Governing Territories. Gibraltar is recognised by the UN as a Non-Self Governing Territory and is listed as such. There are no exceptions to this doctrine. How could there be? It would mean that the future of a colonial people and their country could be decided by outsiders over the heads and contrary to the wishes of the people. It would be inconceivable that UN doctrine could contemplate, still less sanction such a principle in this day and age.

On the 26th September this year you were addressed by Sr Abel Matutes, the Distinguished Foreign Secretary of the Kingdom of Spain. He addressed the question of Gibraltar and spoke about the establishment of a military base on Spanish territory and the expulsion of the Spaniards who lived there. Anyone listening to him might have thought that such events have happened recently.

The events to which he was referring occurred in 1704, 293 years ago! He also omitted to add that Gibraltar was ceded by Spain in perpetuity by Treaty in 1713. What Sr Matutes called "the existing inhabitants of the colony", which by any objective analysis, would more properly be called "the people of Gibraltar", have established their identity and rights in Gibraltar, during those uninterrupted 293 years. This is no different to the development of many of today's foremost countries of the world whose people have exercised their right to self determination, regardless of the manner and circumstances of their establishment in those countries long ago in history.

There is no basis in UN doctrine, nor in international law and still less in democratic principles, for Sr Matutes' assertion to you that the people of Gibraltar are not entitled to the right to self determination.

The Special Committee on Decolonisation (Committee of 24) and indeed the General Assembly in the Annual Omnibus Resolution, have declared that in the process of decolonisation there is no alternative to the principle of self determination as enunciated in Resolutions 1514(XV) and other relevant resolutions and decisions. That is UN doctrine. Self determination is the opposite of territorial restitution. If in the process of decolonisation there is no alternative to the principle of self determination then Gibraltar, which undoubtedly is a colony (it is on the UN's list of Non Self Governing Territories) can only be decolonised by reference to self determination, and not territorial retrocession.

There are no exceptions to the application of the right of self determination in the decolonisation of Non Self Governing Territories. Indeed, international law clearly stipulates that there are no exceptions.

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In the Namibia Case the ICJ observed that "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". In the Western Sahara case the ICJ held that the principle of self determination applies to all Non Self Governing Territories.

Furthermore, under the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, which have been specifically extended and applied to Gibraltar in 1976, without Spanish objection, all peoples have the right to self determination. What is more, the obligation to respect that right is imposed not just on administering powers but on all Member States, and that includes Spain. These are fundamental UN human rights commitments and must be honoured.

Indeed it is also international law that the existence of a territorial claim cannot displace the right to self determination. In the Western Sahara Case the ICJ said that "even if integration of the 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". And it is hardly surprising that this should be the case. After all if a colonial power itself with actual vested interests in a colonial territory cannot defeat the colonial people's right to self determination under the Charter, how can a neighbour do so just by asserting a territorial claim? Does a territorial claim, after 293 years, defeat fundamental human rights on the eve of the 21st Century?

Sr Matutes spoke to you of Spain's willingness to respect the legitimate rights of the inhabitants of Gibraltar. Well, under UN doctrine the legitimate right of colonial people include, foremost amongst all other rights, the right of self

determination. The legitimate rights of colonial people in the process of decolonisation must include the right to have their wishes, as determined by them, respected.

Mr Chairman, Gibraltar is not part of Spain. It has not been part of Spain since Spain alienated it forever to Great Britain by Treaty 284 years ago. Spain pursues her case by invoking the principle that there can be no partial or total disruption of the territorial integrity and political unity of a sovereign state. This, she argues, means that we have no right of self determination.

Spain bases her erroneous contention entirely on operative paragraph 6 of Resolution 1415(XV) of 1960. It seems perfectly obvious, on an objective analysis of paragraph 6, that what it means to say is that the principle of self determination cannot be used by the people of an existing territory of a Member State to secede from it. In other words self determination cannot be used to dismember from a sovereign State a territory within it.

Operative paragraph 6 of Resolution 1415(XV) declares that:

"Any attempt aimed at the partial or total disruption of the national unity and the territorial integrity of a member country is incompatible with the purposes and principles of the Charter of the UN".

This principle requires that the act complained of ie, the exercise of self determination should lead to the partial or total disruption of a member country's national unity and territorial integrity. Mr Chairman it is self evident that this is not the case of Gibraltar. The application of the principle of self determination to Gibraltar now does not, indeed cannot, result in the partial or total disruption of Spain's territorial integrity for the simple reason that

Gibraltar is not now a part of the Member State Spain. Gibraltar ceased being Spanish in 1704 and as I have said, was ceded in perpetuity by Spain to Britain in the Treaty of Utrecht in 1713. If Spain's territorial integrity was disrupted it occurred 293 years ago, long ago in history like so many other unalterable events which have shaped today's world.

