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## FOREIGN MINISTER FERNANDO MORÁN ADDRESSES THE QUESTION OF GIBRALTAR (1982-1985)

JUAN ANTONIO YÁÑEZ-BARNUEVO<sup>1</sup>

I.- THE BACKGROUND. II.- THE INITIATIVE. III.- THE BREAKTHROUGH.  
IV.- THE VISION. V.- THE PROPOSAL. VI.- THE LEGACY

**ABSTRACT.** During his period as Spanish Foreign Minister in the first Socialist Government led by Felipe González, Fernando Morán concentrated on two main objectives: attaining Spain’s entrance into the European Community and making substantial progress on the long-standing question of Gibraltar between Spain and the United Kingdom. After two and a half years, Morán reached both aims, which were interconnected, through separate negotiations, on the EEC with Brussels and on Gibraltar with his British colleague, Geoffrey Howe, not without sustained contacts with local leaders in Gibraltar and its neighbouring Campo. Those efforts paid off with the Brussels Declaration of 1984 between the Spanish and British Foreign Ministers, which opened the way to the “Brussels Process” in order to deal with all differences between the two countries on Gibraltar, including the sovereignty issues; at the same time, it was agreed to advance for a year the implementation of EEC norms to the human and economic relations between Gibraltar and its surrounding area, which soon afterwards led to the “reopening of the fence” separating them through the abrogation of the restrictive measures imposed in the 1960s under the Franco regime. Both aspects were duly implemented from early 1985 at the first ministerial conference of the Brussels Process, when Morán set forth his vision of Gibraltar’s future and submitted the proposals of the Spanish Government – which are detailed in this contribution – on a transitional period for the gradual reintegration of the Rock into Spain’s national territory, while assuring a wide measure of self-government for the Gibraltarians.

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<sup>1</sup> Ambassador of Spain. This article is based on a chapter by the author, entitled “Fernando Morán y la cuestión de Gibraltar”, which appeared in the collective work in tribute to Fernando Morán: Á. CUESTA, A. LÓPEZ PINA and J. A. YÁÑEZ-BARNUEVO (eds.), *El lugar de España en las relaciones internacionales*. Ministerio de Asuntos Exteriores, Unión Europea y Cooperación/ Principado de Asturias, Madrid/Oviedo, 2019, pp. 257-283. That contribution has been not just translated into English, but also adapted and updated for this publication.

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Recalling all this not only has a historical interest; it also has a renewed current relevance following the UK's withdrawal from the European Union, as the relative position of both countries is now somehow inverted: while the UK was then a member State of the EEC at the moment when Spain was calling at Europe's door, now it is Spain the EU member State at a time when the UK is trying to negotiate its future relationship with the EU. This is something which greatly interests Gibraltar, as a territory situated on the continent, whose citizens voted by an overwhelming majority in favor of remaining within the EU. Inevitably, by the UK's initiative, the whole existing situation, which was very favourable for Gibraltar, is now in question, and Spain has at this juncture a decisive voice in the determination of the rules that will apply to the future relations of the EU with the UK and also with Gibraltar. This may be considered as Morán's lasting legacy for Spain, Europe and Gibraltar.

**KEYWORDS:** Spanish Foreign Minister Fernando Morán, Foreign Secretary Geoffrey Howe, Accession of Spain to the European Community, Brussels Declaration on Gibraltar (1984), Reopening of the Gibraltar Fence, Spanish proposals on the future of Gibraltar (1985), Withdrawal of the UK from the European Union, Situation of Gibraltar post-Brexit.

### **EL MINISTRO DE EXTERIORES FERNANDO MORÁN ENCARA LA CUESTIÓN DE GIBRALTAR (1982-1985)**

**RESUMEN.** Durante su período al frente del ministerio de Asuntos Exteriores en el primer Gobierno socialista de Felipe González, Fernando Morán desarrolló una intensa actividad encaminada fundamentalmente a dos objetivos: culminar el ingreso de España en la Comunidad Europea y lograr sustanciales avances en la histórica cuestión de Gibraltar entre España y el Reino Unido. En aquellos dos años y medio, Morán alcanzó esos dos objetivos, que se hallaban entrelazados, mediante negociaciones separadas con Bruselas y, en el caso de Gibraltar, con su colega británico Geoffrey Howe, sin descuidar contactos sostenidos con líderes locales gibraltareños y del vecino Campo. Esa labor se plasmó en la Declaración de Bruselas de 1984, suscrita por los ministros de España y del Reino Unido, que abrió paso al "Proceso de Bruselas" para tratar todas las cuestiones pendientes entre ambos países respecto a Gibraltar, incluyendo las de soberanía; y al propio tiempo se anticipaba por un año la aplicación de las normas comunitarias a las relaciones humanas y económicas entre Gibraltar y su entorno, lo que supondría poco después la reapertura de la Verja con el levantamiento de las medidas restrictivas impuestas en los años 60, bajo el régimen de Franco. Ambas cosas se comenzaron a poner en práctica con la primera reunión ministerial del Proceso de Bruselas, celebrada en Ginebra en 1985, en la que Morán expuso su visión del futuro de Gibraltar y presentó las propuestas del Gobierno español - que se detallan en este trabajo - sobre un periodo transitorio que propiciara gradualmente la reintegración del Peñón al territorio español, compatible con un amplio régimen de auto-gobierno para los gibraltareños.

Todo ello tiene un interés no sólo histórico, puesto que cobra de nuevo una inesperada actualidad al producirse la salida del Reino Unido de la Unión Europea (el llamado Brexit), que invierte las posiciones relativas en las que entonces se encontraban el Reino Unido y España: si entonces era el Reino Unido el Estado miembro de las Comunidades y España quien llamaba a la puerta de Europa, ahora es España el Estado miembro de la Unión Europea mientras el Reino Unido negocia con dificultad la forma y el contenido de sus futuras relaciones con la Unión. Algo que interesa vitalmente a Gibraltar, en cuanto territorio enclavado en el continente y cuyos ciudadanos se pronunciaron de manera ampliamente mayoritaria a favor de permanecer dentro de la Unión. Inevitablemente - y por iniciativa del Reino Unido - ahora viene a replantearse toda la situación anterior, que había sido muy beneficiosa para Gibraltar, y a España le corresponde un papel determinante en la fijación de las reglas que vayan a regir la futura relación del Reino Unido, y también de Gibraltar, con Europa. Ese podría considerarse el legado duradero de Morán respecto de España, Europa y Gibraltar.

**PALABRAS CLAVE:** Ministro de Asuntos Exteriores Fernando Morán, Secretario de Negocios Extranjeros Geoffrey Howe, Ingreso de España en la Comunidad Europea, Declaración de Bruselas sobre Gibraltar (1984), Reapertura de la Verja de Gibraltar, Propuestas españolas sobre el futuro de Gibraltar (1985), Salida del Reino Unido de la Unión Europea, Situación de Gibraltar tras el Brexit.

## I. THE BACKGROUND

What has happened during the final stages of negotiations to reach an agreement on the United Kingdom’s withdrawal from the European Union (commonly known as *Brexit*), in which the question of Gibraltar unexpectedly and to the surprise of many became a last minute obstacle that had to be overcome in order successfully to conclude this complex process, serves to remind us of several things. Fundamentally, it clearly evidences the centrality of Gibraltar not only as regards Anglo-Spanish relations, but also in terms of the tripartite relations between Spain, the UK and the EU. It is well known that Gibraltar has been a permanent source of friction between Spain and Great Britain for more than three centuries, but all too often we forget that it has also been a European problem—with ramifications that stretch beyond the continent—for over three decades, ever since the UK and Spain began to share the status of EU Member States.

The abundant literature on Gibraltar—particularly in Spanish and English, but also in other languages—contains a variety of similes and metaphors used to describe the anomalous situation of a foreign colony on European soil: it is called, e. g., a “stone in the shoe”, a “thorn in the side” or a “sore thumb”, expressions often reflecting the Spanish perspective but also sometimes the perceptions of the rest of continental Europe. Naturally, the view from London is quite different: there, Gibraltar is commonly seen as an apparently impregnable Rock, the remaining bastion of a vanished empire and a lasting symbol of past, now withered glories.

