



Foreign Affairs Committee

Oral evidence: Overseas Territories update, HC 921

Wednesday 5 March 2014

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Members present: Sir Richard Ottaway (Chair); Mike Gapes; Andrew Rosindell; Mr Frank Roy; Sir John Stanley; Rory Stewart

Questions 87-120

Witnesses: The Hon. Fabian Picardo MP, Chief Minister of Gibraltar, the Hon. Dr. Joseph Garcia MP, Deputy Chief Minister, Gibraltar, and Mr Michael Llamas QC, Senior Legal Advisor, Government of Gibraltar, gave evidence.

Q87 Chair: Good morning, ladies and gentlemen. May I welcome members of the public to this sitting of the Foreign Affairs Committee of the United Kingdom Parliament? As a Committee, our remit is oversight of the finances, performance and policy of the Foreign Office of the UK. However, we make this visit to Gibraltar today for three reasons. The first is to examine the bilateral relationship between the UK and Gibraltar, one of our most important overseas territories. Secondly, in the light of the attempts by the Spanish Government to exert pressure on Gibraltar, we are here to examine the situation for ourselves. Thirdly, we come as friends and supporters of Gibraltar.

It is with great pleasure that our principal witness today is the Chief Minister of Gibraltar, the hon. Fabian Picardo MP. Chief Minister, welcome, and thank you very much for facilitating this meeting for us today. Is there anything you would like to say by way of an opening statement?

Fabian Picardo: Mr Chairman, first I warmly welcome you to Gibraltar. I know that the whole of Gibraltar will want to extend, through its Government, our best wishes to you, and our delight that you have decided to come to Gibraltar at this difficult time for the purposes set out in your introduction. I will give you an overview before we begin.

It is fair to say that the Government of Gibraltar enjoy an excellent relationship with Her Majesty's Government of the United Kingdom, but even in excellent relationships there are issues that need to be dealt with—for example, the issue of the point of consumption tax which relates to the online gaming industry has vexed our relationship with the United Kingdom Government. I will no doubt tell you more about that during your questioning, but we have found there that the Foreign Office has been very helpful indeed, and that our problems have not been with them, or even with Her Majesty's Treasury, which is levying a tax, but with the Department for Culture, Media and Sport. We can look at that in more detail if your members wish.

There are, of course, issues affecting us in respect of the relationship with the European Union, which is becoming increasingly topical in the United Kingdom as the debate rages there as to whether the United Kingdom should renegotiate its terms of accession to the EU, or even consider whether it should stay within the EU. For Gibraltar, that is an important debate and one which, no doubt, you will want to touch upon today.

Then, of course, there is the issue of the relationship with Spain. I want to frame that aspect this morning through the prism of your Reports. Your Committee did an excellent Report in 1999 when the position between Gibraltar and Spain was almost exactly as it is today, and your Report reflects a lot of the issues that we are dealing with today: the constant defamation of the people of Gibraltar in the Spanish media, and the use of the frontier as an abusive weapon against Gibraltar and its economy.

You did an excellent Report in 2002, which helped to stop joint sovereignty in its tracks, and you did an equally good Report in 2008 that analysed the then new climate under the trilateral forum for dialogue, which my Government continue to strongly support, as do the Government of the United Kingdom and, the last we heard, also the Socialist party in Spain.

Those three Reports that you prepared in 1999, 2002 and 2008 are a very interesting barometer of what the relationship is like with Spain. Unfortunately, we are now back at 1999, which is a very good reason, Mr Chairman, for you to consider elevating this process of information gathering into the preparation of a further Report if your Committee considers that that is appropriate. This may be the right time to do that.

In that context, I continue to extend to you my welcome. I have no doubt that by the end of your questioning, I shall feel just as welcoming of you as I do now.

Q88 Chair: Well, I hope you do. We intend to start with the bilateral relationship between the UK and Gibraltar. How would you characterise the relationship between the two countries at the moment?

Fabian Picardo: Of course, there is a relationship between countries and there is a relationship between Governments. Between countries and between people the relationship has always been strong, and it has always been that relationship which has led the people of Gibraltar to want to remain British. You cannot find, I think, a cluster of 30,000 people anywhere in the world who are as wedded to their nationality as the Gibraltarians are to their Britishness. Between Governments, of course, the tide of issues may make their relationship warmer or cooler.

I have been Chief Minister of Gibraltar since 9 December 2011, and since the people of Gibraltar extended that huge honour to me I have been delighted to enjoy what I can only call very warm relations with all Ministers of the United Kingdom Government whom I have had an opportunity of dealing with, and with all officials of the Foreign and Commonwealth Office and other Departments whom I have had an opportunity of dealing with.

That does not mean that there are not disagreements. In the best relationships, as I told you in my introduction, one has to expect that there might be disagreements on issues where there is not a meeting of minds or a meeting of objectives. It is galling, however, where it is possible to agree objectives but it is not possible to agree a way forward. That is one of the issues

that is affecting us in relation to the point of consumption tax that affects the online gaming industry. Perhaps I could give a potted history of that.

The United Kingdom decided some years ago that it wished to introduce a 15% tax on online bets taken in the United Kingdom. That is not something that the industry in Gibraltar in any way challenges. The United Kingdom can, of course, set its tax rate in relation to such aspects of activity as may occur economically within the boundary of the United Kingdom. The issue is regulation, and you may find it surprising to hear an overseas territory leader tell you that this overseas territory regulates online gaming to a very high degree. We are probably the toughest regulators of the online gaming industry in the world. Therein has lain the success of the Gibraltar gaming industry.

We have 26 or 27 licensed operators. They are among the biggest names in the world and they have about 60% of the business in the United Kingdom. What those operators and the Gibraltar Government are saying to the Department for Culture, Media and Sport and to the Treasury is, “We have absolutely no concern about your proposed levy and we will assist you to collect your tax, but you need to understand that our regulatory model works and that yours is weaker than ours.” For once, the overseas territory is saying to her mother Parliament, “Please don’t water down the standard of regulation.” That may be quite the opposite of what you might have been used to hearing in the past 20 or 30 years in other sectors.

Q89 Chair: You speak of disagreements. This is what friends are for—to provide constructive criticism. Is the UK providing everything you need at the moment?

Fabian Picardo: We don’t look to the UK to provide much for Gibraltar, in the sense that Gibraltar is entirely self-sufficient. There are two areas, under our new constitution, which are retained to Her Majesty and to the United Kingdom Government, which involve defence and foreign affairs, as you know. In relation to the relationship with Spain, we of course work very closely with UK Ministers in respect of the response that there might be.

Chair: We will come to Spain.

Fabian Picardo: If we look at issues relating to, for example, health, education and so on, I know from my experience of the Joint Ministerial Council meetings that I have attended on a number of occasions, and our relationship with the other overseas territories, that Gibraltar has almost no issues whatsoever with the United Kingdom in relation to those matters. It is really only in relation to defence and foreign affairs that we may have a discussion about whether the United Kingdom is doing enough, or doing effectively what it needs to be doing in order to deal with the issues. Otherwise, there are no issues between us, other than the gaming issue that I referred to.

Chair: Excellent, and that is why we, as the Foreign Affairs Committee, are here today.

Q90 Andrew Rosindell: Chief Minister, it is a pleasure to be back here in Gibraltar. Do you feel that Gibraltar is understood by the British Government, the British Parliament and the British people? We are here as a Foreign Affairs Committee, but Gibraltar is not foreign; it is British. It is a British overseas territory. Do you not feel that a lot more needs to be done to deal with what is seen by many as an ambiguous status in terms of where an overseas territory sits within the overall British family? Do you feel that more needs to be done to educate the public about the enormous contribution that Gibraltar has made to Britain, and its loyalty to the British

people and to the Crown over many centuries? Do you agree with me that it is time for the Queen of Gibraltar to pay an official visit to the Rock after 60 years? *[Interruption.]*

Fabian Picardo: Mr Rosindell, you are always warmly welcome in Gibraltar. I know that you know Gibraltar well, not just from your involvement as the chairman, I think, of the friends of the overseas territories in the Commons, but also from your frequent travel to Gibraltar. Therefore, you understand the psyche of the Gibraltarian better than perhaps most in Whitehall ever will.

