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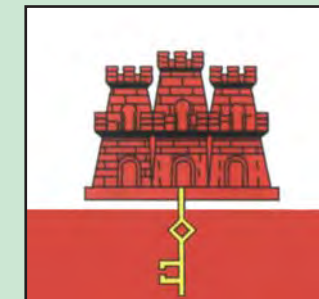
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## EDITORIAL COMMENT

# Confidence and opportunity in 2010

“If we forever look back, we will never see the way ahead”, as I tell everyone when they declare 2009 a terrible year!

For in 2010, Gibraltar is looking forward to the end of high corporation tax, this being the last year of paying 22 per cent.

From next January, the rate should be cut to 10 per cent for all businesses based on the Rock, if the European Court of Justice throws out the Spanish appeal against Gibraltar having its own tax system separate from the UK. The government is certain it will happen.

It's encouraging too that – in these days of ‘tight’ money availability – institutional and private investors are this year prepared to put significant money into building new offices on The Rock to satisfy the demand that everyone expects to follow from new businesses attracted by the low corporation tax.

Not many other jurisdictions can boast such a construction display of confidence.

And local investors too this year seem prepared to back Gibraltar in its drive to create a new, national bank, sympathetic to the needs of small business in particular, and less well-heeled residents who find it difficult to gain mortgages.

That's quite different to most other places, where people fight shy of involvement with banks. Soundly based, as it must be to meet strict local regulatory conditions, a new Gibraltar bank is certain to be popular.

The people of Gibraltar have much to be proud about, given the success of Kaiane Aldorino in translating her new Miss Gibraltar title into Miss World. It's not been done before and everyone thinks she will be a great ambassador.

One obvious potential benefit is in giving tourism a boost, but is anyone planning to turn it to advantage - is there a mini-exhibition stand travelling with her, brochures, posters, etc. And what about Gibraltar airport and the Border: will there be signs proclaiming “Welcome to Gibraltar, home of Miss World”? Opportunities like this seldom arise.

This year will see just how popular the new ferry service between Gibraltar and Algeciras is after a gap of more than 40 years. The operator believes it will spark interest in a Morocco / Ceuta ferry link with Gibraltar too, which would be a practical demonstration of good relations with Spain.

The enthusiasm now being shown in La Linea to develop the Spanish side of the new Gibraltar airport terminal – albeit in part fuelled by the need to create fresh employment and investment in the area – is perhaps the most far-reaching sign of a good year ahead.

As we enter the second decade of the 21st century, the future for business in Gibraltar looks exceptionally bright.



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# New local bank to ease funding

An independent feasibility report has been prepared for government to establish a Gibraltar Bank dedicated to local residents and small businesses during this year, Editor, *Ray Spencer* has discovered.

The idea has been prompted by the current difficulties being experienced by local predominantly small businesses to arrange overdrafts to help with short term cash flow issues, and reasonably priced loans for start-up and expansion projects.

Similarly, residents are finding it tough to find mortgages to enable them to take advantage of government sub-

sidised housing schemes, particularly the new sitting tenant right-to-buy homes at up to a third of the true market price.

Reportedly, main banks with local offices are falling foul of policies set by head offices elsewhere in the UK. They see mortgages, typically of £30-40,000, with little or no prospective of owner contribution, either as being too

risky in today's economic climate, or too small to make the administration worthwhile.

The commercial rates being demanded - typically 5.5% over 20-25 years for mortgages of under £100,000 - are generally not too high for government housing tenants, but banks are said to be further worried about becoming involved in blocks that are

part social and part private housing.

Local businesses are also said to be suffering, despite the fact that the Gibraltar economy is growing by at least 6 per cent (see *GDP growth success*, page 8) Typical business loans by the new bank would be up to £10,000.

In November, Chief Minister Peter Caruana, revealed that "the Government continues to actively study the desirability, viability and feasibility of a new locally owned Bank" as part of projects foreseen in the next two years.

## Finance promised

The new Gibraltar bank - no name has yet been proposed - is already understood to have attracted local investors prepared to deposit some £25m

in total, and the government is thought to be considering taking a stake of up to 40 per cent in the project.

Rather than provide fresh cash, this may involve the new venture absorbing the State-owned Gibraltar Savings Bank, where individuals' deposits are guaranteed by the government. Or the new bank may provide the banking facility for the Savings Bank.

Local people would be encouraged to save with the

Bank earning higher rates of interest than generally available, with an option to utilise Post Office Counters.

## Local control

The amount required to finance the new bank depends on how broad its activities will be, and one possibility under discussion is a staged opening, perhaps tackling first either business loans or mortgages.

But the Bank's destiny and lending decisions would

be controlled and managed by professionals independent of government, which essentially is acting as a catalyst.

As such, the venture is expected to be hugely popular with residents. It is understood by Gibraltar International that the Bank would be more "sympathetic" to the local market than the international banks operating on The Rock.

One concern is that the new Bank must not become so popular that it causes any of the others - NatWest, Barclays

or the Danish Jyske Bank - to pull out; some bankers are thought to be "nervous" about the project, fearing "unfair competition".

David Parody, the Financial Services Commission chief executive officer, last Autumn predicted at the Finance Centre Council 2015 conference, that "there is room for another player or two in the retail banking sector" which, he felt, was "under-represented" in Gibraltar.

## Banking expands

Geneva-based Banque Audi (Suisse), a private banking subsidiary of one of Lebanon's largest banks, is to open a Gibraltar office this Spring having gained a licence from the Financial Services Commission.

The move comes as two others - King & Co a private family banking operation in London and Close Brothers, the UK's largest independent merchant bank - are awaiting the outcome of their licence applications submitted more than two years ago.

Banque Audi (Suisse) offers independent advisory services to clients on all types of securities and provides its customers with both asset protection and asset enhancement, dealing in equities, bonds, mutual funds, derivatives, precious metals, foreign

exchange and structured products.

Raymond Joubaud, a former General Manager of The Gibraltar Private Bank Limited (now Lombard Odier Darier Hentsch Private Bank Limited), is believed to be leading the venture.

His firm, Velay Financial Services, providing fund administration and investment management support services, was established at Marina Bay in 1998 and Joubaud is a founding member of The Gibraltar Association of Stockbrokers and Investment Managers.

The FSC approval for Banque Audi comes at a time when banking internationally is under the greatest scrutiny.

Close Brothers and Gibraltar-based law firm, Marrache & Co, two years

## Five go before!

If the new Gibraltar Bank goes ahead, it will not be the first national bank on The Rock.

In mid-1987, George S Moore, the now deceased former chairman of one of the world's biggest banks - the First National City Bank of New York (later known as Citibank) - set up Gibraltar Trust Bank (GTB) as a joint venture with Credit Suisse.

By then resident mostly in Spain, Moore recruited Joe Gaggero, the now president of Gibraltar's Bland Group, as a local director. GTB became Credit Suisse (Gibraltar) in 1991 and a wholly owned subsidiary of the Swiss bank.

Gibraltar's first bank was the Genoese family owned Galliano's Bank (GB) in 1855. After three decades, it faced increasing competition - initially from Anglo-Egyptian Bank (later Barclays) and Credit Foncier (later Crédit Agricole). GB did not incorporate until 1978 and nine years later was acquired by Jyske Bank.

By 1900 there were four other small, family-owned banks - Cuby Brothers, Benzecry (El Banquerito), Rugeroni Brothers, and Marrache and Sons - but all had ceased operations before World War II.

ago revealed their plan jointly to establish a Gibraltar-based Bank under the name, Close & Marrache. It was expected to be trading by early summer

2008. It was seen as "a perfect strategic fit" complementing operations in Jersey, Guernsey, Isle of Man and South Africa.

## Bland new projects to "create many jobs"

Five new and on-going investment projects - three large and two smaller ones - that would create many jobs in Gibraltar are being worked on by the Bland Group for launch this year, the 200th anniversary of the business.

They will form part of an on-going programme by Chairman James Gaggero, to replace the economic activity of GB Airways (GBA) - which had £300m turnover and £6m profit a year - that Bland sold in early 2008 to easyJet for £103m.

