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PRESS RELEASE

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Attached is the full text of the Chief Minister's address at the United Nations Fourth Committee on 6 October 2004.

Mr Chairman,

Thank you for this opportunity to once again address you in relation to the case of Gibraltar on behalf of its colonial people. As you have just been told, I do so as the Chief Minister of their elected Government. This year, I am accompanied, as I was in June when I addressed the Special Committee on Decolonisation, by Mr Daniel Feetham the leader of a rival, opposition political party in Gibraltar. He is with me as an expression of cross-party solidarity and unity on these issues, which in Gibraltar transcend party politics. Later, you will also hear from the Leader of the Official Opposition in Our Parliament, Mr Bossano, who heads an Alliance of both of the Opposition political parties represented in our Parliament. Accordingly, you have before you the whole of the political spectrum of Gibraltar. There is total unity of position among us when it comes to the defence of our inalienable right as a colonial people to self determination and to our resistance to anachronistic claims to the Sovereignty of our homeland by others in violation of our right to self determination.

This year we have commemorated the 300th Anniversary of our Administering Power's Sovereignty over our homeland. 300 years is a mighty long time. More than long enough one would think to ensure respect for our political rights as a people to self determination in our homeland. During those 300 years the people of Gibraltar have developed and become established as a separate and distinct people, with a culture and heritage of our own. It is high time that we were allowed to move on from our colonial status. Indeed, about that, Gibraltar and the Kingdom of Spain agree. We both believe that Gibraltar should be decolonised – but we disagree about the principles to apply to that decolonisation.

We say, relying on the principles and spirit of the Charter, on the doctrine of these United Nations and on clearly established principles of international law that the principle applicable to our decolonisation must be self determination. The doctrine of these United Nations, and international law both clearly dictate that “in the process of decolonisation there is no alternative to the principle of self determination”.

The Kingdom of Spain however, wishes to return the map of Europe to what it was in 1704, for which purpose she lays claim to the sovereignty of Gibraltar. She further argues that, because she has a sovereignty claim, the principle of self determination cannot apply to our decolonisation. She therefore argues (ignoring the UN doctrine that “in the process of decolonisation there is no alternative to the principle of self determination”) that in the case of our decolonisation the applicable principle is the principle of territorial integrity.

Two huge and fatal misconceptions lie at the very core of these arguments of the Kingdom of Spain. The first one is that, although the principle of territorial integrity of course exists in UN doctrine, contrary to Spain's contention it actually has no application in the decolonisation process of UN listed Non-Self Governing

Territories. It is not just I who assert this. It is international law. The International Court of Justice asserted it when it said in the Namibia case: -

“...the subsequent development of 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.”

Mr Chairman, the UN itself assert the very same thing when it repeatedly declares to be that in the process of decolonisation there is no alternative to the principle of self determination. You do not say “no alternative except in the case of the decolonisation of territories the subject of a sovereignty dispute!” And you do not say that for very good reason! It is not your doctrine.

It is therefore crystal clear that it is not properly and correctly arguable that territorial integrity is a relevant principle in the decolonisation process! There is only one applicable principle and that is self determination.

And, Mr Chairman, the UN also say this in General Assembly Resolution 2625 (XXV) of 24th October 1970, adopting your “Declaration on Principles of International Law concerning friendly relations and Co-operation among states in accordance with the Charter of the United Nations.”

That is a hugely important Resolution because it constitutes the only explicit declaration by the UN on the very question of the interrelationship between the principles of self determination on the one hand, and territorial integrity on the other.

That Declaration asserts the principle of self determination then declares the principle of territorial integrity in its classic expression, and in the terms upon which Spain cites it in the Gibraltar question, namely: -

“any attempt aimed at the partial or total disruption of the national unity and territorial integrity of a State or Country is incompatible with the purposes and principles of the Charter.”

Mr Chairman, Excellencies will be aware that this is the principle which Spain declares to be the one that UN doctrine requires to be applied in the case of the decolonisation of Gibraltar.

But the Resolution and Declaration of Principles that I am citing goes on to make it quite clear that this is not the effect or correct application of the principle of territorial integrity, which the Declaration goes on to helpfully set out in the following terms after having asserted the principle of self determination: -

“Nothing in the foregoing paragraphs shall be construed as authorizing or encouraging any action which would dismember or impair, totally or in

part, the territorial integrity or political unity of sovereign and independent States conducting themselves in compliance with the principle of equal rights and self-determination of peoples as described above and thus possessed of a government representing the whole people belonging to the territory without distinction as to race, creed or colour.”