I am grateful for the opportunity to address all those issues that you put to me. Of course, Gibraltar feels that we are not in any way a foreign affair to the United Kingdom. That Spain may be the agitator that usually rubs Britain up the wrong way in relation to Gibraltar might mean that some matters may need to be referred to the Foreign and Commonwealth Office, but Gibraltar is certainly not a foreign matter when it comes to the UK.

All Gibraltarians now enjoy the ability to apply for British citizenship, and there has been a school of thought in Gibraltar for many years that it would be a very good thing indeed if Gibraltar came under the Home Office and not the Foreign Office of the UK, but it is important for us to understand that one of the issues that is important to Gibraltar as a separate jurisdiction to the United Kingdom—to England, to Scotland or to Wales—is the obligation to transpose EU directives and other EU obligations into law in Gibraltar. The Minister for Europe, who is relevant to that aspect of Gibraltar’s modern constitutional structure, sits in the Foreign Office as an important part of our liaison through to Brussels—through UKRep also—there. There are good reasons why Gibraltar needs to be plugged into the Foreign Office—the Spanish issue and the European issue—but Gibraltarians very much feel British and not in any way foreign to the United Kingdom, although we don’t feel English, Scottish, Welsh or Northern Irish; we feel, of course, Gibraltarian.

Your final point is one that I don’t think any Gibraltarian would answer contrary to what I am going to say today, and that is of course that Her Majesty would be very welcome in Gibraltar. She doesn’t need anybody to extend to her an invitation, because this is part of her kingdom and she can go wherever she likes in her kingdom as far as we are concerned. Of course, there may be issues relating to diaries, etc. that may be relevant, but no other issue should be relevant in Her Majesty making a determination as to which part of her realm she should travel to, as far as the people of Gibraltar are concerned. She would get a huge welcome in Gibraltar. Anybody who saw the welcome that David Cameron got when he appeared on our video screens on 10 September 2013 would know that not many British politicians get that sort of welcome wherever they go. Her Majesty would get an even more rousing welcome if she came to see her loyal subjects in Gibraltar. *[Interruption.]*

Q91 Mike Gapes: May I, too, say how pleased I am to be here? Chief Minister, you have referred to ministerial or other visits. You have been the Chief Minister since the end of 2011. Have any Foreign Office Ministers visited Gibraltar since then?

Fabian Picardo: The fact is that I do not recall there having been any Foreign Office Minister who has come to Gibraltar since I was elected. I of course have had an opportunity to meet them in the United Kingdom and I have had fulsome support whenever I have needed to see them, even at short notice. I have had two opportunities to meet the Prime Minister, David Cameron—an opportunity that I know was not afforded to many of my predecessors. But you are absolutely right to say that there has not been a visit by a Front-Bench Foreign Office

Minister to Gibraltar since my election. We have had a shadow Front-Bench Foreign Office spokesman come to Gibraltar—the shadow Minister for Europe, Mr Gareth Thomas, has been here, I think, in the past six months—but not a Front-Bench Government Foreign Office spokesperson.

Q92 Mike Gapes: Would you agree with me that in that sense the FCO has neglected Gibraltar in the recent past, and that it is time there was a ministerial visit?

Fabian Picardo: Let me put it this way. They might not get the welcome that Her Majesty would get, but they would be made to feel very welcome indeed if they came to Gibraltar; and, given the issues that are afflicting us at present, an opportunity to see at first hand, for themselves, what is happening on the ground would certainly be instructive and worth while for anybody who made the trip. You have, and you will no doubt leave here having found it instructive and worth while just to see the geography of the place and see what queues mean in an evening, and what an incursion can mean during the course of the day in the extent of the geography of the waters around Gibraltar, for example.

Q93 Mr Roy: Chief Minister, I can assure you that a Government Minister would receive a far better welcome here than in my own consistency. Anyway, moving on, I would like to take you on to the way that the Governor's Office reacts and acts with you. Is the Office in Gibraltar performing well, in your opinion? Do you, as someone from the outside, feel that it receives enough resources and staff support from the FCO in the United Kingdom?

Fabian Picardo: I think it is important that we understand that we are dealing with an office that is not an embassy or a consular office—it is quite a different creature. We have recently received a new Governor, Sir James Dutton. In the short time that I have had an opportunity of working with him, I am delighted to say that he has shown that he understands Gibraltar and the Government's policies in relation to the issues relevant to his constitutional obligations extraordinarily well—as well as Sir Adrian Johns, who had been here from the time that I was elected until November or December last year.

The workings of the Governor's Office are therefore complex in the sense that they are not the workings of a Foreign Office posting. The Governor has to fulfil a constitutional duty, which is sometimes a difficult balancing act between representing to the Government of Gibraltar what the views of the United Kingdom are and representing back to the United Kingdom what the views of the Government of Gibraltar are. We have seen a reduction in the staff available to the Governor's Office in recent years, at the same time as, unfortunately, we have seen the issues with Spain become increasingly problematic. Therefore, the staffing that might have been appropriate at a time under the trilateral process and with the working Cordoba agreement in place, which meant that there was very little strife between Gibraltar and Spain—we can come to when the incursions started and all those problems, which started in 2010—but in no small measure the election of the Popular party in Spain and their rejection of the trilateral process and the Cordoba agreement has really made the tension rise quite dramatically. The work and activity that needs to be undertaken by the Governor's Office in Gibraltar to fulfil the constitutional obligation and report back to the United Kingdom and work with the Government of Gibraltar has therefore grown exponentially. In my view, we are suffering at the moment a lack of resources in that particular area of industry.

Q94 Mr Roy: How closely do you work with the Governor? Can you talk us through the relationship you have on a day-to-day basis?

Fabian Picardo: The constitution is quite explicit in its ambiguity, if I may put it that way. It talks of the Governor keeping the Chief Minister informed of the issues that are his obligation under the constitution, and the Chief Minister keeping the Governor informed of the issues that are the Government's obligation. After the decision in the Quark case in the United Kingdom, the analysis that we put on what our executive responsibilities are has widened quite considerably. That is an issue that you looked at in your 2008 Report with the evidence that you took from my predecessor as to the workings of the 2006 constitution.

Therefore, I work very closely with the current Governor and his predecessor, Sir Adrian Johns, in trying to ensure that they are not surprised by anything that might happen which might in some way reflect on British foreign policy or affect their constitutional obligations. In a relationship where there is good will, that is actually very easy to do, because you talk very fluidly and keep people informed not just of what the letter of the constitution requires you to keep them informed of, but actually the things that they may also find interesting and relevant to their own role and that, beyond that role, they might find interesting and relevant simply because they are close to the Executive and they would need to know such things in order to be well informed.

I have weekly lunches or breakfasts with the Governor. I would tend to see him—we would usually meet around a table—if something happened which required our respective attentions. I may ask to see him face to face, or he may ask to see me face to face. And, of course, since our election we have been very keen to introduce electronic methods of communication to governance, so the Governor and I would be exchanging text messages or e-mails as may be necessary on matters which we may feel are not so sensitive and that we can exchange electronic communications on. I think what we have is a very fluid communication that enables us both to discharge our functions without in any way keeping anything from each other. That is what a mature relationship between an overseas territory and its Governor, in my view, should be. We can come to whether the term “Governor” is a modern and progressive one.

