

**STATEMENT BY THE GSLP/LIBERAL OPPOSITION 111/2006**  
**25 September 2006**

The Opposition has made clear throughout that a GSLP/Liberal Government would not be bound by any agreements reached by the Government of Gibraltar with the Government of Spain in the negotiations in the Trilateral Forum.

As responsible elected representatives of the people of Gibraltar we have taken our time to examine the agreements in detail. We have also evaluated the explanations given by the Government throughout most of last week.

In all agreements there are good elements and bad elements. The Opposition is not going to claim that everything about these agreements is bad, but neither are we going to claim that everything is good, as the Government has done.

What the Opposition proposes to do in Government is to retain the good and not implement the bad. This is something that the present Government cannot do because they have negotiated all of it and it is therefore binding on them. What they cannot do is seek to tie the hands of a future Government.

#### REFERENCES TO SOVEREIGNTY

The content makes several references to sovereignty. Such references are made on the basis that it is without prejudice to the position on sovereignty maintained by the United Kingdom and by Spain respectively. The Gibraltar Government says in relation to sovereignty references that it understands and has accepted that such references are bilateral positions held by the UK and Spain and do not include the Gibraltar Government.

This seems to suggest that Spain has insisted that Gibraltar has no say on any matter that may affect the sovereignty question and that the Government of Gibraltar understands and accepts that any such matter is exclusively the prerogative of the UK and Spain.

Our position is the very opposite. We believe that any question of sovereignty over the airport, the isthmus or anywhere else is entirely bilateral between the United Kingdom and Gibraltar alone and has absolutely nothing to do with Spain.

For the avoidance of doubt, in Government we will make a formal declaration to the other two participants in the negotiating process that the views contained in that statement are neither shared, understood nor accepted by us.

## THE AIRPORT – The permanent arrangements

The following permanent arrangements will operate in 18 months time, after the next general elections, and constitute full implementation.

On the airport, the Government has agreed to extend the existing terminal to the frontier where it will be joined to a structure on the Spanish side. This had been predicted over a year ago by Raphael Estrella.

The extension overhanging Spanish territory on their side of the frontier will house the Guardia Civil and other Spanish officials that Spain was originally demanding should be installed within the Gibraltar terminal to carry out customs and identity checks. It is clear that the compromise has been that the officials will not be on this side, but instead passengers from Gibraltar will be subjected to Spanish officials carrying out customs and identity checks on them from Spain before they are permitted to board aircraft that are still in Gibraltar before take-off on route to Spanish airports

When such a passenger has completed the customs and identity clearance he then proceeds to the departure lounge in the Gibraltar terminal, but clearly is already in Spain for customs and immigration purposes.

This is also true when they board the aircraft while it is still in Gibraltar before it takes off. On arrival at the destination, say Madrid, they are treated as arriving on an internal flight from another Spanish airport and this is why they are not required to pass through Spanish customs or immigration controls when they exit.

The 1987 airport agreement, which has been rejected by everyone in Gibraltar, contained a clause that required anybody who wanted to go to any part of Spain to go through the La Linea

terminal first. Now, in 2006, the planned La Linea annexe to the extended Gibraltar terminal will have the same function.

The reason why this was a red line for the Spanish Government in 1987 was because they made clear that they could not accept that flights from Gibraltar were carrying people traveling from a British airport. Neither could they accept that such a flight only entered Spanish territory after it landed at a Spanish airport as is the norm.

The use of Schengen terminology in the text is intended to mask the true significance of this issue which preserves the Spanish position as it was in 1987.

As far as the Opposition is concerned, these arrangements are a far cry from being the enhanced use of the airport, a newly coined label. Indeed, they go even further than joint use, which is what Mr Moratinos called it after the agreement was reached last week.

This is not two countries each having their own separate access to an airport which they both make use of. This is one country only ie Spain having sole access to the airport for the purpose of flights originating from or terminating in its own national territory.

In other words, when the terminal extension is in place, and the agreement fully implemented in 18 months time, the proposals require that all persons coming in from Spain will go direct to the departure lounge to fly to a Spanish destination, without passing through any Gibraltar controls.