That, Mr Chairman, Excellencies, is the proper meaning and effect, and proper application, of the principle of territorial integrity in relation to the principle of self determination! Namely, that the principle of self determination is not available to the peoples of part of an existing country to enable them to secede from it!

Let me repeat the salient words of your Declaration of Principles: -

“...Any action which would dismember or impair, totally or in part, the territorial integrity and political unity of sovereignty and independent States... possessed of a government representing the whole people belonging to the territory...”

It is beyond rational dispute that Spain and its Government is not a State or government representing the people of Gibraltar or the territory of Gibraltar and has not been for 300 years! It is not our self determination now in 2004 that would disrupt Spain's territorial integrity. If anything disrupted it, it was the original act of colonisation in 1704! But that is not covered by the principle of territorial integrity. The principle of territorial integrity can only be applied to prevent the dismemberment of a country today. It simply cannot be applied to restore the borders or territory of a country to what it was 300 years ago. Yet this is precisely the use to which Spain seeks to put it – and, to boot, to try and persuade you that, for that reason the colonial people of Gibraltar must be denied self determination. It is a distortion of UN doctrine and principles and of trite international law. Little wonder then that Spain refuses our invitation to refer the legal principles of the Gibraltar case to the International Court of Justice for an advisory opinion.

The second misconception upon which Spain's arguments are based is the confusion (as if they were one and not two separate and distinct issues) of the issue of decolonisation and the issue of territorial sovereignty claim. Spain's entire position in opposing our decolonisation by the principle of self determination is based on the existence of her territorial sovereignty claim.

Mr Chairman, Excellencies, where in the Charter, in UN doctrine or elsewhere in international law is it written that a neighbour's sovereignty claim overrides let alone extinguishes, the inalienable right to self determination of a colonial people? The answer is, of course, nowhere, but the whole edifice of Spain's case at these UN in relation to Gibraltar is, nevertheless built on that indefensible proposition. And it is not just we who say so. In the Namibia case the International Court of Justice said: -

“Even if integration of 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.”

Indeed Spain's position goes even further, since according to her, the existence of her Sovereignty claim even prevents the Special Committee on Decolonisation from discharging its mandate in the case of Gibraltar without her consent. When the Representative of the Kingdom of Spain addressed you on 8th October last year, he said in relation to our invitation to the Special Committee to visit Gibraltar on a fact finding mission, as follows: -

“It is worth remembering that, to send a visiting mission of the Committee in cases where a sovereignty dispute exist, as is the case of Gibraltar, there is required not only the consent of the Administering Power, but also the consent of the other party to the sovereignty dispute. In this respect I wish to underline that Spain opposes the sending of a visiting mission of the Committee of 24 to Gibraltar.”

Mr Chairman, this is a simple invention by Spain of non existent UN doctrine. I said earlier that Spain sought to confuse issues of decolonisation and Sovereignty dispute and this is a classical example. It is not the doctrine or practice of the UN that where sovereignty of a colony is claimed by a third party, the rights and competences of the colonial administering power under the Charter are to be shared with the third party claimant! Where is that stated? Only the UK's consent is required and that has been given.

Year after year we invite the Special Committee to visit Gibraltar to see for itself the realities of our situation and the realities of the case of Gibraltar and to assess for itself the worth of the people of Gibraltar. Year after year we are ignored by the UN – simply, it appears, because Spain doesn't want you to visit. I would urge Your Excellencies to ask yourselves: why? Why doesn't Spain want the UN to visit Gibraltar?

Spain of course, objects, because she knows that clarity and transparency would be fatal to her untenable case. Just as she objects to the applicable legal principles being clarified and established by objecting to a referral of the case to the International Court of Justice, so, too, she objects to the true facts of the case being known to this Committee by objecting to a visit by the Special Committee!

Spain openly admits that this is the reason for her objection to a visit. The representative of the Kingdom of Spain had this to say when addressing this Fourth Committee on the 8th October last year about Gibraltar's invitation for a visit by the Special Committee: -

“The principal objective of a visit by the Committee would presumably be for the Gibraltar Government to obtain implicit or explicit support for its thesis, contrary to the principal of territorial integrity traditionally defended by this Assembly in accordance with international law” (this is alleged international law, which Spain is unwilling to test).

I think that it would not be unfair to paraphrase that statement in this way:-

“Committee, don’t go to Gibraltar, because if you do you will then see the realities and conclude my position is wrong, and that of Gibraltar is correct, and you may take action accordingly.”