Fernando Morán (1926–2020) saw all of this with great clarity. He was always highly aware of Gibraltar’s importance with respect to Spain’s international position in Europe and the world and he actively engaged with the question prior to his appointment as Foreign Minister, then throughout his tenure between December 1982 and July 1985, and also repeatedly in his subsequent memoirs, reflections and analyses<sup>2</sup>. Few foreign ministers during

<sup>2</sup> In particular, see his books *Una política exterior para España* (Planeta, Barcelona, 1980) and *España en su sitio* (Plaza & Janés/Cambio16, Barcelona, 1990) and his articles “Atención a

Spain's democratic period have shown such an interest in this matter, have explored it in such depth or have elucidated the factors involved with such perception and sensitivity with a view to finding an equitable and lasting solution.

In his approach to the question of Gibraltar, Morán always demonstrated three qualities that exerted a strong influence on his political thought in the international arena: a healthy Spanish patriotism, a profound belief in democracy and deeply held pro-Europe convictions. These three tenets are evident in his writings on various international issues, but most specifically in relation to Gibraltar, and they inspired his political and diplomatic activities during his tenure as Foreign Minister in the first socialist Government led by Felipe González in the modern democratic era.

As a good Spanish patriot, Morán was fully aware of the heavy burden that Gibraltar has always been for Spain, primarily at military and strategic level but also from the standpoint of Spanish foreign policy in Europe and worldwide<sup>3</sup>. For this reason, he wrote that reclaiming Gibraltar “constitutes a national cause”, shared in some way by all political forces in Spain<sup>4</sup>. In this respect, Morán undoubtedly followed in the footsteps of one of his predecessors, Fernando M. Castiella, under whom he had served for several years as a career diplomat, primarily involved in African and decolonization issues. He shared Castiella's conviction that Spain should leverage the 1960s wave of decolonization to gain a foothold in the United Nations, thus strengthening the legitimacy of the Spanish claim through the adoption of a more modern and progressive approach, adjusted to the changing international conditions<sup>5</sup>.

However, Morán's patriotism sprang from deep liberal and social democratic roots, and should not to be confused with the traditional

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Gibraltar”, *El País* (24 March 1988), “Las relaciones hispano-británicas”, *Revista de Occidente*, no. 89 (October 1988) and “Gibraltar, diez años después”, *El País* (28 November 1994).

<sup>3</sup> “For any Spanish Government, the persistence of a foreign colony on its territory, Gibraltar, is an intolerable situation”: F. MORÁN: *España en su sitio*, p. 97.

<sup>4</sup> F. MORÁN, *Una política exterior*, p. 249. Morán wrote this book when he was a PSOE senator for Asturias and was also working professionally as a lecturer at the Diplomatic School. On the Spaniards' attitudes toward Gibraltar over centuries, it is useful to consult the anthologies contained in the books by G. ARMANGUÉ, *Gibraltar y los españoles*, Aguilar, Madrid, 1964, and by M. GRANADOS, *Los republicanos españoles y Gibraltar*, Finisterre, México, 1970.

<sup>5</sup> See *Una política exterior...*, in particular pp. 250-256.

nationalism of Castiella and his team, which was still imbued with an essentialist vision of Spain and its role in the world, in which the claim to Gibraltar played a major part due to its unique symbolism. Indeed, in the book in which he systematically outlined his vision of Spain's international position, Morán explicitly rejected the “autocratic nationalism” which he felt had characterised Castiella's long tenure as Foreign Minister (1957-1969), as well as his “substitution policies” aimed at winning support among Latin American, Arab and African countries to compensate for the repeated slights that the Franco regime received from Western European democracies<sup>6</sup>.

The same could be said of his profound democratic convictions and his liberal approach to the question of Gibraltar<sup>7</sup>. In the same book, Morán rejected the Franco regime's dogged refusal during Castiella's term of office to recognise the situation and rights of the population of Gibraltar or the importance of the human relations of all kinds between Gibraltar and the surrounding area of Campo de Gibraltar, even going so far as to preemptively cut communications between both sides in June 1969 (what came to be known as the “cierre de la verja” or closure of the fence separating Gibraltar from the surrounding region). Writing in 1980, one decade after the introduction of this measure, when it was already possible to assess its consequences, Morán energetically condemned its negative repercussions for Campo de Gibraltar and the adverse effects on the population of Gibraltar, which felt increasingly divorced from Spain<sup>8</sup>.

Morán therefore advocated a very different, much more pragmatic and imaginative approach based on a better knowledge of human realities on the ground and a fuller understanding of the needs and aspirations of the populations involved, both in Gibraltar and in Campo de Gibraltar, seeking

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<sup>6</sup> In the book cited, see in particular the introduction (pp. 13-14) and the first part (“¿Qué posición internacional le es posible a España? [What international position is possible for Spain?]”, pp. 15 et seq.).

<sup>7</sup> Morán's activism in democratic opposition to the dictatorship dated back to the mid-1950s, when he participated —on behalf a group led by E. Tierno Galván— in the creation of a clandestine anti-Francoist platform encompassing several dissident groups, called Democratic Action. This is noted in J. BENET *et al.*, *Dionisio Ridruejo, de la Falange a la oposición*, Taurus, Madrid, 1976, p. 348.

<sup>8</sup> See *Una política exterior... cit.*, especially pp. 258-262. With great foresight, Morán warned that Gibraltarian identity would be reinforced until becoming a “quasi-nationalism”.

rapprochement and mutual understanding without prejudice to the respective positions of principle. He did not restrict himself to recommending this route; prior to taking up his ministerial appointment, he was actively involved between 1979 and 1982 in several meetings and debates of this kind held in various locations. In the first place, he took part in a seminar held in Segovia in late 1979 with the participation of Spanish, British and Gibraltarian experts<sup>9</sup>. Then he visited Gibraltar in August 1982 by way of Tangiers – because of the travel restrictions then in effect –, meeting with the Chief Minister, Joshua Hassan, and with the head of the opposition, Joe Bossano, and taking part in a televised debate with the British MEP Lord Douro and a panel of Gibraltarian citizens, where he expounded his views and listened to their concerns<sup>10</sup>.

The European dimension should also not be forgotten. Since his youth, Morán had always been a fervent pro-Europe advocate. Following early post-graduate study periods in France and Britain right after the end of the Second World War —at a time when few Spaniards did this— he participated in the creation of the Association for the Functional Unity of Europe, founded by Professor Enrique Tierno Galván. Presciently, he even devoted his final report as a graduating student at the Madrid Diplomatic School to a subject related to the construction of Europe, then in its infancy<sup>11</sup>. Therefore, it is not

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<sup>9</sup> See p. 269 in the same book, citing the seminar held in Segovia in December 1979, organised by the Instituto de Cuestiones Internacionales, which some time later published a book, with a preface by A. Marquina, collecting the reports submitted and the discussions held at that seminar, entitled *La descolonización de Gibraltar* (Madrid, 1981).

<sup>10</sup> In the memoirs of his time as Foreign Minister, Morán also referred to frequent contacts with Gibraltarian political and social leaders, particularly laborites and trade unionists, both before and during his ministerial term: see *España en su sitio*, especially pp. 101-102. It is important to note that Morán, while visiting Gibraltar in a personal capacity, was at that time a PSOE senator as well as a lecturer at the Spanish Diplomatic School. (The author is especially indebted to Juan Carmona, then Mayor of La Línea, who accompanied Morán in his visit to Gibraltar in August 1982, and to Peter Montegriffo, who participated in the Gibraltar TV debate, for their personal recollections of that visit, in communications dated April 2020).

<sup>11</sup> F. MORÁN, *El proyecto de una Comunidad Agrícola Europea y España*. Memoria de Fin de Estudios en la Escuela Diplomática [Final Report to the Diplomatic School], Madrid, March 1954 (unpublished).

surprising that Morán focused on the issue of Gibraltar and its fundamental Anglo-Spanish dimension from a European perspective.

Thus, in his writings, Morán stressed that a democratic Spain which aspired to inclusion in European institutions was in a position to stake its claim to the Rock in a very different form to that adopted by the Franco regime. At the same time, he noted that what at first glance appeared to be a challenge—the need, ultimately, to lift the restrictions imposed in 1969, which still hindered communications between Gibraltar and the surrounding Spanish territory, as part of Spain’s entry into the EEC— could also be turned to advantage, if this integration process were leveraged to achieve progress in substantive negotiations on the Anglo-Spanish dispute over Gibraltar<sup>12</sup>.

