

*✓ Sir Alf.*

Foreign and Commonwealth Office

②

London SW1A 2AH

20 October 1983

*Prime Minister**mb**A. J. C. 20/10**Dear Sir*Gibraltar

Thank you for your letter of 17 October giving the Prime Minister's comments on my letter of 11 October which contained some of our preliminary thinking about ways of getting the Spaniards to lift the remaining restrictions on Gibraltar.

The Prime Minister queried what we would gain in return for giving certain EC rights to Spain in advance of accession, or in return for other similar moves on our part. The scheme we have been considering is one in which any such moves on our side would only be made in return for the Spaniards lifting all their remaining restrictions on Gibraltar. If they do so there will then be normal movement across the border between Gibraltar and Spain for everyone, including tourists. Gibraltar airport could also be used in a normal way without extraneous restrictions. One result would be that tourism could then be developed both to the advantage of Gibraltar and of nearby areas of Spain.

*They will resist this*

As I pointed out in my earlier letter, our thinking on all these points is still at an early stage. A key element in adopting the strategy we have been considering is to make sure that we could carry with us Sir Joshua Hassan and Gibraltarian leaders. The Foreign and Commonwealth Secretary hopes to discuss the whole problem during a private meeting with the Chief Minister when the latter is in London on private business between 13 to 17 November. One of the matters which he proposes to raise with Sir Joshua is whether it would be advantageous to make minor alterations in Gibraltar's legislation to guarantee Spaniards certain rights in Gibraltar by law which they now already enjoy in practice: a point which you said that the Prime Minister had queried. Any such alterations to Gibraltar's legislation could, of course, only be made with the approval of the Gibraltar Government.

*However,*  
*J*(B J P Fall)  
Private SecretaryA J Coles Esq  
10 Downing Street

Sibrattar: Bligg towards Pt 4

Post Office, Sibrattar, Greenland

220 OCT 1923

11 12 1 2 3  
4 5 6 7 8 9 10





de ve

10 DOWNING STREET

*From the Private Secretary*

20 October 1983

The Prime Minister has noted the contents  
of your letter of 20 October about Gibraltar.

AR

Brian Fall, Esq.,  
Foreign and Commonwealth Office.

NR

CONFIDENTIAL



HL

10 DOWNING STREET

*From the Private Secretary*

17 October 1983

Gibraltar

The Prime Minister has seen your letter of 11 October about the possibility of conceding to the Spaniards, in advance of Spanish accession to the European Community, some of the rights in Gibraltar which they would obtain on joining the Community.

With regard to paragraph 3 of your letter, the Prime Minister has asked what Gibraltar would gain in return for the concessions to Spain which are envisaged. Would we, for example, seek to obtain Spanish agreement to the free movement of tourists between Gibraltar and Spain and/or Spanish acquiescence in unrestricted use of the Gibraltar airfield?

Mrs. Thatcher has also queried the suggestion in your final paragraph that Gibraltar's legislation might be changed in order to give the Spaniards certain treatment as of right which they currently enjoy by administrative arrangement.

It would be helpful if in due course you could let me have a further account of your thinking dealing inter alia with the points which the Prime Minister has raised.

A. J. COLES

Sc

Brian Fall, Esq.,  
Foreign and Commonwealth Office.

CONFIDENTIAL



Foreign and Commonwealth Office

Prime Minister

London SW1A 2AH

*This answers questions which you raised on an earlier paper.*

11 October 1983

*A. J. C. 11/10*

*Dear Sir,*

Gibraltar

Thank you for your letter of 24 September about the line the Foreign and Commonwealth Secretary proposed to take on Gibraltar in his meeting with the Spanish Foreign Minister on 26 September. You asked what particular rights we had in mind when Sir Geoffrey referred in his minute of 19 September to the possibility that Spaniards might be given, in advance of accession, some of the rights they will obtain on joining the Community.

