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**AGENDA: ADDRESSING THE DISPUTE
CONCERNING THE STATUS OF THE
STRAIT OF GIBRALTAR**

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Introduction to the Committee

The Special Political and Decolonization Committee (Fourth Committee) considers a broad range of issues covering a cluster of five decolonization-related agenda items, the effects of atomic radiation, questions relating to information, a comprehensive review of the question of peacekeeping operations as well as a review of special political missions, the United Nations Relief and Works Agency for Palestinian Refugees in the Near East (UNRWA), the Report of the Special Committee on Israeli Practices and International cooperation in the peaceful uses of outer space. In addition to these annual items, the Committee also considers the items on Assistance in mine action, and University for peace biennially and triennially respectively.¹

Mandate

When it was first created, the Fourth Committee was solely responsible for trusteeship- and decolonization-related matters. However, after independence was granted to all the United Nations trust territories and the subsequent dismantling of the trusteeship system, the Committee's workload decreased. Consequently, the Fourth Committee was merged with the Special Political Committee, which had been created as a seventh main committee to deal with certain political issues.² The Fourth Committee deals with: decolonization-related items, the effects of atomic radiation, questions relating to information, a comprehensive review of the question of peacekeeping operations, review of special political missions, United Nations Relief and Works Agency for Palestinian Refugees in the Near East, the report of the Special Committee on Israeli Practices and international cooperation in the peaceful uses of outer space.³

¹ <https://www.un.org/en/ga/fourth/>

² <https://research.un.org/en/docs/ga/committees>

³ https://www.eda.admin.ch/dam/mission-new-york/en/documents/UN_GA_Final.pdf

Working Methods of the Committee

The Fourth Committee meets every year from late September to mid-November, but also convenes briefly in the spring to adopt any resolutions and decisions relating to peacekeeping passed by the Special Committee on Peacekeeping Operations. All 193 member states of the UN can attend its meetings.

Unlike most other United Nations bodies, there is no general debate at the beginning of the Committee's work. The Committee also allows for petitioners, i.e. civil society representatives and other stakeholders, to address it on decolonization issues. Finally, the Committee usually adopts about 30-35 draft resolutions and several draft decisions annually, usually by consensus.⁴

Introduction to the Agenda

Ostensibly, friction between Spain and the UK since 1997, relates to the non-respect by Spanish fishing vessels of the territorial waters of the Crown Colony of Gibraltar (CCG), actions taken by the British authorities to counteract this and the obstructionist policies of the Spanish in relation to border crossings between Spain and Gibraltar. Whether fish-related issues or the issuance of Gibraltarian identity cards, the Gibraltarian and Spanish authorities try to counteract any act which could be interpreted in the international community as furthering the sovereignty claims of the UK, Spain or indirectly, the Gibraltarians. As in the past the essence of the problem remains that Spain contests the UK's sovereignty over the entire CCG and especially British jurisdiction over part of the isthmus joining it to Spain with the airport constructed on it, and consequently does not accept that the CCG has a right to any territorial waters.⁵ Like the CCG problem, other regional sovereignty disputes are the legacy of the Strait's historical geopolitical organisation. The Strait of Gibraltar is the only natural entrance to the semi-enclosed Mediterranean Sea (see Figures 1 and

⁴ https://www.eda.admin.ch/dam/mission-new-york/en/documents/UN_GA_Final.pdf

⁵ O'Reilly, G. (1993) "Disputed Territories in the Gibraltar Region: The Crown Colony of Gibraltar and the Spanish Sovereign Territories in North Africa", in *Mediterranean Social Science Review*, 1: 7-16.