## II. THE INITIATIVE

As Morán himself highlighted in his writings, the most notable aspect of his activities from the very start of his tenure as Foreign Minister (from December 1982 to June 1985) revolved around these two questions: achieving Spain’s entry into the EEC and making decisive progress on the question of Gibraltar. In fact, these two issues—often intertwined— dominate his memoir of that period, without neglecting the many other issues that no doubt also demanded his attention in the frenetic years of Spain’s increasing openness to the outside world<sup>13</sup>.

Without exaggeration, one can say that these two issues formed Morán’s priority from the first to last days of his time as Minister<sup>14</sup>. One of the

<sup>12</sup> This idea, which was outlined in *Una política exterior...*, was further developed in *España en su sitio*, as a reflection and outcome of Morán’s ministerial experience in this field.

<sup>13</sup> In general, on the evolution of Spain’s international policy during the period in question, see the chapter by J. A. YÁÑEZ-BARNUEVO and Á. VIÑAS, “Diez años de política exterior del gobierno socialista (1982-1992)”, in A. Guerra and J. F. Tezanos (eds.), *La década del cambio. Diez años de gobierno socialista, 1982-1992*. Sistema, Madrid, 1992, pp. 85-133. For a broader perspective over time, see the book by F. VILLAR, *La Transición exterior de España. Del aislamiento a la influencia (1976-1996)*, Marcial Pons, Madrid, 2016.

<sup>14</sup> According to the assessment of Ángel Viñas, a close associate of Morán during the latter’s ministerial term: “Gibraltar was one of Morán’s essential concerns, to which he devoted unswerving and constant attention with imagination, forward vision and unsurpassable empathy”: A. VIÑAS, “Dos hombres para la transición externa: Fernando Morán y Francisco Fernández Ordóñez”, *Historia Contemporánea*, no. 15 (1996), pp. 257-288.



first measures taken by the new Government —announced by President Felipe González in his inaugural speech to the Congress of Deputies in late November 1982<sup>15</sup>— was to authorise pedestrian traffic between Gibraltar and the surrounding area, which was enshrined in a decision of the first meeting of the Council of Ministers held in early December 1982 and resulted in the opening of the fence in the middle of the same month. This unilateral gesture by the Spanish Government was very well received by the populations on both sides and was aimed at creating a new climate for relations between the two countries and showing that Spain’s historical claim to Gibraltar could be pursued in a very different manner from before<sup>16</sup>.

Subsequently, under the impulse and at the direction of President González, Morán worked intensively to unblock the negotiations for Spain’s entry into the EEC, and especially to overcome the reservations of the French Government, while simultaneously devoting himself to methodically preparing the ground to revive Anglo-Spanish discussions in relation to Gibraltar. This was not an easy task because a few months before, in April 1982, the UK and Argentina had engaged in armed conflict over the Malvinas/ Falkland Islands, and one of the consequences of this confrontation had been the suspension *sine die* of implementation of the provisions of the Lisbon Declaration, signed in April 1980 by Foreign Ministers Oreja and Carrington, which had marked a first step towards conciliation of the two countries’ positions with a view to “resolving all differences over Gibraltar”<sup>17</sup>.

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<sup>15</sup> In that speech, Felipe González, when presenting the new Government’s program, took care to stress that one of its priorities in foreign policy would be to work for the reintegration of Gibraltar into Spain’s national territory through negotiations with Britain according to the relevant UN resolutions.

<sup>16</sup> Besides Morán’s ministerial memoirs, see the article by A. MARQUINA: “Gibraltar en la política exterior del Gobierno socialista”, *Revista de Estudios Internacionales*, vol. 6, no. 4 (October-December 1985), pp. 880-905. For a broader perspective, see the illuminating study by A. REMIRO: “Regreso a Gibraltar: encuentros y desencuentros hispano-británicos”, in A. del Valle and I. González (eds.): *Gibraltar 300 años*, Universidad de Cádiz, 2004, pp. 43-84, as well as his article on “Gibraltar en la política exterior de España”, *Cuadernos de Gibraltar/ Gibraltar Reports*, Universidad de Cádiz, no. 2, 2016-2017, pp. 27-40.

<sup>17</sup> In *España en su sitio*, Morán had no qualms about considering the Lisbon Declaration as “an important milestone on the path towards a negotiated solution” (p. 104), although he also criticised some of its deficiencies and ambiguities. The text of the Declaration is given in the book *La cuestión de Gibraltar*, published by the Office for Gibraltar Affairs, of the Ministry of

Morán was conscious of the difficulty of such an endeavour under these circumstances, but he was also convinced of the need to make progress in parallel with negotiations on Spain's entry into the EEC, which would necessarily entail Spain's acceptance of the existing *acquis communautaire* with regard to Gibraltar, a territory placed within an EEC framework as a result of the UK's accession in 1973 and whose special regime was particularly favourable to its interests. Thus, following some disappointing initial contacts with his British colleague, Francis Pym, he decided to aim higher, travelling to London in March 1983 to meet face to face with the British Prime Minister, Margaret Thatcher. On several occasions, Morán recounted the circumstances of this difficult meeting with Mrs Thatcher, then at the apex of her political career and not inclined, after her victory in the Falklands, to cede an inch to Spain on the issue of Gibraltar. As was to be expected, the collision of views between the two interlocutors did not produce immediate results, but at least it left the Prime Minister impressed by the seriousness and determination of the Spanish Government in regard to this matter<sup>18</sup>.

Nevertheless, Spanish diplomats were hard-pressed for quite some months because their British counterparts insisted on continuing to invoke an exchange of notes between the two Governments made in January 1982, coinciding with an official visit to London by President Calvo-Sotelo accompanied by Foreign Minister Pérez-Llorca. Inspired by the desire to achieve implementation of the 1980 Lisbon Declaration, this unfortunate diplomatic document seemed to support some of the British Government's arguments concerning interpretation and implementation of the Declaration<sup>19</sup>. Meanwhile, the new Spanish Government stressed, among other things, that the notes exchanged immediately prior to the Malvinas/Falklands conflict had

Foreign Affairs and Cooperation, Madrid, 2008, pp. 125-126. (Also published in an English version: *The question of Gibraltar*).

<sup>18</sup>With humour, Morán entitled the corresponding heading in his memoirs: "Las conversaciones en Londres. Mrs. Thatcher y yo salimos indemnes de un choque [Conversations in London. Mrs Thatcher and I emerge unscathed from a collision]" (*España en su sitio*, pp. 109-112). For a witness account of that meeting, see the remembrances of one of his close collaborators: F. SCHWARTZ, "Morán en su sitio", in Cuesta, López Pina and Yáñez-Barnuevo (eds.): *El lugar de España...*, 2019, pp. 123-130.

<sup>19</sup> On this episode, see the article by A. MARQUINA: "La entrevista Calvo-Sotelo-Thatcher: fin e inicio de un proceso en Gibraltar", *Revista de Estudios Internacionales*, vol. 3, no. 1 (October-December 1982), pp. 125-136.

been superseded by subsequent events which had hindered their application, and that hence these should be set aside and discussions begun *ex novo* in order to implement the Lisbon Declaration from a fresh perspective.

During this period of unsuccessful diplomatic exchanges, Morán once again demonstrated the close interest and attention he paid to the human and social dimensions of the problem by visiting Campo de Gibraltar in July 1983 to give a lecture at the summer courses held in San Roque, seizing the opportunity to establish direct contact with local figures and send messages to the media announcing the socialist Government's new approach to the issue<sup>20</sup>.

Eventually, Morán's determination and tenacity were rewarded when an abrupt change at the head of the UK Foreign Office paved the way for fresh perspectives on the question also from the British side. Following a general election in the UK in June 1983, which gave Mrs Thatcher a larger majority in Westminster, the British Government was reshuffled and the rigid and reserved Pym was replaced by Geoffrey Howe, until then Chancellor of the Exchequer. Howe, who was clearly a higher calibre politician and a heavy weight in the Government and the Conservative Party, began to consider the issue of Gibraltar in a different light, from a European perspective, with a view to achieving another type of relationship with Spain, both on a bilateral level and eventually within the EEC<sup>21</sup>.