Mr Chairman, the history of the world cannot be re written, whatever one may now think of how it was written in the first place. Still less can it be re written in order to deny modern human rights that have evolved after that history was written.

The position of the Kingdom of Spain is accordingly based on a grave misconception and misrepresentation of the principle of territorial integrity as contained in preambular paragraph 6 of Resolution 1415(XV) of 1960.

Gibraltar is not the last colony in Europe. It is the first and only colony in Europe. It is a small territory neighbouring Spain, and capable and willing of making an important contribution in mutual cooperation to the economic and social well-being of all the peoples living in the region. The people of Gibraltar are proud of their plural ethnic and cultural heritage and of their legitimate efforts to sustain economic self-sufficiency by providing services to the outside world in tourism, shipping, banking, insurance, trade and re-exports. We are self-governing and politically mature, ready to drive our own destiny.

Mr Chairman, time cannot stand still for Gibraltar and we must progress onwards. The Government of the United Kingdom, the administering power in Gibraltar, has recently announced a comprehensive review of policy in relation to its remaining Non Self Governing Territories, or Dependent

Territories. The Government of Gibraltar welcomes this review. In effect it recognises two things. First that the current arrangements affecting Dependent Territories need modernisation. And second, it recognises that the circumstances of each Dependent Territory require individual consideration and that tailor-made formulae for each territory are necessary. It is particularly welcome in that London is now taking the initiative in a matter on which Gibraltar has been seeking progress from the UK and international bodies, especially the UN, for many years now. The remaining small Non Self Governing Territories cannot be denied their rights, nor swept aside or under the carpet simply because they are small or are affected by some problem or other. The new Government in the United Kingdom has rightly put human rights at the core of its foreign policy. The right to self determination of colonial people is a fundamental human right.

The United Kingdom's announcement of the review of its Dependent Territories dovetails well with our own plans for modernising our constitutional relationship with the administering power. I can confirm that my Government will shortly table with London proposals for constitutional development aimed at removing the remaining colonial features of our relationship with the United Kingdom and give the people of Gibraltar further autonomy in the conduct of their affairs. Under our proposals, Gibraltar would remain in a close political and constitutional relationship to the United Kingdom and under British sovereignty, but it would, if accepted by the people in referendum, amount to a non-colonial relationship and an effective and valid exercise of self determination under the terms of the fourth option set out in General Assembly Resolution 2625(XXV) of the 24 October 1970.

Mr Chairman, these constitutional proposals are not intended to undermine our desire for dialogue with Spain in the context of our mutual co-existence

and inter action as two territories of the European Union. We do not turn our backs on a reasonable, indeed a friendly co-existence with Spain. Indeed we seek that, just as we seek a dignified process of dialogue to achieve it. For nearly 30 years this Committee has urged dialogue between the UK and Spain. But no process of dialogue has the necessary legitimacy nor can it be effective, unless it includes a proper and distinct voice for the people of Gibraltar so that nothing can be agreed without the consent of the colonial people themselves. It is precisely this, Mr Chairman, that has been the key ingredient missing in all attempts at dialogue which this Committee has urged over many years through annual consensus Resolutions.

In this context, Mr Chairman, I take heart from the conclusions reached at both the Papua New Guinea and Antigua Regional Seminars on decolonisation organised by the Committee of 24, which concluded that there can be no dialogue over the future of any self governing territory without the active and direct involvement of the people of that territory. I have highlighted this matter in previous addresses to various committees of this organisation and I shall not tire in reiterating the fundamental importance of this issue.

In conclusion, Mr Chairman, I call on this Committee to recognise that the people of Gibraltar, like the people of all Non Self Governing Territories on the UN's list, have the right to self determination and that any talks about Gibraltar must include the elected representatives of the people of Gibraltar as a principal participant in their own right. There can be no progress in resolving our differences with Spain if they continue to insist that the matter must be resolved bilaterally between the United Kingdom and Spain thus denying us our fundamental human right of self determination.

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Gibraltar is the homeland of the Gibraltarians. It belongs to the Gibraltarians. It cannot be given nor taken away by anybody else. Only we can decide our political future. The people of Gibraltar look to this Committee to assert and uphold our rights.