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Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

Gibraltar

Working paper prepared by the Secretariat

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Note: The information contained in the present working paper has been derived from information transmitted to the Secretary-General by the administering Power under Article 73 *e* of the Charter of the United Nations as well as information provided by the Government of Spain and that available in public sources, including those of the territorial Government. Information was transmitted by the administering Power on 5 December 2022. Further details are contained in previous working papers, available at www.un.org/dppa/decolonization/en/documents/workingpapers.



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I. General

1. Gibraltar is a Non-Self-Governing Territory administered by the United Kingdom of Great Britain and Northern Ireland. According to the administering Power, the basis of the current relationship between the Government of the United Kingdom and its Non-Self-Governing Territories is enshrined in the constitution of each Territory; sovereignty over Gibraltar was ceded to the United Kingdom by Spain under the Treaty of Utrecht in 1713, with territorial waters flowing from sovereignty over the land. For its part, Spain claims that, under article 10 of the Treaty, it ceded only the city and castle of Gibraltar, its port, defences and fortresses. Against the backdrop of its long-standing appeal to Spain and the United Kingdom to hold talks on the question of Gibraltar (see resolution [2070 \(XX\)](#), adopted on 16 December 1965), in 2022, the General Assembly, in its decision 77/533, among other things, urged the Governments of Spain and the United Kingdom, while listening to the interests and aspirations of Gibraltar that were legitimate under international law, to reach, in the spirit of the Brussels Declaration of 27 November 1984, a definitive solution to the question, in the light of the relevant resolutions of the Assembly and applicable principles, and in the spirit of the Charter of the United Nations (see sects. VIII to X below).

2. The Territory is a narrow peninsula extending southward from the south-western coast of Spain, to which it is connected by an isthmus of approximately 1.6 km. The Spanish port of Algeciras lies 8 km across the bay to the west, and the continent of Africa is situated 32 km across the Strait of Gibraltar to the south. According to the administering Power, the area of Gibraltar is 5.8 km²; according to Spain, which claims sovereignty over the Territory, it is 4.8 km². Issues relating to the isthmus and waters off Gibraltar continue to be a subject of contention.

3. The population of the Territory was 34,003 (2016 data). The currency of the Territory is the Gibraltar pound, circulating at par with the pound sterling. The Territory's main trading and commercial transactions are with countries in Europe, the United States of America and countries in North Africa. The British Overseas Territories Act 2002 provides for the granting of British citizenship to citizens of British overseas territories.

II. Constitutional, legal and political issues

4. Under the Gibraltar Constitution Order 2006, the Government of Gibraltar consists of the elected ministers represented in the Council of Ministers together with the British Crown, who is represented in Gibraltar by the Governor. Vice Admiral David Steel has been the Governor since 11 June 2020. In accordance with the 2006 Constitution, the Governor is responsible for the conduct of external affairs, defence, internal security (including the police, in conjunction with the Gibraltar Police Authority) and for certain appointments to public office, as conferred by the Constitution. The elected Government of Gibraltar is responsible for all other matters.

5. Following an election, the Governor appoints a Chief Minister, who is the elected member of the Gibraltar Parliament who, in the Governor's judgment, is most likely to command the greatest measure of confidence among the members of the Parliament. Other ministers are appointed by the Governor, acting in accordance with the advice of the Chief Minister, from among the members of the Parliament. In accordance with the 2006 Constitution, the Parliament may make laws for the peace, order and good government of Gibraltar, while the British Crown retains full power to make laws, from time to time, for the same above-mentioned purposes. According to the administering Power, such powers have not been exercised by the British Crown

since the 2006 Constitution came into force. The 2006 Constitution also makes provisions regarding Crown lands in Gibraltar.

6. Gibraltar has a supreme court allowing for appeals to a court of appeal and subsequently to His Majesty in Council, acting on the advice of the Judicial Committee of the Privy Council.

7. The Gibraltar Socialist Labour Party/Liberal Party of Gibraltar alliance headed by Fabian Picardo won the general election held on 17 October 2019 with 52.5 per cent of the vote, winning 10 seats in the Parliament. The Gibraltar Social Democrats earned six seats and Together Gibraltar, one seat. Subsequently, Mr. Picardo, who had been serving as Chief Minister since 9 December 2011, was re-elected for a third term. The next election must be held by 24 February 2024.

8. The United Kingdom continues to believe that, as a separate Territory recognized by the United Nations and included since 1946 in its list of Non-Self-Governing Territories, Gibraltar enjoys the individual and collective rights accorded by the Charter of the United Nations. The United Kingdom also believes that the people of Gibraltar enjoy the right of self-determination. The administering Power is clear that the 2006 Constitution sets out the relevant competences for the Governments of the United Kingdom and Gibraltar.