The Group still has over £100m cash available to invest in projects that achieve equivalent or better results, but with less risk, he revealed in an exclusive interview with *Gibraltar International*, (see Profile, page 20).

"Airlines are, on the spectrum of risk, almost off the scale. We aim to diminish our exposure to risk, diversifying the spread of economic activities we partake in as well as their geographic locations", Gaggero explained.

"The three major projects in Gibraltar are of real interest to me", he declared and added: "They are exciting and will show the level of commit-



ment we have for Gibraltar".

The privately owned family firm has 16 companies operating in Morocco, Spain, the UK and Gibraltar, where the firm originated and the Gaggero family has been involved since the 1860s.

Fifty years old James Gaggero is coy about revealing financial details of the business, but says there are around 740 employees now - in GBA previously it had 1,000 staff - and almost 160 are in Gibraltar, which presently accounts for roundly 20 per cent of Group activity.

Local Bland Group interests include the iconic 104-bedroom Rock Hotel, which is one of the on-going projects, where rebuilding or relocation of the 78 years-old

hotel is hoped to be agreed early this year, along with one of the planned undisclosed new ventures.

The Group also operates Bland Travel tour coaches and Avis car hire in Spain and Gibraltar, and its GibAir has long held the ground handling contract at Gibraltar Airport. Media company Colorworks and ABG, the Forex web service FX500, both joined the Group in 2008 and are also based in Gibraltar.

Timing of the new ventures depends on a number of issues. "Gibraltar is not without its challenges in that a lot of things have to be cleared before major progress can be made - with government, business partners, politics and a wide range of prerequisites have to be met - which makes

it slightly less straightforward than elsewhere", he said.

Gaggero added: "I've learned through experience that deals are never done until they're done." For the future, he says: "We will hold back sufficient cash to meet the needs of the Group so that we are never dependent on third parties, but it is envisaged that the vast majority - 70-80 per cent - will be channeled into investments and businesses that we will operate.

"We are disciplined, diligent and hard working and fortunate to have the resources to see us through these testing times: the combination of those, mixed in with passionate committed management and staff with good products and companies, hopefully, a recipe for a successful future. Only time will tell".

In December, Bland Group agreed in principle a £14m joint venture with Stagecoach for a hovercraft service across Firth of Forth to Edinburgh that involves Bland building two large passenger craft and Stagecoach contributing two coach depots and operations, subject to planning consents.



# EU tax harmonization prospect clouds GDP growth success

Gibraltar is preparing for new challenges over company tax and the proposed imminent new low 10% rate is still not fully secure, writes editor, *Ray Spencer* in a 2010 review of the economy.

Gibraltar has been placed fifth in a list of the most stable and prosperous countries in the world, according to a winter report by Jane's Information Services.

After a one year investigation and analysis of 235 countries, Jane's – more usually associated with military research – placed the UK at 7th, Switzerland at 17th and the US 22nd!

Jane's system differs from government assessments of country risk, because it is based on objective analysis, "with no politicisation of the intelligence". Under the rating system, each nation's political structures, social and economic trends, military and security risks and external relations were taken into account.

Only the Vatican, Sweden, Luxembourg and Monaco were placed ahead of Gibraltar.

## Continued GDP growth

Gibraltar's economic worth conservatively should have reached at least £900m a year by end-March if Government forecasts are correct, the territory having experienced a year-on-year growth in Gross Domestic Product (GDP) of 5 per cent or more.

That experience is in marked contrast to almost

every other European country where tiny or negative GDP increases are being recorded.

Once inflation is taken into account, the real growth in Gibraltar's GDP last year was around 3.5 per cent. Given that inflation remained steady at 2.8 per cent according to the latest figures to end-October, the real 2009/2010 figure will most likely be slightly above 2 per cent.

## Closer monitoring

The Government has been keen to monitor closely economic indicators, and most of those covering its income – PAYE, social insurance and duty – are being analysed monthly rather than quarterly as previously, the first two also providing pointers to the state of employment.

Company tax – forecast to be £26m this year, up slightly from an expected £25.8m in 2008/9 – and gaming receipts however, are reported at the varying financial year ends of businesses and can only be accurately assessed over a longer period.

Peter Caruana, Gibraltar's Chief Minister, said in November that "it is a measure of the extraordinary success of our economy that it has grown by 145 per cent since 1996" – an average of over 11 per cent a year.

He went on to extrapo-

late a further 5 per cent a year growth until 2012. That would mean the economy then would have nearly trebled in just 15 years, a performance he considered "is very likely to be exceeded".

On top of that, now there are over 7,500 more Gibraltar jobs than in 1996, representing an increase of 58 per cent. Caruana predicts it will grow further during 2010.

Gibraltar's robust GDP and employment growth in part is the result of a well-diversified economy, and the overall £15m budget surplus for the last financial year compares to a forecast a £19m for the current year.

Expected total borrowing of £350m in the period to end-March 2010 is more than 80 per cent greater, although a rise of £105m in reserves to reach £234 million provides a significant off-set.

Net public debt should then have risen by 86 per cent from £62.2m (or 7.3 per cent of GDP) in 2009, to reach £115.8m (or 12.9 per cent of GDP) in 2010.

## A very good year

In his New Year message, Caruana declared: "Despite the economic and financial crisis that has continued to grip the world during 2009, it has been a very good year for Gibraltar, not least economically, as we have mostly avoided the consequences of the downturn."

With no capital gains tax, inheritance tax, or VAT, the appeal to business of the jurisdiction will be even greater given the move from the present 22 per cent Corporation Tax to a flat rate of 10 per

cent from next January.

The move follows success in the European Court of Justice (ECJ), which last year reaffirmed Gibraltar's freedom to have its own tax system, separate and different to the UK. That is something Caruana regards as "absolutely essential to our continued economic, and thus social and political, viability as a small country".

But Spain, and separately, the European Commission on different material selectivity grounds, have appealed the judgment.

Caruana is confident of a successful outcome, but the ECJ has not yet set a date for the oral hearings and the final ruling.

Both the Gibraltar Government and UK government are resisting the appeals and filed separate submissions.

Caruana also is concerned that the large G20 countries may seek to 'encourage' low tax countries to cease this form of competition that stands to reduce national revenues.

## Unified EU taxes

According to EurActiv, a UK-based information and communication concern, policy experts advising the European Parliament (EP) in a 'World in 2025' document released quietly at the turn of the year, are pressing for deeper integration of European economies and potentially closer ties on direct taxes.

In particular, unified corporate tax rates are set out as an objective by the

*Continued P10*

# Home from home!



## The only airline that flies from Gibraltar to Gatwick.

Price correct as at 11 January 2010. For travel from 22 January to 23 March 2010. Variable charges for hold baggage apply and some payment methods attract a handling fee. See website for details.



# Planning for network of Bay services

Ferry links to Tangier and Ceuta from Gibraltar could be launched early next year if the take-up of initial services to Algeciras is encouraging, says Transcoma, the Spanish transport conglomerate, which has invested €2m in the initial project.



With a schedule of five week-day roundtrip services each day and three at weekends, the 150-seat *Punta Europa II* catamaran has the capacity to ferry 500,000 passengers a year.

But its owners expect to average around 60 per cent loading overall if they are to satisfy the business plan.

Having started just ahead of Christmas - later than originally planned because of administrative problems at either end - services were suspended through bad weather over the holiday period.

But Enrique Oliver, Transcoma's general manager, told *Gibraltar International* that the firm was "confident" about meeting its financial target.

"We have been planning this for some time and expect, if all goes well, to extend the ferry route to Morocco and Ceuta using a larger craft", he revealed.

The firm aspires to a network of metropolitan ferry services in the Bay of Gibraltar.

## New terminal

The Group, comprising 35 companies in shipping and transportation, was operating at 35 per cent below budget as a result of the world economic recession, he said, but the Gibraltar ferry link was one of a handful of new projects to which Transcoma was committed.

