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THIRD INTERNATIONAL DECADE FOR THE ERADICATION OF COLONIALISM

**Caribbean regional seminar on the implementation of the Third International
Decade for the Eradication of Colonialism: accelerating decolonization
through renewed commitment and pragmatic measures**

Saint George's, Grenada

2 to 4 May 2019

STATEMENT BY

PREMIER

MR. ANDREW A. FAHIE

(BRITISH VIRGIN ISLANDS)



GOVERNMENT OF THE
**BRITISH
VIRGIN
ISLANDS**

**UNITED NATIONS CARIBBEAN REGIONAL SEMINAR ON DECOLONISATION
ST. GEORGE'S, GRENADA
2ND – 4TH MAY 2019**

**STATEMENT BY PREMIER OF THE BRITISH VIRGIN ISLANDS
THE HONOURABLE ANDREW A. FAHIE**

Excellences, Honourable Ministers, distinguished delegates, ladies and gentleman,

Good morning and God's Blessings!

Madam Chair, let me congratulate you on your election as Chair of the Special Committee on Decolonisation that has organised this most important regional seminar.

I also want to thank you Madam Chair, for receiving my Special Envoy, Mr. Benito Wheatley, in New York in advance of this meeting, and for the warm hospitality extended to me and my delegation by the Government of Grenada here on your beautiful island.

I bring you greetings from the people of the British Virgin Islands (BVI) who are grateful for your friendship.

Madam Chair, if I am not mistaken, I am the Territory's first Head of Government to address this regional seminar since they began many years ago. I am also aware that we have not made representation to the Special Committee for some time.

I am pleased to inform you that the people of the BVI elected a new Government on the 25th of February 2019, and under my leadership, things will change.

I want to reassure you that going forward we will remain engaged with the Special Committee and immediately resume reporting to you as would be expected by a Territory on the United Nations (UN) list of Non-Self-Governing Territories.

INTRODUCTION

Ladies and gentleman, I am here today because the relationship between the BVI and United Kingdom (UK) is not one that should be limited to engagement between the two sides.

Our relationship requires the international accountability that is provided for by the UN decolonisation framework. This Caribbean regional seminar is an integral part of that process.

Let me be clear at the outset, the BVI remains on the UN list of Non-Self-Governing Territories because we have not yet determined a final status for ourselves; and we believe the UN is the international institution that has the legitimacy to preserve our right to self-determination.

Our present status as a British Overseas Territory evolved from the BVI's position as a colony after the islands ceased to be a presidency of the Federal Colony of the Leeward Islands on 1st July 1956.

Constitutional Reviews in the decades that followed brought important advances in self-governance.

- In 1967 the Ministerial system of Government was adopted.
- In 1977 the Territory Government assumed control of the territory's finances and grant-in-aid ceased in 1978.
- In 2007 the Territory Government's constitutional responsibility for international relations was formalised and vastly expanded.

However, despite these significant constitutional advances, contradictions in the BVI's internal self-government arrangements remain.

For example, an unelected Governor is still appointed by Her Majesty the Queen who presides over a Cabinet composed of a Premier and Ministers who have been duly elected by the people of the BVI to represent them.

This institutional contradiction at the heart of government decision-making runs counter to the right of a free people to govern themselves in a democratic society.

The Governor, on the basis of the monarchical authority vested in him, also retains reserve powers to intervene in the affairs of the BVI.

There is an inescapable friction in our constitutional arrangements in which the democratic will of the people of the Territory runs against the monarchical authority of the Governor appointed by the UK.

To be sure, what I am referring to here is not the question of independence, but rather the upholding of the principle of self-governance, even under our current constitutional arrangements.

As a matter of principle, it is still our right as a people to govern ourselves, until such time as we decide our final status.

We have demonstrated over the course of our modern history that we are fully capable of doing so.

CURRENT SITUATION IN THE BRITISH VIRGIN ISLANDS

Madam Chair, let me now turn to the current situation between the BVI and the UK.

As I am sure you are aware, in recent years the BVI-UK relationship has become increasingly strained as the UK has become more intrusive in areas of governance constitutionally devolved to the Territory Government.

The UK has strayed away from the modern partnership it sought to establish with the Overseas Territories that was set out in its 1999 White Paper—*Partnership for Progress and Prosperity*; and again in its 2012 White Paper—*Security, Success and Sustainability*. Both were based on the principle of mutual respect and mutual responsibility. There have been a number of worrying developments over the course of this decade that have signaled a rolling back of the progress that was earlier achieved.