Q95 Mr Roy: Indeed. From the Governor to the United Kingdom, do you feel that the UK adequately consults you on decisions relating to your interests?

Fabian Picardo: Well, the constitution requires that they do in all matters that are not the responsibility of the United Kingdom. Broadly, internal security, defence and foreign affairs are the furthest that you could define those. There is a section in the constitution—section 47(3), for example—that specifically sets out that because a matter may be a European matter involving a relationship with Brussels and other European countries, it does not stop being the constitutional responsibility of the Government of Gibraltar unless it relates to internal security, defence or foreign relations. It is not automatically a foreign relations matter simply because it is a European matter. There the issue really is the fluidity of communications and the amount of information that we are dealing with.

Of course, as you may have experienced yourselves in the British Parliament, a very large percentage—probably the majority—of the legislative work that is done by national Parliaments today and by Executives in all the 28 member states relates to work that originates in Brussels. In Gibraltar, I am advised by the chief legal officer of the Government, Mr Llamas, we are dealing with approximately 80% of our legislation originating in Brussels. Why is that relevant? Apart from the fact that we won the right to vote in European Union elections to the European Parliament based on the argument that the European Parliament now is a legislature for Gibraltar, just for that reason, there may be things going on today in Brussels, involving, dare I

say it—you will know immediately why I hesitate to use this example, but it is relevant—the Department for Environment, Food and Rural Affairs and environmental issues about which nobody may have twigged, “Actually, this will have an effect on Gibraltar and we need to be talking to Gibraltar about it.” Otherwise, I am satisfied that as soon as people are aware that there is a Gibraltar element to something that is being dealt with at a European level or elsewhere, we are consulted on issues.

Of course, there may be times when decisions are made that have an effect on Gibraltar, and Gibraltar does not learn of them because people have not realised that they have a huge effect on Gibraltar. Then we have to try and educate those particular Departments, and they may not just be in the Foreign Office, that they need to be aware of Gibraltar and the Gibraltar dimension—particularly in the context of European legislation, whether it is directives, regulations or any other aspect of our relationship with Europe—and that they need to communicate with the Government of Gibraltar and they need to involve us at an early stage. Of course, we are a small Executive and a small legislature, and that is hugely challenging for us.

If I may say so, one of the things that we have done since our election is to invest hugely in the European Union and International Department of the Government of Gibraltar, which is also headed by Mr Llamas. One of your Reports refers to 66 European directives outstanding in Gibraltar. I think that was in your 1999 Report. In the region of 60 or 50 directives were overdue transposition when we were elected. I am very proud to be able to tell you today, as I told the European Commission, that from February of last year we were totally up to date with all transpositions required. And therefore what had been a relationship of the United Kingdom saying to Gibraltar, “Why haven’t you yet transposed this legislation? It is embarrassing to the United Kingdom,” has become a relationship where Gibraltar can say to the United Kingdom, “We are entirely up to date with our transpositions. We know when future transposition deadlines are coming. We are ready to transpose in time. Why hasn’t the UK caught up with the list of directives outstanding?”

Q96 Mr Roy: On the subject of Europe, as you know, there is a possibility of a referendum in the United Kingdom—well, there will definitely be a referendum in the United Kingdom this year, but there is a possibility that there will be another one in 2017 on the European Union. How much of a disaster would it be for Gibraltar if the United Kingdom voted to leave the European Union?

Fabian Picardo: There is a short answer and there is a more complex answer. The snapshot is that it would be a disaster; but if we had to apply our minds to an economic model that might enable us to survive exit from the European Union, or at least UK exit from the European Union, it might be possible to design something where a lot of belt-tightening might mean that we might not disappear economically from the map. I think everyone in Gibraltar agrees that we do not want to even countenance that, because the short answer, that it would be disastrous, is the best way to represent what would happen. We have to be very careful, therefore, that the people of Gibraltar are represented in any referendum. There has been an amendment to the referendum Bill that will enable Gibraltar to ensure that Gibraltarian votes are counted in respect of that plebiscite.

Having said that, 22,000 votes—the size of the franchise of Gibraltar—are unlikely to decide whether the United Kingdom stays in or comes out of the European Union, if there is such a referendum after the next general election in the United Kingdom. I am very encouraged by the fact that all three leaders of the main political parties are likely to be arguing in that

referendum for the United Kingdom to stay in the European Union. But we have already engaged with the Foreign and Commonwealth Office on issues such as the balance of competences review and the review of what used to be known as justice and home affairs measures, to ensure that Gibraltar is at the forefront of understanding what this could mean.

Let me put it this way: there are circumstances in which Gibraltar may in the future want more Europe, not less Europe, than the United Kingdom. A decision was made in 1973, which was probably the right decision, to stay out of the customs union. We need to ask ourselves constantly whether that is still the right decision today, although that would require a lot of analysis. I think the Chairman is suggesting that I keep my powder dry on that subject for now.

Chair: I wouldn't dream of influencing you.

Q97 Rory Stewart: It seems that there is a possibility that as Gibraltar evolves we have been left with a very strange, outdated model. You have given two examples: one of them is the position of the Governor—indeed, the very word “Governor”. The role of the Governor now has nothing to do with what the role was originally set up to do. The Governor is not governing a colony any more. It would be interesting to see whether the time has come to rethink what that role is called. Is it a Lord Lieutenant, a Queen's representative or a liaison officer?

The second question relates, I suppose, to your ability to influence events. That failure that you identified with DEFRA is a very good example. One might suggest that it is a wake-up call, and the Government of Gibraltar need to develop the capacity to spot those things because you are likely to have the motivation and the information to discover those things before the British Government does.

Fabian Picardo: Indeed, Mr Stewart. You have put your finger on a subject that is important and should not be read as representing any angst on the part of the people of Gibraltar in respect of the role of the Governor today. We are very comfortable with the role of the Governor, as set out in the constitution. But as you rightly say, it is no longer represented appropriately by the nomenclature of older constitutions.

I always tease Foreign Office diplomats by saying that governors are the things that the Romans sent to rule over Judea, not the symbol of partnership that I believe the present role of Governor is between Gibraltar and the United Kingdom. In its broadest measure, it is a representation of Her Majesty as the head of state in Gibraltar and the ultimate constitutional authority. If you were ever to try and analyse and write down the UK constitution, Dicey might tell you that you might write it down in almost the way that it is written down in the Gibraltar constitution, except for the nuances relating to foreign relations and internal security. That is an issue that is worth looking at in order to better express what the relationship is in positive terms. If you accept the nomenclature of Governor, it almost makes you think that you are governed, which is not the case. Nomenclature is just nomenclature, but it can also be important in many instances.

Moving on to the business of developing the expertise to spot issues such as the one that we are highlighting in relation to DEFRA and the Site of Community Interest designated by Spain. I could not agree with you more. Gibraltar needs to take responsibility for those issues. It is not so much a developing of the expertise, because Gibraltar is blessed with expertise beyond the ratio that should be present in a population of 30,000. But we need to have sight of things in time for our experts to spot them. We might be deprived of sight of things simply because, for

example, someone is beavering away doing what they think their job is for the United Kingdom as part of UKRep in Brussels, and only letting us have sight of something when it is quite advanced. In the context of this example, to be fair, if Spain tries to hide the fact that she is going to make a designation by failing in her duty of loyal co-operation and not notifying the United Kingdom that she is going to designate an area that the United Kingdom has designated under the United Nations Convention on the Law of the Sea as her own water, then it becomes very difficult. However much expertise you may develop and whatever responsibility you are prepared to take, if somebody is trying to hide something away from you, you really cannot prise it out.