2). It is 58km (36 nautical miles (nm)) long and narrows to 12.5km (7.6nm). For stability and development in the Strait area, any lasting resolution of the Spanish and UK sovereignty dispute must also take cognisance of the Spanish and Moroccan territorial dispute on the southern shore of the Strait. Both states claim sovereignty over Ceuta, Melilla, Penon de Velez de la Gomera, Alhucemas and the Chafarinas Islands. Spain claims the five African Sovereign Territories (Plazas) on historical grounds, for security reasons and UN territorial integrity of the state principles. Spain stresses that the majority of residents there are Spanish. Morocco argues that the UN principles of decolonisation must be applied; that Spanish bases there threaten Moroccan security; and that the UN territorial integrity principles apply. Morocco insists that Spanish arguments for the recovery of Gibraltar substantiate Morocco's to the Plazas.⁶

The Situation in the 20th and the 21st Century

In 1950 United Kingdom initiated the formation of a Legislative Council, passing the legislative authority from Gibraltar's Governor to elected members. In 1963, Spain chose to start its efforts for repossession of Gibraltar by submitting a proposal for discussions between Spain and Britain about the region during the session of the United Nations Special Committee on Decolonisation. In 1964, the Committee concluded that Britain and Spain should entertain further conversations so as to come up with a solution to the issues raised by Spain. In 1969, Spain initiated a series of restrictive measures against Gibraltar – mainly closing the border and cutting off all communication links.⁷ The measures intensified and Britain was led to state that negotiations would not be possible as long as Spain held such a position against Gibraltar. The border finally re-opened in 1982 and communication restrictions were lifted in 2007. Between 1997 and 2002 several talks and negotiations on joint sovereignty took place. Gibraltar responded to them with a referendum, the results of which showed that its people were against the idea of a shared sovereignty, putting an

⁶ O'Reilly, G. (1987) "Strait of Gibraltar", pp.104-105 in G. Blake, J. Dewdney and J. Mitchell (eds) The Cambridge Atlas of the Middle East and North Africa, Cambridge: Cambridge University Press.

⁷ <http://www.un.org/News/Press/docs/2006/gacol3125.doc.htm>

end to negotiations. In 2006 Gibraltar's new constitution was established. According to it, "Gibraltar governs its own affairs" apart from the issues of defence and foreign relations which are still under the control and the responsibility of the United Kingdom. Finally, in 2008, Gibraltar was also granted the right to regulating its own tax regime, further liberating itself from the British way of governing.⁸ In a 2002 referendum, over 98% of Gibraltarians voted that they did not want to be under power of Spain. The prospect of Brexit places Gibraltar in a predicament. On one hand, there is the possibility of leaving the EU alongside the U.K., should Spain allow so. This would restrict its access to the EU free market, significantly reducing its exports to EU nations. On the other hand, Gibraltarians may not want to be under the rule of a nation that has abused them over centuries. The issue of Gibraltar with regards to Brexit is riddled with complicated geopolitical factors such as claims of the U.K. violating the Treaty of Utrecht, hypocrisy of the Spanish government, and the possibility of economic disruption for both nations if the border closes again. To resolve the issue, delegates must navigate these factors delicately, and aim to find a solution peacefully and realistically.⁹

Timeline of the Events

1462 - Spain recovers Gibraltar from the Moors.

1501 - Isabella I, queen of Castile and Aragon, annexes Gibraltar to Spain.

1704 - The English capture Gibraltar during War of Spanish Succession.

1713 - Spain cedes Gibraltar to Britain under the Treaty of Utrecht.

1830 - Britain designates Gibraltar a British crown colony.

1940 - Civilian population temporarily evacuated to make Gibraltar a military fortress during the Second World War. Discontent at the slow pace of repatriation after the war becomes one of the sources of demands for self-government.

1950 - First Legislative Council convened.

⁸ <http://www.publications.parliament.uk/pa/cm200708/cmselect/cmfaif/147/8032>

⁹ Boffey, Daniel, Anushka Asthana, and Jennifer Rankin. "Brexit Talks: EU Will Not Go Soft on Gibraltar Issue, Diplomats Say." The Guardian. Guardian News and Media, 03 Apr. 2017. Web. 18 June 2017

1963 - Spanish government begins a campaign through the United Nations Special Committee on Decolonisation for the handover of Gibraltar to Spain.

