

Distr. RESTRICTED
CRS/2007/CRP.11

ORIGINAL: ENGLISH

SECOND INTERNATIONAL DECADE FOR THE ERADICATION OF COLONIALISM

Caribbean Regional Seminar on the implementation of the Second
International Decade for the Eradication of
Colonialism: next steps in decolonization

St. George's, Grenada
22 to 24 May 2007

Statement by the Hon. Joseph Holliday

(Gibraltar)

**ADDRESS BY THE HON JJ HOLLIDAY
DEPUTY CHIEF MINISTER OF THE GOVERNMENT OF GIBRALTAR
AT THE CARIBBEAN REGIONAL SEMINAR ON DECONOLISATION
AT GRENADA MAY 2007.**

Madam Chair,
Excellencies,
Distinguished delegates,
Ladies and Gentlemen,

I am grateful for this opportunity.

Madam Chair, first of all please allow me to congratulate you on your appointment to the Chair of the Special Committee on Decolonisation. My name is Joe Holliday, and I am Deputy Chief Minister of the Government of Gibraltar. The Chief Minister Peter Caruana, who was due to attend this seminar himself and was prevented from doing so by urgent business, sends you and this seminar his very best wishes.

Madam Chair, there is, I think, now a widespread realization and acceptance of the fact that for many of the remaining listed territories the classic models of decolonization, namely, independence, free association and integration may not be appropriate by virtue of the individual circumstances and characteristics of these territories. Indeed, the General Assembly has recognized this by declaring in Resolution 2625 (XXV) of 24 October 1970 that any status freely determined by the people of the territory

In an act of self determination is a valid model of decolonization. This has been reinforced by the General Assembly in its annual omnibus resolution which recognize that “the specific characteristics and the sentiments of the peoples of the Territories require the flexible, practical and innovative approaches to the options of self determination, without any prejudice to territorial size, geographical location, size of population or national resources”.

This Madam Chair, is precisely the approach that we have taken in Gibraltar to our decolonisation.

The sentiment of the people of Gibraltar is that we do not want to relinquish British Sovereignty or Constitutional links with Britain. But we have sought to decolonize by the means of establishing a constitutional relationship with Britain that is not colonial in nature.

During the last few years we have been negotiating with the United Kingdom a new Constitution for Gibraltar. This was approved by the people of Gibraltar in a referendum organized and conducted by the Government of Gibraltar and which the British Government has recognized and accepted to constitute an act of self determination in the context of our UN Charter right to self determination.

That new Constitution is now in place and in operation. It maximizes our self Government in all areas of Governance except defence, external affairs and internal security. All other matters are the competence of the Gibraltar Government, the Gibraltar Parliament or other Gibraltar legal institutions. The power of the United Kingdom Government to disallow legislation passed by the Gibraltar Parliament has been abolished.

Like many other small countries for whose external affairs and defence the UK remains responsible, such as Jersey, Guernsey and the Isle of Man, and which, like Gibraltar are not part of the UK – and whom no one regards as colonies – Her Majesty the Queen, as Queen of Gibraltar and not as Queen of the United Kingdom of Great Britain and Northern Ireland, retains residual power to make laws for Gibraltar. This is practically never used, and never without consultation with the Government of Gibraltar.

So, our new Constitution, while giving us practically full self government, is not a constitution for a sovereign independent State, nor is it intended to be. Nor, in the Gibraltar Government's view should the UN require it to be. This is the status and relationship with the UK that the people of Gibraltar want. It is not a colonial relationship, Gibraltar and its people do not feel colonial. The UK neither feels itself to be, nor behaves like a colonial power in Gibraltar, nor could it do so. Anyone who visits and becomes familiar with Gibraltar will see that this is indeed the case. Gibraltar governs itself and is in no sense a colony.

The people of Gibraltar consider that through the modernization of our Constitution we have ceased to be in a colonial relationship with the United Kingdom and ipso facto we are thus decolonised.

The United Kingdom has publicly and formally declared that the new Constitution provides a modern and mature relationship between Gibraltar and the UK which cannot be said to be based on colonialism. The people of Gibraltar agree. And on any objective assessment that statement by the UK Government is true and correct.

Madam Chair, we do not think that the United Nations should concern itself any further with the decolonisation of Gibraltar. All that remains is our so – called “delisting”. How that can be brought about is a matter for UN procedures and criteria. We believe that these are unrealistic and inappropriate to the extent that they appear or purport to prevent delisting of any case where the ex administering power retains any sort of reserve power to legislate, regardless of the circumstance of use and real nature of that power. We would urge the UN to revisit and reconsider these criteria.

But, in any event whatever may be the position that the UN chooses to take in this regard does not alter the political and factual reality that Gibraltar has to every other effect ceased to be a colony, is not a colony, is not considered by its ex administering power to be a colony and does not itself think of itself or feel like a colony. These are inescapable realities which the UN can choose to ignore but which do not therefore or thereby cease to be realities.

Madam Chair, some self interested Member States, that is those with territorial claims over listed Territories, pretend that a sovereignty dispute and the decolonisation of the Territories, are one and the same matter. This is a complete misconception. Certainly decolonisation does not dispose of a sovereignty dispute or claim, but, by the same token the mere existence of a sovereignty dispute cannot displace or replace the decolonisation process.

Still less can it extinguish the right to self determination of the people of any listed territory, including Gibraltar. The transfer of Sovereignty of a listed Territory by the administering power to a claimant State against the wishes of the people of the Territory cannot constitute lawful or proper decolonisation – or indeed decolonisation

at all – not least because it fails to have regard to the freely expressed will of the inhabitants of the Territory, which under UN doctrine and international law is an indispensable element of all decolonisation. No contrary view is sustainable in international law or UN doctrine.

Therefore, Madam Chair, this Seminar should no longer allow itself to be influenced by the intellectually, legally and morally flawed arguments of self interested Member States with territorial claims over listed Territories, and their allies within the Special Committee. Let me explain what I mean.

The “Conclusions and recommendations” of successive Seminars, set out in their reports to the Special Committee, attributes to you, as participants in the Seminar the extraordinary view, that “in the process of decolonisation, and where there are not disputes over sovereignty, there is no alternative to the principle of self determination which is also a human right”. I have never heard that view expressed by any participant in any Seminar except the representative of Spain and Argentina. Recommendations and Conclusions should not be falsely attributed to Seminar participants collectively when they have not been so adopted.

Who here thinks that the right to self determination of the inhabitants of a Listed Territory, a right which under the Charter is stated to be inalienable, is automatically extinguished by the mere existence of a sovereignty dispute? How can that be? And who here thinks that something that is described in the Seminar Conclusions as a “human right” can be extinguished by the mere existence of a sovereignty dispute? Some human right that can be so easily quashed! Please therefore do not allow such nonsense to be written in to Seminar reports by others

during the closed drafting session later this week as your conclusions and recommendations, which they are not and never have been !

Finally, Madam Chair, I would like to inform the Seminar about the establishment in December 2004 of a valuable and most useful trilateral forum of dialogue between the Governments of Spain, Gibraltar and the United Kingdom. Each Government takes part in the Forum in its own right and on the same basis. The agenda is open, and nothing can be agreed unless all three Government agree. In September last year, the Forum produced its first batch of mutually beneficial agreements relating to airport and aviation issues, cross border traffic fluidity, cross border telecommunication issues and long standing issues relating to pensions of Spanish workers in Gibraltar. The Gibraltar Government looks forward to the continuation of this dialogue and to reaching more mutually beneficial agreements with Spain in this Forum.

Thank you Madame Chair for allowing me to address this Seminar.