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<sup>20</sup> In particular, Morán indicated that the new Government would be attentive not just to the interests of the Gibraltarians - as had been the position of previous Spanish Governments - but also to their mentality and feelings, while carefully distinguishing this position from the UK's insistence on having regard to their "wishes" (personal recollection of the author, corroborated by the testimony of Fernando Schwartz, then head of the Diplomatic Information Office at the Foreign Ministry, in a communication dated 6 April 2020). This new, more open approach was the subject of generally favourable news reports and comments published in August and September 1983 by various important British journals, especially in *The Times* ("Spain takes softer line on the Rock", 2 August 1983, and "Eight crucial issues on Gibraltar", 26 September 1983), *The Economist* ("Foundering on the Rock", 20-26 August 1983) and *Financial Times* ("Howe hopes to heal rift with Spain over Gibraltar", 2 September 1983).

<sup>21</sup> On Howe and his view of the problem, see his memoirs: HOWE, G., *Conflict of loyalty*, Macmillan, London, 1994. Of most relevance to the question discussed here was the argument Howe presented to the Prime Minister on 9 September 1983, according to which the UK should take advantage of the negotiations on accession to the EEC in order to achieve a new stage in relations with Spain in such a way that the issue of Gibraltar did not overshadow everything else; he added that this was a pressing question because if this were not achieved, it could hinder EEC enlargement negotiations (pp. 308 and 318). The Foreign Secretary must

Shortly afterwards, in September, Morán and Howe met on two occasions: first in Madrid, at the successful conclusion of the Conference on Security and Cooperation in Europe (largely thanks to the initiative taken by Spain under the leadership of Felipe González and Fernando Morán), and later in New York, during the annual session of the General Assembly of the UN. From that time onwards, the game changed: both Ministers agreed to put aside the notes exchanged in January 1982 and set in motion an increasingly intensive dialogue between them and their closest collaborators aimed at finding the means to achieve concrete and effective progress on the question of Gibraltar and to facilitate Spain's smooth accession to the EEC.

### III. THE BREAKTHROUGH

This direct contact between the two Ministers and their respective teams intensified in early 1984, with meetings in London, Madrid, Brussels and Luxembourg, in parallel to the negotiations regarding Spain's accession to the EEC<sup>22</sup>. At the meeting between the two Ministers held in Brussels in February, it was made clear that Spain would not defer or withdraw its claim to Gibraltar as the price for achieving entry into the EEC. Shortly afterwards, Howe sent Morán a message stating that achieving bilateral progress on the question of Gibraltar would be important in order to reach the final stretch of EEC negotiations on accession.

Thus, a new stage began, by clarifying the two countries' respective positions and the possible formulas for an agreement, starting on the bilateral talks held in Luxembourg in April. On that occasion, the British side submitted a proposal containing a key idea that would help resolve many of the questions pending between the two countries in relation to implementation of the

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have been convincing because this considerably more flexible and constructive strategy was soon adopted by the British Government. Morán commended Howe and his memoirs, which had just been published, in his article "Diez años después", *El País*, 28 November 1994.

<sup>22</sup> In Spain, Morán's main collaborators in this process —as he relates in his memoirs with characteristic generosity— were: in his Cabinet, its head, José Luis Dicenta, and a specialist on UK matters, Francisco José Mayans; in the Directorate-General for Europe, its director, Mariano Berdejo, and the diplomats Carlos Vinuesa and Jaime Rodríguez-Ponga; in the office of the Secretary of State for the EEC, the second in command (and future Foreign Minister), Carlos Westendorp; in the Diplomatic Information Office, its director, Fernando Schwartz; and in the London Embassy, the Ambassador, José Joaquín Puig de la Bellacasa.

Lisbon Declaration, in particular as regards the objective of equality and reciprocity of rights between citizens of Spain and Gibraltar. This formula was that Spain and the UK would, by a bilateral agreement, mutually uphold the rights enshrined in EEC law that would be applicable following Spain's accession (an undertaking that would clearly be based on the joint conviction that Spain would soon become an EEC member). This was tantamount to advance compliance with the *acquis communautaire*, agreed bilaterally with regard to Gibraltar (something that at the time was known as *advanced implementation*, although this designation did not subsequently appear in the Declaration of Brussels)<sup>23</sup>.

Morán immediately realised the benefits of the UK's new approach, which had now shifted from threatening—or at least hinting at threatening—to prevent Spain's entry into the EEC if it did not beforehand lift the restrictions imposed on Gibraltar (the line previously taken by the British Government, and especially its Parliament) to accepting that Spain would soon join the EEC and planning to take advantage of this circumstance to negotiate an agreement to lift those restrictions in advance (thus also gaining a valuable ally in other areas of the enlargement negotiations). However, it was necessary to ensure that the details of the proposed agreement genuinely reflected the principles set forth in the Lisbon Declaration—fundamentally, reciprocity and equality of rights—and to secure its effective implementation over and above the laws applicable in Gibraltar. Spanish officials and technicians applied themselves to this task in the following months, toiling in joint working groups established for this purpose.

Howe and Morán met again in Washington in May, in parallel with the spring ministerial meeting of the North Atlantic Council, where they took stock of the technical work made in an attempt to clarify and define the terms of the envisaged *advanced implementation* and began to address the more strictly political aspects of the negotiations. In particular, Morán had several strategic objectives: to achieve a new instrument based on the Lisbon Declaration that would clarify and improve it; to ensure that the instrument expressly mentioned that the issues of sovereignty would form part of future negotiations between both governments<sup>24</sup>; to define in greater detail the

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<sup>23</sup> See *España en su sitio*, pp. 378-379.

<sup>24</sup> Besides its intrinsic importance, Morán's insistence on this point was also a reaction to

format, level and frequency of these negotiations; and to ensure that Spain's accession to the EEC was not to be interpreted as modifying Spain's titles or claims to Gibraltar. All of these issues were addressed in the following months and subsequently reflected in the documents agreed upon by the parties between late 1984 and mid-1985. After the Washington meeting, the common goal was to work together on an instrument that would go beyond the Lisbon Declaration.

Following months of intensive work by senior officials, the Ministers met again in September in New York, during the UN General Assembly session. There, they considered the draft document resulting from this work, and Howe consented to the explicit inclusion in the text of a phrase which would reflect the agreement by both sides that “the issues of sovereignty” would be discussed in the negotiating process to be opened between the two Governments (albeit with the proviso that the UK would maintain its commitment to uphold the freely expressed wishes of the people of Gibraltar<sup>25</sup>). At the same time, Morán announced that Spain intended to formulate a generic claim to rights over Gibraltar when signing the Act of Accession to the EEC and he proposed the joint formulation of a protocol or exchange of notes between the two Governments to reflect this position. Although the Spanish and British teams still continued to work for several weeks to refine the details, the general contours of the agreement reached between the two Ministers was now clear.

Throughout this long negotiating process, Morán always maintained President González fully informed, and in turn received his leader's strong support for the successive steps taken. Given the multiple domestic repercussions involved, especially in the area of Campo de Gibraltar, two

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public statements made by British political leaders—including Mrs Thatcher— following the Falklands war to the effect that the envisaged negotiations on the Lisbon Declaration “aimed at resolving all differences over Gibraltar” would not include the issue of sovereignty. In light of these statements, some of them made in Parliament, Morán was determined to rule out all possible ambiguity in this respect.

<sup>25</sup> The British side constantly referred to the commitment contained in the preamble to the 1969 Constitution of Gibraltar (a charter granted by the UK through the Gibraltar Constitution Order of 23 May 1969), according to which “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”.

meetings of the Council of Ministers were held at this time, which were entirely devoted to review all aspects of the question in detail<sup>26</sup>.

Eventually, these convoluted but successful negotiations culminated in the formalisation of the Declaration of Brussels on 27 November 1984, announced at the end of the meeting held by Morán and Howe and their respective teams<sup>27</sup>. The Declaration of Brussels was explicitly based on the Lisbon Declaration, some aspects of which it clarified while others it extended or complemented. In essence, it envisaged the simultaneous implementation (a key element of the agreement), before 15 February 1985, of three processes considered interdependent.