9. Spain maintains the position that the 2006 Constitution does not affect the international capacity of Gibraltar; that its adoption was a reform of the colonial regime, which remains unaltered; and that it did not affect in any way the pending decolonization process of Gibraltar, to which the principle of territorial integrity applies, not that of self-determination, as stated in General Assembly resolution [2353 \(XXII\)](#). In that context, Spain stresses that the participation of Gibraltar in any international instrument must be made through the United Kingdom as the administering Power responsible for the external relations of the Territory, including in the fields of international financial services, human rights and the environment.

10. On 29 November 2018, Spain and the United Kingdom, with the involvement of the Government of Gibraltar, concluded four memorandums of understanding on citizens' rights, tobacco and other products, cooperation on environmental matters and cooperation in police and customs matters. The memorandum of understanding on citizens' rights remains in place but the other three memorandums of understanding ceased to have effect in 2021.

11. In addition, the International Agreement on Taxation and the Protection of Financial Interests between Spain and the United Kingdom regarding Gibraltar was signed on 4 March 2019 and came into effect on 4 March 2021. The liaison body and the joint coordination committee established under the Agreement met on 20 May 2021.

12. Following a technical meeting held in Madrid on 23 January 2020, the joint coordinating committees established by Spain and the United Kingdom under the memorandums on citizens' rights, cooperation on environmental matters and cooperation in police and customs matters met in Spain and in Gibraltar between February 2020 and September 2021. In addition to the Governments of Spain and the United Kingdom, the regional Government of Andalusia, the municipal authorities of the Campo de Gibraltar and the Government of Gibraltar also participated.

13. On 30 January 2020, the Council of the European Union ratified the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community, including a protocol on Gibraltar, and the political declaration on the future relations between the European Union and the United Kingdom. The specialized committee on Gibraltar, established under the withdrawal agreement and which includes representatives of the

European Union and the United Kingdom, met in May and November 2020 and in April 2021. At the last-mentioned meeting, only the issue of citizens' rights was discussed.

14. In the view of Spain, the obligation of the United Kingdom with regard to article 3, paragraph 3 of the protocol on Gibraltar concerning a system of traceability and security measures relating to tobacco products remains unfulfilled and no advancements have been made as at February 2023. Spain notes that the European Union also considers that the United Kingdom has failed to meet its obligations, as stipulated in the protocol on Gibraltar, related to the establishment of a system of traceability and security measures relating to tobacco products.

15. The United Kingdom, along with the Government of Gibraltar, remains committed to implementing a fully functioning system of traceability and security measures relating to tobacco products. The United Kingdom notes that the provision for this commitment under the protocol on Gibraltar ceased to apply on 31 December 2020, the end of the transition period relating to its departure from the European Union, or "Brexit". The United Kingdom also notes that the Government of Gibraltar has continued, since that date, to operate and improve the functionality of the system, which is a demonstration of its continued commitment to fulfilling the provision. The United Kingdom further notes the ongoing efforts by Gibraltar, including the implementation of the temporary tracking and tracing regime in 2020, to achieve a permanent solution for traceability and security measures relating to tobacco products in line with the Framework Convention on Tobacco Control and the Protocol to Eliminate Illicit Trade in Tobacco Products which was extended to Gibraltar in June 2020.

16. On 31 December 2020, the Governments of Spain and the United Kingdom agreed on and submitted to the European Commission for the latter's consideration the proposed framework for a legal instrument between the United Kingdom and the European Union setting out Gibraltar's future relationship with the European Union, which stated that it would be without prejudice to the issue of sovereignty and jurisdiction. Following a decision by the Council of the European Union on 5 October 2021 to authorize the opening of negotiations for an agreement between the European Union and the United Kingdom in respect of Gibraltar, 12 rounds of negotiations have taken place as at 4 February 2023.

17. According to the administering Power, the United Kingdom and Gibraltar are committed to working towards securing a treaty between the European Union and the United Kingdom based on the political framework concluded with Spain on 31 December 2020.

18. In his address to the General Assembly of the United Nations on 22 September 2022, the President of the Government of Spain, Pedro Sánchez Pérez-Castejón, stated that Spain and the United Kingdom had been working very hard since 31 December 2020 to ensure that the bilateral understanding served to lay the foundations for the Territory's future relationship with the European Union, trusting that an agreement would be reached between the European Union and the United Kingdom in relation to Gibraltar as soon as possible. He noted that the agreement should fully respect the doctrine of the United Nations on the Territory with which Spain was wholly aligned and also respect the legal position of Spain with regard to its sovereignty and jurisdiction in relation to the Territory. He underscored that they hoped to work for the development of a prosperous social and economic area that encompassed the whole of Gibraltar and the Campo de Gibraltar (see [A/77/PV.9](#)).

III. Budget

19. The revenue of the territorial Government for the period 2021/22 is estimated at £649.8 million and its expenditure at £705.1 million. For the fiscal year 2022/23, the territorial Government estimated its overall revenue at £637.0 million and expenditure at £682.2 million and approved £66.9 million in expenditure on capital projects, to be funded through the Improvement and Development Fund.

