



FULL TEXT OF AN ADDRESS

TO THE

UNITED NATIONS

FOURTH COMMITTEE

BY THE

HON P R CARUANA

CHIEF MINISTER OF GIBRALTAR

7 October, 1998

Mr Chairman as the leaders of Gibraltar's Government, the Deputy Chief Minister and I come once again to address you for three reasons. First to re-assert our right to self determination which we have demonstrated to you is firmly based on the political and legal rights applicable to all non-self governing territories on the UN's list as established by UN Resolutions and Covenants and international law as determined by the International Court of Justice. This applies to all non-self governing territories, without exception. Gibraltar is on your list of such territories. Second, we come to rebut, the arguments of Spain in her attempt to obtain sovereignty of Gibraltar against the democratic wishes of our people; and third to seek from the United Nations a clear acknowledgement and declaration of the applicability of the principle of self determination as the only principle relevant to the decolonisation of Gibraltar.

Spain argues that because she has a 300 year old claim to the territory, Gibraltar can only be decolonised by applying the principle of territorial integrity and that we do not have the right of self determination. This is a misconceived position based on the distortion of the principle that self determination cannot be used to disintegrate a Member State. Gibraltar is not, and has not been part of Spain for 294 years. The principle of territorial integrity therefore has no relevance. Further, the International Court of Justice has rejected the concept of territorial retrocession in the process of decolonisation. It is not possible under the doctrine of the UN Charter to decolonise a colony by any principle other than self determination; that is the doctrine of the UN.

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In his speech to the Committee of 24 on 22 May this year, the Secretary General Kofi Annan paid tribute to the mission of the Committee of 24 during the week of solidarity with the peoples of all Colonial Territories fighting for decolonisation. Gibraltar is such a territory and Gibraltarians are such a people. He described decolonisation as a basic human right.

Most of the remaining territories on the UN's list have some extraneous obstacle or other in the path of the exercise of their right to self determination. The existence of those extraneous obstacles, usually at the suit of some country seeking to deny self determination cannot render the Committee of 24 impotent since otherwise it will cease to serve a useful purpose. Indeed, it is precisely because of those obstacles that the Committee has an even more important role in defending the rights of these non self governing territories. We therefore endorse the Secretary General's call for a redoubling of the effort to conclude the decolonisation of the remaining territories so that their people can be masters of their own destiny.

Mr Chairman, when the Kingdom of Spain addressed this Committee last year the Spanish representatives urged you not to allow yourselves to be deceived by me into believing that Gibraltarians are a colonial people because, he said, we are not indigenous to the territory.

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Mr Chairman, in the last 1287 years, Gibraltar has been Moorish for 727 years, Spanish for only 266 years and British for 294 years. It has therefore been British longer than Spanish. Gibraltar was ceded by Spain to Britain in perpetuity by Treaty in 1713, having been taken by Britain in 1704. Over those 294 years since 1704 a population has established itself in Gibraltar and developed into a unique people with our own very strong culture, characteristics and identity.

How long does it take to acquire the rights given to colonial people by the Charter of the UN? Other ex colonial peoples have exercised the right to self determination after a much shorter presence in their territories, for example the USA, Australia, Canada, New Zealand, and all the Caribbean countries. All these countries were once colonies – like Gibraltar. Why should the colony of Gibraltar be any different? We are no less indigenous than the peoples who exercised the right of self determination in those and many other countries . What justification is there for Spain's argument that the colony of Gibraltar should be the only one in respect of which historical acts of 294 years ago operate to deny the right of self determination to its inhabitants?

Mr Chairman, I very much regret that the Spanish representatives should have insinuated deception of you on my part. The facts about Gibraltar and its people speak for themselves. Far from wishing to deceive you I would warmly welcome

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UN visits to Gibraltar and I have repeatedly extended invitations to the Committee of 24 to come to Gibraltar and see and judge for yourselves. Spain may not be so keen that you should do so and you should ask yourselves why.

At the same time, Spain maintains the position (set out at paragraphs 58 – 70 of the Working Paper on Gibraltar prepared by the Secretariat – reflecting the Spanish representatives speech to the Committee of 24 in June 1997) that Spain continues to hold the inhabitants of Gibraltar in the highest regard and that the Spanish authorities have proven time and time again that they are fully prepared to duly respect "the legitimate interests, status and special circumstances of the inhabitants of Gibraltar". How can the people of a colony have legitimate interests, status and special circumstances but not the right to self-determination which the Secretary General has described as a basic human right. This is politically and intellectually incoherent.

It is against this backdrop of a denial of our right to self determination that Sr Matutes, the Spanish Foreign Secretary, tabled in December 1997 the proposals to which he referred in his speech to the General Assembly last month. In a nutshell Spain's proposals are that the United Kingdom and Spain should share sovereignty for a transitional and indeterminate period of time after which Gibraltar would become fully Spanish as part of the Spanish state enjoying an autonomous status greater (they say) than the one that we presently enjoy.

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These proposals are not new. They have been repeatedly rejected by the people of Gibraltar, and I reject them here again today. The people of Gibraltar are not Spanish and do not wish to be part of the Spanish State.

Sr Matutes said that he hoped that these proposals could form the basis of an agreement that would put an end to the anachronism that has arisen from the dynastic wars of the beginning of the 18th Century! The proposals cannot be a basis for anything of the sort because they are not acceptable to the people of Gibraltar.