"When we decide to go with something, we do it",

said Oliver. A new ferry terminal is being built at Algeciras only minutes from the town centre, but initial services use the old port terminal.

The service is being promoted through travel agencies and hotels along the Costa del Sol and in Gibraltar to attract tourists with tickets costing around €5, "although workers using the early and late service will pay €3 each way - about the same as for buses, but in half the time."

## Economic substance

Joe Holliday, Gibraltar's Minister for the Port, told a launch reception that over recent years he had been approached by several other

potential operators interested in the route, but the Transcoma project was the only one "to have economic substance".

Both he and Spain's director general for Europe and North America at the Spanish Foreign Ministry, Luis Felipe Fernandez de la Peña, emphasised that the ferry was a practical demonstration of the outcome of the Tripartite Talks involving Spain, Britain and Gibraltar.

A Spanish Foreign Ministry statement noted "Spain is confident that this example of local co-operation serves (as is the objective of the forum) to favour economic and social development in Gibraltar and the Campo."

## EU tax harmonisation from P8

policy team.

Significantly, European leaders told Ireland last year that the new Lisbon Treaty would not affect its relatively low corporate tax regime.

But now EP advisors see the world economic crisis as offering "a window of opportunity" to bring about tax unity.

## Right to compete

In a recent interview, Caruana told the *Financial Times* that Gibraltar, like Ireland, had the right to compete with other

countries and financial centres on the basis of low tax rates.

"Most of the new EU member states have very low taxes, much lower than 10 per cent ... there is low tax throughout the EU and Gibraltar is simply mimicking that mode", he reportedly said.

And the Chief Minister has also held out the prospect of lower personal taxes alongside lower business taxes.

In the meantime, 17 Tax Information Exchange Agreements have been signed

with Gibraltar, although so far only one has been implemented.

Several small countries with little or no connection with Gibraltar have signed - including New Zealand, Faroes Islands and Finland, for example - but significantly several large countries are also listed such as France, Portugal, Germany and Ireland, as well as the US and UK.

## More open

To ensure greater transparency and openness in government, Caruana committed

last June to begin publication this year of a new annual report dedicated to the publication of a range of new economic and public finance statistics.

Although technically in the public domain, they are not available in an easily referable form.

He expected to be "publishing shortly the list of statistics that will be included in this new publication that will be known as the "National Economic Statistics".

However, as of January no progress had been made in this area.



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# Gaining more secure and higher capacity internet connections

Local investment is growing to ensure business can be attracted and their future needs are satisfied.

**M**uch increased internet bandwidth has been introduced by Sapphire Networks, an independent Gibraltar telecommunications company, between The Rock, La Linea and Madrid as part of moves to encourage more e-gaming companies to move their main computer servers and associated equipment to the jurisdiction.

And this year the firm will be in a position to offer consumers Voice Over Internet Protocol (VOIP) facilities and land lines at cheaper prices, having tied up agreements with Gibtelecom - its national competitor - for open access to its network, as has happened in the UK and elsewhere.

For its core business offering, however, Sapphire has linked with "global companies offering world-class standards, despite being only a small jurisdiction", explained managing director, Lawrence Isola. "In a few years we have become a leading provider of high-availability internet services on the Rock", he maintained.

## Operating profitably

The firm has invested £8m over four years on developing and enhancing its service, aimed primarily at e-gaming and financial services companies requiring high speed, secure internet services. Isola says that since July 2008, Sapphire has been operating profitably.

In Gibraltar's first live internet presentation to reach gaming companies unable to visit the Rock, Sapphire revealed how it has further enhanced its network by providing a second presence in Spain as back-up to avoid a single point of failure.

"The presentation itself was attended by 20 existing and potential companies, whose technical teams are in places such as Israel and the UK, so it was important that they could all participate", explained Isola.

"Gibraltar is relatively expensive



Internet exchanges in London and Amsterdam add to internet and leased line services out of Madrid

compared to the UK and other European areas for bandwidth, so we aim to maximise value by providing the highest standards of service quality and reliability", he added.

"We also invited companies that we are trying to attract to Gibraltar or which we think should be interested in establishing a presence here".

Sapphire has increased tenfold its own network capacity between Gibraltar and Madrid to reach 7.5 Gbps - around double that of anything available elsewhere on The Rock, claims Isola.

## Access to 30,000 ISPs

The firm has introduced 'virtual' connections between London, Amsterdam and its Madrid node, to give Sapphire a presence closer to its customers and access to 30,000 internet service providers.

A Gibraltar-based gaming company with clients in England and northern Europe, for example, will see a real improvement in service - a speedier and more efficient connectivity less likely to suffer 'packet loss' (which can cost companies thousands of pounds of business), because under Sapphire's new link there are fewer routing nodes.

Over £6m has been invested in satisfying 'high end' corporate businesses, including completion of a 10km fibre-

optic cable ring around The Rock and a 6.5km link through the frontier to Spain.

Sapphire has also become a certified outsource supplier of Verizon, one of the largest US telecommunications companies big in banking networks, and former 50 per cent owner of Gibtelecom.

At the same time Sapphire has introduced an 'event bursting' facility to provide gaming companies temporarily with more than eight times their contracted bandwidth capacity. This can be for events such as the Grand National, World Cup and Ryder Cup, or to provide 'emergency' extra capacity should another supplier suffer an 'outage', or even give extra capacity to speed up data replication between Gibraltar and another site.

New loyalty discounts provide service cost savings of up to 10 per cent progressively from 18 months to three years.

## Gibtel opens new routes

At the same time, Gibtelecom - 50 per cent owned by the Government and Telecom Slovenia - is stepping up the competition for internet hungry business clients.

It is investing £18.5m as its contribution to a 13-country joint venture that will see a fibre-optic cable linking Europe with India to open a new telecommunications route for Gibraltar that does not depend on crossing into Spain.

The result will be to give Gibtelecom greater flexibility and security of connection from later this year and availability of a higher net band width for its customers.

And it has also just completed a new link between Madrid and Gibraltar, constructed under contract by Interoute, that complements Gibtelecom's existing international routes, including via Telefonica and Cable & Wireless to give "virtually unlimited capacity to support further growth".



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# Funds find a new home in Gibraltar

Despite numerous proposed changes, Gibraltar is well placed to capitalise on the proposed European Directive controlling Fund Managers, argues Joey Garcia.



Initially at least, there was considerable anger and frustration that the European Commission's draft Directive on Alternative Investment Fund Managers (AIFM) had been prepared with little or no industry consultation.

The Directive affects not only the European hedge fund industry, but also private equity and other sectors including real estate investment products.

In a recent public hearing before the EU Economics and Monetary Affairs (ECON) Committee, Gerben Everts, head of Dutch pension manager APG's global regulations and compliance, was very direct in pointing out that "if it is indeed the intention of the Directive to increase transparency on the alternative asset management industry, why do you, honourable members, accept the regulatory process to take place in the dark?"

But changes to the draft Directive mean that Gibraltar still stands to benefit, but possibly less so, in some areas.

Initially, it was intended to restrict Alternative Investment Funds not domiciled in the EU being marketed or sold to any professional investors (as defined by MiFID) unless a series of strict conditions were met. The benefit for Gibraltar was obvious as a jurisdiction offering a European entry point for many Non-EU collective investment vehicles.

However, a series of (138) amendments proposed by Jean-Paul Gauzès, rapporteur for the European Parliament's Committee on Economic and Monetary Affairs, has substantially amended this provision.

Now it is suggested that institutional investors should be able to choose where they wish to put their money, and they should be able to invest through existing and preserved national placement regimes.

But the same proposals also suggest a restriction on hedge funds investing more than 30 per cent in funds domiciled outside of the EU.

Other suggestions made by Gauzès also bode well for Gibraltar, including the removal of the suggestion of regulation of funds with less than 100m in assets under management (AUM). This would keep the niche, boutique or family office manager out of the scope of the Directive.

On the whole, many of the concerns raised by investors have been taken into account and can be seen percolating into the draft legislation, although there are still industry concerns in relation to the regulation of short selling and the use of leverage.