20. According to the administering Power, the coronavirus disease (COVID-19) pandemic affected both the revenue and expenditure of the territorial Government, and the financial impact of the COVID-19 pandemic for 2021/22 amounted to £135.1 million, of which £107.2 million was the estimated foregone revenue and £3.5 million was in respect of the Business Employee Assistance Terms, which had been announced in March 2020 by the territorial Government in order to help Gibraltar cope with the economic effects of the pandemic and included Spanish and other frontier workers in its scope of assistance. In addition, for 2022/23, the COVID-19 expenditure budget was estimated at £40.1 million.

21. Spain considers Gibraltar to be a tax haven and that, under that regime, the profits obtained abroad by companies registered in Gibraltar are not subject to taxation (see [A/AC.109/2021/8](#), para. 19). Spain underscores that the Territory of Gibraltar has not been excluded from the Spanish list of non-cooperative jurisdictions published on 10 February 2023 and that its exclusion requires the verification of compliance with Spanish fiscal regulations together with full compliance with the provisions of the International Agreement on Taxation and the Protection of Financial Interests between Spain and the United Kingdom regarding Gibraltar.

22. The administering Power underscores that Gibraltar adheres to all relevant European Union directives in relation to financial supervision and regulation, direct taxation and the fight against money-laundering (see [A/AC.109/2021/8](#), para. 20) and that Gibraltar is in full compliance with the provisions of the International Agreement on Taxation and the Protection of Financial Interests between Spain and the United Kingdom regarding Gibraltar, and recalls that following the signing of the Agreement, Spain has committed to removing Gibraltar from its list of uncooperative tax jurisdictions within two years of the Agreement's coming into force.

IV. Economic conditions

A. General

23. Gibraltar has no known natural resources and lacks agricultural land. The economy has increasingly focused on tourism and the provision of financial services, including banking, insurance, shipping and portfolio management, in addition to online gaming. In 2021/22, the gross domestic product (GDP) of Gibraltar was £2.5 billion, with a GDP per capita of £76,153.

24. Before 1980, the economy was largely dependent on expenditure by the Ministry of Defence of the United Kingdom. According to the administering Power, the situation changed dramatically over the years as United Kingdom military spending went from accounting for 60 per cent of the Gibraltarian economy to less than 6 per cent. In addition, the British Forces Gibraltar comprises some 1,000 personnel, which includes service personnel of the United Kingdom, regular and reserve personnel of the Royal Gibraltar Regiment, civil servants of the Ministry of Defence and locally employed civilians.

B. Banking and financial services

25. According to the administering Power, Gibraltar has a well-developed private financial sector regulated by the Financial Services Commission. The regulatory scope extends to all forms of financial services, and Gibraltar's legislation, systems and administrative practices, which, in the view of the administering Power, are in compliance with the applicable international standards and obligations, and European Union standards that Gibraltar may wish to align itself to, have been independently tested through reviews conducted by the Financial Action Task Force, the International Monetary Fund and others. Gibraltar is also participating in the national risk assessment and peer review process of the Task Force. In January 2020, a new Financial Services Act was enacted to provide Gibraltar with a consolidated regulatory framework.

26. Tax evasion is a predicate offence for money-laundering and subject to the reporting of suspicious transactions. The Financial Intelligence Unit of Gibraltar, as a member of the Egmont Group of Financial Intelligence Units, systematically shares information with other members of the Group. According to the administering Power, as at 28 September 2022, Gibraltar had agreements on the exchange of tax information with 138 countries and territories, of which 130 remain in force. Since September 2015, tax information has been provided to the United States, the first country with which Gibraltar had made such an agreement, in accordance with the Foreign Account Tax Compliance Act agreement on the automatic exchange of information. There has been a similar arrangement with the United Kingdom since September 2016, currently in accordance with a double tax agreement which was signed in October 2019 and entered into force in March 2020. According to the administering Power, following the end of the Brexit transition period on 31 December 2020, Gibraltar automatically exchanges financial account information with all signatory jurisdictions, including States members of the European Union, under the Convention on Mutual Administrative Assistance in Tax Matters and the Multilateral Competent Authority Agreement.

27. On 23 March 2020, the International Convention for the Suppression of the Financing of Terrorism was extended to Gibraltar. Gibraltar has transposed specific directives of the European Union relating to anti-money laundering and financing of terrorism. In 2022, the Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters was extended to Gibraltar.

28. Gibraltar adopted beneficial ownership regulations in June 2017. According to the administering Power, Gibraltar has established a register of ultimate beneficial ownership of companies and legal entities which has been made accessible to the public.

29. The Government of Spain recalls that the European Anti-Fraud Office of the European Commission concluded in a 2014 report that there was reason to believe that crimes of tobacco smuggling and money-laundering from Gibraltar had been committed, affecting the financial and other interests of the European Union.