The reality is that contrary to what Sr Matutes asserts, the people of Gibraltar do not find his proposals generous and do not find favour with his ideas. This should be enough for Spain. At the time of presenting these proposals in December 1997 Senor Matutes recognised that Spain did not want a solution to the problem of the sovereignty dispute, which was imposed on the people of Gibraltar. That seemed to be a most welcome acknowledgement that the principle of democratic consent was paramount. What is disappointing is that having declared himself in favour of democratic consent, Senor Matutes does not then accept the fact that the proposals are rejected by the people of Gibraltar. Consent must be free. Adherence to the principle of consent must mean acceptance of the democratic will even if you don't like the outcome. It is a little incongruous to continue to offer, and to present as generous, proposals which

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have been rejected and which he knows to be totally unacceptable to the people of Gibraltar, if indeed there is a genuine adherence to the principle of consent.

Sr Matutes proposals came with a warning that if Gibraltar did not accept them he would "tighten the screw" on us. This amounts to a denial of the will of the people of Gibraltar and therefore our right to self determination. Indeed only last week the screw was in fact tightened. The Spanish authorities implemented lengthy delays to cross the Gibraltar/Spain border because Gibraltar does not agree to allow Spanish fishermen to fish in Gibraltar waters using fishing methods prohibited by our Gibraltar Nature Conservation laws in what amounts to a challenge to our sovereignty of those waters. The result has been queues of up to 5 hours to cross the border and threats of further unpleasant measures.

Such behaviour is contrary to numerous UN Resolutions and Covenants which prohibit the use of such tactics by large countries against small neighbours.

Every year this Committee recommends to the General Assembly (which adopts as a consensus resolution) a resolution calling on the administering power, the United Kingdom and Spain to take part in a bilateral process of dialogue aimed at overcoming all the differences between them over Gibraltar with the object of reaching a definitive solution to the problem of Gibraltar. Such a recommendation does not address the fact that the issue is not the resolution of

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supposed bilateral differences between the administering power and the third party territorial claimant but the rights of the people of Gibraltar to decide their own future in the exercise of self determination which cannot be advanced in bilateral dialogue between the UK and Spain. Only respect for Gibraltar's right to self determination can bring about the decolonisation of Gibraltar in accordance with the spirit of the Charter of the UN and your recommendation to the General Assembly should reflect this.

Many of the remaining territories are small and isolated. Independence may therefore not be the most appropriate or favourable option for decolonisation. The world is rapidly reorganising itself into alliances and international bodies of mutual inter dependence. The concept of independence is becoming increasingly qualified. Even within independent countries there is a trend to decentralisation and subsidiarity. The modern, practical options for decolonisation available to the remaining non self governing territories have to be seen in the context of these trends. The heart of decolonisation is the transfer of effective political and administrative power and self rule to the people of the colonies. What matters is not the label that attaches to a territory but the reality of people being masters of their own homeland and destiny, and that these should be achieved by the free exercise of an act of self determination.

8.

Gibraltar has legitimate aspirations to achieve a full measure of self-government. Your support at this point would be enormously significant but our agenda cannot be held back pending a declaration by the United Nations on our representations. To this end I informed this Committee, last year, that the Gibraltar Government was formulating proposals to the UK for further constitutional change. This process has moved forward over the last year and we are now in discussions with HMG on achieving a modernisation of our constitutional links with the UK. We aim to achieve a relationship that maintains close political ties with the UK but which produces the greatest possible degree of self-government. These new arrangements would give rise to a non colonial relationship and thus their acceptance by the people of Gibraltar in referendum would be a valid and legitimate exercise of self-determination in accordance with the relevant General Assembly resolutions. It would, in our view, end the colonial status of Gibraltar and constitute the tailor made fourth option to decolonisation provided for in General Assembly Resolution 2625(XXV) of 24th October 1970.

Quite separate from the question of our decolonisation is the difficulties we have arising out of Spain's outdated territorial claim to Gibraltar. The new constitutional arrangements we seek from the UK would not, of course, settle the dispute with Spain. We therefore want, on a parallel but unconnected basis, to pursue a process of dialogue with Spain, to improve relations and to establish a better communication with our neighbour on the large variety of issues that affect

us both. Our constitutional development which involves us and our administering power the UK, should not be an obstacle to better relations between Gibraltar and Spain. Spain cannot seek to stifle our normal constitutional development so as to pressure us into acceptance of her outdated claim. This blackmail is not worthy of a country with the democratic credentials and standing of modern Spain. Our agenda is a threat to no one. Our aim is only to fulfil our aspirations to undergo decolonisation and to live in harmony with all our neighbours in the region, especially Spain.

On 29 June 1998 the Spanish representative confirmed to the Committee of 24 Sr Matutes' publicly stated willingness to meet with me. I have expressed a willingness to meet with him. Unfortunately the meeting has not yet occurred. The delay is not at my end. I hope that the meeting, can occur soon.

Please insert the following paragraph in page 2 as paragraph 3 ie after the paragraph ending with "destiny" and before the paragraph beginning "Mr Chairman" :

"In this respect it is highly regrettable that this year's report of the Special Committee, in its first paragraph (under the heading "future work" (paragraph 15)) alters the traditional language in that part of its report by eliminating the use of the words: self determination. Last year's phrase that the Committee would "pursue its efforts in seeking the best ways and means for the implementation of the Declaration in all territories that have not yet exercised their right to self-determination" has disappeared. I think that I can say, without fear of contradiction, that that omission is not the handiwork of a country committed to the UN's doctrine on self determination."