



DESPATCH

Foreign &
Commonwealth
Office

London SW1A 2AH

From the Foreign Secretary

Governor,

1. The Gibraltar Constitution Order 2006 has today been made by Her Majesty in Council. As was the case in 1969, Her Majesty's Government in the United Kingdom in this Despatch confirms the position in relation to certain matters in the Constitution. I would therefore be obliged if you could arrange for this Despatch to be published in the Gibraltar Gazette at the same time as the Gibraltar Constitution Order itself.
2. As the Preamble to the new Gibraltar Constitution Order makes clear, Her Majesty's Government stands by its long-standing commitment that Gibraltar will remain part of Her Majesty's dominions unless and until an Act of Parliament otherwise provides, and furthermore that Her Majesty's Government will never enter into arrangements under which the people of Gibraltar would pass under the sovereignty of another state against their freely and democratically expressed wishes.
3. As Mr Jack Straw set out in his statement of 6 February 2004, the starting point for the work to modernise Gibraltar's Constitution was the invitation in the 1999 White Paper (Partnership for Progress and Prosperity: Britain and the Overseas Territories) to Overseas Territories governments to submit proposals for constitutional reform. In July 1999, the Gibraltar House of Assembly constituted a Select Committee to report on constitutional reform. The Committee published its proposals



in January 2002. We formally received them in December 2003. These proposals were subsequently discussed between delegations from the United Kingdom and Gibraltar in November/December 2004, September 2005 and March 2006.

4. The new Constitution provides for a modern relationship between Gibraltar and the United Kingdom. This Constitution does not in any way diminish British sovereignty of Gibraltar, and the United Kingdom will retain its full international responsibility for Gibraltar, including for Gibraltar's external relations and defence, and as the Member State responsible for Gibraltar in the European Union. Gibraltar will remain listed as a British Overseas Territory in the British Nationality Act 1981, as amended by the British Overseas Territories Act 2002.

5. As a separate territory, recognised by the United Nations and included since 1946 in its list of non-self-governing territories, Gibraltar enjoys the individual and collective rights accorded by the Charter of the United Nations. Her Majesty's Government therefore supports the right of self-determination of the people of Gibraltar, promoted in accordance with the other principles and rights of the Charter of the United Nations, except in so far only as in the view of Her Majesty's Government, which it has expressed in Parliament and otherwise publicly on many occasions, Article X of the Treaty of Utrecht gives Spain the right of refusal should Britain ever renounce sovereignty. Thus, it is the position of Her Majesty's Government that there is no constraint to that right, except that independence would only be an option for Gibraltar with Spain's consent.



6. Her Majesty's Government takes note that Gibraltar does not share the view that this constraint exists and that their acceptance of this Constitution is on that basis.

Margaret Beckett

MARGARET BECKETT

Foreign and Commonwealth Office

14 December 2006