However, a person entering the Gibraltar terminal will not be permitted to proceed direct to the departure lounge. Gibraltar passengers will instead be required to obtain immigration and customs clearance from Spanish officials before they can proceed to the departure lounge in Gibraltar and board the plane.

- These arrangements are not acceptable to and would not be implemented by a GSLP/Liberal Government in 18 months time.

## THE AIRPORT - Terminal Management

As regards the running of the terminal, the building belongs to the people of Gibraltar and it is the view of the Opposition that any

Gibraltar Government must be free to run it as it sees fit. This means it can do so with its own employees, with a local contractor, or by putting it out to tender as it wishes.

The present Government cannot seek to constrain, by virtue of an agreement with the Spanish Government, what any future Government might want to do. It is unacceptable that a future Government should have no choice but to use a joint venture with a Spanish partner which may be Mr Caruana's own preferred option, but is certainly not ours.

Once the terminal provisions have been fully implemented in 18 months time, the proposal therefore, not only prevents Gibraltar passengers from boarding directly an aircraft traveling to Spain, but on top of that guarantees a Spanish involvement in the handling, in our terminal, of our security checks, baggage, check-in etc within our own side of the border.

We do not accept that there can be a binding commitment to hand the contract to a joint venture company with Spanish commercial interests.

#### THE AIRPORT – Permanent Joint Liason Committee

The Opposition does not agree that it is necessary to have a Permanent Joint Liason Committee to consider at a technical level any problem or issue relating to the functioning of the arrangements. Any such problem or issue in Gibraltar's air terminal is a matter for the Gibraltar Government and nobody else, especially since only the Gibraltar Government is supposed to exercise control and jurisdiction.

The justification for this Committee is said to be the proximity of the airport to the populations of Gibraltar and the Campo and the shared concerns on environmental and other matters regarding the use of the airport. Any concerns that arise in Gibraltar can be put right by the Gibraltar Government. Any concerns raised in the hinterland by the surrounding population can easily be brought to the attention of Gibraltar's Environmental Agency which can look into the matter and recommend whatever measures are necessary.

There is no justification for the existence of this Committee and we will not support it.

## THE AIRPORT - The interim arrangements

The position during the course of the next 18 months is less clear from reading the text. Once flights start what actually happens on the ground will enable a better assessment to be made.

Based on the Government's explanations over most of last week, the permanent arrangements in the agreement with regard to airport operations will commence when the new air terminal has been completed adjacent to the frontier with Spain. The arrangements over the next 18 months will be different.

Persons on the Spanish side will be required to catch a bus from a point in Spain to the departure lounge of the air terminal in Gibraltar.

The option would be available to a Gibraltar resident who prefers to cross the frontier into La Linea and then join the flight by coming in on the bus via the direct access. Equally any person in Spain may choose to enter Gibraltar first and join the flight from the Gibraltar side.

This means that the manner of direct access for Gibraltar flight departures to a Spanish destination will be voluntary and on an equal footing since persons on both sides of the border will be able to avail themselves of either alternative.

Obviously, persons boarding the plane from the direct access from Gibraltar would proceed in the normal way through immigration and customs checks on exit at a Spanish airport.

As regards arrivals from Spanish airports, passengers on board may choose to proceed to Spain without entering Gibraltar or alternatively exit in Gibraltar if they possess the necessary documentation, depending on their nationality.

Although it is not clear how the separation of passengers is going to take place either on arrival or departure from Spanish airports, what is clear is that such flights cannot be considered internal flights within Spain.

This in fact provides expanded use of the airport with the facility of direct dual access from both Gibraltar and from Spain.

The Opposition will support such dual access arrangements.

## CERVANTES INSTITUTE

The commitment on the Cervantes Institute is not necessary to the agreements as a whole.

Moreover, the Opposition see no reason for the Government to provide a public building to house the Cervantes Institute, which raises the possibility of the Spanish flag being flown.

The Cervantes Institute is an institution of the Spanish Government. The President of the Institute is the same person who is Prime Minister of Spain, currently Mr Zapatero and not so long ago Mr Aznar. The Patron of the institute is the King of Spain.