1967 - Referendum: Residents vote resoundingly in favour of continued British sovereignty.

1969 - Britain introduces full internal self-government under a new constitution, with an elected House of Assembly. Spain closes its border with Gibraltar, withdraws its labour force and cuts transport and communication links in protest.

1973 - Gibraltar joins the European Economic Community alongside Britain.

1980 - Lisbon agreement between the British and Spanish government initiates the gradual re-establishment of talks over Gibraltar.

1981 - Gibraltarians granted full British citizenship after a campaign against the British Nationality Act, which had proposed removing their right of entry to Britain.

1982 - Spain opens the border to pedestrians under limited conditions.

1984 - Under the terms of the Brussels Process, Britain and Spain agree to provide equal rights for Spaniards in Gibraltar and for Gibraltarians in Spain. Free border crossing between Spain and Gibraltar is restored.

2002 - Referendum reaffirms almost total Gibraltarian opposition to British government proposals for joint British-Spanish sovereignty. Britain reaffirms that no decision on the future of Gibraltar will be made without the consent of Gibraltarians.

2004 August - Gibraltar marks the 300th anniversary of the establishment of British rule. Spain criticises visit by Defence Secretary Geoff Hoon as "insensitive".

2006 September - Ministers from Britain, Spain and Gibraltar sign a landmark agreement under which border controls are further eased. Spain agrees to allow flights to Gibraltar's airport. The deal makes no mention of sovereignty.

2006 November - Voters in a referendum back a new constitution. This confirms Gibraltarian home rule, and renames the House of Assembly the Parliament of Gibraltar.

2006 December - Passenger flights between Gibraltar and Spain recommence after a Spanish ban of many decades.

2009 July - Spanish Foreign Minister Miguel Angel Moratinos visits Gibraltar for talks with the local government and his British counterpart David Miliband, this being the first visit by a Spanish minister since Britain captured the Rock.

2010 July - Gibraltar announces it is ending tax-free offshore status for locally-registered companies operating outside Gibraltar from January 2011.

2011 December - Gibraltar Socialist Labour Party and their Liberal partners win elections, ending a 15-year run in office of the Gibraltar Social Democrats, led by Peter Caruana. Socialist Labour leader Fabian Picardo becomes chief minister.

2013 July-November - Tension with Spain flares up again after Gibraltar begins the construction of an artificial reef in the waters off the Rock. Spain introduces stricter border checks at the crossing. The European Commission says there was no evidence the checks were illegal.

2014 January - Declassified documents show former King Juan Carlos of Spain told Britain in 1982 that it was not in his country's "interest to recover Gibraltar in the near future" as it would trigger Moroccan claims to the Spanish territories of Ceuta and Melilla.

2014 April - British foreign office says Spanish vessels made more than 500 unauthorised incursions into Gibraltar waters in 2013.¹⁰

¹⁰ <https://www.bbc.co.uk/news/world-europe-18222199>

Major Countries and Organizations Involved

1. Spain

Spain's argument on Gibraltar's sovereignty lies on the idea of territorial integrity which is justified through the UN Resolution 1514 of 1960 on the right to self-determination. As stated in the resolution: "Any attempt aimed at the partial or total disruption of national unity and the territorial integrity of a country is incompatible with the purposes and principles of the United Nations Charter" The Kingdom of Spain also refuses to accept the opinion that the wishes of the Gibraltar people should play a great role in the situation. Instead of that, Spain supports that the only other party involved in Gibraltar's situation is the United Kingdom and therefore does not recognize the policy of Gibraltar as a contributing factor to the final result. Ever since Spain lost Gibraltar to the U.K. in 1704, Gibraltar has become a symbol of their defeat. More than anything else, the question of honour has always tempted Spain to regain access to Gibraltar. In previous years, this was not possible since the U.K. was a fellow EU member and aggravating the issue of Gibraltar would not have any perceivable benefits. With the prospect of Brexit, however, Spain has the perfect opportunity to get access to what it believes is rightfully theirs. The delegation of Spain could use Clause 22 of Article 50 of the Treaty on the European Union to exert its influence over Gibraltar's future. The delegation could also raise the issue of the U.K. violating the Treaty of Utrecht in 1967 into negotiating for sovereignty or co-sovereignty of Gibraltar. They may also raise the fact that 96% of Gibraltarians voted to remain a part of the EU.¹¹

