

STATEMENT BY THE GSLP/LIBERAL OPPOSITION 133/2006

1 November 2006

The Opposition consider that the Spanish Foreign Minister Miguel Angel Moratinos is lying to the Spanish people when he says that Gibraltar's new Constitution recognises that the Treaty of Utrecht is a constraint on the exercise of Gibraltar's right to self-determination. A simple reading of the published text, and of the source of the wording of that text, shows that this is not true. Moreover, the Opposition would never have accepted the wording in the Constitutional text in London in March if what Mr Moratinos claims it said were true.

The Spanish Foreign Minister either is being misled by the British Government, or has an insufficient command of the English language to understand what the two paragraph recital in Chapter One of the Constitution actually says. This is taken from the International Covenant on Civil and Political Rights.

The first paragraph recognises the full applicability of the right to self-determination to the people of Gibraltar without constraint and in exactly the same terms as it applies to all the other British colonies.

The second paragraph, in terms that substantially reflect the language of the International Covenant on Civil and Political Rights acknowledges the obligation of UN Member States party to the Covenant to promote and respect the realization of the right to self-determination.

In other words, the constraint which Mr Moratinos is talking about is a constraint, which if it exists at all on the, exists for the UK, Spain and on other signatories as to the extent that they promote and respect Gibraltar's right to self-determination. It is therefore a constraint on Spain and not a constraint on Gibraltar.

This wording of Article 1.3 of the Covenant which creates this obligation reads as follows:

"1.3 The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations."

This has been reflected in the second paragraph in Chapter One of the new Constitution with the additional words after United Nations of "and any other applicable international treaties". It reads as follows:

"And whereas the realization of that right must be promoted and respected in conformity with the provisions of the Charter of the United Nations and any other applicable international treaties."

In other words, our Constitution recognises that all the States that have signed the Covenant, which includes Spain without qualification, are required to promote our right to self-determination and to respect it. The UK added the words that this had to be done in conformity with any other applicable treaties because they believe that they are prevented by the Treaty of Utrecht from promoting the realization of our self-determination to the degree that they can promote our independence. Spain, for its part, appears to consider that the constraint on them is such that they have to deny the realization of our right in any shape or form whatsoever and this is precisely what they are doing.

This clearly shows that the constraint of the Treaty of Utrecht of “any applicable international treaties” which Mr Moratinos has described, is not a constraint on Gibraltar’s actual right but on the way that third parties promote and respect the realization of the right.

The Opposition had proposed an amendment to the Referendum motion tabled by the Government which sought to make this distinction clear. The Government preferred to quote the entire of the recital in Chapter One of the Constitution.

The Opposition regret that the Government did not accept that other part of our amendments to the motion in the House of Assembly on Monday which specifically mentioned that the purpose of voting for a new Constitution is to provide a new international status for Gibraltar, should the Constitution be accepted and come into force. It is the view of the Opposition that this formulation would have helped to refute the argument also put by the Spanish Foreign Minister yesterday that under the new Constitution there is no change to the current international status of Gibraltar which therefore remains as a non-self governing territory, in other words a colony.

In his public comments yesterday, Mr Moratinos also referred to the statement issued by Europe Minister Geoff Hoon on the eve of the debate on the Referendum motion in the House. It is clear that the purpose of this statement was to provide comfort and solace to Mr Moratinos who was upset by the Referendum motion before the House.

The Opposition understands that threats have been made by Spain behind closed doors that they would break the Cordoba agreements and the tripartite process if the motion before the House of Assembly went as far as explicitly stating that the new Constitution alters Gibraltar’s international status. This explains the unsolicited statements by Mr Hoon last Friday in an attempt to pre-empt the debate that took place on Monday on the motion calling the Referendum.

The Opposition consider that the public have a right to know what has been going on behind the scenes and what threats have been made by Spain behind closed doors, if any, so that when they vote in the Referendum they do so in the full knowledge of all the relevant facts.

ENDS