The example that I would give you in the context of my practice as a barrister before I was Chief Minister is that if somebody wants to commit a fraud, they will get away with it, whatever controls you have in place. In the context of DEFRA and the relationship of Gibraltar generally with UKRep, we need to bear that in mind, given what happened at the time of the designation.

Q98 Andrew Rosindell: Chief Minister, I know that you are very committed to the concept of a modern relationship between Gibraltar and the United Kingdom and, indeed, all the overseas territories. Are you happy with the fact that in the 21st century, a Gibraltarian, who is British the same as we are, could never sit on this Committee or serve in Her Majesty's Government? That Government is the ultimate sovereign Government of the United Kingdom including Gibraltar, which can declare war on your behalf, make policy and international treaties on your behalf and control the currency that you use, yet no one in this room could ever serve in a British Parliament or a British Government. Do you not feel that it is time to think long term about a modern constitutional relationship, whereby Gibraltar is an equal component part of the British family, rather than an anomaly, which Spain will for ever use as a way of trying to grab the Rock for its own purposes?

While now may not be the right time, with the discussions going on about Scotland and the possible change in its status—it may not be independent, but there is talk of, maybe, a federal UK—could you see that Gibraltar could be an equal part of that, perhaps electing its own Member of Parliament to the British Parliament on the same day as we vote for our Members of Parliament? *[Interruption.]*

Fabian Picardo: I am obviously going to warmly welcome the sentiments of what you say. In case you needed to hear what the people of Gibraltar would feel about that, I think you have heard them. An analysis has to be done to break down what you said a little bit. Put it this way: if your analysis were right, I would be very happy that you could not stand for election in Gibraltar; otherwise, I might have a real run for my money at the next election, given your obvious popularity here and your understanding of the issues.

It is not strictly correct to say that a Gibraltarian could not form part of your Committee. A Gibraltarian could be Prime Minister of the United Kingdom. All he needs to do is stand in a constituency in the UK—he is entitled to do that—become a Member of the British Parliament and be ambitious enough to lead a political party. Then he could be the First Lord of the Treasury and sit at No. 10.

What you are getting at, and you are absolutely right to identify it, is that Gibraltarians in Gibraltar do not vote for representation in the United Kingdom Parliament, and election in Gibraltar does not in any way enable us to make representations in the United Kingdom

Parliament or in any way influence at a political level what happens in the Palace of Westminster, other than through a very powerful political lobby of friends. You are absolutely right to identify that as an issue, if I may say so, not just in relation to Gibraltar, but in relation to all the overseas territories, and the state of the relationship between the United Kingdom and all its overseas territories, and not just Gibraltar. As we look forward to the next century, the relationship has to move only in the direction of modernising itself and becoming one that the United Kingdom can be proud of.

When I was younger, I detected that the United Kingdom was a little embarrassed by its overseas territories. The White Paper published by the Prime Minister and the Foreign Secretary in 2012 was a huge step forward in the relationship between the overseas territories and the United Kingdom, and that is the right direction of travel. I do not, for example, detect in my relationship with the Foreign Office—whether the Europe directorate or the directorate for overseas territories—any residual racism or colonialism of any sort.

I think the United Kingdom is open to changing the relationship from what it was—of course, there were issues, given the large numbers of overseas territories citizens at one time—to what it can be, given the now very manageable numbers of overseas territories citizens and the fact that British citizenship has already been extended to us all. That is the potential paradigm for a way forward that could be very positive indeed and could put the United Kingdom in a much better light internationally than has been the case to date—for example, in the way that it interacts with the United Nations Committee of 24 on Decolonisation, and how it could achieve decolonisation of all the territories that the United Kingdom put in that list 40 or 50 years ago.

So I think you identify the right issue; but what the future is and what shape we give it is for a collaborative process between parliamentarians in the United Kingdom and parliamentarians in the overseas territories, in which diplomatic officials should be assisting us rather than leading us.

Q99 Mr Roy: Minister, in June 2013, *The Guardian* quoted you as saying that “multimillionaire hedge fund managers should quit London for Gibraltar because it’s ‘much cheaper’,” while your promotional material promises that they are “unlikely to be liable for corporation tax”. How would you respond to international complaints about Gibraltar’s financial and taxation regime?

Fabian Picardo: Well, of course, you have got to look at the context of what London offers them. London offers them almost exactly the same thing, except that the burgers and the beers are more expensive. But if you wanted to plan a structure that involved a very low corporate rate of tax, you would very likely also consider using London as part of your structure and perhaps even avoid paying the higher rate of tax that you might pay in the United States or elsewhere. For many people, tax planning involves ensuring that they are under a jurisdiction where they can best maximise profit and pay lower rates of corporate tax. Gibraltar offers a corporate rate of tax of 10%, not 0%.

When I have had the opportunity to deal with the Prime Minister on these issues, Gibraltar has been proud to lead other overseas territories, and internationally, in the fight against tax evasion. You will of course forgive me for reminding you that there is a big difference between tax evasion and tax avoidance, although aggressive tax avoidance can amount to something that people would not wish to be associated with these days.

But Gibraltar is cheaper than London—it is much cheaper to live in Gibraltar than in London. The costs associated with doing business in Gibraltar are lower than the costs of doing business in the United Kingdom, and many people are attracted to this jurisdiction, as they are to many others. But of course it is also true to say that many people are attracted to London, because the costs of doing business there are lower than, for example, in the United States, where the tax rate is 35%.

Q100 Mr Roy: Minister, what discussions have you had with UK Ministers about Gibraltar’s vigorous promotion of its tax regime to British companies?

Fabian Picardo: Very little, in the sense that I do not think British Ministers in any way object to the way that we are promoting ourselves to British or other companies. In fact, if you look at the model that is being espoused by the Treasury at the moment and the ambition of the Chancellor to be able to lower corporate taxation in the United Kingdom to, I think, 22% by the time of the next election, we are all talking about competitive rates of corporate tax being the way forward and the way to attract business to each of our jurisdictions.

We have worked together with the United Kingdom—again, on this Gibraltar has led—in ensuring that there is total transparency in relationships between companies and subsidiaries in different parts of the world, so that nobody can pretend to be paying tax in one place but not actually pay it. That is the important issue on which Gibraltar has had discussions with Ministers in the United Kingdom—but for what reason? Because Gibraltar has wanted to ensure that there is a level playing field, and that the transparency that applies to Gibraltar should apply to all other overseas territories and all other territories around the world that operate financial services centres. We have found that David Cameron and the Chancellor, George Osborne, as well as other officials and politicians in their relevant Departments and offices, have been very welcoming of that.

I have been very supportive of the Prime Minister picking up the opportunity, when he was leading the G8, to make aggressive tax avoidance and tax evasion a central issue of his leadership of the G8 and ensuring, that way, that there is now a level playing field that there was not before. Remember that Gibraltar’s status within the European Union has meant that we have been transposing directives that apply to financial services for the past 25 years and therefore the rules on anti-money laundering and avoiding tax evasion—all of those rules and all the rules on transparency—have applied to us, when they have not applied, for example, to other overseas territories of the UK or even the Crown dependencies in large measure.

For us, the fact that the Prime Minister, at the G8, insisted that everybody come up to the same standard within the British family and beyond—this was his agenda—was a very good thing indeed. We welcome that hugely, because although we believe in tax competition, we do not believe in tax avoidance. We think that the whole world needs to step up to the plate to which the UK has really taken them after the G8 in Lough Erne.

Q101 Chair: Following on from that point, as you know, the UK, when it was chairing the G8, did quite a lot on the initiative on transparency. Do you have any thoughts about that? Indeed, have you had any offers of help from the UK to enhance transparency?