30. The administering Power indicates that legal opinions have since been obtained by the Government of Gibraltar that suggest that allegations in the report of the Office were unfounded.

31. On 27 June 2022, the Financial Action Task Force identified Gibraltar as a jurisdiction under increased monitoring that was actively working with the Task Force to address strategic deficiencies in its regime to counter money-laundering, the financing of terrorism and proliferation financing and was committed to resolving swiftly the identified strategic deficiencies within agreed time frames. In a statement

issued on the same date, the Task Force indicated that in June 2022, Gibraltar had made a high-level political commitment to working with the Task Force to strengthen the effectiveness of its regime to combat money-laundering and the financing of terrorism and that Gibraltar should continue to work on implementing its action plan.

32. According to the administering Power, the Government of Gibraltar has constitutional responsibility for taxation, maintains a fair and open tax system and is fully committed to global tax standards, international cooperation in tax matters and the fight against money-laundering, tax evasion, illicit finances and corruption. The administering Power recalls that Gibraltar is a jurisdiction under increased monitoring by the Financial Action Task Force in respect of only two points, namely: pursuing regulatory sanctions and pursuing final confiscation judgments, as contained in the action plan of the Task Force. The United Kingdom also recalls that Gibraltar needs to fulfil its commitments by May 2023 and that the Government of Gibraltar has fully accepted the action plan and is committed, at the highest political level, to showing full compliance within the agreed time frame.

C. Transportation

33. The political framework agreed between the Governments of Spain and the United Kingdom on 31 December 2020 states that on air, land and maritime transport, the provisions in the legal instrument between the United Kingdom and the European Union setting out Gibraltar's future relationship with the European Union could be similar to the ones included in the United Kingdom-European Union Trade and Cooperation Agreement. The legal instrument is expected to include dispositions on level playing field in transport services and the provisions on air, land and maritime transport. As at December 2022, transport continued to be the subject of negotiations, as well as the mobility of persons, including the application of Schengen acquis, and that of goods, between Gibraltar and Spain.

34. The United Kingdom continues to be responsible for all international obligations relating to aviation safety and security in respect of the airport, a military airfield available for civilian flights, with the Ministry of Defence retaining ownership of and operational responsibility for the military aviation aspects of the airfield. According to the administering Power, legislation enacted by the Gibraltar Parliament provides for civil aviation safety and security, making civil aviation a responsibility of the Government of Gibraltar. Such responsibility continues to be rejected by Spain. Spain holds the position that the occupation by the United Kingdom of the isthmus on which the airfield was built is illegal and that it does not comply with public international law because it is not included among the areas ceded by the Treaty of Utrecht. For its part, the United Kingdom maintains that its sovereignty extends over the whole territory of Gibraltar.

35. The Strait of Gibraltar is a principal water route; the Territory's port facilities are used by many long-distance liners and cargo ships. According to the United Kingdom, it applies a three-nautical-mile area for British Gibraltar territorial waters (or less where the median line with other territorial waters applies), in line with the United Nations Convention on the Law of the Sea. According to Spain, it exerts its sovereign rights and jurisdiction over its territorial waters, including all maritime areas around Gibraltar, with the only exception being the waters inside the port, which are administered by the United Kingdom pursuant to article X of the Treaty of Utrecht, as declared by Spain upon signing and ratifying the United Nations Convention of the Law of the Sea.

36. The administering Power regularly challenges State vessels of Spain and protests to the Government of Spain about illegal incursions into British Gibraltar

territorial waters by State vessels of Spain, citing articles 17 to 19 of the United Nations Convention on the Law of the Sea, on the meaning of innocent passage, and the Convention on the International Regulations for Preventing Collisions at Sea.

37. The Government of Spain regularly protests to the administering Power against the harassment of State vessels of Spain in the Bay of Algeciras and other Spanish waters surrounding Gibraltar. In the view of Spain, these acts are in violation of the right of innocent passage, as foreseen in the United Nations Convention on the Law of the Sea, and of the Convention on the International Regulations for Preventing Collisions at Sea and puts the lives of the crew and the security of the vessels in danger. Furthermore, Spain notes that its State vessels patrol the waters, perform their duties on a regular basis and are entitled to perform the activities in compliance with its national regulations.

D. Tourism

38. In 2021, total visitor arrivals increased by 8.1 per cent to 5.9 million, compared with 5.5 million in 2020. There were 113,450 visitors by air, 33,138 by sea and 5,729,442 by land.

V. Social conditions

A. Labour

39. As at October 2021, there were 30,403 jobs in the Territory, an increase of 3.0 per cent from October 2020. According to the administering Power, the distribution of those jobs among the five largest industrial sectors was 4,002 in banking and finance, 3,501 in gambling and betting activities, 3,494 in construction, 3,485 in health and social work and 2,909 in retail and trade. The number of frontier workers was 13,439 (8,440 male and 4,999 female), including over 8,400 nationals of Spain and over 2,200 nationals of other countries of the European Union. According to the administering Power, the unemployment rate in 2021 was 0.19 per cent of the resident population and 0.1 per cent of the total workforce which included frontier workers.