A key factor in considering any move of this sort will be, as Sir Geoffrey noted in his minute of 19 September, to ensure that it has the full support of Sir J Hassan. The Governor of Gibraltar is returning to London for consultations on 25 October. Sir Geoffrey proposes to discuss with him then arrangements for a meeting with Sir Joshua, preferably without publicity, in which he could talk personally to the Chief Minister about the whole problem of restrictions and how best to create conditions in which they will be lifted before they do further damage to the Gibraltar economy.

The attached paper sets out some of the key areas in which Spaniards will have new rights in Gibraltar as a result of joining the Community and compares them with the present situation. It might be possible to offer some or all of these rights in advance of actual membership as part of an arrangement under which the Spaniards would, at the same time, lift the remaining restrictions on Gibraltar. Our thinking on how this might be achieved is still at a very early stage. The most promising areas for progress seem to be rights of establishment and to provide services together with some, but not all, of the rights covering non-discrimination in benefits for workers. In some areas, most notably the abolition of work permit controls on Spaniards in Gibraltar, it is clear that there will be no room for movement. This is a matter of particular sensitivity for Gibraltarians. However, free movement of labour is also an area where the new rights acquired by Spaniards

/on joining

*What does  
Gibraltar  
gain? Free  
movement  
of labour?  
Rights to  
land on the  
air-sea?*



CONFIDENTIAL

on joining the Community will be subject to a long transitional period, probably of seven years: consequently, it is not a right which the Spaniards would automatically enjoy on accession.

Another area where there might be useful room for manoeuvre is making presentational changes to some of Gibraltar's legislation which would have the effect of giving Spaniards certain treatment as of right which they currently enjoy by administrative arrangement. The only item we have so far identified in this category is the right to stay overnight in Gibraltar. Although now allowed in practice, it was formerly denied to Spanish workers and is a matter of considerable psychological importance to the Spaniards.

*Handwritten:*  
Now over  
J.P.

(B J P Fall)  
Private Secretary

A J Coles Esq  
10 Downing Street

CONFIDENTIAL



GIBRALTAR: ANALYSIS OF EC RIGHTS AND PRESENT RIGHTS OF SPANIARDS

Introduction

1. This paper examines the main rights of EC nationals in Gibraltar, and the present difference in treatment (if any) of Spaniards. Comment is given under each heading on the possible value to Spain of obtaining EC-type rights in advance of accession, and the implications for Gibraltar.

2. Some 250 Spanish nationals have continued to live and work in Gibraltar since the frontier was closed in 1969. Since partial opening of the frontier to pedestrians in December 1982 a few additional Spaniards have found employment.

A. Rights of establishment and freedom to provide services

3. EC Rights

To enter Gibraltar freely to settle or to render a service and to buy land or property on same basis as Gibraltarians.

4. Present practice for Spaniards

- (a) Must obtain entry and residence permits, latter being issued only to those with work permits.
- (b) May only purchase land or property if they form a limited company in Gibraltar; or, with Governor's consent, if they have been resident in Gibraltar for 15 years.

5. Comment

For Spain EC rights would represent a significant advance on present practice.

For Gibraltar These rights will have to be applied to Spaniards on accession (no transitional period). Some fear of 'swamping' by Spanish commercial competition (cf free entry of EC banks now being controlled by economic need criterion, in contravention of EC rules). But lack of available property will limit inflow: so will derogation granted to Spain to limit capital outflows (see para 17 below). No significant financial implications if rights given to Spaniards in advance. Limited legislative action required.

6. Conclusion Possible area for giving Spaniards rights in advance of accession at little real cost to Gibraltar.

/B.



B. Freedom of Movement of Labour

7. EC rights

- (a) to enter to seek work freely;
- (b) non-discriminatory terms of employment;
- (c) equal trade union rights;
- (d) access to education and training for children;
- (e) equal access to housing.

