Eleventh Report
from the

Foreign Affairs Committee

Gibraltar

Session 2001–02

Response of the Secretary of State for
Foreign and Commonwealth Affairs

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by the Secretary of State for Foreign and Commonwealth Affairs
By Command of Her Majesty
January 2003

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ELEVENTH REPORT FROM THE FOREIGN AFFAIRS COMMITTEE SESSION 2001-02

GIBRALTAR

RESPONSE FROM THE SECRETARY OF STATE FOR FOREIGN AND COMMONWEALTH AFFAIRS

Introduction

1. The Government welcomes the close interest the Foreign Affairs Committee and its predecessors have taken in Gibraltar.

2. The Government's policy towards Gibraltar is based on two fundamental principles. The first is the principle of Gibraltarian consent. The Government has repeatedly made clear that it stands by the 1969 commitment given by the then Labour Government that there will be no change in Gibraltar's sovereignty against the freely and democratically expressed wishes of its people. The second is the principle that a lasting resolution of Gibraltar's problems can only be achieved through dialogue and negotiation with Spain.

3. That has been the view of successive British Governments, including the then Conservative Government which launched the Brussels Process talks in 1984. Successive British Governments have been clear that if these talks are to prosper, they need to include the issue of sovereignty. This was explicit from the very beginning of the Brussels Process: the communiqué agreed by Britain and Spain in 1984 established "a negotiating process aimed at overcoming all the differences between them over Gibraltar" and made clear that "both sides accept that the issues of sovereignty will be discussed in that process".

4. The Committee's report was published on 7 November, the same day as the referendum organised by the Government of Gibraltar on the issue of joint sovereignty. In debates in both Houses of Parliament since (as before) then, the Government has reiterated its assurance to the people of Gibraltar that there will be no change in sovereignty without their consent. We have reiterated that our objective remains to secure a stable and prosperous future for Gibraltar, and that we intend to continue dialogue with Spain and with Gibraltar to this end.

Conclusions and recommendations

5. While focussing on the Brussels Process talks relaunched in July 2001, the Committee's report comments on a wide range of issues and asks a number of specific questions. The following is the Government's response to those issues:

(a) We conclude that Britain's negotiating position with Spain could not have been prejudiced by the British Government disclosing on, or shortly after, the relaunching of the Brussels Process in July 2001 that joint sovereignty over Gibraltar was under discussion as the Spanish Government was already fully involved in those discussions. We further conclude that the refusal of Ministers to make such a disclosure represented a serious failure in their accountability obligations to this Committee and to Parliament (paragraph 13).

This conclusion is not accepted. There is no basis whatever for the suggestion that Ministers had failed to keep Parliament properly informed. The resumption of talks under the Brussels Process was announced to Parliament at the first available opportunity after the General Election and after the decision was taken, in the debate on the Queen's Speech on 22 June 2001. After the formal meeting under the resumed Brussels Process, a joint communiqué was issued explaining that the aim was to secure a comprehensive agreement on all outstanding issues, including "co-operation and sovereignty". Both these statements are referred to by the Committee.

Her Majesty's Government had always wanted the Government of Gibraltar to be fully involved in the discussion within the Brussels Process. Agreement was reached with the Government of Spain for the Government of Gibraltar to participate on a "two flags, three voices" basis, which it had been understood would have been satisfactory to the Government of Gibraltar.

Ministers regularly updated Parliament including through their contributions to several Westminster Hall debates, one of which the Government initiated; through responses to Private Notice Questions, written and oral Parliamentary Questions; through statements; and through appearances before the Foreign Affairs Committee. The former Minister for Europe in evidence to the Foreign Affairs Committee in November 2001 made clear that "anything that provides for any joint sovereignty, if that is the outcome – and I have no way of knowing whether it will be – will go to the people of Gibraltar".

(b) We conclude that it will be a long time, if ever, before any agreement based on the principles outlined by the Foreign Secretary to the House on 12 July 2002 – including joint sovereignty – can be made acceptable to the people or to the Government of Gibraltar (paragraph 17).

The Government was always well aware that there are no quick fixes for Gibraltar and that a solution to the dispute could take time. The question of how to secure a better future for Gibraltar remains. We continue to believe that a lasting solution will only be found through dialogue and through an agreement with Spain. As the Foreign Secretary made clear in his statement to the House on 12 July, an agreement based on the principles set out then would offer Gibraltar and its people a great prize. But – as the Foreign Secretary also made clear – the decision rests with the people of Gibraltar.