Fabian Picardo: Well, there was little to enhance in Gibraltar, in the sense that Gibraltar is already at an identical stage as the UK, when it comes to transparency. If I can just remind you, for example, we have 27 tax information exchange agreements, not with small economies,

but with some of the biggest economies in the world, including the United States, Germany and France. Those that we have with the European Union have now been overtaken by the multilateral directive, which is the equivalent, according to the OECD, of tax information exchange agreements. So now we have even got one with Spain, for example, even though they did not want to sign one with us bilaterally.

The OECD multilateral convention has the same effect as a tier between all those who are signatories, and there are 71 signatories. Gibraltar asked the UK to extend the multilateral convention to Gibraltar.

Where we are working with the UK is on the next step, which is the Prime Minister's position, that all overseas territories and the UK should work together to achieve transparency of beneficial ownership. That is not an easy thing to do and the UK itself is looking at how it might be achievable and whether it should extend to just corporate entities or also trusts. A lot of work has been done in the UK on that and I am very pleased to be able to report to you that we are being given the benefit of that thinking, not just in Gibraltar, but across the overseas territories and the Crown dependencies. Therefore we are able to adjust our thinking as a model is developed in the UK, while considering the issues that affect our industry, which are also important.

Q102 Chair: I am delighted by that very important answer. Thank you very much.

May I turn now to the dispute with Spain and focus on that? I am glad that, in your last answer, you said you did have some dialogue with them. To what extent do you feel that the UK is prioritising its bilateral relationship with Spain at the expense of Gibraltar?

Fabian Picardo: Well, I think that we need to look at the words of Spanish politicians in order to answer that question. The Spanish President and the Spanish Foreign Minister often say, when they are taken to task about Gibraltar, that the relationship with the UK is “excellent, despite Gibraltar.” It is important that people should wake up to the fact that Spain is doing that and feels that she can do that without having that sentiment in any way countered by British Ministers. Spain cannot get away with thinking that she can punish and damage Gibraltar at her whim and still say that the relationship with the UK is excellent.

I have heard Ministers say a lot and I welcome what they have done to date but, specifically in answer to your question, what I have not heard Ministers say is that the relationship with Spain is, thank goodness, actually very good, that we are NATO allies, we are EU partners and we have lots of interests in common, but it cannot be “excellent” while Spain is punishing 30,000 British citizens economically and at the frontier. *[Interruption.]*

I am sorry to answer your question by reflecting on what others are saying and not what British Ministers are saying, but it is important that we understand what Spanish politicians are saying to their public and that that is not being, in any way, countered by British Ministers.

Q103 Rory Stewart: How close do you feel that you are to settling the fishing disputes? Do you believe that once arrangements are in place to allow limited Spanish fishing the number of incursions will reduce?

Fabian Picardo: We are very close, having done a lot of hard work at an environmental and legal level to try and ensure that we can accommodate such fishing as is in keeping with the principal objectives of our Nature Protection Act on sustainability of fishing around Gibraltar

waters. A lot of work has been done there and I sincerely hope that we will be able to finish that work very quickly, because, of course, you have to understand that the target of the Government of Gibraltar is never going to be a fisherman—Spanish, Gibraltarian, Polish or German—who is doing something that is not in any way harming the environment. The whole purpose of the legislation is to ensure the protection of the environment and the sustainability of fishing, so you want to have fishing as an element of that in some way. I think that we are very close to that.

Resolving what you call the fishing dispute in my view is not going to resolve the serious issue of incursions by Spanish state vessels. Here I think we have to differentiate between what we call an incursion and what we call fishing activity contrary to the Nature Protection Act. Fishing activity contrary to the Nature Protection Act is not in my view an incursion of any sort. It is when a Spanish police or Guardia Civil or navy vessel comes into our waters—it is a state actor—that we would count it as an incursion.

At the early stages of what you call the fishing dispute, some of those state actors—the Guardia Civil in particular—accompanied Spanish fishing vessels into our waters. Therefore you would count that as an incursion. But that has not happened for months, or for at least a year or so.

What we are seeing is an increase in incursions exclusively by state actors, doing things totally unrelated to fishing, for example, interfering with executive action being taken by the Gibraltar authorities; interfering with lawful bunkering activities in our waters; and filming those who are bunkering in our waters in an attempt to intimidate them. Although I would very much wish that we could get rid of the problem of incursions simply by resolving the fishing issues that we have with 60 fishermen in Spain, I do not think that we will.

In fact, if you look back at the history of this, my predecessor made an agreement with fishermen in Spain. My views on that agreement are well known and they are in keeping with the Committee's view, as expressed in 1999. But by 2009, after the designation by Spain of the waters around Gibraltar as a Site of Community Interest, we start to see incursions by state actors, to such an extent that Mr Caruana, who was then Chief Minister, made a ministerial statement, which is an address to the nation on our television, and said, "The numbers of incursions are going up. This is very dangerous. We cannot negotiate away or co-operate away issues relating to the sovereignty of our waters and therefore I am not going to attend any more meetings of the trilateral until we sort this out."

So the issue of fishing, which comes in 2012, although at one stage it also means that there are more incursions while their fishermen are accompanied by state actors, is at the genesis of it. You see the curve starting to go up well before then.

Q104 Rory Stewart: Okay, so if fishing is simply symptomatic of a deeper problem, what is that deeper problem? What are the roots of this problem? What do you think is motivating the Spanish Government? And what do you believe should be done? What is the solution to this problem?

Fabian Picardo: We are not in court, but if we were I would say, "Of course, I cannot tell you what is motivating a third party, but I can speculate." From my political judgment, I can tell you that Spain has consistently, whether under a Socialist Administration or under a Partido Popular Administration, claimed the waters around Gibraltar. This is one of the tenets of her claim that starts, ironically, or really starts, when Her Majesty visits Gibraltar in 1954 and General

Franco starts to frame a claim to recover Gibraltar at the United Nations. There is a red book on Gibraltar, which Franco issued every year, and there is where they identify the return of the waters around Gibraltar to Spain as a priority.

Spain would argue that she has three sovereignty claims, for example: the claim to Gibraltar itself, the claim to the isthmus and the claim to the waters. The waters, they say, except for the port, have never been ceded by Spain under the Treaty of Utrecht.

Q105 Rory Stewart: Chief Minister, this is obviously an incredibly complicated subject, but you seem to be implying that there is something more recent. Rather than going all the way back to General Franco, you appear to be identifying something to do with the internal politics of Spain at the moment: appeals to voters, presumably in mainland Spain, and the political party. What is driving these fishing disputes in that sense?

Fabian Picardo: To cut forward, as you asked me to do, to 2009, although we have a very good relationship with the Spanish Government then under the Socialists, they make the designation at the European Union level and they start to want to show that these are their waters, but they do it in a what I might call moderate—although I find it entirely unacceptable and illegal—manner by coming into our waters once in a while and pretending to exercise jurisdiction. That starts to rise in 2010. Then we have got the Socialist Government, in 2011.

Then we have the Partido Popular Government in Spain from November 2011. They obviously want to undo all the good work done in the trilateral process. Recently, as you know, they have also said they want to undo the Cordoba agreements. It is clear to me that Gibraltar is going to once again be used as a whipping boy when they are feeling a little less popular with their closer voters for any particular reason. Mr Margallo was famous for having said—his first words when he became the top Spanish diplomat; *el jefe de la diplomacia*, as the Foreign Secretary is called in Spain—that “Gibraltar es español”. Those were his first words as Foreign Minister.

Cut forward a year, and the Spanish Popular party is becoming hugely unpopular in the polls because of corruption allegations being made against the Prime Minister himself and the treasurer of his political party. Gibraltar starts to take more and more prominence in the Spanish national press. Incursions into our water are used as a badge of honour for what their voters might find appealing. It is unfortunate that Gibraltar is in that situation, but it is where we have been in recent Spanish political history as much as we have in post-war Spanish political history since 1954.