In 2011, the UK began to step up its intrusion into the financial affairs of the BVI. The Protocols for Effective Financial Management were put in place in 2012, whose intrusive requirements fall outside of the bounds of our constitution.

In 2013, the UK during its G8 presidency, pressured the BVI on the question of international taxation, despite our compliance with international tax standards set by the OECD Global Forum.

In 2016, the UK insisted that the BVI adopt a public register of beneficial ownership, despite the fact that our jurisdiction met the required international standards on company transparency set by the Financial Action Task Force (FATF) that are largely followed by the rest of the world.

In that instance, we were able to agree to an Exchange of Notes on Beneficial Ownership that enhanced the exchange of beneficial ownership information between the BVI's and UK's respective law enforcement authorities.

To facilitate this process, the BVI invested millions of dollars in technology to develop the Beneficial Ownership Search Secure system (BOSSs) that allows BVI law enforcement agencies to immediately share beneficial ownership information with UK law enforcement upon request, without tipping off the subjects.

In 2018, despite the Exchange of Notes and success of our cutting-edge system, the UK adopted the Sanctions and Anti-Money-Laundering Act 2018 that imposes public registers of beneficial ownership on the Overseas Territories.

This singular issue gets to the heart of the BVI's current concerns regarding the UK.

The UK illegitimately passed legislation to try to force the BVI and other Overseas Territories to adopt public registers, despite the fact that this is an area constitutionally devolved to the Territory Government.

The UK has set an implementation deadline of 2023 before an Order in Council is passed to force the Overseas Territories to comply. However, this is currently being contested by Members of Parliament who want to see an earlier implementation deadline of 2020.

The actions taken by the UK violate the principle of self-governance. It has long been established that the UK Parliament does not legislate for the BVI without our consent.

The Territory is not represented in the UK Parliament and we do not wish to be. We have our own parliament composed of representatives that were elected by the people of the BVI to make decisions for our jurisdiction.

The exception to the established practice of the UK Parliament, is that it would legislate for the Overseas Territories in extreme cases where a Territory is not in compliance with a requirement in which the UK has an international legal obligation for the Territories.

However, on the question of beneficial ownership, this was not the case. The BVI continues to meet the requirements set by the FATF and OECD Global Forum and has received favourable compliance ratings from both.

Another important consideration is the economic impact of forcing the Overseas Territories to adopt public registers before they are an international standard. Doing so will only serve to drive legitimate business away from our jurisdictions to others that are not as well regulated.

The economic damage to the BVI's financial services industry would be irreparable. Financial services accounts for over 65% of Government revenue.

The importance of this sector to the delivery of public services such as healthcare, education and law enforcement cannot be understated.

It must also be kept in mind that we are still recovering from two category five hurricanes in 2017. More than 80% of all structures were damaged or destroyed and the tourism industry wiped out.

If the financial services industry were to fail because of an arbitrary decision made by the UK Parliament, how can we be reasonably expected to rebuild our society.

The UK's international obligation under the UN Charter is to advance our economic growth and development, not undermine it.

This insensitivity by our Administering Power triggered the largest protest in the BVI's history in May of last year.

Ladies and gentleman, there are enough academic studies now available by the World Bank and others to confirm that public registers of beneficial ownership are not the most effective means of tackling financial crime.

Rather, research indicates that it is beneficial ownership information exchange arrangements between law enforcement agencies in different jurisdictions that is the most effective means by which to catch financial criminals.

We are proving this in the BVI with our cutting-edge Beneficial Ownership Search Secure system that has been helpful in various UK cases and continues to work well.

Far from being the source of the problem, the BVI as a jurisdiction is in fact a model for others to follow.

FOREIGN AFFAIRS COMMITTEE REPORT ON THE OVERSEAS TERRITORIES

Madam Chair, it is important that I say few more words about the UK Parliament.

There continues to be pressure on us in the area of beneficial ownership, but some Members of Parliament want to go further in their impositions to include other issues.

The House of Commons Foreign Affairs Committee published a report in February of this year on the future of the UK and Overseas Territories.

In the report's recommendations, the committee calls on the Overseas Territories to legalise same sex marriage; abolish Belonger status which is category of citizenship that is granted by the Territory Government; and to permit legally resident British and Overseas Territories Citizens that are currently ineligible to vote or run for elected office in the Territories to be able to do so.

While the report has no legal force, it is very disturbing that such an important committee in the UK Parliament has made recommendations that completely disregard the constitution of the BVI and other Overseas Territories.

The Members of Parliament who authored the report place little value on the unique culture and values of our people, nor the principle of self-governance or the right to self-determination.