The first of these was to establish equality and reciprocity of rights for Spanish citizens in Gibraltar and Gibraltar citizens in Spain (based on the principle of mutual concession of rights granted to citizens of EEC countries and the general principle of EEC preference). The second was to establish the free movement of persons, vehicles and goods between Gibraltar and the surrounding territory (which generally became known as “*full opening of the fence*”). The third was to establish a negotiating process aimed at resolving all differences over Gibraltar (which expressly included “the issues of sovereignty”, as Spain wished, accompanied by the inevitable British reminder of its commitment to the people of Gibraltar), and to promote cooperation in various fields for mutual benefit.

It was envisaged that work on the various aspects of the negotiating process would be carried out by specialised working groups, with periodic meetings between the two Foreign Ministers in order to monitor progress made. Although no timeframe was specified for these meetings, the understanding between the parties was that the ministerial meetings would take place at least once a year<sup>28</sup>.

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<sup>26</sup> Morán made express mention of both aspects in *España en su sitio, passim*.

<sup>27</sup> For the text of the Declaration, see the previously cited publication, *La cuestión de Gibraltar*, Madrid, 2008, pp. 127-128.

<sup>28</sup> Morán gave a detailed presentation of the Declaration and the resultant negotiating process at a meeting of the Foreign Affairs Committee of the Congress of Deputies held on 21 December 1984. His parliamentary interventions on that occasion are given in a Diplomatic Information Office publication, *Discursos y declaraciones del Ministro de Asuntos Exteriores D. Fernando Morán*, Ministerio de Asuntos Exteriores, Madrid, 1984, pp. 125-149.

Subsequently, the Spanish and British Governments agreed that these processes would be simultaneously launched at a ministerial meeting to be held in Geneva on 5 February 1985. In the period between the meetings in Brussels and Geneva, close contact was maintained at various levels to prepare in meticulous detail for the giant step forwards that the Geneva meeting represented, culminating in a prior meeting between the two Ministers on 28 January in Brussels, in parallel with an EEC enlargement negotiation session. On that occasion, they agreed that the Chief Minister of Gibraltar, Joshua Hassan, and mayors from the Campo de Gibraltar area would be invited to participate in the Geneva talks, forming part of the respective British and Spanish delegations. However, Morán insisted that they should only intervene on issues concerning practical cooperation in the area, and under no circumstances on issues related to sovereignty, which would be the sole preserve of the two Governments<sup>29</sup>.

With this package of measures in place, negotiations on the question of Gibraltar entered a completely new stage, and what later became known as the “*Brussels Process*” was set in motion<sup>30</sup>.

#### IV. THE VISION

At the “*Conferencia negociadora de Ginebra*” [Negotiating conference in Geneva]<sup>31</sup>, Morán outlined his vision of the question of Gibraltar and the best way to address it going forwards, obviously from a Spanish perspective but also recognising the rights and interests of the UK and the Gibraltarians. He did this in two speeches he gave in the plenary sessions: the first of these

<sup>29</sup> *España en su sitio*, pp. 429-430. A notable Gibraltarian politician and author, K. Azopardi, has recognised that the 1984 Brussels Declaration and its subsequent negotiating process was a high point of the bilateral (UK-Spain) approach to the future status of Gibraltar, an approach which he decries in his interesting book AZOPARDI, K., *Sovereignty and the stateless nation: Gibraltar in the modern legal context*, Hart, Oxford, 2009, pp. 100 *et seq.*

<sup>30</sup> For contemporary assessments —with some criticisms— of what was achieved at the time, see A. MARQUINA: “El contencioso de Gibraltar. La apertura de un nuevo proceso”, in *Las relaciones de vecindad* (IX Jornadas de la Asociación Española de Profesores de Derecho Internacional y Relaciones Internacionales, 1985), Universidad del País Vasco, 1987, pp. 133-141) and “El contencioso de Gibraltar después de la Declaración de Bruselas”, in *Liber amicorum Profesor José Pérez Montero*, Universidad de Oviedo, 1988, vol. II, pp. 673-891.

<sup>31</sup> As he called it in the corresponding chapter of his memoirs: *España en su sitio*, p. 428 *et seq.*



examined the questions of cooperation and sovereignty in general, while the second was somewhat more detailed and focused on the issues of sovereignty. This latter was accompanied by Spanish proposals that Morán presented to Howe as “ideas” in a private meeting between the two Ministers, which were then formalised in writing and sent to London via diplomatic channels on 26 February. These documents—which were undoubtedly written with great care and bore the Minister’s personal stamp— summarised Morán’s thought concerning the future status of Gibraltar and future relations between Spain and the UK (and Gibraltar) within a broader European framework<sup>32</sup>.

From the outset, Morán highlighted the fact that negotiations were entering a new phase, overcoming previous periods characterised by highly divergent positions, difficulties in establishing dialogue and intransigence on one side or the other. Similarly, he stressed the common goal towards which all should now strive: to transform the “Rock of discord” into the “Rock of concord”<sup>33</sup>. He emphasised that in accordance with the meaning and scope of the Brussels Declaration, the objective of the negotiations was to resolve all differences over Gibraltar, with respect both to cooperation and to the issues of sovereignty. When addressing cooperation, he underlined that negotiations should seek to achieve mutually satisfactory results, focusing on the people and societies most directly affected, and perhaps even with the goal of contributing to wider European solidarity.

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<sup>32</sup> Unfortunately, these documents have never been published, even though more than thirty years have passed since that historic conference. (In the author’s judgment, it is high time that this omission was rectified). What is publicly known to date about them basically comes from Morán’s memoirs (*España en su sitio*, pp. 430-433) and from the Minister’s statement in his appearance before the Foreign Affairs Committee of the Congress of Deputies to give an account of the Geneva Conference, at a meeting held on 7 March 1985. Morán’s interventions on that occasion are given in the Diplomatic Information Office publication: *Discursos y declaraciones del Ministro de Asuntos Exteriores D. Fernando Morán (enero-junio 1985)*, Ministerio de Asuntos Exteriores, Madrid, 1985, pp. 65-129. For the Gibraltarian Chief Minister’s version of what happened in Geneva on that occasion, see the book by William JACKSON and Francis CANTOS, *From fortress to democracy: the political biography of Sir Joshua Hassan*, Gibraltar Books, Grendon, 1995, p. 261 (the author is thankful to Juan Carmona for facilitating this reference).

<sup>33</sup> Morán’s play on words tacitly alluded to a well-known work by G. HILLS: *Rock of contention. A history of Gibraltar*, Hale, London, 1974 (translated into Spanish as *El Peñón de la discordia. Historia de Gibraltar*, San Martín, Madrid, 1975)

Obviously, Morán paid greater attention to political issues and the issues of sovereignty, which formed the core of his interventions. As a starting point, he recalled that the ultimate objective of the Spanish Government and people was to reincorporate Gibraltar into Spanish national territory. Having said that, he admitted the need to act realistically, bearing in mind the interests involved. Hence, he argued on the need to study mechanisms that would help reconcile all interests, not only those of Spain and the UK but also those of the population of Gibraltar. On this point, he evidenced his knowledge and even empathy for the feelings of the Gibraltarians, insisting that the Spanish Government did not aspire to absorb or annex the population of Gibraltar, but instead recognised its distinctive identity and characteristics, which qualified it for a self-government regime with specific but flexible criteria.

Moving on, Morán explained the meaning attached to the plural “issues of sovereignty” used in the Brussels Declaration, which included several aspects related to the exercise of sovereignty over different spaces in Gibraltar<sup>34</sup>:

- a) the territory ceded in article X of the 1713 Treaty of Utrecht, which included the town and castle of Gibraltar, together with its port, defences and fortress;
- b) the strip of the isthmus that extends between the ceded territory and the fence unilaterally erected by the UK in 1909; and
- c) the adjacent waters and overlying airspace of the above-mentioned territories.

Morán summarised the long-standing Anglo-Spanish dispute over Gibraltar as consisting, on the one hand, of a political difference (relative to the territory ceded in Utrecht), which might be amenable to a legal approach; and, on the other, a legal difference (relative to the isthmus), which might be approached from a political angle. He then reviewed the two issues, starting with the isthmus.