Q106 Rory Stewart: Finally, before I hand over to my colleagues, what possible solution is there to this kind of problem? If the problem is fundamentally driven, as you are suggesting, by Spanish nationalism and by party politics in Madrid, what solution is possible?

Fabian Picardo: To an extent, the solution was agreed in 2005, when the trilateral process was agreed that enabled us to discuss with Spain all issues that were relevant to the relationship except those that related to sovereignty. We were able to get on with matters that mattered to citizens on both sides of the frontier. Persuading the Spanish Government not to continue to do that which is abusive, illegal, contrary to the United Nations convention and so on should, you would think, be quite simple, because they are a modern democracy in mainland Europe and a part of the European Union and NATO, but we are actually getting nowhere with diplomacy on these issues. I would not like to see us ever fire a shot in respect of these matters,

but diplomacy is not working, reason is not working. Force would be a bad thing and would not work, so thank goodness that foreign relations are not a matter for the Chief Minister of Gibraltar and they are devolved to the United Kingdom under our constitution.

Q107 Andrew Rosindell: Chief Minister, do you feel that the response by the British Government to the incursions and the latest bullying by the Spanish Government has been sufficiently robust? Do you feel that the Foreign and Commonwealth Office has been engaged over too long a period in appeasing Madrid rather than standing up for the people of Gibraltar?

Fabian Picardo: Well, I have told you I enjoy an excellent relationship with the British Government. If there are issues in dispute between us, it must be exactly the ones that you identify, namely that when it comes to dealing with Spain on these issues, it appears that there are other matters which are relevant to decision making and to action, not just how the level of bullying of Gibraltar may be increasing.

If I can put it this way, if we look at the results of what the United Kingdom Government has done or not done and judge the viability of their actions based on results and make no further comment, the results do not appear to have been very good.

If we look at what the United Kingdom has said has been very robust, it has been more robust than it has been for 30 years; but if we look at the results of what has been said and what has been done, the results are not so good. Gibraltar has a small geography and people see incursions themselves. They suffer frontier queues either themselves or through their family members or work colleagues. They are constantly aware of what the frontier queue might be. We have seen the European Commission fail Gibraltar miserably in its inspection of the frontier between Gibraltar and Spain. Since then, we have seen a new phenomenon, which is the pedestrian queue that can sometimes put old, young and working people through having to queue in inclement weather, hot weather, cold weather and rain for up to 90 minutes while a Spanish crack anti-terrorist Guardia Civil force intimidates them on the other side of the frontier as they go through. That is still happening, and if it is still happening, not enough is being done.
[Interruption.]

Q108 Andrew Rosindell: Building on that very point about the British Government's approach to Gibraltar, and to the overseas territories in general, we are looking at a continuous stream of treatment towards British territories. We see what has happened with Diego Garcia and the ejection of the people of that territory. We see a failure to act when there are natural disasters, such as in Montserrat and the Cayman Islands. We see attempts by the British Government to force joint sovereignty on Gibraltar. We see appeasement in Madrid, and we see appeasement in Buenos Aires over the Falkland Islands. Do you agree that, for some reason, our Foreign Office seems to treat overseas territories differently from if they were British people in the British Isles? Isn't it time that we treated all British people across our territories and dependencies as equally British?

Fabian Picardo: Let me extrapolate your example. What if these incursions were happening off Cornwall? What if the black berets of the Guardia Civil were on the other side of the Eurotunnel and British citizens going to Paris were made to queue for an hour and a half after getting off the train? What if the eurocrats were made to queue for an hour and a half by Belgian security guards when they go to work in Brussels, the capital of Europe today? What if you had to watch from your offices in the Palace of Westminster as French police officers came up and down the Thames as if it were French water? How would you feel about how the Foreign

Office is acting to deal with those issues? That is the psyche of the Gibraltarians. That is what we are seeing.

You rightly extrapolate that even further to what is happening in other overseas territories, and the people of some of those territories are also being frustrated. We need to ensure that we get the relationship right. If we in the overseas territories are to be dealt with as British people, and not as distant cousins who cause problems and embarrassments, we need to understand Britain's foreign policy interests not just for the 30,000 Gibraltarians or the 250,000 or 300,000 total residents of the overseas territories but for the 52.3 million British people for whom we are responsible as part of the British family. That is a harder exercise, but we must do it if this relationship is to mean anything. You are absolutely right to highlight that.

Q109 Andrew Rosindell: Would you like to see the Royal Navy have a greater, more permanent presence here in Gibraltar?

Fabian Picardo: I have already made my views on that very clear. I am grateful for the opportunity to put them on the record for the Committee. I am not a naval man, and I am not a naval strategist, but I certainly believe that larger assets in Gibraltar—not deployed aggressively, but simply deployed to demonstrate that these are British waters by going about their own business and not in any way confronting anyone else—would be hugely positive in ensuring that the UNCLOS position is understood not just de jure, by way of notes every time there is an incursion, but de facto on the water. I know that those who are responsible in the Royal Navy have talked about the importance of rules of engagement, rather than the size of vessels, but for those of us who are not military strategists I think it would be hugely reassuring to see a larger Royal Navy presence in Gibraltar. I do not blame the Ministry of Defence or the Royal Navy for what is happening on the water. They are of course constrained by diplomacy.

Q110 Mr Roy: Chief Minister, going back to the border, can you update us on the current situation? Are you confident that the situation is improving, and, in your opinion, has the United Kingdom been supportive and useful in responding to the dispute, or is that what you meant when you said that not enough is being done?

Fabian Picardo: The position at the moment is that in the last full month that I am aware of there has been an average queue of approximately one hour coming into Gibraltar—67 minutes—and of 93 minutes to get out of Gibraltar. There is an average queue for pedestrians of about quarter of an hour and at the worst it has been 90 minutes. That was just in February. Things are not getting better, and the figures I am giving you take account of the reduced number of cars and pedestrians coming into Gibraltar.

In my view and that of the Gibraltar Government, the issue at the border is not being resolved. Spain is not responding to reasonable diplomatic contact and activity designed to deal with the issue in a modern European way. Therefore, if we look at this from the point of view of results, do the results tell us that enough is being done? Forget our discussions with the British Government and our views, let's look at the results. The results tell us that not enough has happened to deter Spain from its activities.

Q111 Mr Roy: Yes, but I am asking specifically about the United Kingdom Government. Have they done enough—yes or no?

Fabian Picardo: That is exactly how I intend to frame my answer to you. If you look at it from the point of view of what is happening at the frontier, the answer must be that the

United Kingdom Government have not done enough. If you look at it from a results point of view, and if the result is still as bad as it was for the month of February, which I have just related to you, then obviously not enough has been done. I am trying to give that analysis objectively for you rather than simply telling you that I do not think enough has been done. The results tell us that the situation is just as bad as it was.

Chair: That is very helpful. Thank you.

Q112 Sir John Stanley: Chief Minister, I had the great pleasure of coming to Gibraltar for the first time nearly 40 years ago by sea on the historic full-flight-deck aircraft carrier, Ark Royal. She had a wonderful reception from the people of Gibraltar. Against that vivid memory, it was a big disappointment to me to come back yesterday, arriving by car, to find that incursions into our territorial waters are taking place daily and sometimes several times a day.

It was also a great disappointment to be told that when it was alleged that a Royal Navy vessel fractionally clipped Spanish territorial waters, the Spanish Government got their notice of protest in to the British Foreign Office within six hours of that alleged clipping taking place. In contrast, I am informed that the British Foreign Office now takes several days to make the equivalent protest to the Spanish Government in Madrid of the daily incursions into our territorial waters here. Indeed, perhaps to economise on people's time, it now bundles up the notices of protest into a single packaged document to deliver a whole lot at the same time.