The decision to set one up in Gibraltar must be seen for what it is. It is a misguided attempt to increase Spanish influence in Gibraltar and assist the osmosis process to pave the way for future generations to be less identified with the UK and less pro-British and become instead more identified with Spain and more pro-Spanish. This is the way it is being defended within Spain by those who are in favour of the proposal for the institute to be placed here.

The Opposition does not support any measures which have as their aim that of diluting the influence of UK and moving us closer to the influence of Spain, however misguided it may be, and however small its chances of success.

Our position is and will continue to be to support friendly relations with Spain based on mutual respect between our two countries. However, we will oppose any moves to facilitate our country's absorption institutionally, culturally, linguistically, economically, socially or politically by the neighbouring country.

We will not be bound by this.

## FRONTIER FLOW

The application of a red and green channel on the Spanish side of our frontier was agreed with Spain under the Brussels agreement in 1984 and detailed plans were provided when the frontier was opened. This development has to be put in the context that it was a commitment already made 21 years ago, which Spain only now is saying they will deliver on.

Given the number of Government changes in Spain in these 21 years, it appears that the other participant does not share the rather naïve view of the Gibraltar Government that agreements are morally and politically binding on successive Governments who have no choice but to implement everything they contain.

## THE 350 CODE

Similarly, the 350 international direct dialing code is finally going to be recognised by the Spanish Government.

It is important to remember that the refusal to recognise the code was a decision taken by a democratically elected Government in Spain. When General Franco cut off telephone communications the international direct dialing did not exist.

On this issue, it will be recalled that at one stage the Government was willing to settle for a so-called interim solution allowing Spain alone to use the UK's 44 code for calls to Gibraltar.

When the matter was debated in the House of Assembly at that time, Mr Caruana's reaction was to say that one had to be pragmatic about these things, whilst agreeing that we were entitled to 350 recognition, his position was that in the real world it was tantamount to expecting Spain to drop its pants which was not going to happen.

Since we are now being told that the 350 is being recognised without anything being given in exchange, this shows that if we stand our ground we can get them to accept that they are in the wrong without making any concessions.

Spain's argument for its failure to recognise the 350 code until now has been that such recognition would imply the recognition of our sovereignty as a separate nation. Their offer to recognise it

now gratuitously without seeking anything in exchange shows how big a red herring this argument has been.

It indicates that they simply bring up the sovereignty issue to prop up and provide justification for introducing restrictive practices in order to put pressure on Gibraltar. When they finally see the restrictive practices are not working they finish up removing them.

## FROZEN PENSIONS COMPENSATION

As regards the UK agreement to compensate pre-1969 Spanish workers for having had their pensions frozen for 17 years, it is incredible that Mr Hoon should be quoted in the British press as saying that this was a wrong that had to be put right.

It was a wrong imposed by the United Kingdom in 1989, not just against those who paid social insurance for 14 years before 1969 at the rate of 7p a week, but also against those who paid that plus many more years since 1969 at much higher contribution rates.

Since the pre-1969 and the post-1969 contributors have been receiving the same pensions for the same number of stamps, it is obvious that a far bigger wrong has been perpetrated against the post-1969 contributors. That wrong is not being righted.

Since the present UK Government has reversed the policy of previous Governments, and is paying up, it should do likewise for the post-1969 contributors for the loss they have suffered for 17 years in order to comply with UK's requirements so that they could avoid increasing payments to Spaniards.

The British Government may think it has come up with a scheme that is ring-fenced and proof against legal challenge in the EU, but that assumption remains to be tested.

## CONCLUSION

The Opposition will commit ourselves at the next general elections to take the necessary action to protect Gibraltar's interests in the way that we consider we have an obligation to do and in the exercise of our own judgement.

This means that a GSLP/Liberal Government would not implement the commitments that it finds unacceptable and which have been identified in this statement.

The removal of the restrictions by the Spanish Government has been said to have been without them receiving anything in exchange other than the compensation and revalorisation of pensions to pre-1969 Spanish workers. These payments are due to come into effect in April next year and Spain has made clear over the last few weeks that without the pensioner's claim being met there would not be agreement on any of the other items.