After stressing that the strip on the isthmus had never been ceded by Spain and recalling that the Kershaw Report produced in 1981 by the British

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<sup>34</sup> In various places, Morán has referred above all to two pending issues of sovereignty (the territory ceded in Utrecht and the occupied strip on the isthmus), undoubtedly considering that the other aspects (waters and airspace) were in some way ancillary to these central issues. Other authors have referred to five contentious territorial issues regarding Gibraltar. Depending on one’s approach, there may be even more: see the documented book by J. R. REMACHA: *Gibraltar y sus límites*, Trea, Gijón, 2015.

Parliament<sup>35</sup> had expressed doubts concerning sovereignty over this territory, including the airport, Morán urged that both parties address this problem initially from the standpoint of practical and mutually beneficial cooperation, proposing that this could be attained by the removal of the 1909 fence and an agreed joint use of the airport.

Turning to the central issue—that of the territory ceded in 1713—Morán underscored that Spain had respected the commitment made in Utrecht, despite its detrimental nature, but legitimately aspired to move beyond this anachronistic legacy which furthermore was at odds with contemporary international law on non-self-governing territories, in accordance with the relevant UN resolutions. Thus, Morán proposed replacing the existing legal framework, which he considered obsolete and unsustainable, with a new one based on a reasonable agreement between the two States that was not detrimental to the citizens of Gibraltar, who would continue to exercise a high measure of self-government.

Realising that this would require political will on both sides, and particularly on the part of the UK, Morán appealed to the principles of solidarity prevailing in Europe and to the fact that both States were modern constitutional and democratic monarchies, something which in his view should be conducive to replacing an outdated treaty between the two crowns—which had soured relations between the two countries for centuries—with a new bilateral agreement that would pave the way for future relations based on mutual understanding and close cooperation.

## **V. THE PROPOSAL**

As for the “ideas” that Morán had presented to his colleague Howe in Geneva, which were subsequently formalised in writing and sent to London via diplomatic channels, these constituted a genuine plan aimed at solving all pending issues related to sovereignty, based on a comprehensive but gradual approach. The ultimate goal, clearly stated from the outset, was the return to Spain of sovereignty over Gibraltar, thus restoring Spanish territorial

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<sup>35</sup> Report prepared by the Foreign Affairs Committee of the House of Commons, entitled *Gibraltar: The situation of Gibraltar and United Kingdom relations with Spain*, House of Commons, London, 22 July 1981.

integrity<sup>36</sup>. To this end, a two-stage process would be set in motion: the first stage, of a transitional character, would lay the foundations for a solution to the outstanding issues in accordance with either of two possible paths permitting a smooth, peaceful change; and the second phase, to be defined by bilateral agreement, would establish the definitive status of the territory and its population<sup>37</sup>.

For the transitional stage, two alternative formulas were proposed for the legal regime to apply to Gibraltar over a given period of time, to be agreed by both Governments<sup>38</sup>. It was understood that this regime would apply to all the spaces under discussion (the territory ceded in 1713, the subsequently occupied part of the isthmus and the adjacent waters and the overlying airspace over these territories, differentiating between them). The two alternative routes suggested were condominium (co-sovereignty) or a lease-back agreement, in either case to be governed by an international treaty between the two States which would set forth the specific conditions agreed, for a specified period of time, after which Spain would hold exclusive sovereignty.

In the case of co-sovereignty, both States would share, for a given period, the title to and exercise of sovereignty, implemented through a joint body composed of representatives of both Governments. The bilateral treaty to be negotiated would basically cover: the duration of co-sovereignty; the respective territorial and personal powers of the two States; the status of the population of Gibraltar (based on the already existing system of self-government); the nationality of Gibraltarian citizens (based on their freely exercised

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<sup>36</sup> Obviously, before presenting these ideas and formalising the proposals, Morán consulted with President González, who firmly supported the Minister, while insisting that the full territorial reincorporation of Gibraltar into Spain, albeit keeping a high degree of self-government for the population, should be emphasised in the proposal (personal recollection of the author, who was at the time principal foreign policy adviser to President González).

<sup>37</sup> In fact, although not explicitly stated in the plan, there would have been three stages: a prior stage of negotiation (in which progress could be made in aspects of cooperation such as joint use of the airport); a transitional stage (for either of the two proposed paths); and the final stage of Gibraltar's definitive status.

<sup>38</sup> At no time was the length of this proposed period defined. A few years later, when he was no longer a member of the Government, Morán indicated that the transitional period "might reasonably extend to fifteen or twenty years" in his article "Las relaciones hispano-británicas", *Revista de Occidente*, no. 89 (October 1988), p. 17.

individual choice); the organisation of public services; the joint exercise of powers; regulations governing investment; regulations governing potential conflict of laws, authorities or jurisdictions; territorial defence (including the status of the military installations and regulations governing their use); and the peaceful settlement of any disputes that might arise in the exercise of co-sovereignty<sup>39</sup>.

In the case of the lease-back agreement, this would entail prior transfer of sovereignty from the UK to Spain, with continuity in the temporary exercise of administration of the territory by the UK through an agreement to that effect between the two States. This would require the conclusion of a bilateral treaty that would govern the following matters, among others: transfer of sovereignty to Spain, immediate transfer of the exercise of sovereign powers to the UK; duration of the lease; and the conditions for the exercise of the lease<sup>40</sup>.

During the transitional stage, Spain and the UK would negotiate the definitive status of Gibraltar. The goal of these negotiations would be to conclude an international treaty between the two States regulating the

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<sup>39</sup> As far as is known, this was the first time that Spain had suggested the possibility of exercising joint or shared sovereignty over Gibraltar with the UK. However, information has emerged in Foreign Office documents indicating that this idea had been considered internally for a long time, and that in 1978, the then Chief Minister of Gibraltar, Joshua Hassan, had suggested to the British authorities that they offer Spain “nominal” co-sovereignty, an idea that was eventually scrapped. See the news report, based on British National Archive documents, entitled: “The 1978 ‘nominal’ co-sovereignty project for Gibraltar, with UK, EEC and Spain’s guarantee”, *Mercopress*, 24 May 2014 (en.mercopress.com). For another contribution suggesting that the idea of joint sovereignty may have had a Gibraltarian origin, see J. L. CARUANA: “A brief history on ‘joint sovereignty’”, *Gibraltar Panorama*, 8 July 2017.

<sup>40</sup> Again, this was the first time that the transfer of sovereignty accompanied by a lease term (known in English law as “lease-back”) had been explored with respect to Gibraltar. However, sometime earlier (around 1980-1981) this had been the main mechanism considered in talks between representatives of the UK and Argentina in an attempt to solve the question of the Malvinas/Falkland Islands, a negotiating process that was thwarted by the outbreak of the Falklands war in April 1982. In his memoirs (*Reflect on things past*, Collins, London, 1988, especially pp. 350-356), Lord Carrington, who had been Foreign Secretary at the time, mentioned the two mechanisms then considered (co-sovereignty and leaseback) but rapidly focused on the second option due to the multiple complications entailed in any regime of co-sovereignty, citing the example of the Franco-British condominium over the New Hebrides, now the independent republic of Vanuatu (pp. 333-334).

following questions, among others: the title to and exercise of sovereignty by Spain in the final stage (with no time limit) and the conditions for use of the military base (which tacitly implied the possibility of agreeing, beyond the transitional stage, on a scheme similar to that already in existence by an agreement on defence cooperation between Spain and the USA as regards “joint use military bases”, which subsequently became “operational and support installations and authorisations for use”).

With a view to this final or definitive stage, but separately from the bilateral treaty, it was envisaged that as regards the people of Gibraltar, Spain would undertake to establish a specific regime with respect, *inter alia*, to the following matters: the political organisation of Gibraltar, to be determined with the participation and approval of the population of Gibraltar; the structure and functioning of the organs of self-government; the political, economic, social and cultural rights of the citizens of Gibraltar, based on those they had enjoyed to date; the possibility of Gibraltarians individually and freely choosing their nationality (British or Spanish); and the possibility of designating English as the official language, if the population of Gibraltar so desired.