The Government's view that a new approach was needed was borne out of the knowledge that previous approaches to the issue had failed. We knew from the outset that the right approach was also the difficult one; that it would take courage to see if a comprehensive settlement was possible. The easy option for the Government would have been to have done nothing and to have let the dispute continue to fester. But we did not and do not believe that the "do nothing" approach would have been in the interests of Britain, of Gibraltar or of Spain.

(c) We reject the Foreign Secretary's view that it is "eccentric" for the Government of Gibraltar to hold its own referendum. We consider that in British Overseas Territories it is of great importance that democratic expressions of view should take place when territories themselves so determine. We recommend that the British Government take full account of the views of the people of Gibraltar as expressed in the referendum held on 7 November (paragraph 24).

The Government shares the Committee's view on the importance of democracy in Overseas Territories as was made clear in its White Paper on the Overseas Territories of 1999. And we have always made clear that the principle of Gibraltarian consent is central to our approach.

On 7 November there were not, however, any proposals to vote on and the outcome of the referendum as arranged was a foregone conclusion. It did not resolve any of Gibraltar's problems. As we have said many times, the principle of the consent of the people of Gibraltar is central to our approach.

(d) We conclude that, without a prolonged period of wooing the people of Gibraltar, it was surely unrealistic of Spain to expect any change on their part (paragraph 27).

The Government agrees that if there is to be a new relationship between Gibraltar and Spain, Spain needs to build greater mutual respect, confidence and trust. We have consistently urged this approach on the Spanish government as had previous governments, but to no avail. A new approach was needed which, if successful, would have produced a major improvement for Gibraltarians' way of life.

(e) We conclude that the Government was wrong to negotiate joint sovereignty, when it must have known that there was no prospect whatsoever that any agreement on the future of Gibraltar which included joint sovereignty could be made acceptable to the people of Gibraltar, and when the outcome is likely to be the worst of all worlds – the dashing of raised expectations in Spain, and a complete loss of trust in the British Government by the people of Gibraltar (paragraph 31).

We do not agree. The Government's objective has always been to reach an agreement that it could commend to the people of Gibraltar; an agreement that offered the prospect of a secure, stable and prosperous future for Gibraltarians.

As was recognised by Baroness Thatcher and Lord Howe in 1984, any negotiations to that end would need to tackle the issue of sovereignty. But, as the Foreign Secretary made clear in his 12 July statement, the sovereignty issue would only form one part of any agreement. Other principles – such as more internal self-government, the retention of British traditions, customs and way of life, the retention of British nationality, the freedom to retain institutions that the people of Gibraltar might want – would also form part of the agreement we have been discussing with Spain. As the Foreign Secretary made clear to the House on 12 July, if and when we were able to reach agreement with Spain on such a framework, we would publish it in a joint declaration – a statement of intent by the two Governments. Thereafter, in the second phase, there would be further detailed negotiations – in which the Government of Gibraltar would again be invited to participate fully – to produce a comprehensive package, including a new draft treaty, based on the principles set out in the joint declaration. The United Kingdom would ratify such a treaty only after securing the consent of the Gibraltarians in a referendum.

The Government believes that further dialogue is needed with Spain and with Gibraltar if progress is to be made.

(f) We recommend that the Government in its response to this Report explain whether previous Governments had, as it appears from the evidence, made a commitment to the Gibraltar Government to seek the Chief Minister's specific endorsement before entering into any new arrangements affecting Gibraltar at the Brussels Process talks, and, if this is indeed the case, why the current Government decided not to renew that commitment (paragraph 39).

This issue was addressed in response to a letter from the Clerk of the Committee dated 9 October. The exchange of letters is at Appendix 9 to the report.

It is not for this Government to explain the actions of its predecessors. When talks were relaunched in 2001, the present Government made clear that we wanted the participation of the Chief Minister. We believe that the arrangements put in place (described in Appendix 9) would have satisfied his legitimate concern to participate in safety and dignity. The Chief Minister, as he makes clear in his own memorandum to the Committee (Appendix 14), did not feel that these arrangements satisfied his concerns and he insisted on an explicit veto over every issue discussed at the talks. As the Foreign Secretary said to the Committee in evidence on 19 June, it would not have been possible to enter negotiations on that basis.

(g) We conclude that it was politically impossible for the Gibraltar Government to participate in the Brussels Process talks without also having the power to limit the outcome of those talks (paragraph 41).

