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Attached is the full text of the Chief Minister's address at the United Nations Fourth Committee on 4 October 2006.

Mr Chairman, Excellencies, it is once again my pleasure and duty, to address this Committee on behalf of the people and Government of Gibraltar, one of your listed non-self governing territories whose decolonisation it is your mission and objective to help bring about.

This is my eleventh consecutive annual address to you as Chief Minister of my small country, and during the last ten addresses I have made to you the case, which we believe to be unanswerable, that in accordance with the principles enshrined in the Charter of the UN, in other international law and in binding UN covenants and resolutions, Gibraltar is a normal case of decolonisation in accordance with the inalienable right to self-determination of its people. Indeed I have demonstrated that, in actual fact, self-determination is the only principle applicable in the decolonisation process under the Charter and other international law, and that it is an unsustainable misconception to seek to apply the principle of territorial integrity to any process of decolonisation, especially to the decolonisation of Gibraltar.

The Kingdom of Spain, on the other hand, persists with her view that the people of Gibraltar have no right to self-determination (despite Gibraltar being a listed Non-self governing territory) and that the decolonisation of Gibraltar can only be brought about by the transfer to Spain by the United Kingdom of Gibraltar's sovereignty, regardless of the wishes of its people. And all in the name of precisely that principle of territorial integrity that actually has no application in the decolonisation process – in other words, to restore Spain's territorial integrity, in part, to what it was in 1704. It is thus the essence of Spain's position that the principle of territorial integrity, actually has priority over , displaces and defeats the principle of self-determination. For this view, with which obviously we do not agree, Spain invokes the support of several non-binding general assembly resolutions of the mid-1960's which she says has that effect. We say that there is no current political or legal justification for Spain's position.

Mr Chairman, I do not intend, this year, to repeat or rehearse our arguments or indeed to analyse and rebut those of the Kingdom of Spain in support of her contentions. Both sets of arguments are now clearly and well documented on the record here and are thus well-known. And in any case, the arguments have been overtaken by events. But I will just flag up one of my central arguments, and that is that care must be taken not to confuse and tangle up issues relating to decolonisation (on the one hand) with issues relating to sovereignty disputes on the other. Decolonisation and sovereignty are different things. The process of decolonisation of a colonial people in a listed non-self governing territory cannot be hijacked as a means or mechanism in the pursuit or resolution of a territorial sovereignty claim. Still less can the existence of a sovereignty claim by a neighbour override or extinguish the right to self-determination of a colonial people in a listed non-self governing territory. There are, as Distinguished Representatives will be aware, examples of non-self governing territories that have exercised their right to self-determination despite the existence of a neighbour's sovereignty claim over that territory.

Mr Chairman, instead of repeating well-known and well-documented arguments, this year I want to report to you on significant political and constitutional developments affecting Gibraltar that have occurred during the last 12 months and which, in our view impact on our decolonisation process to the extent that they enable the United Nations to consider that our decolonisation need no longer concern the UN.

The New Constitution

Mr Chairman, last year I told this Committee that we were then engaged in Constitutional Talks with our Administering Power, the United Kingdom, in the negotiation of a non-colonial Constitution that would endow on the people of Gibraltar the greatest possible measure of self-government available to us in all the circumstances that are said to affect us.

I am happy to say that we have concluded this process, and have, in negotiations with the United Kingdom, agreed a new Constitution for Gibraltar which maximises our self-government to the point beyond which there could be only a Constitution for Gibraltar's total independence. Under this new Constitution, legislative and executive competence is vested in the Gibraltar Parliament and Government respectively, in all matters except Defence, external affairs and some aspects of internal security.

The position of our administering power, the UK, is that while Gibraltar does enjoy the right to self-determination, it cannot opt for full independence without Spain's consent by virtue of the Treaty of Utrecht of 1713. We profoundly disagree that our right of self-determination is or can be curtailed in that or any other manner. It is clear to us that there is no basis in international law for any such curtailment.

Be that as it may, in the context and circumstances of the United Kingdom's position, therefore this new Constitution gives us the greatest possible measure of self-government. It is not independence. But it most certainly is not a constitution that regulates a colonial relationship.

This new Constitution will very shortly be put to the people of Gibraltar in a referendum organised by the Government of Gibraltar. The United Kingdom has recognised and acknowledged publicly, and indeed has told its Parliament in London, that this Referendum will constitute an act of self-determination by the people of Gibraltar. Anyone will be welcome to send or come as observers of that referendum.

If the people of Gibraltar accept this Constitution, we will, by an act of self-determination, have chosen a Constitutional status and relationship with the UK, with which the people of Gibraltar are content. Indeed, despite strenuously disagreeing with the UK's view that the Treaty of Utrecht curtails our right to independence, this Constitution will give the people of Gibraltar the status and relationship with the UK that the overwhelming majority of the people of Gibraltar want.

And in any case, Mr Chairman, given the UK's position relating to the curtailment of our right to self-determination, namely that we cannot opt for full independence without Spain's consent, this new Constitution would, as far as we are concerned, bring about our decolonisation since it will bring us into a non-colonial relationship with the UK. We recognise however that the separate issue of Spain's sovereignty claim, which we reject, remains intact and will not have gone away.

Whether the new Constitution, and its acceptance by the people of Gibraltar in an act of self-determination results, as we would like it to, in the cessation of transmission of Information by the UK under Article 73(e) of the Charter in our case, and thus in our de-listing, is, I am led to believe, a matter for the General Assembly.