8. Present practice for Spaniards

- (a) Free entry: Spaniards may only enter to look for work as short stay visitors.
- (b) Terms of Employment: Spaniards need work permits but are otherwise guaranteed same pay and conditions of work as Gibraltarians by practice (not law), and, in common with all workers, are protected against unfair dismissal (by law).
- (c) Trade Union Rights: Rights of non-resident Spanish workers are limited in that they may neither vote on nor lead strike activity, and eligibility for senior union office is circumscribed.
- (d) Education: Free education available to all residents of Gibraltar, but not to families of non-resident workers.
- (e) Housing: Any permanent resident of Gibraltar eligible to apply for government-owned housing.

9. Comment

For Spain Rights under his heading have so far been the key issue in attempts to press for 'equal' treatment before agreeing to lift restrictions.

For Gibraltar Free movement of labour very sensitive because of fears of local unemployment after dockyard closure and of undercutting of wages. Impossible to move more quickly than rest of EC on abolition of work permit controls (EC will probably settle for 7 year transitional period). But Spanish residents of Gibraltar currently enjoy rights at 7 b, c, d and e (with the key exceptions that they require permits to work).

/ May be





May be some scope for extension of some of these rights to non-residents. Amendments to Immigration Control, Control of Employment, and Trade Unions and Trade Disputes (Conciliation and Arbitration) Ordinances would be required.

10. Conclusion No room for movement on working without permit prior to accession (and probably before end of transition period). Some room for movement on other rights in this category.

C. Social Security and Medical Benefits

11. EC Rights

- (a) equal treatment for contributory benefits (including pensions) and non-contributory pensions;
- (b) unemployment benefit for 13 weeks;
- (c) family allowances payable for frontier workers;
- (d) families of non-resident workers to be eligible for medical treatment in Spain at Gibraltar's expense, or in Gibraltar.

Though negotiations have not been completed, these obligations are in general expected to take effect on accession, without any transitional period.

12. Present Practice for Spaniards

All workers in Gibraltar, resident or non-resident, pay full Gibraltar tax. Equal treatment, except that:

- (a) families of non-resident workers not eligible for free medical and hospital treatment;
- (b) family allowances paid only when families are resident in Gibraltar;
- (c) pensions payable to non-resident Spaniards (e.g. those who worked in dockyard before closure of frontier) are not increased in line with increases in Gibraltar rates.

13. Comment

For Spain EC rights will provide important benefits for pensioners and in eligibility of non-resident families for family allowances and medical treatment.

For Gibraltar Full advance implementation of all EC rights under this heading would impose very high financial costs on

/Gibraltar



Gibraltar, out of proportion to the political value to Spain of the concession. Pensions a particularly serious worry; we are already discussing with the Commission ways in which the liability arising on accession might be alleviated.

14. Conclusion Advance movement on pension rights extremely costly for Gibraltar: therefore not an attractive option. Room for manoeuvre on other rights under this heading (particularly given that non-resident workers pay same taxes as residents) but may be difficult to disentangle them from pensions.

D. Free movement of capital

15. EC rights

EC requirement to comply with acquis on free movement of capital.

16. Present practice

Spain - unlike Gibraltar - currently maintains exchange controls, with tight limits on outward investment.

17. Comment

For Spain Difficult to apply in advance of accession. Already granted a five year derogation on capital outflows for property investment and a three year derogation for the purchase by Spaniards of foreign securities traded at a stock exchange.

For Gibraltar Easy. No exchange controls. Effect of derogation for Spain will limit Spanish purchase of property in Gibraltar.

18. Conclusion Cost free for Gibraltar. Very unattractive to Spain. Might therefore be traded against Social Security rights in C. above as part of a package of EC rights minus some elements.

E. Transport

19. EC rights

EC requirement that Spanish driving licences be recognised without a Gibraltar driving test, and coach tour operators be allowed in without a licence.



20. Present practice for Spaniards

Spanish licences recognised in Gibraltar for first 3 years of residence, but only for private driving.

21. Comment

For Spain could be useful presentationally.

For Gibraltar an easy gesture.

22. Conclusion No real problems in giving rights in advance. But of little significance.

Gibraltar Policy Pt 4

71 OCT 1983

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12