

MINISTERIAL STATEMENT ON GIBRALTAR AIRPORT

The Minister of Foreign Affairs and Cooperation of the Kingdom of Spain, Mr. Miguel Angel Moratinos, the Minister for Europe of the United Kingdom of Great Britain and Northern Ireland, Mr Geoff Hoon, and the Chief Minister of Gibraltar, Mr. Peter Caruana, meeting in Cordoba on the 18th of September 2006 have agreed the following Statement in relation to the Gibraltar Airport as an Annex to the Ministerial Communique.

Wishing to enable the enhanced use of Gibraltar Airport for the benefit of the social and economic development of Gibraltar and of the Campo de Gibraltar and improved employment and commercial opportunities for both, on terms acceptable to the three participants (“the participants”) in the Dialogue Forum established on 16th December 2004 between the Governments of the UK, Spain and Gibraltar (“the Dialogue Forum”) and without prejudice to their respective sovereignty positions and constitutional status.

Have agreed the following arrangements:

1. This Statement and the arrangements which it entails (“the arrangements”), which are to operate in accordance with EU/international requirements, procedures and practices, relate to civilian air traffic, and will have no implication for sovereignty and jurisdiction or control and any activity or measure undertaken in applying them, or as a consequence of them, are understood to be without prejudice to the respective legal positions with regard to the dispute over sovereignty and jurisdiction over the territory in which the airport is situated. The Gibraltar Government understands and accepts that the references to sovereignty are bilateral to the UK and Spain.

2. In this context, and in order to overcome problems of terminology relating to references to the words “frontier” or “fence”, the phrase “fence/frontier” is used. This phrase means frontier for the UK and Gibraltar, and fence for Spain.
3. This Statement and the arrangements will replace the Joint Declaration on the Airport made in London on December 2nd 1987, and the full compliance herewith will, for the purposes of all EU measures containing an article suspending the application of that measure to Gibraltar Airport until the 1987 Declaration is complied with, be deemed to constitute compliance with the 1987 Declaration for the purposes of such articles. The UK and Spain will so inform the Council.

Therefore, as part of the arrangements, there will be a lifting of Gibraltar Airport’s suspension from all EU aviation measures. Consequently, Gibraltar Airport will be bound by, comply with and benefit from all applicable EC regulations and directives. The participants attach particular importance to EU rules relating to environmental impact. As part of the arrangements there will also be an end to the current discriminatory restrictions imposed by Spain over use of Spanish airspace by civilian aircraft flying in and out of Gibraltar Airport.

4. Recalling the participants’ aim of enabling the enhanced use of Gibraltar Airport to benefit the social and economic development of Gibraltar and the Campo de Gibraltar, and given the proximity of the airport to the populations of Gibraltar and the Campo de Gibraltar and the shared concerns on environmental and other matters regarding the use of the airport, a Permanent Joint Liaison Committee of the participants will be established as a forum to consider at a technical level any problem or issue relating to the functioning of the arrangements.

5. The UK Government is responsible for all international obligations including aviation safety and security relating to Gibraltar Airport, as laid down in the pertinent rules and regulations of ECAC/ICAO, Eurocontrol and of the EC. Recognising the fact that Gibraltar Airport is a military airfield available for civilian flights, the Permanent Joint Liaison Committee will be appropriately notified of any interruption to the arrangements, including flight restrictions caused by military use.
6. A single air terminal (“the terminal”) adjoining the southern side of the fence/frontier will be built, in the appropriate manner as decided by the Gibraltar Government, to enable passengers and their luggage access to and from such terminal directly to/from the north side of the fence/frontier.
7. The following arrangements will apply for passengers arriving or departing through the terminal:
 - (a) Passengers flying from Gibraltar Airport to a Spanish airport accessing the terminal via the direct access from the north side of the fence/frontier will be treated as if they had not left the Schengen travel area;
 - (b) Other passengers flying from Gibraltar Airport to a Spanish airport will be checked into the Schengen travel area before boarding the aeroplane. This check will be carried out by Spanish officials, who themselves will be located on the north side of the fence/frontier, in a manner facilitated by the design of the terminal. Therefore, on arrival at a Spanish airport, these passengers will not be subject to further Schengen entry controls;
 - (c) Passengers flying to Gibraltar Airport from a Spanish airport and exiting the terminal via the direct access to the north side of the fence/frontier will also be treated as if they had not left the Schengen travel area;
 - (d) Other passengers travelling to Gibraltar Airport from a Spanish airport, after they have disembarked, will go through a Schengen exit check,

which will be carried out by Spanish officials in the same manner as in (b) above. These passengers will then continue to a place where the Gibraltar authorities will carry out an appropriate identity/passport check to clear entry into Gibraltar;

- (e) Passengers in categories (a) and (c) who remain airside of Gibraltar customs and immigration will be treated as transit passengers in the terminal and, by virtue of administrative waiver thereof by the Gibraltar authorities, will not in normal circumstances be subjected to Gibraltar customs and immigration controls. The Gibraltar authorities retain the right to exercise such controls on grounds of security or in other exceptional or unusual circumstances that render them necessary or desirable. For their part, the Spanish authorities retain the equivalent right, in line with their Schengen obligations.