The amendments will receive a second consideration in March and then a vote in ECON in April. The draft Directive then faces a maximum of three readings if the European Council and the European Parliament fail to reach agreement, with a target deadline of January 2012 for the implementation of the Directive in national law.

Regardless of these changes, Gibraltar continues to offer an attractive EU base for managers and promoters wishing to bring their products into an EU regulatory framework and seeking

the EU regulated 'stamp' on their investment products.

This is particularly so at a time when the Gibraltar Funds industry is gathering momentum.

Developments elsewhere - such as a substantial increase in Cayman registration fees following that country's well-reported budget deficit - also could assist Gibraltar in gaining a greater market share.

In the post-Madoff environment, the trend of domiciling funds in well regulated and supervised jurisdictions such as Gibraltar has gained popularity and we expect this trend to continue.

There will be continued interest in the re-domiciliation of Funds into Gibraltar from various offshore and non-EU centres.

The procedure for re-domiciliation under the existing Gibraltar Companies (Re-Domiciliation) Regulations 1996 is quick, simple and effective.

The process ensures continuity of performance, allows for assets to remain untouched without the need for transfers or adjustments, and crucially, provides for unit holders to remain registered as they did in the foreign jurisdiction.

The fund must be domiciled in a jurisdiction recognised by Gibraltar for this purpose and must have appropriate provisions in its laws.

Continuance of a foreign company in Gibraltar does not create a new legal entity or prejudice its continuity, nor does it affect the assets or property originally held. The Financial Services Commission needs to be satisfied that the company is in compliance with local financial services supervisory laws before granting EIF status.

The company is required to appoint a local fund administrator, auditor and at least two directors, all authorised by the Regulator. The existing investors must also qualify as "Experienced Investors" (as defined in the legislation).

Once the foreign company becomes a Gibraltar company, all counterparties are appointed and the documentation is in place, the standard EIF registration procedure is followed, including an opinion from Gibraltar counsel confirming that the EIF satisfies the relevant Financial Services legislation.

*Joey Garcia is a senior associate and funds specialist at law firm, Isolais*



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# Office space set to double

Developers and investors are showing fresh interest in building more offices in Gibraltar to meet demand from businesses being attracted to the territory by the prospect of low Corporation Tax within the EU, as *Ray Spencer* discovers.

Schemes announced and now in the planning pipeline are set to nearly double the total estimated 94,000m<sup>2</sup> of existing offices on The Rock. Some of the offices could be ready for occupation in 2012, and some unexpected space is available now!

The new developments cannot come fast enough, because a market survey last summer by leading local surveyor, Brian Francis, found that an estimated 99 per cent of existing space was at that time sold or let.

Since then, the current available space is even less – it has around halved to become 0.5 per cent, just 4,700m<sup>2</sup>!

That creates problems for existing businesses – particularly in the e-gaming and finance sector – that are looking to expand their Gibraltar operations and transfer staff, principally from the UK.

Finding sufficient office space could also be a problem for new firms attracted by low Corporation Tax!

Whereas securing sufficient residential accommodation for staff used to be an issue, where to locate the business premises has now emerged as a potential obstacle, such has been the success of government policies in providing an appealing base for companies.

Expansion of business activity is needed to help off-set the loss of revenue from a reduction in the present 22 per cent tax rate, only part of which is expected to be made up next year by extra income from the existing Zero Rated businesses, including some

“

*not many places where there's such commitment to speculative building*

”

e-gaming companies, private banks and insurance firms.

But planned new office development could add an estimated 9,000 jobs in Gibraltar in little more than two years, assuming any existing space that is vacated (in favour of the new developments) is also taken up. That is good news for government revenue in tax contributions.

The Francis survey suggested that despite the potential demand for offices, there were only small amounts of available space, each with relatively small floor plates.

These included the recently completed Waterport Place, bought speculatively by

services operation and an asset management business, have taken up most of that space.

## 25% more space now

However, Europort – at present Gibraltar's largest single office development, built in 1992 with 47,000m<sup>2</sup> as a speculative venture by Danish firm Baltica for an estimated £200m – has just increased its useable area by 25 per cent.

Low-key marketing began in December of 4,000m<sup>2</sup> of quality office space in its fifth block – Atlantic Suites – in the 14-storey building that also offers 120 luxury apartments.

Already, a quarter of the office space has been reserved for an expanding Gibraltar Financial Services Commission, which will more than double its present office area in another Europort block from this summer.

“We have over 96 per cent occupancy in the four original blocks, and since the departure of Gibtelecom and S G Hambros, negotiations are in progress with a couple of other financial services firms requiring extra accommodation,” declares Europort managing director, Lawrence Isola.

Europort originally had nine blocks but initially space proved difficult to fill; plans to incorporate a 5-star Hyatt Regency Hotel on the Atlantic Suites site also fell through.

In the late 90s, a Danish insurance company took over the venture when just 40 per cent of the space was occupied, and shortly after, blocks 1-4 were sold to the Government and transformed into the present St Bernard's Hospital, leaving an Arab consortium of private investors to buy the remaining blocks in 2000.

Isola, then a director of BMI estate agency, became part of the Arab deal and he succeeded in raising occupancy from the then 47 per cent to reach capacity by 2006, with gaming, banking and government

being the drivers.

*Gibraltar International* understands that Atlantic Suites has recently been acquired by a UK-based investment consortium that has set conditions on the types of business it wants to see occupy the building – hence the low key launch.

Now Ocean Village is investing in another seven-storey block with 13,000m<sup>2</sup> of office space and 600 car parking spaces.

The block on the car park behind Marina Bay has outline planning permission and work is expected to start by summer for completion in stages from the end of 2011.

## Desperate need

“We desperately need more office space in Gibraltar. There are three large companies trying to come here – two have told me that they only want to be at Ocean Village because of the lifestyle and associated leisure and residential facilities”, says Brian Stevendale, the Village's sales director.

“However, we don't have any space for them at present. One is a 40-staff London market trader, the other employs high-earners almost exclusively, which is good for Gibraltar because of the potential local spend on goods and services, as well as property.

“They bring huge wealth to this jurisdiction”, he emphasises.

“In the meantime, I am attempting a sticking plaster approach, by accommodating an advance guard of 20 people in a firm,

sometimes by temporarily spreading people around – a chess board approach, Stevendale reports. “We are not anxious to turn people away.”

Edward Macquisten, director of Gibraltar Chamber of Commerce, points out: “Gibraltar's

lack of office space today can act as a brake on the influx of new businesses; they look at what we have and pause before making any decision, although the pressure has eased a little with the current economic situation.

“Even so, Gibraltar Inc. needs to be able to offer good quality office accommodation. Today, banks require more security and commitment from prospective tenants and purchasers before releasing money for new office development, but certainly there is confidence in the medium to longer term”, he explains.

Brian Stevendale added “Funding is definitely not a problem for our planned Royal Ocean Business Plaza block – being creative, we have found several people keen to invest and the money is in place, although not necessarily involving bankers.”

## £120m project starts

As if to reinforce that view, Commercial Developments Investments (part of Montagu Group) has revealed to *Gibraltar International* that construction of its



Four floors of offices just released at Europort's Atlantic Suites.

estimated £120m project will begin in the first quarter of this year.

Local business leaders had been doubtful that the project to create what will become Gibraltar's largest office development – four blocks totalling 38,000m<sup>2</sup> at Midtown – would proceed!

Rock Tower, the £30m first 13-storey, 10,000m<sup>2</sup> block with parking – on the site of a multi-storey car park just outside Gibraltar's city walls – gained detailed planning consent in September 2008.

Montagu's chief executive, James Garbarino, explains: “The delay has been caused both by local land possession issues and the global economic situation, but the funds are now in place. It is expected to take 30 months to complete.

“There is a strong demand now for offices – 25 per cent at Rock Towers has been reserved – both for sale and to rent, particularly amongst local firms seeking to expand or move from rental to owning their offices.” One floor of 1,180m<sup>2</sup> was sold to

*Continued page 18*

# A 2020 vision

“A long term vision on how Gibraltar will develop”, is how the Gibraltar Government describes its new Development Plan that sets out strategic goals and planning policies for the next decade.