Do you think, Minister, that that—I trust it is not intended by the Foreign Office—is likely to give the Spanish Government an impression that the British Foreign Office is simply going through the motions in making protests against this unacceptable level of incursions into our territorial waters? *[Interruption.]*

Fabian Picardo: Sir John, I am almost tempted to give you the Francis Urquhart answer, which is to say, “You might think that; I couldn't possibly comment.” But I think it is fair to comment, because you have given me an opportunity to reflect on issues that are hugely important about the manner in which the Foreign Office is reacting.

I am sorry to say that, if you came to Gibraltar about 40 years ago, I cannot remember your coming—you may have walked past my baptism, all those years ago. You obviously remember what has been happening in these waters and have experience of that for much longer than I do. It is absolutely right to say that the Foreign Office is pursuing a strategy—it is transparent and not an issue that it is secretive about—to ensure that every incursion is followed up by diplomatic protest and it is important that that should happen and that it should be made in writing. Those of us who have studied international law and have experience of international politics will know that we must preserve the *de jure* position by ensuring that there are such notes that pass. It is absolutely right for the Foreign Office to be doing that and I commend it for doing so.

That does not mean that that is all we should do. The alacrity with which it is done is not relevant to the legal process that is being pursued, but it does demonstrate to all involved the seriousness, conversely, with which the Spanish Foreign Office regard any matter relating to Gibraltar. Gibraltar has long been known in Spain as “the foreign affair” and, when things like the one you highlighted happen, it is absolutely obvious that Gibraltar remains the foreign affair in Spain. They have a huge level of concentration of resources on the subject, they are able to react immediately, they are prepared for any contingency and they have a level of understanding

and preparedness at every level of Spanish diplomacy in relation to Gibraltar that we do not have in the British Foreign Office at the moment. We have a Department that deals with these issues under the Europe directorate as best it can with the resources available to it.

We have a much larger Foreign Office than the Spanish Ministerio de Asuntos Exteriores, but that smaller core of men and women in Spain know what they have to do in relation to Gibraltar at the drop of a hat. I dare say that nobody would have managed to slip past them the designation of any part of Spanish water as British if we had tried to get away with that.

Q113 Sir John Stanley: Just continuing with the concern I have that the British Foreign Office may be giving the impression to Spain—wrongly—that it is not taking incursions sufficiently seriously and might, therefore, encourage the Spanish to push further in the sovereignty or exercising of illegal authority that they seem to be bent on, I am advised that, three or four months ago, the Spanish authorities did indeed carry out a prohibition on a vessel, which represents a new exercising of illegal authority by the Spanish Government. We are coming on to NATO in a moment, but, as you know, Chief Minister, over a long period—unacceptably—the Spanish have imposed a NATO-wide prohibition, which, in reality is a prohibition on the Royal Navy as the almost-entirely-exclusive user of Gibraltar as a port.

The Spanish Government have imposed a prohibition on royal naval, and indeed NATO, ships going from a port in Spain directly to Gibraltar and from Gibraltar to a port in Spain. I am advised that, three or four months ago, a British civilian survey ship was refused entry into the Spanish Balearic Islands simply because it had exited last from Gibraltar. That is pushing out further the level of illegal exercising of authority by the Spanish Government. Do you agree that that is factually correct? I am also advised that, so far, no British Foreign Office protest has been made.

Is that also your understanding of that position?

Fabian Picardo: If I may address the factual elements of what you put to me first, I believe it was a Norwegian vessel. We can check that—it is in the facts—but I am told by the chief legal advisor that it was a Norwegian survey vessel that called at Gibraltar and then went to the Balearic islands and was not allowed access. It caused a protest in the Balearic islands from the Balearic Government to the Spanish Government, because the ship was bringing business to the islands, and they were not able to transact business with it as a result. I believe that there was a note verbale, or the issue was otherwise taken up, but I cannot assure you of that. It would be helpful if I check that and write to you after today's session, but I believe that the issue was taken up.

Spanish state vessels have been taking executive action in Gibraltar waters almost as a matter of course since approximately 2008-09. It hugely frustrated my predecessor, Sir Peter, and it frustrates all of us today. Whether one is in government or out of government, all Gibraltarians are watching it happen, and we are all hugely frustrated at the apparent inability to restrain it in any way. We have seen the Royal Gibraltar Police's operations interfered with. We have even seen the Royal Gibraltar Police apprehend somebody who is acting illegally in Gibraltar waters, and seen the Guardia Civil assist that individual to evade capture and drag them to Algeciras. That happened in 2010 or 2011, before I was Chief Minister. It was one of the subjects on which Sir Peter made his ministerial statement.

Things have only got worse since then. That is why it is important that we do not fall into the trap of thinking that fishing is in some way relevant to these issues; they were happening before. We have seen incidents when, for example, rubber bullets were shot at an innocent jet skier in Gibraltar waters. That issue was taken up last summer when the Guardia Civil shot rubber bullets at a Gibraltar jet skier. There is a video of it, and you can see the whole thing play out on your television screen. It was taken up by the Prime Minister, the Minister for Europe and the Foreign Secretary himself, who asked for an investigation. Spain denied that it was in BGTW and that it had used rubber bullets. It said exactly the same sort of thing that it said two weeks ago, before it was rumbled after having shot rubber bullets at those who were trying to swim to shore in Ceuta to save their lives.

This issue constantly repeats itself. For you, me, everybody in Gibraltar and a huge swathe of British citizens in the United Kingdom and the overseas territories who empathise and sympathise with the people of Gibraltar, the frustration is the apparent inability to restrain that illegal activity from continuing.

Q114 Mike Gapes: Chief Minister, may I go back to the political process with Spain and the UK? Since the Popular party Government came in, they have rejected the previous PSOE Government's Cordoba agreements with the UK and Gibraltar, and since 2012, they have ended the trilateral talks. Is there any progress on the proposal made by the Foreign Secretary in April 2012 for ad hoc discussions?

Fabian Picardo: May I remind the Committee that what you put to me happened in reverse order? In other words, they immediately withdrew from the trilateral when they were elected, and they subsequently talked about withdrawing from the Cordoba agreements. It is important that it is put in that way, because the trilateral was the forum that enabled us to talk about things and the Cordoba agreements were one of the fruits of that process. Partido Popular did not aggressively pursue undoing the Cordoba agreements in the first months after it was elected, but it subsequently did. It is important that the Committee reflects on what that means for the UK taxpayer, in particular.

Cordoba led to the resolution of a lot of issues. One of them was the payment of pensions to Spaniards who had worked in Gibraltar before the closed frontier. It is an issue that your Committee looked at. If I may say so, your Committee's Report of 2002, to a very great extent, set the United Kingdom Government on the right path in asking them to engage trilaterally, asking them to engage to resolve the pensions issue and so on. You created a route map which the Government of Gibraltar then pursued very effectively to produce the trilateral process and lead to the agreements that were entered into.

In the context of the Cordoba agreement, the UK taxpayer has now paid, I understand, over £70 million to Spanish pensioners. Actuarially, I understand, you are going to end up paying about £150 million in total. That is in respect of an agreement that the party who is the beneficiary of those payments is saying they do not want to comply with any more. Spain resiled from the agreement, but the British taxpayer—rightly, because the United Kingdom performs on its agreements—continues to pay. Did you want to interject?

Q115 Mike Gapes: I wanted to ask about progress on the talks and the ad hoc proposal that came from the Foreign Secretary.