As stated above, the Government made clear that it wanted the involvement of the Government of Gibraltar in the Brussels Process talks from the start so that they could help shape the outcome. For that reason, it was made clear to the Chief Minister that he would be consulted throughout the process; he could be present at all Brussels Process meetings under the two flags, three voices format (a seat at the

table alongside the Foreign Secretary as part of the British Delegation, with the right to speak on any issue); he should not have to declare his final opinion on the package until the negotiations were complete; and at all times the 1969 Constitutional commitment remained, guaranteeing that there would be no change in the sovereignty of Gibraltar without the consent of the people of Gibraltar.

(h) We conclude that by publicly questioning the probity of the Gibraltar Government during the course of the relaunched Brussels Process talks, the British Government has unwisely increased tension and suspicion of its motives within Gibraltar (paragraph 45).

The Government has consistently made clear the importance it places on good governance in all our Overseas Territories. Pursuit of this objective is in the interests of Gibraltar as well as HMG.

(i) We conclude that it is highly ironic that the British Government has given credence to complaints by Spain about law enforcement and the supervision of financial services in Gibraltar, given that these areas are the responsibility, not of the Gibraltar Government, but of the British Government and of the Financial Services Commission appointed by it (paragraph 47).

This conclusion is based on a misunderstanding about the role of HMG in the public administration of Gibraltar. In practice, Gibraltar has a significant degree of responsibility within these areas. In the case of financial services, the Gibraltar Financial Services Commission is charged with the responsibility of supervising institutions carrying on financial business in or from within Gibraltar. The Commission, while appointed by the Governor with the approval of the Secretary of State, is an independent body. While no-one can afford to be complacent, it is the Government's view that the Gibraltar finance industry is properly regulated.

(j) We conclude that there is no parallel to be drawn between Gibraltar's legitimate complaints against Spain and Spain's unjustified accusations against Gibraltar. We recommend that the British Government should, as our predecessor Committee recommended, rebut such allegations promptly and decisively. We feel strongly that the Government's failures to rebut Spain's unfounded allegations have let the people of Gibraltar down. If the Government believes that any of the Spanish allegations are in fact justified, it must set out clearly in its response to this Report which allegations these are, and how it expects the relevant authorities to remedy the situation (paragraph 50).

It is this Government's policy to respond appropriately to unfounded allegations. It is a matter of judgement therefore as to whether, how and when best to respond in each case. The Government's response to Spanish accusations made over the MV Prestige is one recent example of our readiness to respond to unjustified allegations.

(k) We conclude that the British Government now faces an unenviable choice. On the one hand, it can continue to negotiate on the issue of joint sovereignty and reach a bilateral agreement with Spain which may be in the wider British interest, but which will not be acceptable to the Government or people of Gibraltar. On the other hand, it can withdraw its joint sovereignty proposal – with the risk that Spain will react negatively, both bilaterally and against Gibraltar – re-establish trust and good relations with the Government and people of Gibraltar, encourage Spain to do the same, and only then attempt to negotiate an agreement with Spain, with a representative of Gibraltar participating as a full negotiating party (whether under the British flag or not). We further conclude that this dilemma is entirely of the Government's own making (paragraph 52).

The Government's position remains as set out by the Secretary of State to Parliament on 12 July. It continues to believe that a process of discussion with Spain and with the people of Gibraltar is right

because it is in the interests of people in Gibraltar, in the United Kingdom and in Spain. There remain real issues which have to be discussed with both. Whether those discussions take place next week, next month, or next year, it is clear that the issues are not going to go away. We would do no one a service by ignoring them or simply hoping that they will disappear.

(l) We recommend that the Government in its response to this Report explain what measures any European Union member state could take to obstruct unilateral action by the United Kingdom to enfranchise the Gibraltar electorate (paragraph 55).

The Government is under legal obligation to give effect to the 1999 ECHR ruling in Matthews v UK (referred to in para 53 of the report). We would have preferred to do this by amending the 1976 EC Act, but were unable to secure the necessary unanimous agreement of the Council. The Government therefore decided in November 2001 to enfranchise Gibraltar by domestic legislation. The Government is aware of the possibility of a case being brought against this unilateral action, but considers its introduction of the domestic legislation to be fully in accordance with the principles of EC law. The Council has already taken note of the UK's decision to take this course.

(m) We conclude that the British Government is honour bound to carry out its promise to enfranchise the Gibraltar electorate in time for the European Parliamentary elections in 2004. We recommend that the Government ensure that adequate parliamentary time is made available during the next session of Parliament to ensure that the necessary legislation is enacted (paragraph 57).