The Plan has been the guide to decisions taken over several months, even though it was only formally approved last autumn after an extended period of public consultation.

“It places much emphasis on improving the standard of design in all new develop-

ment, whether small or large scale,” Minister for Development, Joe Holliday, told a launch press conference in December.

“It also encourages a more sustainable approach to development through energy-efficient design and use of micro-renewable energy generation, although this has to be balanced against aesthetic considerations and the potential impact on surrounding users,” he said.

But there are no cash incentives, nor actual requirement, for adoption of solar

and other environmentally friendly and energy efficient solutions, although Holliday told *Gibraltar International* that “we do not rule that out for the future”.

Government-sponsored projects are not formally subject to the policies and requirements.

Guiding principles set out in the plan, include height restrictions for some areas and a desire to improve public access to the waterfront wherever an opportunity arises. Gibraltar has been divided into nine land use zones with specific policies and proposals formulated for each.

The Gibraltar Development Plan can be viewed at [www.gibdevplan.gov.gi](http://www.gibdevplan.gov.gi).



## PROPERTY

Office space set to double from page 17

Argus Insurance more than two years ago.

Rock Tower's second floor has the largest floor space with 1,201m<sup>2</sup> quoted at £4.3m (a cost of £3,550 per m<sup>2</sup>), while the 500m<sup>2</sup> top floor is smallest and most expensive at £5,000 per m<sup>2</sup>. However, Garbarino says the building design allows maximum flexibility for space configuration from just 200m<sup>2</sup> and "prices may need to be tweaked".

"Although we have outline permission for a mix of residential, office and commercial use, my view today is that we would build mostly offices with a few studio type apartments for use by firms with executives requiring temporary accommodation", he maintains.

"However, it's difficult to predict future demand when it will take us ten or more years to complete this project," Garbarino acknowledges.

### Three more coming

First strong indications that investors were looking more positively at office development came late last year when Boyd Estates revealed that it has spent £12m-£14m over two years acquiring three properties in Gibraltar – two office projects and a small retail and office site.

The Boyd Group is a consortium of Capital & Overseas Holdings – with 38 years' experience in redeveloping commercial, retail and residential properties in the UK and abroad – a local private trust family investor and a bank.

The nearly 10,000m<sup>2</sup> of space is expected to be completed in phases between 2011 and 2013 bringing the total investment to £60m.

The largest, Rialto House on the site of the old Continental Hotel and Rialto Cinema in Old Town, will account for two thirds of the investment and provide 6,400m<sup>2</sup> of office space, with floor plates of 400 - 1000m<sup>2</sup>, as well as a 500m<sup>2</sup> ground-floor retail unit fronting Main Street.

It incorporates sustainable features such as fixed sun shading, double-glazed façades (to reduce air conditioning con-

sumption) and sea-water for non drinking use, and needs outline planning consent.

Forty7, in Line Wall Road (and opposite the Midtown development) has outline planning permission for a seven-storey block and 1,850m<sup>2</sup> of grade A offices with similar design features, including a landscaped roof area and numerous terraces.

Half of this block has been pre-let to Marrache & Co, one of Gibraltar's leading law firms and work is expected to start shortly.

The existing facade of Boyd House on Main Street is being retained and outline planning consent gained for nearly 300m<sup>2</sup> of retail space and 700m<sup>2</sup> of offices, with work anticipated to start by mid-year.

Boyd is led by Ronnie Nathan, Capital's chairman, who intends to



Boyd Group's Forty7 office development site seen from Kings Bastion.

cautionary note. "Gaming for some time has been a strong driver for commercial property demand and there is a big dependence on its continued success, but the current trend for mergers between the companies may lead to a reduced need for existing offices in the medium term", he feels.

Gibraltar's newest commercial project is at the ICC shopping centre off Casemates Square, where owner Basi Properties is looking to add two additional floors of offices.

In addition, approval was granted three years ago to the Eastside Development master plan, incorporating residential, hotel and potentially the second largest single office site of 19,190m<sup>2</sup>, but there has been no ground works on the scheme.

A 0.24 hectares site – similar in size to Waterport Place – is also marked for office development near to Tradewinds on land once occupied by the Mediterranean Rowing Club.

Temporary use as a 86-space public car park is being sought by Montagu Properties, a private investor (unconnected to Montagu Group), who bought the site last year from Taylor Woodrow.

Further in the future is the potential for office redevelopment, along with storage and distribution at the government-owned old Desalination Plant and current Electricity Generating Station that is expected to be decommissioned in around three years' time.

As Ocean Village's Stevendale remarks: "We have found it easy to sell off-plan and for rental. We are investing, because we believe in Gibraltar; there aren't many places in the world where you will see such a level of commitment to speculative building."

### Office space winter 2009

New Locations	To be built	Sold/let
Midtown	37,000	2,500
Rialto House	6,400	-
Forty7, Boyd House, ICC	2,750	900
Former MRC site*	8,000	-
Eastside project	19,190	-
Business Plaza, Ocean Village	13,000	-
<b>Totals</b>	<b>86,340</b>	<b>3,400</b>

Existing locations	Available now	Sold/let
Atlantic Suites, Europort	3,000	1,000
Waterport Place	780	7,130
Leisure Island Business Plaza, Ocean Village	365	3,535
Majestic Ocean Plaza, Ocean Village	-	3,500
Royal Ocean Plaza, Ocean Village	-	13,000
Europort	600	15,400
Other (BFA survey, 2009)	-	46,000
<b>Totals</b>	<b>4,745</b>	<b>89,565</b>

\* estimated size of site office potential

Source: Gibraltar International Magazine research, early January 2010

undertake a further three undisclosed commercial projects in Gibraltar, as part of a separate consortium!

As Nathan says: "Gibraltar has traditionally suffered from a lack of Grade A offices and suitable retail units; there is a pent-up demand. These planned projects will go some way towards alleviating the chronic undersupply of space available."

### Some caution too

He feels The Rock has "escaped the worst of the global downturn, remaining stable and continuing to grow as firms from the financial, legal and online gaming sectors continue to locate in the territory".

However, Europort's Isola sounds a



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# Still flying high

Compared with the high risk airline business he used to run, **James Gaggero** now has a range of enterprises spread geographically, with a better profit stream and considerably less risk – and more than £100m cash to invest! *Ray Spencer* finds out what makes the Bland Group one of Gibraltar's most enduring businesses.



father) and his younger brother John, disagreed on the way forward for the business and decided to progress separately. The shipping agency, stevedoring operations and cable car facility in Gibraltar, together with other considerations, were devolved to John in a new company, reviving the name MH Bland.

James, who having just completed a short service commission in the Irish Guards, joined Bland in 1982 aged 23. "My father was very supportive of the idea that I should come back to Gibraltar and join the family business which he viewed as a relay race involving the family in a multi generational endeavour. It was he who persuaded me of the merit of returning to our family's home town".

Initially understudying various Bland departments, he gained most experience at GBA "where I then learned what our airline operation was about – basically, a small daily scheduled air service across the Strait".

GB Airways also flew a couple of flights each week to London under a class 5 license operated by Britannia Airways, which provided crews and aircraft. That meant GBA outsourced the business of flying to a third party, but retained all economic risk and management.

"When the frontier opened I was able to exploit my lack of knowledge about the risks to expand significantly the number of our flights to the point in 1987 where we could justify leasing our first 737 aircraft – that was quite exciting", James enthuses.

By 1989 there were three GBA aircraft, and with the airline's own operator's certificate, the base moved to

a matter of months, the financial world came unstuck and within six months of the deal most people were being really quite generous in their acknowledgement of our good fortune".

The Bland Group is this year celebrating its 200th anniversary. James' ancestor, Joseph Gaggero took over the Bland ship agency in 1891 with his brother Manuel – great-grandsons of the first Gaggero to settle in Gibraltar 90 years earlier from Genoa.