¹¹ "Brexit: Everything to Know About the Threat to Gibraltar." Time. Time, n.d. Web. 18 June 2017.

2. United Kingdom

The United Kingdom wants Gibraltar to stay as its own territory. The economic and military aspects of the region make Gibraltar a prime overseas territory. Furthermore, over 98% of Gibraltarians have expressed their wish to remain a part of the U.K. and not Spain. The delegation of the U.K. could introduce the hypocrisy of the Spanish government by asking for Gibraltar while they themselves are not willing to give back the cities of Ceuta and Melilla ¹²to Morocco. Major British politicians have stated that they are not willing to use Gibraltar as a bargaining chip in the Brexit negotiations. Some radical claims have also been made to the possibility of a war with Spain over the issue of Gibraltar. While Downing Street denied any possibility of a war, they did not condemn the politician who made those claims. In 2008, Jim Murphy MP, British Minister of State for Europe restated United Kingdom's position on Gibraltar: "The UK Government will never - "never" is a seldom-used word in politics - enter into an agreement on sovereignty without the agreement of the Government of Gibraltar and their people. In fact, we will never even enter into a process without that agreement. The word "never" sends a substantial and clear commitment and has been used for a purpose. We have delivered that message with confidence to the peoples and the Governments of Gibraltar and Spain. It is a sign of the maturity of our relationship now that that is accepted as the UK's position" This position is also legally supported by Gibraltar latest Constitution since it states that: "Her Majesty's Government will never enter into arrangements under which the people of Gibraltar would pass under the sovereignty of another state against their freely and democratically expressed wishes". ¹³

¹² United Kingdom Parliament : House of Commons - Minutes of Evidence.
http://www.publications.parliament.uk/pa/cm200708/cmselect/cmaff/147/8030_502.html

¹³ "Brexit: Everything to Know About the Threat to Gibraltar." Time. Time, n.d. Web. 18 June 2017. .

3. Gibraltar

Gibraltar does not accept Spain's arguments and focuses on its basic right to self-determination as it is expressed by Article One of the UN and Resolution 1514: "All people have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development". Furthermore, as Gibraltar's chief minister stated in 2006 at the Special Committee on Decolonization: "Any proper interpretation of the principle of territorial integrity simply did not apply to the facts of Gibraltar because no one was attempting to disrupt the territorial integrity of Spain, since it did not include Gibraltar. General Assembly Resolution 2526 made it crystal clear that the facts of the Gibraltar case fell well outside of the situations in which the principle of territorial integrity could properly apply. That resolution clearly said that for the principle of territorial integrity to exclude the right to self-determination, the country whose territorial integrity was allegedly being disrupted must be 'possessed of a government representing the whole people belonging to the territory exercising self-determination'. Not even Spain claimed or pretended that its Government represented the people of Gibraltar" ¹⁴

4. United States of America

The U.S.A. is a longstanding ally of the U.K. and supports the British side of the debate. The American Foreign Ministry argues that Spain should respect the democratic agreement made by the Gibraltarian population, which means that it should be solely a British sovereign territory. The U.S.A. also places a large amount of its troops in the British military base in Gibraltar and is unsure if Spain will allow that if they gain sovereignty. However, the U.S.A. has close ties with the U.K. as well

¹⁴ <http://www.gibraltar.gov.gi/political-development>

as the EU. Therefore, the delegation of The U.S.A. must tread carefully when taking sides.¹⁵