The EU exclusion clause once removed is not going to be reinstated and the removal by Spain of measures that are acknowledged to constitute discriminatory restrictions are considered to be irreversible by the Gibraltar Government itself, even if a change of Government were to take place in Spain.

We reject as totally undemocratic the view that what has been agreed by the participants in Cordoba overrides the sovereign democratic will of the people of Gibraltar which they would have an opportunity to express in a general election when they are given an opportunity to bind a future Government.

It would make a nonsense of the entire democratic system if any Government was morally and politically obliged to continue with the policies of its predecessor Governments.

## **ENDS**

### SUMMARY OF THE VIEWS OF THE OPPOSITION IN RELATION TO THE AGREEMENTS REACHED IN CORDOBA ON 18 September 2006

#### REFERENCES TO SOVEREIGNTY

- The references to sovereignty in the declaration includes a statement by the Gibraltar Government that it understands and accepts that such references are bilateral as between the UK and Spain. In Government, we would make a formal declaration to the other two participants that the GSD's views expressed above are neither shared, understood nor accepted by us.

- We believe that any question of sovereignty over the airport, the isthmus or anywhere else is entirely bilateral as between the United Kingdom and Gibraltar alone and has absolutely nothing to do with Spain.

## THE AIRPORT

### Permanent arrangements

- In our judgement, the permanent arrangements in 18 months time for passengers flying to and from Spain means that they will be treated as if the airport was in La Linea and not in Gibraltar.
- A passenger from Gibraltar traveling to Spain who arrives in the terminal will be deemed to have entered Spain when he receives immigration and customs clearance from Spanish officials and moves to the departure lounge, even though the departure lounge is in Gibraltar.
- Passengers flying here from a Spanish airport and wanting to exit from the Gibraltar terminal will have to be cleared as leaving Spain for immigration and customs purposes after landing in Gibraltar and before going through Gibraltar immigration controls.
- The use of Schengen terminology is a smokescreen to cloud the true significance of the fact that the position in the 1987 agreement that all flights between Gibraltar and Spanish destinations are internal Spanish flights.
- There is no need or justification for the setting up of a Joint Permanent Liaison Committee.
- The agreement cannot bind a future Gibraltar Government to grant a contract to a joint venture company with Spanish participation to run the Gibraltar terminal.
- All these aspects are unacceptable and due for implementation after the general election in 18 months time. A GSLP/Liberal Government would not implement them.

## Temporary arrangements – DUAL ACCESS

- The Opposition will support the concept of dual access to the airport so that passengers all have the same choice as to whether they want to start or end their flight from the direct Gibraltar access or the direct Spanish access.

## CERVANTES INSTITUTE

- We see no reason why the Gibraltar Government should provide premises for the institute.
- The institute is an organ of the Spanish state and as such could fly the Spanish flag.
- The Patron of the Institute is the King of Spain and the President is the Prime Minister of Spain.
- The move is to encourage osmosis which we oppose.

## FRONTIER FLOW

- Spain was required by the Brussels agreement that it entered into in 1984 to provide a red and green channel at the frontier in 1985 when the frontier opened and has failed to do so up to now. It is hardly a concession on their part to finally honour what they promised to do 21 years ago.

## 350 CODE

- The fact that Spain has now accepted the 350 code shows that their argument over the years for not doing so, namely that it would prejudice their position on sovereignty, was totally without substance.

## PENSIONS

- The British Government has reversed its policy for not funding pensions increases for pre-1969 Spanish pensioners and is compensating them for the loss of income over the last 17 years on condition that they leave the Gibraltar scheme. The UK should also pay for post-1969 contributors.

- The arrangements agreed for this category of pensioners discriminates against all others on grounds of date of contribution, nationality and residence and may be in breach of EU law.

## CONCLUSION

- Many aspects of this agreement fall to be implemented in 18 months time after a general election has been held in Gibraltar. A GSLP/Liberal Government will not implement those parts which it finds unacceptable and contrary to its policies.
- It is complete nonsense to claim that the sovereign will of the people of Gibraltar, as it may be expressed in a general election, can be overridden by these agreements.

ENDS