The Gaggeros became one of Gibraltar's great merchant dynasties, progressively developing further into shipping, introducing port and airport services, funding the Gibraltar Cable Car project, buying the iconic Rock Hotel and spreading beyond Gibraltar.

But in 1986, Joe Gaggero, (James'

"In a world where even the biggest banks were at risk of failing, to find one's-self without any borrowings and a veritable war chest was very fortunate indeed", remarks Chairman James with typical understatement.

Rarely interviewed, James is discussing his business strategy following the sale of GB Airways (GBA) to easyJet for £103m two years ago.

Aviation has formed part of the Bland Group for three generations of Gaggeros and began when in 1931 Sir George Gaggero launched the then Gibraltar Airways and pioneered flights across the Straits of Gibraltar to Tangier using an amphibian aircraft.

At its peak in 2007, GB Airways with a £300m turnover, employed 1,000 staff and carried 3m passengers annually in 16 modern A320 aircraft on 44 routes from the UK across southern Europe, the Canary Islands and North Africa.

"To contemplate exiting from the very business that had served our interests so well, was not an easy decision to take", 50 years old Gaggero notes.

"With the benefit of hindsight, it didn't take very long to be proved how right we were in making our decision. Within

London Gatwick. Within three more years, GBA was working 28 flights a week from the London hub.

"We got into the airline business in 1931, it wasn't until the last 15 years that the airline came to dominate our economic activity and our success as a family", James observes.

In 1995 – 13 years after joining Bland – James bought out BA's 49 per cent stake in GBA for a price that he describes as quite modest.

"My father didn't believe it would be possible to persuade BA to release its interest, let alone at a price which we would be able to afford, but he supported me."

## Gatwick move 'fundamental'

Later that year, GBA joined BA as a franchise partner. "I recognized that it would allow us to accelerate our growth, but a point would then be reached where we would not be able to afford to buy them out, so it was critical to execute BA's exit from the company before we took the risk in expanding GBA.

"Expansion of services on the London route was important, but moving the GBA headquarters to Gatwick was absolutely fundamental – we had too many eggs in one basket."

That important decision was taken jointly by Joe and his son, but James largely drove it. The decisions to buy out BA, the franchise and the development of the route structure – particularly out of Heathrow – were all key.

"With hindsight, Heathrow was especially lucrative", James reveals. "When we sold GB Airways, it enabled us to greatly increase the amount we received beyond that paid by easyJet.

James had no previous business experience. Having been at English schools since age seven, he did not progress to university and instead went to Sandhurst Military Academy rather than continue with formal education. Nevertheless, it was "a three-year, phenomenal life education".

His father was "exceptionally supportive and experienced in the world and prepared to shower business acumen on me from a very early age – the equivalent of a PhD in business".

He worked alongside Joe for 27 years. James became chairman of Bland Ltd, effectively the trading operation, in 1987 and Group chairman 20 years later.

It wasn't a question of taking business risks either: "when you are young, you don't know what the risks are – it was exuberance and enthusiasm that drove some of these things on, in a way some people would have said was irrational", he concedes.

In 1997 he joined chief executives of large business corporations from across the world on the renowned US Harvard Business University's flagship intensive Advanced Management Programme.

"I was surrounded by 160 superb people. The thing that surprised me was that there was nothing that I learnt – a business philosophy, discipline or anything of that kind – which I hadn't already picked up through good business practice, through my father and the people who I mixed with.

"However, it put much more structure to the thought process of building and developing businesses and some of the key components, and how to set about solving problems, creating a process and becoming more efficient – that was invaluable," he notes.

GBA had 16 aircraft in operation at one time and another as back-up, the firm buying and operating each for two or three years before entering sale and lease back arrangements.

"Frankly, I was always amazed that we could get credit terms that were incredibly attractive and in many ways better than BA; we were given very preferential, almost Sovereign rates", he recalls.

But James saw how BMed, another BA franchise partner, had been adversely affected by the Beirut crisis without BA support. In part, that prompted the end

of the franchise arrangement with BA and the change of direction to today's multi-faceted business. It was a defining moment for Bland Group.

"After much research and analysis of options for survival, the exit strategy seemed most sensible", James says.

Some Group diversification had begun prior to the sale of GBA. Bland Travel coaches and car hire, and Gibair ground handling date back to 1947, the Southampton-based Cadogan Holidays was a major investment in 1954 and Bland acquired the Rock Hotel three years later. Travel agencies in Spain, the UK, Channel Islands, Malta and Morocco were also added.

But since 2006, to help replace the GBA business, nine other business – some large – have been added, four in the past year in four key investment areas – engineering, transport, travel and real estate.

These are at the root of Gaggero's strategy to diversify risk by location and by business sectors, in marked contrast to the previous overwhelming dependence on the airline.

## Substantial property assets

Gaggero won't reveal much financial detail about the Bland business: "It's a private, family business and I like it that way. Every time we give away some detail about our business, people start trying to dissect it, and it's of no benefit."

Bland now employs some 740 people in 18 businesses and "the critical thing is that we don't have any borrowings, plus we have substantial liquid assets – over £100m at present – and substantial real estate assets; there are tens of millions of pounds of property that are not shown anywhere".

Included in the property portfolio from 2000 is the former GBA headquarters at Gatwick Airport, bought from BAA. The Beehive, a Grade II listed building, saw a £1.6m refurbishment last year to provide 47 high-end individual serviced offices in a joint venture with specialist, Orega. *Continued page 23*





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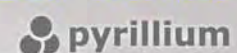
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## PROFILE

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A third of the space has already been taken in the building that “dates back to 1935, right at the very beginning of civil aviation, which coincides with our own involvement from 1931”.

Another portfolio property historically linked to Bland is the former Admiralty-owned Cloister Building in Gibraltar’s Irish Town. It was remodeled by James’ great, great grandfather Joseph Gaggero and his brother Manuel in 1891 to provide a home for the family and for the business, and James now shares the building with his cousins at MH Bland.

The 1,100 year old Encombe Estate in Dorset, complete with farms and 3.5 miles of World Heritage coastline was bought last June by James Gaggero as a hedge against inflation. “This investment made better sense to me with a long term view than say, owning gold.”

Bland’s largest single business acquisition was in late November - Weymouth-based, Universal Engineering (Charlestown), with 250 highly skilled staff and £25m annual sales of specialist equipment for the aircraft, nuclear and oil industries, as well as armoured vehicles for the military.

“The challenge for Universal was that the enterprise had reached critical mass, but the founders who ran it didn’t have the resources to drive it forward, so we are adding our business disciplines and cash to make their further development possible”, explains James.

### £4m military investment

As an early result, the number of Universal’s demonstration Ranger military vehicles – “a revolution in terms of offering protection so far in excess of anything on the market today to troops in counter insurgency roles and operations like Afghanistan and Iraq” - is being increased from one to four at a cost of roundly £1m each.

The first vehicle is being tested, and “the Canadians, Malaysians and British have short-listed our vehicle for final trials, because its extraordinary design focused on protecting those inside makes it possible to use it as a tank, rather than simply as a mode of transport, but with high speed and maneuverability.

“I am acutely conscious of the inadequacy of fighting wars without proper kit and I know this sort of kit needs to be

developed”, James declares.

He firmly believes: “There is an element of British engineering and manufacturing excellence with huge potential that is seriously under-rated and the challenge is to find a way to bring these to fruition. There’s no better time to be going in – there’s no merit in buying into businesses when they are at their peak”.

### Talented individuals

Gaggero sees similarities with Bland Group’s hovercraft businesses bought in mid-2008 – Hoverwork and Griffon – and merged into a single entity last year.

James is candid: “They have been around for some 50 years, run by talented individuals, who are very good at design and building technically excellent amphibious and hover craft, but lack the disciplines and business acumen and finances to get to the world stage”.

Adrian Went, Griffon Hoverwork’s managing director, told the *Daily Telegraph*: “As a family investor organisation (Bland), their eye is on the long term, whereas a venture capital investor might only be looking at three years.”