Relevant Treaties, United Nations Resolutions and Agreements

Since the question of Gibraltar with regards to Brexit is a relatively new issue, no United Nations treaties have been passed upon the topic yet. The following points list all the other relevant treaties and events over the last three centuries:

- Treaty of Utrecht, 11 April 1713
- Gibraltar sovereignty referendum, 10 September 1967
- Gibraltar sovereignty referendum, 7 November 2002
- ‘Brexit’ referendum, 23 June 2016
- Article 50 of the Lisbon Treaty invoked by the U.K. in March 2017

Situation revolving around the BREXIT scenario

According to the 2002 referendum, it is apparent that the Gibraltarian population wants to stay part of the U.K. However, Clause 22 in Article 50 of the Treaty on the European Union states that “After the United Kingdom leaves the Union, no agreement between the EU and the United Kingdom may apply to the territory of Gibraltar without the agreement between the Kingdom of Spain and the United Kingdom.” This effectively gives Spain a veto in any trade deal that applies to Gibraltar after Brexit. Spain may use this leverage to their advantage to push for a co-sovereign territory. Furthermore, throughout the years, Gibraltar has been able to raise Spain’s aggressive actions in front of the 27 EU member states, most of which have caused Spain to be reprimanded. After Brexit, the U.K. will not be able to sway the votes of the 27 states and Spain will most likely be able to carry out aggressive actions without many consequences. EU members will prefer to side with a fellow EU

¹⁵ Coffey, Luke. "Self-Determination and National Security: Why the U.S. Should Back British Sovereignty over Gibraltar." The Heritage Foundation. N.p., n.d. Web. 18 June 2017.

member such as Spain rather than a non-EU ¹⁶member such as the U.K. The economy of Gibraltar may suffer too, as a lot of its workforce and supplies come over the land border from Spain. They have already begun to become more self-sustainable by formulating plans of local energy production (rather than importing energy from Spain). Gibraltar may also lose access to the EU common market. While the majority of its exports are to the U.K., Gibraltar's products will be taxed in all EU member states should 'Brexit' proceed, unless a trade deal with Spain is worked out.¹⁷

Previous Attempts to Solve the Issue at Hand

The first attempt for a solution on Gibraltar was the Treaty of Utrecht in 1713, following the War of the Spanish Succession. Although the Treaty ceded the region to the United Kingdom, Spain questioned it years later with the argument of territorial integrity. In 2002 the United Kingdom and Spain agreed on discussing about a joint sovereignty. However, the 2002 referendum on the question of Gibraltar canceled such plans. Finally, in 2004 the Tripartite Forum was established, replacing the Brussels Process. The Forum concentrated on the technical problems that came from the question of Gibraltar. While Gibraltar has always been a difficult matter of discussion between two allies, Spain and the U.K., ¹⁸the consequences of the Brexit referendum are unprecedented in history. Previously, any dispute between Spanish and Gibraltarian interests was settled quickly within the EU, therefore there were no treaties or resolutions made upon the issue in recent times. Spain has recently been using actions of force¹⁹, such as making immigration difficult, to display its displeasure with Britain's sovereignty of Gibraltar. Gibraltar has always been able to raise these issues in front of the 27 EU member states, who have promptly

¹⁶ Hawkes, Steve. "Fury at EU Plans for Spain Veto on Gibraltar, but Trade Talks Could Begin This Autumn." The Sun. The Sun, 01 Apr. 2017. Web. 18 June 2017. .

¹⁷ "From Article 50 to Clause 22 – Gibraltar Chronicle." Gibraltar Chronicle. N.p., 4 Apr. 2017. Web. 18 June 2017.

