

Distr. RESTRICTED

CRS/2019/CRP.7

ORIGINAL: ENGLISH

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

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(GIBRALTAR)

Mr. Chairman,

I want to deal with the views expressed by Spain at the UN in support of their sovereignty claim and with C24's failure to address our People's rights under the Charter and the Decolonization Resolutions.

Spain has been repeating the history of the capture of Gibraltar, not too accurately. Spanish Gibraltar was attacked by a combined force of Dutch and English Marines on 3 August 1704 and surrendered within 24 hours.

Spain claims the inhabitants were then expelled and their descendants are the true Gibraltarians.

Those who left were not a People distinct from the rest of Spain. The Spaniards had conquered Gibraltar 250 years earlier and expelled its population. These had originally come from North Africa, 500 years earlier, and expelled the Visigoth inhabitants.

Other than after 1704, there has never been a unique population with its own identity in Gibraltar, the Gibraltarians.

The treatment of the Spanish soldiers and civilians in 1704, allowing them to go and fight another day, which they did shortly after, was fairly lenient compared to Spain's conduct of the time.

In the Americas Spain's treatment of the territories they conquered was not to expel the indigenous people, but to massacre them. Allegedly to save their souls, not to steal their gold and then replace them with slaves transported from West Africa, for which provision was made in the Treaty of Utrecht. So it's a bit much to hear Spain complaining about the treatment of those who lost.

The war was between the Austrian and French to govern Spain. It was settled in 1713, the French King's nephew took the Spanish throne and Spain lost part of its territories including Gibraltar.

There was nothing exceptional about this, it was happening all the time in Europe.

This was a successful attempt at partially disrupting the territorial integrity of the Kingdom of Spain as it was in 1700, in breach of the UN Charter of 1945 and contrary to paragraph six of the recommendations in Resolution 1514, of 1960.

However I have never seen anything that says the Charter or the Resolution was retrospective from 1700.

The word "attempt" in 1514 clearly refers to something happening in future, after 20th December 1960.

The territorial integrity is that of a country that joins the UN as it is when it joins not as it was 300 years earlier. It is also the territory of a country that emerges as a result of decolonisation, the territorial integrity of the colony as it was when it was placed on the UN list.

This has recently been confirmed by the judgment regarding the Chagos Islands which were a part of the territory of the colony of Mauritius. UK has been told that Chagos formed part of the territorial integrity of Mauritius and should have been decolonized at the same time in 1968. Mauritius argued before the ICJ that the separation of the Chagos from Mauritius was in breach of 1514 paragraph six which specifically prohibits the breakup of colonies before independence. The judgment in favour of this argument was 13 to 1. Mauritius Prime Minister said its territorial integrity would now be made complete.

The Chagossians of African, Indian and Malay ancestry, very much like the Gibraltarians, developed their distinct cultural identity, after they settled in the territory as a French colony in 1776. They have had their rights as the People of the territory, recognised and vindicated.

When Gibraltar was listed at the UN in 1946 the isthmus formed part of the territorial integrity of the colony.

In 1964 your committee Mr. Chairman concluded that the 1960 "Declaration on the granting of Independence to Colonial Countries and Peoples", was fully applicable to Gibraltar.

I was 25 and your decision inspired me to go into politics to campaign for the right to decolonization and stop sovereignty talks between UK and Spain.

This is what I've been doing since and this is why I am here today.

1514, states: "The subjection of peoples to alien subjugation, domination and exploitation constitutes a denial of fundamental human rights, contrary to the Charter of the United Nations."

To place us under Spanish rule totally or partially, would be precisely that, the subjection of our People to alien subjugation.

Since 1514 applies fully to us, it follows that so does 1541, which approved the principles recommended by the then committee of six in 1960, your predecessors, which should guide you in deciding if article 73e reports, have to be submitted.

Principle 1 states: an obligation only exists in respect of such territories of the colonial type whose people have not yet attained a full measure of self-government.

Spain, the UK, we and you all agree that this obligation has always applied and still does.

However the 73e reports are about the progress of the People, which Spain says we are not.

Spain cannot have it both ways; if we are not the People of the territory then 73e does not apply.

Principle 2 states that chapter XI embodies the territory in a dynamic state of evolution and progress towards a "full measure of self-government".

C24's role is monitoring this constitutional evolution.

In 2006 I asked C24 how our constitution measured with 1541; I am still waiting for an answer.

If the Committee is not going to monitor the constitutional progress of the peoples in the listed territories, what then is the purpose of the reporting requirement?

How else can it comply with Principle 2 to decide in any particular case that its people have attained a full measure of self-government?

At the 2016 seminar, Spain's representative explained that because the Spaniards who surrendered in 1704 had been forced to leave, Spain would never accept, that its current inhabitants, obviously he could not bring himself to call us Gibraltarian, had a legal identity, were a people, nor had a right to the Rock, our homeland.

This was the Spain we have known most of our lives, the Spain that closed the border to pressure us.

In June at C24, this Spain accused us of being a fiscal paradise, engaging in contraband to the detriment of Spain.

Then there was Brexit.

And a New Spain emerged at the 4th committee in October.

Spain's speech was all sweetness and honey.

We were now the Gibraltarians, no longer the stateless 300 year old squatters of the Nicaragua speech.

They offered us a generous proposal for joint sovereignty.

We could have access to the EU with them and leave the EU with UK, the best of worlds, dual nationality, all EU legislation they had been blocking to pressure us would now be unblocked, our economic potential would be hugely increased, the list of advantages could be even longer. Nothing was going to be imposed on us, so why not sit down and talk, we were asked rhetorically.