## VI. THE LEGACY

As is well known, Morán repeatedly observed that of all of his work as Minister, what he personally felt most satisfied with was how he had steered the question of Gibraltar via the Brussels Declaration and the negotiating conference of Geneva<sup>41</sup>. However, this affirmation must be viewed in perspective. What Morán undoubtedly wished to highlight was that whereas EEC negotiations had been the work of the entire Government, under the leadership of President González, to a large extent Gibraltar had been a personal effort, albeit one in pursuit a national cause and fully supported by the President, and that what had been achieved was in large part due to his

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<sup>41</sup> See, for example, *España en su sitio*: “I have repeatedly said that while it fell to me to conclude negotiations with the Community (...), what I am most satisfied with in relation to my work as Minister was how I steered the question of Gibraltar. It was a difficult and lengthy effort that demanded great determination, dedication, knowledge of details and diplomatic tact” (pp. 382-383). “Right up until my last day as Minister, I continued to work on the question of Gibraltar. It was —and would remain— a difficult but essential issue. I accorded it the highest priority” (p. 435).

own personal conviction and tenacity. Few could dispute the distinction he earned in relation to Gibraltar<sup>42</sup>.

It does not appear that Morán was attempting here to minimise the importance of the historic achievement that was Spain's entry into the EEC, which according to general opinion constituted his greatest accomplishment as Minister, but rather that, with his characteristic modesty, he had always been aware that this was the work of the entire Government, and especially of President González, to which as Foreign Minister he had contributed all along and particularly at key moments by strengthening relations with France (first with his colleague Cheysson and then with Dumas), by fostering a new climate in relations with the UK, thanks to his good understanding with Howe, and by providing a decisive impetus to the final marathon at the end of EEC enlargement negotiations in Brussels in March 1985, under the Italian presidency secured by Andreotti<sup>43</sup>.

Although a staunch pro-Europe advocate convinced that Spain's future lay within Europe, Morán was wary of any possible negative implications of accession to the EEC for Spain's long-standing claim to Gibraltar. Aware that the UK had the dual advantage of having entered the EEC a decade earlier and having achieved a particularly favourable regime for Gibraltar at the time, he feared that the UK would leverage this situation to impose unacceptable conditions on Spain in relation to Gibraltar, or threaten to veto entry if Spain did not lift the restrictions imposed on communications with Gibraltar during the Franco dictatorship<sup>44</sup>.

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<sup>42</sup> In his memoirs, Morán prided himself on this —and highlighted the support he received from President González— in the following terms: “When I left the Government, and in subsequent conversations with Felipe González, he reminded me of the foreign policy achievements of Spain's first socialist Government. But, he said, in a number of important issues my actions had been accompanied by others. It was only, according to him, on the question of Gibraltar that I had acted almost alone, although I would now add, with his final approval. I had planned and implemented a policy on this question from start to finish. This was high praise indeed” (MORAN, F., *España en su sitio*, p. 435).

<sup>43</sup> On these crucial negotiations and Morán's involvement in them, see the article by Á. VIÑAS and J. A. YÁÑEZ-BARNUEVO, “Un tiempo de atrevimiento: la incorporación de España a la Unión Europea”, in E. Nasarre and F. Aldecoa (eds.): *Treinta años de España en la Unión Europea. El camino de un proyecto histórico*, Marcial Pons, Madrid, 2015, pp. 45-54.

<sup>44</sup> In his parliamentary appearances in 1984 and 1985 and in his memoirs and other subsequent statements, Morán always insisted that the British side never formally demanded the lifting of

Consequently, this constant concern arises frequently in Morán's memoirs, which in turn explains two cornerstones of his policy: speeding up negotiations with his colleague Howe, so that the bilateral agreement with the UK on Gibraltar would precede the conclusion of EEC accession negotiations, and seeking to protect Spain from any possible negative repercussions of entry into the EEC for Spain's claim to Gibraltar, through another bilateral agreement on the respective rights and claims in relation to Gibraltar. The first was achieved with the Brussels Declaration in November 1984 and the package of measures taken and the simultaneous launch of the negotiations on Gibraltar in February 1985, on the eve of the conclusion of the negotiating process for entry into the EEC; while the second was achieved through an Exchange of Notes between the Foreign Ministers of Spain and the UK, both dated in Madrid on 13 June 1985—the day after the formal signing of the Act of Accession—, in which they noted their common understanding in this regard<sup>45</sup>.

In short, Morán was determined to advance on two fronts—Spain's accession to the EEC and making progress over Gibraltar— simultaneously, with the least possible interference between them. He knew that in the long run, Spain would have to accept the *acquis communautaire* in relation to Gibraltar, but he did not want to give the UK any ammunition that might be

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restrictive measures on Gibraltar as a prerequisite for Spain's accession to the EEC. This must have been the case, at least at formal bilateral or EEC negotiating tables. However, especially in the period prior to Howe's tenure, the British side made various statements indicating that if this question were not resolved in advance, problems might subsequently arise with ratification of the Act of Accession by Parliament. In his memoirs, David Hannay (a leading British diplomat who was then responsible for EEC accession negotiations with Spain at the Foreign Office) mentions confidential contacts in this respect with his Spanish counterparts in Madrid, while on a mission assigned by Douglas Hurd, then Foreign Secretary Pym's second in command: see D. HANNAY, *Britain's quest for a role*, Tauris, London, 2013, pp. 106-107.

<sup>45</sup> This Exchange of Notes—whereby both States declared that Spain's accession to the EEC did not entail any change in their respective positions on Gibraltar and did not affect the bilateral negotiating process established under the Brussels Declaration— was published in the *Boletín Oficial del Estado* (official state gazette) no. 291, of 5 December 1985, and formally registered by Spain at the United Nations, all of which implies that it was considered an international agreement, albeit concluded in simplified form. The text is contained in *La cuestión de Gibraltar*, Madrid, 2008, pp. 129-132. Always perceptive, Azopardi does not minimize the significance of that Spain-UK Exchange of Notes: "Bilateralism was not only recognized – it was entrenched" (*Sovereignty and the stateless nation*, p. 115).



used to hinder the progress of EEC negotiations, and neither did he want the restrictions on Gibraltar to be lifted simply as a result of applying EEC legislation, but rather as the result of a bilateral Anglo-Spanish agreement containing compensation for Spain as regards equality and reciprocity of rights and the launch of a negotiating process that included the issues of sovereignty.

This was a complicated task because the balance of power was then in the UK's favour, among other reasons because of its established position as a member State of the EEC and Gibraltar's status within the EEC as a "European territory for whose external relations a Member State is responsible", enjoying a particularly favourable regime<sup>46</sup>. However, Morán remained undaunted and attained his fundamental objectives, in collaboration with his colleague Howe, who saw Spain as a potential ally for the UK on many issues that were at stake within the EEC. Subsequently, things did not turn out entirely as envisaged.

The proposals on sovereignty presented by Morán on behalf of the Spanish Government in February 1985 were the subject of an acknowledgement by Howe on 15 March, simply noting that the British Government would study them carefully and again referring to the UK's commitment to the people of Gibraltar in the preamble to the 1969 Constitution of Gibraltar. Ultimately, the British never formally accepted or rejected these proposals, nor did they formulate alternatives or inquire about the meaning or scope of their content, as would be expected in a *bona fide* negotiating process<sup>47</sup>.

In subsequent months and years, under Morán or his successor, Francisco

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<sup>46</sup> According to the provisions of the Act of Accession of the UK to the EEC in 1973 and the stipulations of Article 227.4 of the Treaty of Rome. In general, on Gibraltar's position in relation to the EU, see the studies by R. GOZNEY, *Gibraltar and the EC—Aspects of the relationship*, Paper No. 49, Royal Institute of International Affairs, London, 1993; C. IZQUIERDO, *Gibraltar en la Unión Europea. Consecuencias sobre el contencioso hispano-británico y el proceso de construcción europea*. Universidad Autónoma de Madrid/Tecnos, Madrid, 1996; and C. ANTÓN, *Gibraltar: un desafío en la Unión Europea*, Tirant lo Blanch, Valencia, 2011.

<sup>47</sup> As had been the case, in particular, with the proposals made by Foreign Minister Castiella in the talks on Gibraltar with his British colleague, Michael Stewart, which took place in London in May 1966, although in the end these exchanges led nowhere. See the so-called "second Red Book" on Gibraltar: SPAIN. MINISTERIO DE ASUNTOS EXTERIORES, *Negociaciones sobre Gibraltar. Documentos presentados a las Cortes Españolas por el Ministro de Asuntos Exteriores*. Imprenta del M. A. E., Madrid, 1967, *passim*.