In a statement by the Chairman of the Special Committee on Decolonisation on 6th June 2006, which is an addendum to the Chairman's note of the Special Committee's meeting

of that date, the Chairman clarified the current position, as understood by him, in relation to cessation of transmission of information by administering powers, and de-listing.

He said that for the “internal self-government” model of decolonisation the standard required remained “freedom from control or interference by the government of another state in respect of the internal government” of the territory. He said it also required “complete autonomy in respect of economic and social affairs”. He described this as requiring “absolute political equality”.

He added that “If new constitutional arrangements in a given territory result in mere colonial reform rather than decolonisation, without meeting the international criteria of a full measure of self-government with political equality, these new arrangements would be acknowledged. It would be difficult, however, to see how the international community would declare such an arrangement to be one of full self-government.”

In our view this analysis is incomplete, in that it is predicated on the misconception that there is, in UN doctrine, no valid means of decolonisation other than independence, free association or integration. This is incorrect. The Committee will be able to assess whether our new Constitution amounts to “mere colonial reform”. We believe that such a view would be objectively untenable.

It has also been said, in the context of the Decolonisation regional seminar conclusion and recommendations, that as long as the administering powers exercise unilateral authority to make laws and other regulations affecting the non-self governing territories without their consent, pursuant to methods such as legislation, Orders in Council and others, a Territory should not be considered self-governing. Mr Chairman, it is decades since the UK has done so in the case of Gibraltar.

Mr Chairman, this new Constitution cannot objectively be thought or said to constitute “mere colonial reform”. The UK’s Foreign Secretary has said publicly and in the UK Parliament that this Constitution (which also acknowledges our right to self-determination) “provides for a modern and mature relationship between the UK and Gibraltar, which description would not apply to any relationship based on colonialism”.

We agree with that, and if the people of Gibraltar, in exercise of the right to self-determination, accept that Constitution and that by virtue of it they will have passed into a modern and mature, and thus non-colonial relationship with the UK, then I believe that others should accept that too.

Mr Chairman, the UN’s criteria for cessation of transmission of information obligations and thus de-listing, are of course a matter for you. But, if those criteria were to exclude these arrangements as being insufficient, then I believe that the currently applicable criteria are out of date, and should be reviewed, if many of the remaining listed territories are to decolonise in a viable manner. But be that as it may, or not, the people of Gibraltar will consider that we have passed into a modern, non-colonial relationship with the UK, which is as we want.

Still, we recognise, that even though we reject the notion of the continuing validity of the Treaty of Utrecht, this Constitution does not violate anyone’s alleged continuing claim of rights under that Treaty, since sovereignty remains formally vested in Britain.

Mr Chairman, I have, yesterday, sent a copy of the New Constitution to you and to the Chairman of the Special Committee on Decolonisation by way of advance information. We will, of course, report to you and to the Special Committee in relation to the Referendum.

Mr Chairman, last year I also referred to the new Trilateral Process of Dialogue on Gibraltar between the Governments of Gibraltar, Spain and the UK, and I explained to you the basis and structure of that Trilateral dialogue forum. You may recall that this new Trilateral Forum creates dialogue which is as we had sought, namely, (1) on an open agenda basis, (2) in which all three participants take part on the same basis and (3) in which nothing is agreed unless all three participants agree to it.

I am happy to report that the three Governments have applied considerable political imagination, and courage in that process and, on 18 September reached excellent agreements for all sides that settle practical and long-standing issues such as enhanced use of Gibraltar airport, telecommunications issues, border fluidity issues and the pension rights of cross-border Spanish workers. These agreements will be of considerable value and benefit to the people, both of Gibraltar and of the neighbouring region of Spain. The agreements do not relate to sovereignty. Each of the sides has reserved and protected its position on the question of Sovereignty. We welcome and appreciate the political effort that the Government of the Kingdom of Spain has made in facilitating this Trilateral dialogue and in reaching these agreements. I hope too, that the Spanish Government has welcomed and appreciated our own constructive approach.

This all demonstrates Mr Chairman, that it is indeed possible for Gibraltar and Spain to engage each other in dialogue and in appropriate political relations and contacts, without either of us having to suffer any loss or prejudice on the fundamental issues of sovereignty and self-determination. We welcome that.

And this brings me, Mr Chairman, to the last issue that I want to raise with you today, namely, the Annual General Assembly Consensus Decision on Gibraltar. That Consensus decision suffered some welcome modification last year, but it still does not reflect the actual reality on the ground.

The agreement in December 2005 establishing the new trilateral forum of dialogue says that it is "separate from" the dialogue forum established under the Brussels Declaration of 1984, which is bilateral between the UK and Spain. But the reality is that, in practice, the new Forum has displaced and replaced the Brussels Process, which no longer functions and under which no dialogue takes place, and has not taken place since 2002. The new trilateral process is "open agenda" and Spain is therefore free to raise the issue of sovereignty for discussion as and when she pleases.

What is more, there is no real prospect of sovereignty negotiations resuming, in practice, under the bilateral Brussels Declaration. The reason for this is that the UK has informed (in writing) both the Government of Spain and the Government of Gibraltar that the UK Government will not enter into a process of sovereignty negotiations with which Gibraltar was not content. It is well known and documented and accepted by all that, since 1988 Gibraltar has rejected the Bilateral Brussels Process, and will never be content with it.

Mr Chairman, I believe therefore that, in the interests of clarity and transparency, the Consensus Resolution should reflect the factual reality and not a factual fiction, and should be further amended accordingly.

I thank you Mr Chairman, and distinguished representatives for your courteous attention. I will, of course, be happy to answer any questions.