The Government has consistently said that it is committed to ensuring that the people of Gibraltar are able to vote in European Parliamentary elections. The Foreign Secretary repeated this commitment in his evidence to the Committee on 19 June. On 21 November 2002, the Government introduced the European Parliament (Representation) Bill to provide for Gibraltar's enfranchisement in time for the next European Parliamentary elections in 2004.

(n) We conclude that it is manifestly unjust for Gibraltar to be legally liable to pay uprated pensions to Spanish pensioners who had been prevented from making pension contributions for years by their own Government. We further conclude that it is unfortunate that the issue of this liability was not satisfactorily resolved before Spanish accession to the European Community (paragraph 64).

As the report later recognises (paragraph 66), it is in fact HMG which pays pensions to Spanish pensioners who were prevented from working in Gibraltar by the 1969 border closure. The liability to pay those pensioners is a matter of EC law which requires Member States to pay state pensions, including any uprating, to pensioners living in another Member State at the same rate as would be paid if the pensioner lived in the paying State.

(o) We conclude that the legality of Community Care payments has yet to be established under European law. We recommend that a resolution of this issue be sought as soon as possible, without the British Government taking a view on the merits of the case which might prejudice its outcome (paragraph 76).

The Government is glad to note the Committee itself recognises (paragraph 74) that the Household Cost Allowance (HCA) "certainly looks like a device adopted by the Gibraltar Government as a way of increasing payments to people of pensionable age who are resident in Gibraltar" and notes their view (paragraph 75) that the payments are potentially illegal in EC law. The British Government made clear to the then Chief Minister in 1988 that any new arrangements which the Government of Gibraltar might introduce for payments to the elderly must be non-discriminatory and means-tested. When the British Government discovered the detail of the HCA in 1996, they advised the Government of Gibraltar to

reform it, and the present Government has maintained this pressure. The Government of Gibraltar has failed to do so.

We agree that a resolution of this issue is needed. As long as it continues unresolved, the potential cost to Gibraltar taxpayers is high and rising.

(p) We conclude that the status quo established by the freezing of Gibraltar pensions was unsustainable, and that it would have been politically precarious, and potentially immoral, had the Gibraltar Government not taken steps to ensure that Gibraltar residents of a pensionable age were adequately provided for (paragraph 78).

We note the Committee's view. Our attitude and advice throughout has been that any new arrangements should be consistent with EC law. Any arrangements found to be in breach of EC law could result in a substantial liability. Although the responsibility for this liability would rest entirely with the Government of Gibraltar, as any European Court ruling would be against the United Kingdom, this would equate to a potential – and very large – charge initially to the UK taxpayer, which Her Majesty's Government would have to recover from the Government of Gibraltar given the repeated warnings to the Government of Gibraltar ever since 1988 for the Government of Gibraltar to act in accordance with EC law, and the Government of Gibraltar's still current indemnity to Her Majesty's Government.

(q) We recommend that the British Government should continue to meet the original liability to pay pensions at frozen 1988 rates to Spanish pensioners, although we believe it unjust that this liability should exist at all (paragraph 79).

As noted in paragraph 66 of the report, HMG agreed in 1996 to meet the costs of fixed rate payments at 1988 levels to pensioners resident outside Gibraltar. That commitment remains. As stated previously, this liability is a matter of EC law

(r) We recommend that in the event that additional liability relating to pensions is incurred directly as a result of the existence of the Household Cost Allowance, this liability should be apportioned between the British and Gibraltar Governments on an agreed basis if possible and failing that by some form of arbitration, but that any additional liability which would have been incurred regardless of the existence of that allowance should be met in its entirety by the British Government (paragraph 82).

HMG has made clear to successive Governments in Gibraltar since 1988 that it is their duty to ensure that arrangements are compatible with EC law. Any liability arising from the Household Cost Allowance (HCA) is a matter for the Government of Gibraltar. As the then Minister for Europe noted in a letter to the Chairman of the Committee on 16 May 2002 (Appendix 7 to the report), the Chief Minister of Gibraltar wrote to the then Permanent Under Secretary of the FCO on 24 July 1998 accepting such responsibility by indemnifying HMG against any liability arising from that date until such time as HCA was reformed. However, as the then Minister for Europe also subsequently informed the Committee, on 28 March 2002, the Government of Gibraltar wrote again giving 12 months notice of the withdrawal of that indemnity.

(s) We conclude that it was deplorable for a Government minister to have described the pensions situation in Gibraltar as a 'scam' (paragraph 84).