That has meant the firm adding 30 staff to bring the total to 120, supplying 39 governments on six continents and forecasting sales rising to £22m this year – up from £11m in 2009 - and £35m next year. Using a new body design developed more from lightweight shipbuilding than aircraft, and high-performance diesel engines has both raised performance and reduced the price and maintenance costs of its hovercraft. Current orders range from small four-man craft for Abu Dhabi’s special forces, to a 180-seater passenger craft similar to that used by sister company, Hovertravel, to link the Isle of Wight and Portsmouth.

Teleticket Travel, a Brighton-based flight consolidator, has had three good years under Bland ownership. “The economic downturn has helped provide opportunities, but it’s very tough,” Gaggero admits. “The travel trade is catching the cold that swept across the financial sector last year.”

He nevertheless foresees “a bright and exciting future”, for Teleticket after the next 12 “difficult” months and, similarly, for Cadogan Holidays, the only Bland businesses now not making profit.

Conversely, Skybreak - an airport representation company at Gatwick

Airport South Terminal that Bland bought in 2007 – is doing “very well” and expects this year to open new offices in other airports around Britain.

“It’s difficult to imagine a set of circumstances which could be worse for the airline sector, and some airlines - literally fighting for survival - are doing very dumb things, given there’s too much capacity at this time”, James observes.

He’s adamant: “Service cut backs were inevitable. Gibraltar is not even a conversation in a meeting, it’s a financial decision racked up against a multitude of other decisions”.

Although it saddens him that easyJet has halved Gibraltar services to just one a day for this year, “I have absolutely no reservations about easyJet being the beneficiary of the efforts of three generations of my family”, says James.

But if Bland still owned GBA it probably would not have cut services. “Gibraltar was one of five good business routes we operated. The Gibraltar route in the hands of a focused individual is one that works.

### Economic ‘magic dust’

“From our perspective it was the main show in town. It was our home city and the economic activity we generated locally was sufficient to cushion the immediate impact on airline operations”, with people staying at the Rock Hotel, taking a tour, travelling on Blands buses, or using its airport handling company.

It’s what James calls “magic dust sprinkled throughout the economy”. He’s insistent however, that a new Gibraltar airport terminal is absolutely necessary, though he was daunted by the reported £50m “eye-watering cost – I just wish it could be done more cheaply”.

However, James is clear from experience that “you need good communications to really have a chance to succeed. Gibraltar cannot be isolated; it cannot be cut off from its market place”.

Married with two sons James shuns publicity, although in this Bland Group bicentenary year, “it’s necessary and right that we put a human face on what we are doing, particularly in Gibraltar.”

Few people will recognise James; his photograph (on page 20) is the only one he will permit to be used, “not because I’ve more grey hair now, but because it’s not about me – it’s about Bland.”



# Keeping personal information means maintaining principles!

Much of the information and images stored by public and private sector businesses is out of date or inaccurate and in breach of the law, much to the surprise of the organisations involved, following investigations by Gibraltar's Data Protection Commissioner's Office.

Since the Data Protection Act 2004 (DPA) came fully into force, the Commissioner's compliance teams have been investigating complaints and potential breaches of the law.

There has also been a surge in enquiries from both public and private sectors. The basics of DP are common knowledge. Although the basics of what is involved are generally understood, we have found that there is a lot about Data Protection, which many are not fully aware of.

This includes the obligation to provide information held about individuals upon request and the need to purge certain information that is no longer relevant or necessary.

As a result, our teams have been going out to spread the word that any information or images kept by organisations on individuals must be accurate, complete and up-to-date – usually with the knowledge of those affected.

Failure to do so can involve enforcement or compliance notices and legal action resulting in fines.

The Data Protection Commissioner's Office has been in operation for over three years and in this time, it has undergone a variety of activities all geared towards achieving compliance with the Act.

## Lack of understanding

Throughout this time, one issue regarding data protection has arisen continuously, it is common to both the private and public sector, and is seen across most industries in Gibraltar.

When faced with the question of what measures are being undertaken to ensure personal data is protected, busi-



Maurice M. Hook Gibraltar Data Protection Commissioner's Compliance Manager

nesses and organisations assert that their data protection requirements are met through the use of computer passwords and filing cabinet locks.

However, what this actually reveals is that there exists a lack of understanding of data protection requirements.

The DPA is most certainly not an easy piece of legislation to follow. It is lengthy, technical, complicated in many places and almost certainly indigestible with one single reading.

But within its ambit exist its most important feature, that being the data protection principles (the "Principles"). The DPA derives from a European Directive and so the Principles are common to all European Member States.

If an organisation uses personal data about individuals - either in the form of customer data, or employee data or even CCTV images of identifiable individuals (in a retail outlet or for building security for example) - the organisation will automatically be a data controller under the definition in the DPA.

Data controllers, by virtue of section 6 of the DPA are obliged to comply with

the Principles, failure of which will see a breach of the DPA taking place.

## Fair and lawful

Data controllers must obtain and process any personal data in a fair and lawful manner. This is probably the most ambiguous Principle in the DPA, because the 'fairness' is open to interpretation.

Fortunately, this has been addressed on many occasions both locally and by Data Protection Commissioners in other jurisdictions and so a clear picture has developed of what fair obtaining and processing is.

Essentially, a data controller must ensure that when obtaining any personal data, it does so in a manner which does not prove to be intrusive upon an individual's privacy.

Obtaining information about employees by monitoring their activities without their knowledge or consent for example, is likely to be considered unfair.

Data controllers must ensure that when obtaining personal data it is done so, wherever possible, with the full knowledge and consent of the individuals involved.

## Keeping up to date

The second Principle provides that personal data must be accurate, complete and up to date.

Although this seems to be nothing other than good business sense, it has been surprising to learn that many local data controllers are in breach of this Principle!

In particular, many data controllers in the public sector maintain records dating back many years meaning that much of the data stored is now out of date - for example, the original CV's and application forms of applicants who have served for several years.

Some investigations have arisen after finding data controllers processing inaccurate data - incorrect mailing addresses, for example - which has resulted in sensitive data being disclosed to unauthorised persons.

Data controllers are obliged by the next Principle to only collect and keep personal data for one of more specified purpose(s). When collecting personal data, it is important to ascertain, what it is going to be used for and, more importantly, make that known to those about whom the data is being collected.

Data controllers must ensure that the data being collected is only for a specific purpose. Collecting information about someone simply because it may serve some purpose at a future date, is incompatible with the Principles.

Indeed, the Principle which follows states that personal data which has been collected may not be used in a manner which is incompatible with that for which it was originally collected.

In essence, even if personal data is collected for a specific purpose and intended to be used as such, the data controller is not allowed to then use that information for another purpose.

An example of incompatible use would be information collected legitimately to maintain client records, which

is subsequently passed to a third party without the knowledge or consent of the individual and then used for marketing products or services to them.

## Not excessive

The next two Principles providing require data collected to be adequate, relevant and not excessive for the purposes for which it was collected. This means considering how much information is actually required for the purpose(s) - irrelevant or excessive amounts of data breaches the Principle.

Quite possibly the most common breach found in Gibraltar of the Act is keeping data for longer than necessary for the original purpose.

Locally, there is a trend - particular within the public sector - to store indefinitely information with little or no plans to discard or purge unnecessary data.

Maintaining appropriate levels of organisational and technical security to prevent personal data being accidentally or intentionally accessed, destroyed or altered is the final Principle.

Data controllers must consider the damage that might result if appropriate measures do not exist and requires adoption of appropriate security for their own environment.

The Gibraltar Health Authority, Income Tax Office and banks, for example, are expected to maintain substantially higher levels of organisational and technical security measures than smaller enterprises that process less sensitive personal data. There must be adequate protection against unauthorised access to data through electronic networks.

In conclusion therefore, protection of personal data goes beyond simply adopting a password policy and locking doors at night. It requires proper consideration of the Principles and proper implementation in each of the processing operations being carried out by the data controller. Indeed, much of the work being carried out by the Data Protection Commissioner's Office has been just that - educating data controllers about their obligations to ensure Gibraltar's personal data has a high degree of protection.