Similarly, Mr Chairman, every time we address this Committee and the Special Committee we ask you should not continue to blindly endorse the annual consensus resolution co-sponsored by our administering power, the United Kingdom and the claimant of our sovereignty, the Kingdom of Spain. This consensus resolution calls for bilateral negotiations between them about our future and affairs. This implicitly ignores our existence and political rights as a people. It is based on, and perpetuates the very same misconceptions upon which Spain’s position is based and which I have described earlier in this address. We simply do not, and will never accept, that the UK and Spain are free or entitled to negotiate and reach agreements about the future of our homeland, bilaterally between themselves and without regard to our right to self determination. They simply have no right to do so, and this Committee should not urge them to do so.

In any case, that bilateral process is wholly ineffective and sterile. The position of the UK is that no agreement about Gibraltar’s future is possible without the prior consent of the people of Gibraltar. The position of the UK is that she wants to see an open-ended, open-agenda dialogue between all three parties: Spain, UK and Gibraltar. So what then is the point of this Committee continuing year in year out to accept a consensus resolution based on a bilateral negotiation between the UK and Spain to which one of them is no longer committed as the way forward?

This Committee should not lend its support any longer to an antiquated annual consensus resolution, which you have been passing every year, in identical language, since 1985 and which no longer reflects the position of the parties and which fails to take account of changing circumstances, as well as failing to take account of the wishes of the colonial people of Gibraltar whose protection is your overriding duty.

I know that it is easier to simply continue adopting the same consensus resolution, regardless of its effectiveness, accuracy, or relevance. We, the people of Gibraltar also know and understand that there are more urgent, and pressing problems and causes in the world than our issue. And we hugely welcome and support the fact that the UN should concentrate and give priority to those more

important and pressing issues. Often they are issues of war and peace; of life and death; of starvation or of some other humanitarian nature. But this issue of the political rights of a colonial people is not so unimportant that it does not deserve to be addressed.

And so, given our repeated failure to persuade the Special Committee and this Committee to act on our behalf, we ask ourselves: - In the case of Gibraltar, does the UN see its role as the protector of the rights of a colonial people in the decolonisation process, or does it see its role as that of a referee in a Sovereignty dispute between two of its member states?

Mr Chairman, when the President of the Government of the Kingdom of Spain addressed the General Assembly a few days ago he said that Spain remained willing to negotiate a solution beneficial to the whole region and to listen to the voice of Gibraltar.

I have publicly welcomed that statement as representing a constructive step in the right direction. But our rights over our homeland extend beyond being listened to. We are entitled to be heard and our wishes respected, even by those who do not agree with our position and who have different aspirations in the matter. That is an inescapable obligation of all who subscribe to democratic principles and, in the matter of Gibraltar all three parties are in that category. The future of Gibraltar can only be decided by the people of Gibraltar.

Mr Chairman, I have similarly welcomed publicly recent more conciliatory statements by the Spanish Foreign Minister, Sr Moratinos and the opportunity which the new Spanish Government has offered of dialogue aimed exclusively at issues of local co-operation with no sovereignty implications for either side. My Government will engage constructively and amicably in such a process which coincides with our own longstanding policy to the same effect.

But it must be clearly understood that by embracing dialogue for these co-operation and neighbourly relations building purposes, we are not accepting any sovereignty quid pro quo. Sovereignty is altogether a different matter upon which concessions will not be made and should not be expected as part of this process. The position of the Gibraltar Government and the Gibraltar Parliament is that Sovereignty of Gibraltar must vest where the people of Gibraltar wish it to vest and that there can be no discussion or negotiation against the wishes of the people of Gibraltar for the transfer to Spain of any part of the sovereignty of Gibraltar.

Mr Chairman, I do not know whether my address this year will have any greater effect on this Committee's actions than our addresses have had in the past – which appear to have been nil. I nevertheless repeat our request that this Committee's resolution should call for a programme of action in the case of Gibraltar, to comprise: -

1. A visit by the Special Committee on Decolonisation to Gibraltar to see and judge the facts for itself, so that no party can gain an advantage from misrepresenting them.
2. Since there is disagreement between the parties as to the applicable international law principles, and this is holding back a solution, the case should be referred by this Committee to the International Court of Justice for an advisory opinion on those principles.
3. That your resolution this year should be changed to reflect a call for the Government of Gibraltar on behalf of the people of Gibraltar, to be fully, properly and safely able to be present in any talks affecting Gibraltar.

Mr Chairman, regardless of the fate of my petition, I thank you and distinguished representatives for your courtesy and attention this afternoon.