The report also recommends that the blunt colonial legislative instrument, an Order in Council, is used to impose these measures on the BVI and other Overseas Territories should we not comply.

As I mentioned earlier, the UK's Sanctions and Anti-Money Laundering Act already contains such a provision in regard to the adoption of public registers of beneficial ownership.

What our recent experience with the UK Parliament has taught us is that when the UK Government has challenges controlling its benches, whether as a result of Brexit or other turmoil, the UK Parliament can blackmail or leverage the Government into going against its own policy. This was the case in relation to the public registers issue.

The ongoing splintering in the UK Parliament and current weakness of the UK Government, leaves the BVI highly exposed to parliamentary forces who do not support us. In such circumstances the Overseas Territories are easy political targets in UK politics because of our size and distance from Britain.

The current situation has made it clear that we require stronger constitutional provisions to shield us from the whims of the UK Parliament, especially during periods of turmoil and Government weakness.

The BVI is due for a Constitutional Review and we hope to address this matter during that process.

STATE OF THE TERRITORY

Madam Chair, with the time remaining I would like to briefly describe conditions on the ground in the BVI.

As you are aware, the Territory was hit by two catastrophic category five hurricanes in 2017 which levelled our islands.

The UK, along with other Overseas Territories, CDEMA, CARICOM, OECS and international partners, were essential in stabilizing the situation during the crisis period in the immediate aftermath of the storms.

Nearly two years on, our recovery is proceeding. UN agencies such as UNDP, ECLAC, UNICEF, PAHO and other agencies have provided critical support and continue to work on our behalf.

The UK has also continued to provide support. They have also offered a \$400 million loan guarantee to assist the Territory Government in securing financing for the recovery. However, we are concerned about taking on unsustainable debt and must weigh our options carefully.

Our main goal is to rebuild the society with greater resiliency and to diversify the economy to support long-term growth.

It is important that as we continue to rebuild, that it is the Territory Government that is the primary body steering the recovery process, as provided by our constitution.

Our responsibility is to ensure that the recovery benefits the people of the BVI and reflects their aspirations.

The UK and other partners must respect this principle and work in genuine partnership with us.

DEEPENING RELATIONSHIP WITH THE UN

In support of our national development objectives and the sustainable development goals (SDGs), we wish to deepen our relationship with the UN.

Currently the BVI is unable to access international funds under UN programmes from sources such as the Global Environment Facility (GEF) and Green Climate Fund (GCF) or even the UK's own climate change fund for small island developing states (SIDS).

The international community has a moral obligation to assist all SIDS, including the BVI, in adapting to the negative effects of climate change which we have not caused, but suffer from.

It was also an injustice after the hurricanes of 2017 that we were unable to receive overseas development assistance (ODA) from aid donors on account of the OECD's Development Assistance Committee (DAC) rules. It is important that the committee's reforms to the rules directly address and rectify this problem, which is inhumane.

To ensure we meet the sustainable development goals by 2030, we believe a relationship with two additional UN agencies is critical.

We would welcome Associate Membership in the Food and Agricultural Organisation (FAO) and also the United Nations Framework Convention on Climate Change (UNFCCC).

These agencies will be able to assist us in meeting our food security and climate resiliency objectives.

Participation at the Small States Forum under the auspices of the World Bank would also be useful given the common challenges we share with current members.

SPECIAL COMMITTEE ON DECOLONISATION

Madam Chair, I wish to close where I began.

I mentioned at the outset that the UK's relationship with the BVI should not be simply limited to the two sides.

We have a relationship that requires international accountability which is provided for under the UN framework on decolonisation.

As the Special Committee continues its work in the remaining period of the Third International Decade for the Eradication of Colonialism, the BVI believes the Special Committee has a meaningful role to play in our case.

We call on the Special Committee to:

- facilitate a Self-Governance Assessment (SGA) of the BVI to assess any democratic deficiencies in the BVI-UK relationship;
- dispatch a visiting mission to the BVI;
- facilitate an education campaign on self-determination to raise awareness on the range of options beside independence available to the BVI; and
- sit as an official observer to public deliberations during the BVI's next constitutional review.

As a part of the CARICOM and OECS families, we also believe that these regional organisations and our fellow Associate Members and Members have an important role to play in ensuring that the human rights of all of the people of the Caribbean are upheld and that the self-governance and self-determination of the Non-Self-Governing Territories are protected.

VII. CLOSING

Ladies and gentleman, I am grateful for this opportunity to deliver this update on the situation in the BVI and thank you for your indulgence.