40. After 1 January 2021, pursuant to the relevant provisions of the withdrawal agreement, frontier workers within the scope of the withdrawal agreement and of the protocol on Gibraltar continued to enjoy the same labour rights and social protection to which they had been entitled during the membership of the United Kingdom in the European Union.

B. Social security and welfare

41. The social security and welfare sectors in Gibraltar continue to be governed by various social security acts, as mentioned in previous working papers, covering areas such as employment injury, disablement and industrial death benefits, unemployment benefits, maternity grants and allowances, death grants, old-age pensions, survivor's benefits and guardian's allowances. There are also a range of means-tested benefits and allowances to provide support for families, the disabled and the elderly.

C. Public health

42. The Gibraltar Health Authority is responsible for providing medical and health services in the Territory, including residential services for the elderly.

43. The Government of Gibraltar is responsible for public health matters in the Territory, and it ensured that the necessary staff, equipment, supplies and resources were made available to the Gibraltar Health Authority and to Public Health Gibraltar. The Government of the United Kingdom has been supporting Gibraltar throughout the COVID-19 pandemic, with the provision of antiviral medication and vaccinations. Spanish and other frontier workers were included in the Territory's vaccination programme. As at 16 December 2022, a total of 132,810 vaccinations have been administered in Gibraltar.

44. Spain indicated that it had proactively cooperated with the United Kingdom and the local authorities of Gibraltar to address the COVID-19 pandemic.

D. Education

45. Education in Gibraltar is free and compulsory for children between 4 and 15 years of age. The language of instruction is English. According to the administering Power, there are 12 primary schools (including 1 private school) and 3 secondary schools (including 1 private school), as well as the Gibraltar College. There is a special needs school for children aged 2 to 16 years and a special needs nursery with a child development centre. The Territory's literacy rate is assumed to be nearly 100 per cent. The University of Gibraltar opened in September 2015.

46. The government budget on education for 2022/23 was £62.9 million, of which, according to the administering Power, expenditure on improvements to school buildings accounted for nearly £1.8 million. Students who obtain a place at a university in the United Kingdom are entitled to scholarships from the Government of Gibraltar. According to the administering Power, as at September 2022, the number of university-level students, including those studying outside Gibraltar, was 983.

E. Crime and public safety

47. Law enforcement in the Territory is the responsibility of the Royal Gibraltar Police, in conjunction with the Gibraltar Police Authority. The Governor has ultimate responsibility for the integrity, probity and independence of policing in Gibraltar and for the policing aspects of national security, including internal security.

48. According to the administering Power, the Royal Gibraltar Police have a budget of £17.5 million for 2022/23, providing for 257 police officers and 37 support staff. In 2021/22, 3,199 crimes were recorded by the Royal Gibraltar Police, 1,115 of which were detected (detection rate of 35 per cent), compared with 2,884 recorded crimes, with a detection rate of 41 per cent, in 2020/21.

F. Human rights

49. The following major international human rights instruments apply in Gibraltar: International Covenant on Economic, Social and Cultural Rights; International Covenant on Civil and Political Rights; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; and European Convention for the Protection of Human Rights and Fundamental Freedoms. The 2006 Constitution includes a chapter on the fundamental rights and freedoms of the individual.

According to the administering Power, the Government of Gibraltar formally requested the extension of the Convention on the Elimination of All Forms of Discrimination against Women to the Territory in 2013 and of the Convention on the Rights of the Child in 2016. In addition, in October 2016, the Gibraltar Parliament adopted the Civil Marriage Amendment Act 2016, which made provision for same-sex marriage.

50. According to the administering Power, the Disability Act 2017 makes provisions for the betterment of persons with disabilities within society. The Equal Opportunities Act 2006 was amended in 2018 to protect women who are breastfeeding from being treated less favourably, and in 2017 to include certain provisions for the rights of persons with disabilities. Other Acts have also been amended to make them consistent with the Convention on the Rights of Persons with Disabilities. The Crimes Act 2011 was amended in July 2019 to provide for medical termination of pregnancies. The Crime Amendment Act 2019 was brought into force, following a referendum held on 24 June 2021 in which over 62 per cent of those voting had supported the changes in the law. On 20 January 2023, the Gibraltar Parliament approved the Domestic Abuse Act, which made provision for a strengthened framework of protection from domestic abuse.

VI. Environment

51. On 23 September 2022, the United Kingdom extended its ratification of the Paris Agreement to Gibraltar. Gibraltar declared a climate emergency in May 2019, and its Climate Change Act 2019 went into force in October 2019. According to the administering Power, the Act set legally binding targets for emission reduction until 2045. Gibraltar also further developed its climate change strategy in 2020. The Kigali Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer was extended to Gibraltar with effect as from 18 October 2019. According to the administering Power, the appropriate legislation was enacted, and operational measures were prepared in that regard.