Fabian Picardo: It is in that context, with the United Kingdom still wanting to comply with its obligations on strongly supporting the trilateral process, that William Hague, with our support—we were consulted very carefully on the subject in April 2012—put the proposal to Spain that while the United Kingdom and Gibraltar Governments continue to support strongly the trilateral forum as the right forum for a general discussion on any issues short of sovereignty, we are prepared, if Spain cannot politically attend those talks, to have ad hoc talks on issues that might matter to us, with the relevant and competent parties present. There have been exchanges of correspondence since then, but the state of play at the moment, as I understand it, is that Spain will not agree with the United Kingdom and Gibraltar who should be at that first meeting of ad hoc encounters and what the subjects should be.

What we detect—this is public comment, so I am not in any way disclosing anything secret—is that Spain and the Spanish Government are trying simply to ensure that there is an ad hoc meeting with four parties around the table, not three, and that that should be the only instance of those ad hoc meetings that occurs. Spain will then simply cry childishly, “We achieved the quadrilateral; it’s the end of the trilateral.” That is not the way to advance this diplomatically. We have bent over backwards to ensure that with our red lines and the United Kingdom’s red lines in place, and even Spain’s, we could have an encounter to deal with the issues, but it is not happening.

Q116 Mike Gapes: I know what you mean by four parties, but can you clarify for the record what you mean?

Fabian Picardo: For the record, what I am talking about is the United Kingdom, Spain, Gibraltar and, at Spain’s insistence, the junta of Andalucia as a separate party, not as part of the Spanish delegation. Of course, the junta of Andalucia attended the trilateral talks as part of the Spanish delegation. I think it is important that you understand, although I am sure you do, that the junta of Andalucia is within the legal definition of the Spanish state, while Gibraltar is not part of the legal definition of the United Kingdom.

Q117 Mike Gapes: In the absence of an agreement on an ad hoc basis for Gibraltar, the UK and Spain, or if the Spanish do not agree to take up this proposal, what would your attitude be to a bilateral ad hoc discussion between the two Governments?

Fabian Picardo: May I ask you to clarify what you mean by the two Governments? Gibraltar and Spain?

Q118 Mike Gapes: No, I mean the UK Government and the Spanish Government.

Fabian Picardo: That would be entirely unacceptable to the people of Gibraltar, and it is one of the things that you rightly pointed out in your Committee Report of 2002. In fact, Mr Chairman, if I may, I will bring you to a statement that you made when you were taking evidence from Mike Simmonds, the Minister for the Overseas Territories.

Chair: Mark Simmonds.

Fabian Picardo: Mark Simmonds, of course. Sorry. You were taking evidence from him in December 2012, and addressing all the issues, including the issue of whether talks would happen and so on. By then, the Foreign Secretary had already put his offer to Spain. You expressed the frustrations, I think, of all Committee members and of the people of Gibraltar when you said to him, “Minister, there must come a time when all of these attempts to either

engage or deal with issues diplomatically must come to a head, and you must reach a stage where you need to do more.” The Minister understood that. A year and a half later, we have not engaged in ad hoc dialogue and we have not gone back to trilateral dialogue. The queues are longer and the incursions are just as bad. I suggest that you put your question to the Minister again when you next see him.

Chair: We have got the message.

Q119 Sir John Stanley: Chief Minister, I want to talk about the NATO dimension. As I have already referred to, we have a long-standing position, and it is no less unacceptable simply because it has been long-standing, whereby NATO naval ships are denied access to Spanish ports if they are transiting to Gibraltar. Equally, they are denied access to Spanish ports if they are transiting from Gibraltar to Spain. The Spanish Government have imposed exactly the same restriction on NATO military aircraft. Just as the naval restrictions basically, in practical terms, apply only to the Royal Navy, so the military aircraft restrictions effectively apply exclusively to the Royal Air Force. Under those restrictions, NATO military aircraft are denied access to Spanish airspace if they are coming into Gibraltar. Equally, if they are taking off from Gibraltar and flying in a northerly direction, they are denied access to Spanish airspace.

Do you think it is lamentable, as I certainly do, that successive British Governments have taken that unacceptable situation within NATO as effectively a *fait accompli* about which nothing should be done? Is it not high time that the British Government address that issue once again and do all they possibly can within the NATO framework to try to persuade and exert pressure on the Spanish Government to remove those restrictions, which apply uniquely to Gibraltar and are being uniquely applied by the Spanish Government in a way that is not applied by any other Government within the NATO family in respect of either naval vessels or military aircraft?

Fabian Picardo: I couldn’t agree with you more, Sir John. In fact, there are issues here that come from the past, and a lamentable past it is too. In my view, and I am not responsible for defence—NATO is an issue that affects defence, so I will feel free to give you my untrammelled view—Spain should never have been allowed to join NATO until she accepted that Gibraltar was a full part of the structure before her. Ditto the European Union. We would then not have had any of the problems that we have today. There is a lesson there for British diplomacy and for the European Commission. If you do not deal with the Spanish issue on Gibraltar when it first comes across your table by discarding it and telling Spain that they are wrong, whether it is on any particular directive or on any particular aspect of EU business—whether it is on becoming a member of NATO or becoming a member of the EU—you are not doing yourself any favours. The issue will just get bigger and bigger, and it will become harder to deal with.

Gibraltar has no problem with Spain, and it is important that we reflect that on military issues. We are all part of the same bloc, which is designed to protect western parliamentary democracy. That is what we are all there for, and we should all be working together towards that. Gibraltar does not say, “We don’t want Spanish frigates to come to the base in Gibraltar alongside British colleagues, German colleagues and colleagues from other NATO forces.” Spanish colleagues would not be the most welcome, given the state of relations today, but I would like to look forward to a day when they are very welcome indeed. As long as they are invited by Her Majesty’s Government to use the base as NATO partners, what could possibly be wrong with that? Why must Spain for one moment think that there is anything wrong with the United Kingdom using her own military facilities in Gibraltar for her own purposes? Why must

Spain somehow discriminate against an ally for that reason? Why doesn't British diplomacy say, "Enough"? Why? I am yet to be persuaded by anyone of a good reason, affecting western democracies generally, for why we shouldn't be making the position very clear to Spain.

We see those things manifest in every area. How is it that Spain—the top-ranked team in FIFA—does not want to play the latest minnow to join UEFA? The Faroe Islands scored four against us on Saturday, so I don't rate our chances against Spain. We would certainly give Spain a run for their money, but it is sport. That should be the sort of game that we want to play so that we can express our reconciliation on the sporting field. Well, in NATO we should be working together as partners and forgetting esoteric arguments about sovereignty in the past. *[Interruption.]*

Q120 Chair: Chief Minister, that concludes our questions. Is there anything you would like to say in conclusion before I wrap up the proceedings?

Fabian Picardo: Mr Chairman, I want to thank you for the opportunity to address your Committee. I ask you to understand the frustration felt by people in Gibraltar. I am sure you will understand much better having been here today and having heard me and the people behind me, who have not been silent. It would of course be hugely positive for your Committee to consider establishing a Report on the issues you have come across today, as you so usefully did in 2008, 2002 and 1999. You have helped to guide the hand of the British Government in the right direction on each of those occasions. I think it would not be amiss for you to consider doing so again, although I of course accept that it is a matter entirely for your Committee.

Chair: Thank you for that final qualification. I will leave you with the words of the Foreign Secretary to the House of Commons: "We will continue to respect the wishes of the people of Gibraltar, and will take whatever action is necessary to safeguard Gibraltar, its people and its economy." We as a Committee will be doing our best to ensure that happens.

Fabian Picardo: Thank you very much.

Chair: On this unique occasion—and it is unique, as we do not often travel to take evidence in this manner—I want to express one or two votes of thanks. First, I thank the Government of Gibraltar for facilitating our visit. We are looking forward to travelling around shortly to have a look at the facilities first hand. Secondly, I thank the Governor's Office and the acting Governor, Alison MacMillan. Finally, I thank the Garrison Library Trust, which has preserved this wonderful building that reminds us of our heritage. Thank you all very much indeed.