Once the participants have been able to assess the operation of these arrangements they will, but subject to further agreement in that regard, give consideration to ways of obtaining the practical benefits of Schengen clearance for flights to and from Gibraltar Airport and Schengen destinations other than Spanish airports in a way legally and politically acceptable to all the participants.

- 8. Air cargo arriving from within the European Customs Union and destined to the northern side of the fence/frontier or vice versa, will be treated as in transit/bond and thus will not be subject to any customs duties. Arrangements in accordance with applicable EU requirements will be made to facilitate the overland forwarding to Gibraltar of cargo, free of Spanish customs duties, from flights destined for Gibraltar Airport that have been diverted to a Spanish airport.
- 9. In order to ensure the safe and fluid access to and egress from Gibraltar Airport by aircraft, the Air Traffic Control (ATC) service providers and, whenever necessary, the aeronautical authorities of the participants will meet as required to coordinate and agree air traffic control issues and

procedures between the ATC Control Center at Sevilla Airport and the ATC Tower at Gibraltar Airport. Recalling that the Gibraltar Airport airfield is a military airfield, the United Kingdom will ensure that the ATC service provider is certified in accordance with EC rules.

10. All passenger and flight services including all facilities and functions relating to airside and aircraft services, passengers' check-in, baggage handling and passenger and baggage security will be provided in and by the terminal. Subject to EU directives the Government of Gibraltar will grant a contractual concession to operate the terminal and provide these services on a commercial basis to a joint venture company owned by Gibraltar and Spanish commercial interests.
11. The Geneva Airport model vis-a-vis France will serve, as appropriate, and as may be agreed as the basis for the arrangements.
12. To enable the Statement and the arrangements to be fully operational, and to accommodate expansion of traffic volumes, substantial sums of money will have to be invested by the corresponding participant in the following:
 - a) Executing the necessary civil works for the terminal.
 - b) An appropriate technical solution acceptable to the Government of Gibraltar must be found, including the one consisting of the creation of a tunnel at the Eastern end of the airfield, in order to avoid vehicular traffic routinely crossing the airport runway, and the increase in vehicular traffic congestion exacerbated by a material growth in the number of flights;
 - c) Infrastructure and arrangements north of the fence/frontier will have to be adapted in order to facilitate the direct access of passengers and luggage to the terminal.

The participants should seek appropriate EU funding for these investments.

13. The Government of Gibraltar will immediately commence the project for the construction of the terminal and any necessary new roads and tunnels on the south side of the fence/frontier envisaged in connection with the arrangements and enhanced use of the airport. It is envisaged that these works will be completed within 18 to 24 months. Spain will complete any civil works required on the north side of the fence/frontier to implement the arrangements, within the same timescale. The participants will keep each other fully informed of progress in these works, liaising with each other as may be necessary.

14. With effect from today, Spain will:
 - (a) Suspend the discriminatory restrictions on civilian flights to Gibraltar Airport, thereby enabling flights bound to Gibraltar Airport diverted to a Spanish airport to subsequently fly on directly from that airport to Gibraltar Airport;

 - (b) Make arrangements to facilitate the overland forwarding to Gibraltar of air cargo from flights destined to Gibraltar Airport, in accordance with paragraph 8;

 - (c) Suspend all current discriminatory restrictions imposed by Spain over the use of Spanish airspace by all civilian aircraft flying in and out of Gibraltar Airport. New final approach paths to Gibraltar Airport, in order to enhance operational safety conditions, will be adopted, including straight-in approach, taking into account their environmental impact;

 - (d) Cease to seek the suspension of Gibraltar Airport from any EU Aviation measure not yet adopted.

15. With effect from a date not later than three months from today:

- (a) There will be no objection to the normal operation of air services to and from Gibraltar Airport on the basis currently affecting this airport notwithstanding any continuing suspension from EU aviation measures;
 - (b) Until such time as the Government of Gibraltar completes the construction of the terminal, whereupon the arrangements specified in paragraph 7 of this Statement will be implemented, passengers and their baggage going from the north side of the fence/frontier to the present air terminal and vice versa will be carried by bus from the airside of the terminal, directly to a meeting point north of the fence/frontier and the administrative waiver of customs and immigration controls specified in paragraph 7(e) of the Statement will apply to them. Passengers and their baggage will not be subject either to customs or immigration controls north of the fence/frontier.
 - (c) The Government of Gibraltar will enable air cargo arriving from within the European Customs Union and destined to the northern side of the fence/frontier to benefit from the provisions of paragraph 8.
16. With effect from a date not later than six months from today, Spain will join the UK in procuring the formal lifting of Gibraltar Airport's suspension from the application of all EU Aviation measures.
17. Once the Government of Gibraltar completes the new terminal within the timeframe envisaged in paragraph 13 and has fully implemented the arrangements specified in paragraphs 7 and 8 of the Statement, restrictions set out in paragraph 14 (a) and (c) for all civilian aircraft flying in and out of Gibraltar Airport will formally be ended.
18. The participants will use their best endeavours to make fully operational the Statement and the arrangements at the earliest possible date and will monitor progress thereon in the Trilateral Dialogue Forum.

19. The commitments in this Statement will be fully implemented unless the three participants agree to the contrary.