52. In September 2022, the territorial Government started a new process to award the contract for the construction and operation of a wastewater treatment plant in Gibraltar which is expected to be ready and operational by the end of 2024. According to the administering Power, the sewage system in Gibraltar uses seawater, which makes adequate solutions harder to implement.

53. Spain considers it important for the authorities of Gibraltar to build a sewage treatment plant, in compliance with the law of the European Union, and recalls that, in its judgment of 4 May 2017 in *European Commission v. United Kingdom*, the European Court of Justice declared that the United Kingdom had failed to fulfil its obligations under the European Union directive on urban wastewater treatment in Gibraltar. Spain is of the view that the United Kingdom has not followed through on any of its commitments on the time frames for the construction and operation of a wastewater treatment plant, including within the framework of the specialized committee on Gibraltar, and reiterates that the deadline for completing the construction of the plant, which has been referred to in the working papers since 2019, has continued to be delayed. Spain recalls that the administering Power had previously committed to completing the new wastewater treatment plant by 2022 and underscores that it has now changed the completion date to 2024 (see [A/AC.109/2022/8](#), para. 51, and [A/AC.109/2021/8](#), para. 50).

54. Spain also recalls the obligation of the administering Power as a State party to fully implement the International Convention for the Prevention of Pollution from Ships in respect of Gibraltar, in particular, article 8 concerning reports on incidents

involving harmful substances. According to Spain, the lack of reporting on incidents to the competent Spanish authorities poses risks for the environment in the waters surrounding Gibraltar which are under Spanish sovereignty, in accordance with the relevant declaration made by Spain under the United Nations Convention on the Law of the Sea, and are therefore subject to special protection under the law of Spain and the European Union.

55. According to the administering Power, Gibraltar fully complies with the relevant regulations and highest international standards. In this regard, the United Kingdom recalls that annexes I, II and V to the International Convention for the Prevention of Pollution from Ships were extended to Gibraltar in 1988, annex III, in 1992, and annexes IV and VI and the Protocol of 1997 in 2011; and that the extensions in 2011 were implemented in the Gibraltar Merchant Shipping (Prevention of Pollution from Ships) Regulations 2009 as amended in 2011, 2012 and 2020. It also recalls that the waters around Gibraltar are under the sovereignty of the United Kingdom in respect of Gibraltar, in accordance with the United Nations Convention on the Law of the Sea, and are therefore rigorously protected from pollution under the law of Gibraltar.

56. Spain opposes landfills, construction and other projects in areas of Gibraltar which were not ceded by the Treaty of Utrecht as they run counter to international law and because of their negative impact on the environment. Therefore, Spain is opposed to a recent construction project, known as the Eastside Project, as it negatively affects the Estrecho Oriental, an area of particular environmental sensitivity, which is located in the eastern part of the Strait of Gibraltar and surrounds the Rock of Gibraltar. The Estrecho Oriental is a special area of conservation that forms part of a network of protected areas for species and habitats known as Natura 2000, as declared by the European Commission. Spain opposes the designation of the Southern Waters of Gibraltar as an area of special conservation interest in the Emerald Network under the Convention on the Conservation of European Wildlife and Natural Habitats.

57. The United Kingdom reaffirms its sovereignty over Gibraltar, including the territorial waters surrounding it, and notes that land reclamation projects are the responsibility of the Government of Gibraltar and are subject to appropriate scientific appraisal and environmental impact assessments, including transboundary effects. The United Kingdom does not recognize the validity of the listing of the Estrecho Oriental as a special area of conservation and notes that its designation as a special area of conservation in this regard does not change the sovereignty, jurisdiction or territorial control of geographic areas, including waters, to which they relate. The United Kingdom recalls that the Convention on the Conservation of European Wildlife and Natural Habitats was extended to Gibraltar in 2020 and that the Southern Waters of Gibraltar forms a part of the Emerald Network of areas of special conservation interest under that Convention.

VII. Forum for Dialogue on Gibraltar

58. Negotiations between the United Kingdom and Spain on the subject of Gibraltar led, in 2004, to the establishment of the trilateral Forum for Dialogue on Gibraltar. Since 2010, no meetings have been held. Since 2012, the United Kingdom has expressed the desire to continue with the Forum and, in the interim, offered an informal, ad hoc dialogue involving, as appropriate, all relevant parties to the issues under discussion. Spain expressed the position that the Forum no longer existed and should be replaced with a new ad hoc mechanism for local cooperation in the interest of social well-being and regional economic development, in which the people of the

Campo de Gibraltar and Gibraltar were represented. No ad hoc talks had been convened as at January 2023.