Fernández Ordóñez, whenever the Spanish side asked for a response or counter-proposal from London, their British counterparts' invariable answer—always off the record—was that no formal response was best, because such a response would inevitably be negative, and that it was better to avoid the fundamental issue and focus instead on the aspects of cooperation referred to in the Declarations of Lisbon and Brussels in order to move forwards in concrete and practical terms, because this might win over public opinion in Gibraltar, before moving on to other, more thorny matters<sup>48</sup>.

Morán well knew that this was the traditional British stance, which was why he had insisted that both processes relating to Gibraltar (cooperation in practical terms and issues of sovereignty) move forwards simultaneously. He also stressed that with respect to sovereignty, the UK should not limit itself to listening to proposals submitted by Spain, but should also provide feedback or suggest ideas, because otherwise there could be no progress in dialogue on the fundamental issue. Morán's relatively short tenure as Minister prevented him from continuing and furthering this policy with all the strength, skill and perseverance that had characterised his actions in this sphere, which he had always considered crucial for Spain<sup>49</sup>.

This did not prevent Morán, once relieved of any ministerial responsibility, from continuing to voice his views in this regard in various writings in subsequent years, especially between 1988 and 1994, in which, while respecting his ministerial successors, he expressed his concern about the lack of progress in negotiations between the two countries concerning key issues related to Gibraltar. Suffice it to cite the last of these writings, in which, after recalling the commitments made by both countries in the Brussels Declaration and the essential content of the Spanish proposals regarding issues of sovereignty, he condemned the attitude of successive British Governments, describing the

<sup>48</sup> Still in December of the same year, when Foreign Ministers Howe and Fernández Ordóñez were in Madrid to continue the Brussels Process, a joint communiqué mentioned “an analysis of questions of sovereignty”, which they had “examined in depth” and would “continue through diplomatic channels” (not without the British side recalling once again its commitment to the people of Gibraltar). The text of the communiqué is given in SPAIN. OFICINA DE INFORMACIÓN DIPLOMÁTICA, *Reivindicación española de Gibraltar*, Ministerio de Asuntos Exteriores, Madrid, 1987, p. 69.

<sup>49</sup> All in all, Morán always insisted on the idea that since these were formalised proposals that had not been rejected, they constituted a basis for the negotiating process that would eventually take place on the future status of Gibraltar: *España en su sitio*, p. 432.

procedures they employed as “obstructive delaying tactics”, and concluded by appealing for Spain to revive the treatment of the question “with utmost vigour”. He ended his plea with a *cri-de-coeur*: “Our stagnation with regard to Gibraltar could end up by bringing any attempt to reach a joint vision or action to a paralysis. Once more, we are reminded of the well-founded adage: “Whoever does not make history, suffers it”<sup>50</sup>.

There is no doubt that Morán was perfectly aware of the legacy he bequeathed his successors and subsequent generations as regards the importance for Spain of the question of Gibraltar and the advances he had achieved for Spain’s claim. The bitter irony is that some of his initiatives – such as the Brussels process or the idea of a possible co-sovereignty - were then partially continued by several of the politicians who succeeded him, but usually without acknowledging the authorship of these ideas and, what is worse, without always being faithful to the spirit that had inspired them<sup>51</sup>.

Another curious irony is that, due to changes in world affairs and European policy, a new situation has arisen in recent years that Morán could not have anticipated and which casts the issue of Gibraltar in an entirely different light: the decision of the British people in the referendum held in June 2016 to leave the EU and the UK’s consequent withdrawal from the Union (the process known as *Brexit*). This process, which has culminated in the UK’s formally leaving the EU on 31 January 2020 but has not yet been completed in all aspects, has already exerted an effect on Gibraltar and on relations between Spain, the UK and the EU in relation to Gibraltar<sup>52</sup>.

This is neither the time nor the place to enter into greater detail, but what is important to note is that the 27 Member States of the EU who remain in the Union have formally recognised on several occasions and in various ways that once the UK withdraws from the EU, Gibraltar —by its very

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<sup>50</sup> F. MORÁN: “Diez años después”, *El País*, 28 November 1994, on the tenth anniversary of the Brussels Declaration. The closing sentence, whose author is not given, paraphrases part of Albert Camus’s acceptance speech for the Nobel Prize for Literature in 1957.

<sup>51</sup> This was especially the case as regards the proposals for co-sovereignty of Gibraltar presented successively by Foreign Ministers Matutes (1997-1998), Piqué (2001-2002) and García-Margallo (2016-2017).

<sup>52</sup> On this whole array of aspects, see M. MARTIN and J. MARTÍN (eds.), *El Brexit y Gibraltar. Un reto con oportunidades conjuntas*, Colección Escuela Diplomática, no. 23, Ministerio de Asuntos Exteriores y de Cooperación, Madrid, 2017.

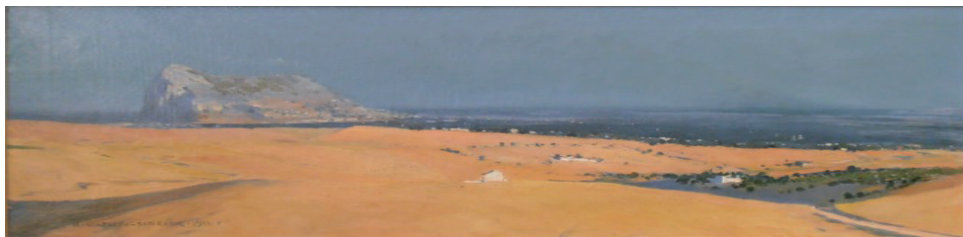
nature a dependent territory of the UK— also automatically leaves the EU, and that any future relationship that Gibraltar may have with the EU will have to be based on a prior agreement between the UK and Spain or count with the express agreement of Spain<sup>53</sup>. Consequently, Spain has received full recognition of its claim to Gibraltar by the EU institutions and member States, which clearly strengthens its negotiating position in relation to the UK and the Gibraltar authorities.

In a way, it could be argued that the two States' respective positions have been reversed compared with the situation when Morán was negotiating with Howe: then, the balance of power was in the UK's favour, as an EU member State, while Spain struggled to become one; now, it is Spain that occupies a more favourable position vis-à-vis the UK, as a State who is leaving the Union. Ultimately, this is due to the successful efforts of the Spanish Government of the time —led by President González with the key participation of Morán in the negotiations— to ensure Spanish entry into the EEC in good time, under the best possible conditions and showing from the beginning a decidedly pro-European attitude.

Hence, without dismissing —far from it— Morán's titanic efforts to successfully achieve the Brussels Declaration on Gibraltar as having been in vain, what in the end will probably yield a greater positive effect from the standpoint of Spanish national interests, including on the question of Gibraltar, is Spain's having become a full and active member of the EU. Consequently, because of *Brexit*, the dilemma no longer arises: a bilateral and a European approach are no longer potentially contradictory but

<sup>53</sup> This is made particularly clear in the negotiation guidelines on the UK's withdrawal from the EU, adopted on 29 April 2017 by the European Council, composed of the Heads of State or Government of the other 27 Member States, in accordance with the provisions of Article 50 of the Treaty of Lisbon. Similar decisions have been adopted at different levels at various times over the course of the Brexit negotiations, and most specifically when concluding negotiations for the withdrawal agreement on 25 November 2018, by means of a series of documents: a protocol on Gibraltar, Anglo-Spanish memoranda of understanding on various matters related to Gibraltar, interpretative declarations adopted by the European Council of 27 and explanatory letters signed by the Presidents of the European Council and of the Commission and by the UK's Permanent Representative to the EU indicating agreement. These commitments and undertakings have been reaffirmed in the definitive version of the package of documents constituting the Withdrawal Agreement between the EU and the UK, concluded on 12 November 2019, which has entered into force after ratification by both sides on 1 February 2020.

complementary, because they are mutually reinforcing, with beneficial effects for Spanish interests. There is no question that Morán played a key role—and did so consummately—in both processes, in a historically crucial moment for Spain. Without a doubt, Morán was right: through his extraordinary work, he contributed decisively to the strategic foreign policy objective undertaken by a progressive Spanish Government: to put Spain in its rightful place in Europe and in the world.



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