¹⁸ <http://www.heritage.org/global-politics/report/self-determination-and-national-security-why-the-us-should-back-british>

¹⁹ <https://www.thelocal.es/20130808/four-reasons-why-gibraltar-should-be-spanish>

reprimanded Spain's actions most of the time. However, this will method of resolving the situation will not be possible if Gibraltar leaves the EU along with the U.K. Currently, Spain has the ability to veto any Brexit trade deal that is applicable to Gibraltar according to Clause 22 of Article 50 of the Treaty on the European Union. This could be used to tilt the issue of sovereignty of Gibraltar in Spain's favour. No events of the sort have transpired yet since the issue of Gibraltar with regards to Brexit has arisen merely a few weeks ago.²⁰

The Way Forward

When it comes to finding solutions to the issue, delegates should first of all focus on forming a specific policy concerning the sovereignty of Gibraltar. That means that they should decide between possible plans of action such as joint sovereignty between Spain and the United Kingdom, keeping the current political status, handing total sovereignty to Spain or creating an autonomous independent. Nevertheless, they should keep in mind that the suggestions should be as realistic as possible. In a situation like this, it might even be right to say that one does not need to come up with the right solution –if there is one- but with the most easily applicable one.

Furthermore, the delegates should concentrate on the various unspecific points that cause the tension in the sovereignty claims of all three sides. For instance, Gibraltar's 1969 constitution clearly states that its sovereignty cannot be transferred to Spain without the consent of its citizens. As a result, this makes it impossible for Spain to gain control of the region because of the 1967 Referendum that expressed the Gibraltarians' disapproval. Apart from that, another unstable point of the case is the fact that the United Nations have not yet recognised Gibraltar's right to self-determination despite protests from Gibraltar's side. Delegates must be aware that they must focus their solutions solely upon the effects of Brexit upon Gibraltar, rather than the effects of Brexit as a whole. With that in mind, one possible route that the delegates could work towards could be a proposition of co-sovereignty of Gibraltar

²⁰ "Gibraltar: Why 'The Rock' Has Been Disputed by Spain for Centuries - BBC Newsbeat." BBC News. BBC, 03 Apr. 2017. Web. 18 June 2017.

between Spain and the U.K. While the Gibraltarian population clearly voted that it does not want to be part of Spain in 2002, the situation has changed since Brexit. This way Gibraltar will have access to the EU free market while also having relationships with London. They may not, however, be exempt from the corporate and income taxes that make Gibraltar such an attractive place for firms. Another course of action may be to encourage the U.K. to hold another referendum with regards to sovereignty. This may seem like a pointless move after the clear result of 2002, but the vote might swing due to Brexit. There may also be an option where Gibraltar decides to become a separate nation instead of a British Overseas Territory. Although the mandate of the United Nations cannot change the Treaty on the European Union, it is possible to put pressure upon EU nations to amend Clause 22 of Article 50. This may give Gibraltar access to all the deals made by the U.K. following Brexit. A controversial move might be to incentivize the U.K. to cede Gibraltar entirely to Spain. This will be heavily opposed by the U.K., since they believe that they are obligated to respect the 2002 referendum's results, but it is a tentative route to forming a solution. To address the economic issues that may arise after a border closure, delegates may consider making special easy-to-obtain "work passes" for Spanish citizens who travel to Gibraltar daily. This may reduce unemployment in Andalusia, and keep a steady workforce in Gibraltar. The ongoing presence of Spanish employees in Gibraltar may also benefit both nations by reducing the social divide between Gibraltar and Spain due to Brexit.

Further Reading

- Cia world factbook: Gibraltar <https://www.cia.gov/library/publications/the-world-factbook/geos/gi.html>
- BBC News: Gibraltar Profile <http://www.bbc.co.uk/news/world-europe-18219307>
- New York Times: Introduction to Gibraltar
http://travel.nytimes.com/frommers/travel/guides/europe/gibraltar/frm_gibraltar_3590010001.html
- Encyclopedia Britannica: Treaties of Utrecht
<http://www.britannica.com/EBchecked/topic/859832/treaties-of-Utrecht>
- British Monarchy: Queen and overseas territories:
<http://www.royal.gov.uk/MonarchAndCommonwealth/Queen%20and%20overseas%20territories/Queen%20and%20overseas%20territories.aspx>
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