VIII. Future status of the Territory

A. Position of the administering Power

59. The most recent meeting of the United Kingdom-Overseas Territories Joint Ministerial Council was held in London on 16 and 17 November 2021, when the administering Power hosted the representatives of the Governments of its overseas territories. The Prime Minister of the United Kingdom gave the opening address and the participants held wide-ranging discussions on such topics as the environment, economic resilience and health care, including the response to the pandemic.

60. In the communiqué adopted at the meeting, the Government of the United Kingdom and the leaders of the overseas territories indicated that the principle of equal rights and self-determination of peoples, as enshrined in the Charter of the United Nations, applied to the peoples of the overseas territories. They reaffirmed the importance of promoting the right of those peoples to self-determination, a collective responsibility of all parts of the Government of the United Kingdom.

61. The Government of the United Kingdom and the leaders of the overseas territories committed themselves to continuing to explore ways in which the overseas territories could maintain international support in countering hostile sovereignty claims. It was also stated that for those Territories with permanent populations that wished so, the United Kingdom would continue to support their requests for removal of the Territory from the list of Non-Self-Governing Territories.

62. At the 9th meeting of the Special Political and Decolonization Committee (Fourth Committee), on 14 October 2022, during the seventy-seventh session of the General Assembly, the representative of the United Kingdom stated that his Government had a modern relationship with its overseas territories, based on partnership, shared values and the right of the people of each Territory to choose to remain British.

63. He stated that the United Kingdom and the Territories were in agreement that the Territories had a large measure of internal self-government, subject only to the United Kingdom retaining powers that enabled it to carry out its obligations under international law. He also stated that the Joint Ministerial Council met annually to monitor and drive forward collective priorities.

64. He stated that the long-standing commitment of the United Kingdom to the people of Gibraltar remained unchanged and that it would neither enter into agreements in which the people of Gibraltar would pass under the sovereignty of another State against their freely and democratically expressed wishes, nor enter into a process of sovereignty negotiations with which Gibraltar was not content (see [A/C.4/77/SR.9](#)).

B. Position of the territorial Government

65. At the 3rd meeting of the Fourth Committee, on 4 October 2022, the Chief Minister of Gibraltar stated, *inter alia*, that the decolonization of Gibraltar could be completed only in accordance with the wishes and aspiration of its people.

66. He stated that there was no role in that process for any party other than the United Nations, the United Kingdom as administering Power and the people of

Gibraltar. He stated that the United Kingdom was not present in Gibraltar as a colonizing power and that it was there in partnership with and at the express wish of the people of Gibraltar. He added that the people of Gibraltar would never consent to any discussion or negotiation regarding the sovereignty over its land, territorial waters or airspace. He stated that only the people of Gibraltar would determine the future of Gibraltar, that their inalienable right to self-determination must be respected and that Gibraltar must be delisted (see [A/C.4/77/SR.3](#)).

C. Position of Spain

67. At the 3rd meeting of the Fourth Committee, on 4 October 2022, the representative of Spain stated that Gibraltar had been militarily occupied by the United Kingdom in 1704, during the War of the Spanish Succession, and that under article 10 of the Treaty of Utrecht of 1713, Spain had been forced to cede to the United Kingdom only the town and castle of Gibraltar, together with its port, fortifications and forts, without ceding territorial jurisdiction. The United Kingdom had subsequently illegally occupied the isthmus adjacent to Gibraltar, building a fence in 1909 and a military airport in 1938 that jutted more than half a kilometre into the territorial waters of Spain.

68. He stated that during the intervening years, the General Assembly had created a body of law on the question of Gibraltar, to which Spain fully subscribed. In resolution [2231 \(XXI\)](#), adopted in 1966, the Assembly had called on the two parties to continue their negotiations and had asked the administering Power to expedite, without any hindrance and in consultation with the Government of Spain, the decolonization of Gibraltar. In resolution [2353 \(XXII\)](#), it had established that the decolonization process should be governed by the principle of territorial integrity. In resolution [2429 \(XXIII\)](#), it had requested the administering Power to terminate the colonial situation in Gibraltar no later than 1 October 1969. The core issue was thus the British military presence, which contravened the resolutions of the Assembly. The administering Power had, however, ignored the doctrine of the United Nations. In 1967, it had held a referendum on questions of sovereignty without United Nations involvement.

69. He went on to state that Spain wanted inhabitants on both sides of the fence to prosper and that it saw enormous potential for them to do so. In an effort to ensure that negotiations on the departure of the United Kingdom from the European Union were as orderly as possible, the two countries had negotiated an international agreement on taxation and the protection of financial interests, which had entered into force on 4 March 2021. They had also signed four memorandums of understanding concerning, respectively, citizens' rights, police and customs cooperation, the environment, and tobacco and other products. At present, only the memorandum on citizens' rights was in force. On 31 December 2020, Spain and the United Kingdom had reached an understanding that would serve as the basis for a future agreement between the European Union and the United Kingdom on Gibraltar, with the ultimate aim of creating an area of shared prosperity. However, no provision of that agreement and no measure taken to implement it should be understood to indicate a change in the legal position of Spain regarding sovereignty and jurisdiction over Gibraltar.