Government Ministers have repeatedly made clear our concerns that pension arrangements in Gibraltar are not transparent and are potentially unlawful – a conclusion that the Committee shares (paragraphs 84 and 75). Despite a number of meetings with the Government of Gibraltar and the trustees of Community Care, that remains the case.

(t) We conclude that the root cause of the current pensions issue in Gibraltar is a weakness in EU legislation, exploited by the Spanish Government, which requires the Gibraltar Government to pay full pensions to a large class of people (who happen to be Spanish) who have barely contributed to the Gibraltar pension fund, through no fault at all of the Gibraltar Government. It may be that this is the law, and that nothing can be done to change it. But the current arguments between the British and Gibraltar Governments as to liability, and about the rather opaque activities of Community Care, are a direct result of this unfair legal circumstance. The current pensions situation, with or without Community Care, is highly unsatisfactory. The British and Gibraltar Governments should be co-operating to try to find a workable long-term solution to the issue, rather than wrangling about who is to blame and who should pay for the current situation, for which neither of them is to blame, and for which, in an ideal world, neither of them should have to pay (paragraph 87).

It is a timeless verity that there will always be individuals or interests who may object to particular aspects of particular laws. That does not reduce the obligation on responsible administrations to observe the law unless and until it is changed.

It is not the case, as stated in paragraph 87, that the Government of Gibraltar is paying pensions to Spaniards; HMG is carrying that liability. And HMG has been seeking to cooperate with the Government of Gibraltar since 1996 to remove the threat of legal challenge. But the Government of Gibraltar has not acted and has not taken up our offers of technical assistance. The contingent liability continues to rise. Progress is needed because otherwise the initial burden will fall on UK taxpayers, which is not acceptable to the Government.

(u) We recommend that the Government seek as a matter of urgency a meeting between British, Spanish and Gibraltar officials to find a workable solution to the issue of communications between Gibraltar and Spain (paragraph 105).

The Government remains concerned by the various telecommunications problems that Gibraltar is experiencing and, specifically, by the fact that the new telephone numbers offered by Spain at the 26 July 2001 Brussels Process meeting are still not in use. We have made clear to Spain that we want to see this commitment effectively delivered.

We have also proposed that experts from the Government of Gibraltar, Spain and the United Kingdom meet in order to find a way forward. The Government of Gibraltar has said that it would attend only if it were clearly accepted by all concerned that such a meeting would be outside the Brussels Process. Spain has said that, since the numbers were offered in the context of the Brussels Process, such a condition is unacceptable. Our objective remains to find a workable solution to the practical problems which Gibraltar faces.

(v) We recommend that if no solution to the Gibraltar communications issue can be found through negotiation with Spain, the Government should refer the matter back to the European Commission and should be prepared if necessary to take it to the European Court (paragraph 106).

The EC Treaty confers primary responsibility for the enforcement of Community Law on the Commission. Two Gibraltar telephone companies have launched competition complaints against Spain over its refusal to recognise the +350 code and to allow Spanish operators to conclude mobile roaming agreements with them. These are private complaints which HMG has supported in its dealing with the Commission.

(w) We recommend that, in the absence of further progress on telecommunications access with Spain in the near future, the British Government should explore with Gibraltar the possibility of enabling access to Gibraltar telephone lines via the British numbering plan and dialling code as well as via Gibraltar's international dialling code (paragraph 107).

The Government remains in regular contact with the Government of Gibraltar, the Gibraltar Regulator and Gib Telecom on this issue. Our overall objective remains Spanish recognition of Gibraltar's international dialling code +350, which would solve all Gibraltar's principal telecommunications problems. We are, of course, especially interested in the Government of Gibraltar's ideas for the way forward.

(x) We conclude that Spain's refusal to allow Gibraltar-bound aircraft to divert to Spanish airports in adverse weather conditions is potentially dangerous as well as unjustified. This is precisely the sort of incomprehensible restriction which obstructs hopes of understanding between Spain and Gibraltar (paragraph 110).

The Government agrees that this restriction should be lifted. This is one of the many obstacles to normal life which would be resolved by a comprehensive agreement. It remains the Government's conviction that dialogue is the only way to resolve such problems.

(y) We recommend that the Government reexamine its landing charges for commercial aircraft at Gibraltar airport to ensure that they do not exceed the real cost of allowing commercial operations to take place. We further recommend that the Government should assess whether reducing the landing charges would encourage greater commercial use of the airport, thereby ensuring that current revenues are maintained (paragraph 111).

