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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 4th October 2011.



FULL TEXT OF AN ADDRESS
BY
THE CHIEF MINISTER OF GIBRALTAR
THE HON P R CARUANA QC
TO
THE UNITED NATIONS
FOURTH COMMITTEE

Mr Chairman, those Distinguished Representatives of Member States that are democracies, and many of Member States that are not, will rightly think it incomprehensible that the Kingdom of Spain, itself an important democracy, continues to believe and assert that the people of Gibraltar do not enjoy the right to self determination.

Denial of our right to self- determination is nothing more and nothing less than assertion of the proposition that someone other than the people of Gibraltar should be free to decide the political future of Gibraltar, which is not today part of any other country, and to impose that decision on the people of Gibraltar against their wishes.

Mr Chairman, no democracy should be able to live with the obvious implications and consequences of that position and it does modern, democratic Spain no credit whatsoever to perpetuate this indefensible anachronistic stance.

Spain's historical obsession with the recovery of the Sovereignty of my homeland (which she lost 307 years ago) cannot excuse, still less can it justify, her undemocratic willingness to do so against the Gibraltarian peoples' wishes and denial of our right to freely decide our own future and that of our own country.

And it is, Mr. Chairman, an obsession; specifically an obsession of the Spanish political and diplomatic class. Ordinary Spanish people do not obsess about it, and most would not support the proposition that the future of Gibraltar can be decided by someone else over the head of its people, and ignoring their wishes, as the Spanish State maintains.

It is not enough for Spain (as she offers to do) to take account of our interests (as, presumably decided by her) in a bilateral horse trade with the UK about our own country.

Our wishes, as freely expressed by us must be respected and are the only relevant factor in determining our future.

Mr. Chairman, the irreconcilable contradiction between Spain's democratic credentials in all other matters on the one hand, and her attitude to the political rights of the people of Gibraltar on the other, is not cured, as she tries to do by her recourse to fantastic and demonstrably flawed legal and political arguments.

The very bottom line after all else is said and argued is this: no argument or principle will serve or suffice in any circumstances in the 21st Century to justify the transfer of the sovereignty of a

country to another against the wishes of its people, whether that country is in Europe, as is the case of Gibraltar or anywhere else on the planet.

Contrary to Spain's assertion, there is no principle of international law or doctrine of the United Nations that enables a competing territorial sovereignty claim to trump or defeat the right to self-determination of the peoples of any of the territories on the UN's list of non self governing territories, such as Gibraltar.

Nor is there any principle of international law or doctrine of the UN to the effect that the decolonization of such a territory is subject to the application of some different principle, including the much abused (by Spain) and wholly inapplicable principle of territorial integrity. Spain lost Gibraltar 307 years ago. Our exercise of the right to self determination would thus not disrupt or undermine Spain's territorial integrity and the principle is thus completely inapplicable to the case of Gibraltar.

In fact, the settled jurisprudence of the International Court of Justice is the very opposite of what Spain asserts— on all points, namely that the only principle applicable to decolonization process under the Charter is self determination, even in respect of territories the subject of a sovereignty claim or dispute and that that sole principle is applicable to all (without exception) the listed territories.

Mr. Chairman, all of Spain's arguments to the contrary are simply politically self serving confessions completely unsustainable, and flatly contradicted by all recognized and judicially established principles of current international law.

The Treaty of Utrecht of 1713, which Spain presses into the service of her cause (but not before she has subjected it to selective, strained and indefensible interpretation) is not rejected by Gibraltar simply because of the passage of time, as Spain says. But you cannot ignore the changes in international law, democratic principles and human rights during the passage of that time. We thus reject this 1713 Treaty because it is trite international law and UN doctrine that no bilateral Treaty retains validity if, and to the extent that its provisions are in conflict with the provisions of the Charter, regardless of the views of the Parties to it. Every first year law student knows this.

The Treaty of Utrecht does not mean what Spain claims it to mean, but if it did, it is invalid as being in irreconcilable conflict with the UN Charter. Furthermore, the Treaty is long ago dead in respect of all its other very many provisions and subject matter. The suggestion that it is still alive but only on this single point and only on a point that violates the UN Charter is legally and politically obscene.

This simple fact is not altered by the United Kingdom's position, to her discredit as well, that the Treaty of Utrecht remains valid. The United Kingdom, like Spain, also does not have the power or right in international law or under the UN Charter to compromise the inalienable right to self determination under the Charter of the people of listed territory of Gibraltar, by adopting diplomatically convenient, self serving positions or statements in relation to the current status of Utrecht.

Mr. Chairman among the many self evident flaws in Spain's theories about Gibraltar is the remarkable proposition that the UK should negotiate with her the transfer of Gibraltar's Sovereignty. This would be a straight forward violation of the UN Charter, since the Charter make perfectly clear that the listed territories are not the property of administering powers. The UK simply does not have under international law the right or power to transact the sovereignty of the listed territory of Gibraltar against the wishes of its people. Gibraltar is the homeland of the people of Gibraltar. It is neither Spain's to claim nor the United Kingdom's to give away.

Mr. Chairman I make two final points in this respect:

1. Unlike us, Spain is unwilling to test her assertions in the ICJ – ask yourselves why that is, and what it tells you about where the merits in the argument lies.
2. Spain is wrong in her arguments about the applicable international law and UN doctrine, and thus we will not abandon our political rights and aspirations to them. But even if Spain were right and we were wrong, her democratic credentials and subscription to democratic principles and values should still, even in those circumstances preclude her from such a position. Furthermore, where would the world be if everyone sought to return national borders to where they were 307 years ago asserting some claim of right of 1713!

Mr. Chairman, there is no possible way forward along the path recommended to this Committee by Spain. Bilateral negotiations between the UK and Spain about the Sovereignty or future of our country will never be acceptable to the people of Gibraltar, since it intrinsically violates our right to self determination. Nor, as the UK has told you annually for several years now, and will tell you again this year, is that or any other bilateral process or negotiation acceptable to the UK unless Gibraltar consents – which we don't and wont.

Accordingly, the bilateral Brussels Process is long since now dead. There is no point in Spain hankering for a return to it. Nor, for the same reason should this Committee believe that there is any efficacy or value in continuing to allude to such bilateral process or negotiation in the Annual Consensus Resolution.

Gibraltar remains committed to the Trilateral Forum of Dialogue between the Governments of Spain, Gibraltar and the United Kingdom, a dialogue forum which has concluded good problem solving and cooperation agreements, and relationship building since 2004, and which could very easily continue to do so, to the advantage of all three countries.

Spain has recently taken to saying that the Government of Gibraltar, which I lead, is hampering these talks by insisting on trying to discuss issues of Sovereignty. This is untrue. We have no wish to discuss the Sovereignty of our country with Spain. What we do do however, is ensure that our Sovereignty is not prejudiced or undermined by co operation agreements. Spain appears to unrealistically expect that we should not do this and mischaracterizes our negotiating position in cooperation agreements as "wanting to discuss Sovereignty".

Finally, Mr Chairman I do not come here to seek Gibraltar's decolonization. We have a modern, negotiated, non colonial status of our choice already. That is a fact whether or not current UN delisting rules can accommodate our delisting, as we would like. Much as we would like to be delisted, and much as we believe that the delisting criteria should be modified if necessary to permit it, in the meantime, our continued listing does not alter the fact that we are no longer in a colonial relationship with our ex administering power. And that is what matters most to us.