70. He stated that Spain remained willing to reach an agreement with the United Kingdom on the launch of a new regional cooperation framework for the benefit of the inhabitants on both sides of the fence. He also stated that, as the Committee had repeatedly emphasized, there was no other solution to the dispute over Gibraltar than a negotiated decolonization process under the terms established by international law as developed by the Committee (see [A/C.4/77/SR.3](#)).

D. Negotiations between the United Kingdom and Spain

71. Within the framework of the Brussels Process, which is separate from the Forum for Dialogue on Gibraltar, no bilateral negotiations were held in 2022. The Government of the United Kingdom has made it clear, in the preamble to the 2006 Constitution of Gibraltar, that it 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”. Moreover, the United Kingdom has also declared that no sovereignty-related talks can be entered into without the consent of Gibraltar, and that it will never enter into a process of sovereignty negotiations with which Gibraltar is not content.

72. The Government of Spain continued to demand the renewal of bilateral sovereignty talks with the Government of the United Kingdom. It considers that the position of the United Kingdom goes against the doctrine established in the relevant General Assembly resolutions and against the commitment made with Spain in the Brussels Declaration of 1984.

E. Discussions between the United Kingdom and Gibraltar

73. In November 2018, the United Kingdom and Gibraltar approved the Concordat concerning the Implementation of the Gibraltar Protocol to the Withdrawal Agreement and related Memoranda of Understanding, in which they reaffirmed the 2006 Constitution and also reaffirmed that matters that were the competence of the Government of Gibraltar would remain so and their intention to ensure that the valued and historic links between the United Kingdom and Gibraltar grew, deepened and endured.

74. The United Kingdom and Gibraltar have both recognized that the Constitution of Gibraltar provides for a modern and mature constitutional relationship between the two sides. The Government of Gibraltar believes it important to review the 2006 Constitution, together with the United Kingdom, to assess what further progress or changes are necessary and appropriate. The review should include the consideration of human rights issues and the question of removal of Gibraltar from the list of Non-Self-Governing Territories. According to the administering Power, in March 2016, the Gibraltar Parliament established the Select Committee on Constitutional Reform in order to assess what changes to the 2006 Constitution were necessary or desirable. The Select Committee was reconstituted in December 2019. While the United Kingdom has expressed its views about the mechanisms for delisting, both Governments note that, under Article 73 *e* of the Charter, the United Kingdom is obliged to continue to submit annual reports until such time as the General Assembly removes a Territory from its list of Non-Self-Governing Territories.

IX. Consideration by the United Nations

A. Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

75. On 13 June 2022, the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples decided to continue its consideration of the question at its 2023 session and to transmit the relevant documentation to the Assembly in order to facilitate the consideration of the question by the Fourth Committee.

B. Special Political and Decolonization Committee (Fourth Committee)

76. The Fourth Committee of the General Assembly considered the question of Gibraltar at its 3rd meeting on 4 October 2022, at which it heard statements by the representative of Spain and the Chief Minister of Gibraltar. In addition, at the 9th meeting, on 14 October, the representative of the United Kingdom made a statement. At the 3rd, 7th and 9th meetings, held on 4, 11 and 14 October, the representatives of Spain and the United Kingdom exercised the right of reply (see [A/C.4/77/SR.3](#), [A/C.4/77/SR.7](#) and [A/C.4/77/SR.9](#)).

77. At its 9th meeting, on 14 October, the Fourth Committee adopted without a vote a draft decision on the question of Gibraltar (see [A/C.4/77/L.3](#)) which was submitted by the Chair of the Committee (see [A/C.4/77/SR.9](#)).

X. Action taken by the General Assembly

78. On 12 December 2022, on the recommendation of the Fourth Committee, the General Assembly adopted decision 77/533 on the question of Gibraltar, without a vote. In that decision, the Assembly, recalling its decision 76/522 of 9 December 2021:

(a) Urged the Governments of Spain and the United Kingdom, while listening to the interests and aspirations of Gibraltar that were legitimate under international law, to reach, in the spirit of the Brussels Declaration of 27 November 1984, a definitive solution to the question of Gibraltar, in the light of the relevant resolutions of the General Assembly and applicable principles, and in the spirit of the Charter;

(b) Took note of the desire of the United Kingdom to continue with the trilateral Forum for Dialogue;

(c) Took note of the position of Spain that the trilateral Forum for Dialogue did not exist any longer and should be replaced with a new mechanism for local cooperation in which the people of the Campo de Gibraltar and Gibraltar were represented;

(d) Welcomed the efforts made by all to resolve problems and advance in a spirit of trust and solidarity, in order to find common solutions and move forward in areas of mutual interest towards a relationship based on dialogue and cooperation.