Distinguished delegates, imagine this, Spain wants to sit down and talk with persons who have no identity as a people and moreover are money launderers and smugglers?

But not for long.

In the days of the dictator Franco it used to be called the stick and the carrot policy.

We might have said yes, if they had been right about us.

But they've always been wrong.

We are the Gibraltarians, the People of the colony, and our birth right is not up for sale.

We cannot be bought, we cannot be intimidated and we will never surrender.

So we said no to any joint sovereignty. As I told Spain's representative at the 2017 seminar, we would survive on dry bread and water rather than pass under Spanish sovereignty.

Predictably, the following month, Spain again attacked our fiscal system. The same system they had said we would be able to continue with, if we accepted them as joint colonial power with UK, the joint sovereignty offer, still on the table.

Spain repeated the same message at subsequent UN meetings.

What we have done since, is try to meet their concerns as if they were genuine, although we do not accept that we have a fiscal system that in any manner or form damages the Spanish economy.

The 2018 Consensus has recognized and welcomed that we are all making an effort to improve relations. To this end we have agreed with Spain to exchange information and criteria for tax residence.

If it means the end of the accusations that somehow we are draining the tax revenues of Spain and harming the economy of the surrounding hinterland, when the opposite is true, then we are happy to reassure them by agreeing these measures.

The Treaty provides that Spanish nationals, who move from Spain to Gibraltar, will continue to pay tax in Spain indefinitely, other nationalities for four years if they have lived in Spain for one. Gibraltarians need to have lived for four years in Spain.

The Gibraltarian is identified as a distinct nationality in an international treaty, an encouraging sign of what our relationship should be.

Clearly Spanish nationals are the most affected if they become Gibraltar residents.

50 years ago, one of their complaints was that they could not live in Gibraltar. It was true, there was a housing shortage and many of our own people were also living in Spain and had to abandon their homes to be accommodated in Gibraltar as best they could, when they closed the frontier.

The equivalent to being expelled, but in 1969 not in 1704.

We have also agreed an MOU, committing ourselves to keeping the retail price of tobacco products at a 32% differential below mainland Spain prices.

Mr. Chairman HM Government of Gibraltar has no wish to have Spanish residents break the tax laws of Spain by not declaring the earnings they may receive from our economic activities in Gibraltar, if that is what the Spanish law requires of them.

Spain now recognises our Tax Authorities and our tax laws independent from those of the UK. This shows that we are not a municipality and enjoy the fiscal independence of a state.

Perhaps for this reason the Government in Spain says this International Tax Treaty is with UK not with Gibraltar.

An International Treaty that has been signed by Spain's Minister for Foreign Affairs and the UK's Deputy Prime Minister. This is because international treaties are things that the 17 non-self-governing territories cannot sign.

If Spain needs to say it is UK that has done the Treaty; well let them continue saying it. But you and I, Mr. Chairman, know this is not true. Because if it were, it would mean that our fiscal independence over taxation, both direct and indirect, would have been removed from our level of self-government. This independence is something that we've had since the first constitution of 1950. The first Legislative Council introduced income tax in 1951.

So it would mean that UK's Deputy Prime Minister, if the Spanish interpretation were correct, had regressed our level of self-government taking us back to the position pre 1950, almost to when we were placed on your list in 1946.

If that were the case clearly I would not be speaking in the tone that I am speaking or making the remarks that I am making Mr. Chairman, I would be breathing fire and brimstone at the imposition of colonial rule, and breach of the provisions of 1541.

In the fourth committee last year Spain's representative stated that treating the question solely as a dispute over sovereignty would be to limit it to a conflict between two governments. Saying it was much more serious than that, because of the damage to Spain's economy and the hinterland from our competitive fiscal system.

Now that we have addressed those concerns, it follows that the position is now a mere disagreement between governments on issues of sovereignty, by his emphasis the lesser of the two problems which is going to be with us for a long time

I have no doubt that this year's summary report, as those of previous seminars, will express support for the consensus text which we all know is the result of negotiation between UK and Spain at the 4th Committee.

This urges Spain and UK to reach, in the spirit of the Brussels Declaration of 1984 a definitive solution to the question of Gibraltar, in the light of the relevant resolutions and applicable principles and in the spirit of the Charter, taking account of the aspirations of Gibraltar.²⁴⁹¹

Spain quotes the support of the Seminar for this as if it assisted their case.

The consensus is a neutral statement that reflects the position of the two parties in dispute, but not ours.

Let me first deal with the Spirit of Brussels.

Mr Chairman as Members of this Committee well know I have fought against the Brussels Declaration from the day it was made.

The process that followed incidentally was at referendum to its approval in the Parliament of Gibraltar showing that even in 1984, Spain had de facto accepted that there would be no negotiations without the approval of the Gibraltarians.

We socialists were then in Opposition. We walked out of Parliament, campaigned against it, boycotted it in Government, and eventually persuaded those who had supported it, to abandon their support.

It is now dead and buried.

Since it is dead the consensus now talks about its spirit and I don't know what this spirit is but given its history, it can only be an evil spirit which is going to stay that way and never come back to life.

There is not going to be another bilateral Spain and UK negotiation on the issues of Sovereignty or anything else to do with Gibraltar.

There are also the aspirations of our people which are what you would expect of any colonial people, as I have demonstrated repeatedly in these seminars.

The UN position is that as long as there is one territory left the eradication of colonialism will not be complete.

We may be the last one but the day will come when we shall take our rightful place in the family of nations, and as I said way back in 1992, when that day comes I trust it will be with the support of Spain as a friendly neighbour.