Gibraltar airport is a Ministry of Defence (MoD) airfield with facilities for commercial airlines. Landing fees are a matter for MoD who are responsible for the airfield. The costs of running the airfield are borne by the MoD and landing fees do not meet the full resource costs of facilities and services; in effect, the commercial users are being subsidised by the UK taxpayer. Commercial operators utilise the airfield out of duty hours and MoD incurs additional costs to provide essential support services to enable use of the airfield. The MoD will continue to keep the charging issue under review.

(z) We welcome the opening of a second customs lane at the crossing from Gibraltar to Spain, and we recommend that the Government encourage Spain also to open a second lane at the crossing from Spain to Gibraltar (paragraph 112).

We welcome the Committee's recognition of this significant improvement which was brought about through the Brussels Process talks. We also agree that the opening of a second Spain-Gibraltar channel would be very welcome. We have made this point repeatedly to the Spanish government.

(aa) We conclude that it is mystifying that the European Commission has been unable to find any evidence at all to support the legal argument that Spanish checks at the border with Gibraltar are disproportionate. We recommend that the Government in its response to this Report set out its understanding of the basis on which the European Commission concluded that Spanish checks at the border with Gibraltar are not disproportionate, and the evidence that was considered in reaching this conclusion (paragraph 116).

The Commission conducted its own investigation during which it took evidence from, amongst others, HMG and the Government of Gibraltar. The Commission reached its own conclusions and HMG is not privy to how those conclusions were reached.

It is important to remember that as long as Gibraltar remains outside the Common Customs Tariff and the relevant parts of the Schengen Convention, Spain will have the right to carry out customs and immigration checks.

(bb) We conclude that it would be inequitable were Gibraltar to be forced unilaterally to abolish its low rates of tax and import duty, without the same situation applying more widely. We recommend that the Government explain in its response to this Report its position on the sustainability of Gibraltar's tax and customs status, with detailed reasons for this position. We further recommend that, in the event of offshore financial centres being phased out, the British Government should provide practical assistance and advice to Gibraltar to help its economy to react to these changed circumstances (paragraph 124).

Gibraltar's position outside the Common Agricultural Policy, Common Customs Tariff and VAT regime is guaranteed by the Treaties. We are not aware of any proposal to impose a unilateral change to Gibraltar's status under the Treaties.

Gibraltar is restructuring its tax system in order to comply with EU and OECD initiatives on harmful taxation. This demonstrates Gibraltar's commitment to observe the highest international standards of transparency in the campaign against tax evasion. But Gibraltar may, in time, conclude that the present narrow base of its economy leaves it vulnerable as the process of EU economic reform proceeds. Gibraltar may wish to consider further economic diversification, which could involve participating in the Single Market in Goods.

(cc) We recommend that the Government take vigorous and determined steps through NATO to lift the reservation on direct military movements between Gibraltar and Spain and to end the ban on direct military communications between NATO forces in Gibraltar and Spain (paragraph 127).

It is the Government's objective to lift the reservation on direct military movements between Gibraltar and Spain and to end the ban on direct military communications between NATO forces in Gibraltar and Spain. Military cooperation is specifically included in the Brussels Communiqué and this is therefore an issue which would be addressed in talks aimed at reaching a comprehensive agreement.

(dd) We conclude that there is a risk that in the event of an agreement concluded between Spain and the United Kingdom which did not enjoy the support, or at least the acquiescence, of the people of Gibraltar, the military base might find its ability to operate severely constrained by the local population (paragraph 129).

We are aware of this suggestion by one pressure group in Gibraltar. But we have no reason to believe that the local population would want to hamper the operation of the base, which is important to the defence of Gibraltar as well as the UK and contributes substantially to the local economy.

(ee) We recommend that the Government explain in its response to this Report how responsibility for Gibraltar is apportioned within the FCO, with an explanation of why this is the case (paragraph 130).

As the Permanent Under Secretary explained to the Committee in July, for reasons of continuity, it made sense for the FCO's former Political Director, Emyr Jones-Parry, to retain a role in the negotiations with Spain after his move to the UK Delegation to NATO. The decision to give responsibility at Director level to James Bevan reflected the need for a Director who could devote a considerable part of his time to the issue.

In anticipation of EU enlargement, a further restructuring within FCO is expected in April 2003, with responsibility for all Gibraltar issues being transferred to the EU Directorate. This is an organisational change only: it has no implications for policy towards Gibraltar.

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