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## INVESTMENT

# UK Revenue to lift 55% tax threat to Gibraltar pensions

A 'nominal' tax on pension income from funds transferred under the UK Qualified Registered Overseas pensions Scheme (QROPS) is to be introduced by Gibraltar Government after reaching agreement with HM Revenue & Customs.

The move has been necessary because HMRC threatened to remove Gibraltar as an 'acceptable' jurisdiction after ruling that the territory's Zero Rate tax was against the spirit of UK pension rules.

Failure to agree could have meant private companies and individuals facing up to a 55 per cent tax charge on pension funds relocated to the territory.

Hundreds of retired Gibraltarians, who have worked in the UK for years and built their pension funds, would face the penal charge, and others prevented from transferring their fund to their home territory.

To resolve the problem,

Gibraltar is understood to be preparing draft legislation to tax pension income received from a QROPS and it is expected to be implemented by summer.

Local pensions are unaffected by the proposed new tax and there will be no tax on the value of fund transfers.

"A huge amount of business has been lost during the past year as a result of the uncertainty and other jurisdictions have been capitalising on our dilemma," acknowledges David Erhardt, chairman of the local Association of Pension Fund Providers.

But he revealed: "We still have a lot of transfers waiting from people who have been prepared to wait, rather than go anywhere else. They wanted to have their pensions in Gibraltar."

The UK Revenue notified The Rock's providers in April, of its concerns that Gibraltar's tax treatment for pension income breached its QROPS

## Satisfying business lunch appetites

Business lunches – "simple and not messy to eat, served quickly" – were unveiled at a promotional event in mid-January at Queensway Quay to meet the growing needs of Gibraltar's business community. Jazz Nights and intimate dinner dance meals are also part of the innovations being adopted by Mike Forster, owner of 14 on the Quay restaurant, in 2010.

"We find that people are looking for a variety of enter-

tainment in the evening, so the jazz on Wednesdays and a Saturday £25 set-price, three course dinner with music for dancing is proving popular for this year", says Mike.

The business lunches featuring rack of lamb, guinea fowl and fresh fish, cost £14 for two courses and £17.50 for three courses and can be served quickly to fit in with the pace of life for professionals looking to fit in a good quality meal.

requirements, and applications were put on hold or placed elsewhere.

The pension sector – including law firms and specialist management companies – argued that a zero tax rate still amounted to a tax charge and gained top level UK legal advice to support their claim

Robin Ellison, Head of Strategic Development – Pensions at legal firm Pinsent Masons LLP, said that it was beyond the Revenue's remit to demand tax is paid locally, provided rules were observed to retain the spirit of UK pensions legislation.

"We didn't lose that case, it just that we didn't pursue it when it became apparent that a solution was possible."

Gibraltar pension fund providers point out that all pension income is counted first in Gibraltar's progressive

rate income tax calculations.

For individuals who have been non-UK tax resident for five complete tax years, QROPS provides significant benefits over the strict UK regime.

They can take control of investments and bequeath any remaining funds.

But the scheme has been fraught with problems over interpretation of HMRC rules. Schemes based in Singapore were removed from HMRC approved list and funds subjected to the penal 55 per cent UK "unauthorised payment charge" after local providers allegedly breached the Revenue's strict rules.

Guernsey providers also had to change in November the practice of allowing 100 per cent cash payouts from pension funds after UK Revenue intervention.

## INVESTMENT

# Helping hand for new businesses

Demonstrating its commitment to do all it can to encourage new business, the Government's InvestGibraltar Office has launched a website to act as a gateway for business related advice, guidance and support.

Joe Holliday, Minister for Enterprise, Development, Technology and Transport, says "The business community now has access to relevant and up-to-date information twenty-four hours a day, seven days a week."

The InvestGibraltar Office has a remit to encourage, promote and facilitate private sector development and investment and has implemented a user-friendly '3 clicks and you are there' approach to the web-

site, [www.investgibraltar.gov.gi](http://www.investgibraltar.gov.gi)

Holliday explains that the new initiative recognises that more people are using the Internet to conduct business and various forms of research and the government "appreciates that success in business is driven by people that are usually overcommitted, work long hours and never have a minute to spare".

A business support site, as well as a databank of information, offers users up-to-date information on a variety of business sectors and answers questions relating to commerce in Gibraltar. Business tools, include guides on 'How to make a Business Plan' and an editable 'Financial Forecasting Template'.

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## Gibraltar's World

**Kaiane Aldorino**, the 22 years old Miss Gibraltar, spectacularly has become the 59th Miss World!

An administrative officer for five years in the human resources department of the Gibraltar Health Authority, she gained a place in the final after winning the beach-wear section and now also carries the title Continental Queen for Miss Europe.

Kaiane is expected to be a successful ambassador for the territory in a year when she will visit dozens of countries raising money for charity.

She began an Asia tour in January, including Japan, Korea and Vietnam, advancing the Miss World motto "beauty with a purpose".

It is the first time Gibraltar has achieved such recognition since first taking part 50 years ago and it is 26 years since the Miss World contest was won by Miss United Kingdom.

## Separating out

Eighteen months after joining accountancy firm KPMG in Gibraltar, **Mike Harvey** has



Mike Harvey

been appointed a director, reflecting "the rapid development of the office" as the result of work to develop key local relationships in funds and insurance for the two year-

old office, separate from the KPMG Isle of Man operation.

Having qualified as an accountant in Liverpool in the mid 90s, Mike moved to Gibraltar in 2001 to concentrate on the audit of financial services entities and joined KPMG in May 2008 to help re-establish the KPMG brand on The Rock.

## Winning streak

**bwin**, one of the largest on-line gaming firms in Gibraltar has won *eGaming Review Magazine's* prestigious

Lectures in June.

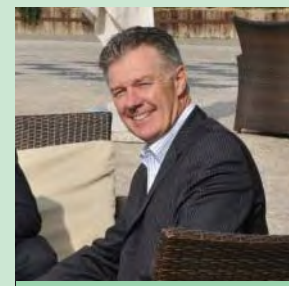
Hassans, Gibraltar's largest law firm founded by Sir Joshua 70 years ago, decided to invest in the series of lectures "covering legal matters and politics that impact to raise the level of debate in the territory on international issues", says senior partner, **James Levy**.

"We wanted to attract influential personalities who could make an impact", he explains adding, "our practice is increasingly involved in work overseas and has contributed significantly to the growth of the firm."

Howard, who will be

## Relationship grows

NatWest has appointed **Paul Miles** as Senior Relationship Director to head a new five-strong corporate team focussing on the financial sector, including trust and wealth managers, fund administrators, insurance intermediaries, the gaming industry and other professional service providers.



Paul Miles

Paul has 35 years' experience with RBS Group and first moved to Gibraltar from Canterbury in 1998. Five years later, he re-located to Guernsey working for the Bank's real estate finance team, before returning to Gibraltar early last year.

NatWest is now the only bank in Gibraltar with two full-service branches for its customers, having repositioned its former RBS International offices at Coral Road to complement its Line Wall Road main office. A quick deposit till has been installed and further improvements are promised this year.

## Communicating success

Eight Gibtelecom apprentices, aged 17 to 22, have gained National Vocation Qualification certificates (NVQ), after successfully completing the first year of a new four year apprenticeship programme, launched in partnership with the Department of Employment, Labour and Industrial Relations.

Gibtel, which provides

fixed line, wireless, internet and data centre services, re-introduced the telecommunications apprenticeship scheme after a gap of over 25 years to ensure Gibraltar trains sufficient young home grown talent.

**Stefan Agripino**, **Jarred Buttigieg**, **Richard Cruz**, **Jaydan Fortunato**, **Tyronne Garcia**, **Julian Sarmiento**, **Chad Medina** and **Neil Wink**, underwent NVQ Level 1 in basic hand skills and "on the job" structured training, including a health and safety course with British Telecom in the UK.

The apprentices are now working towards an NVQ Level 2 and ultimately a Level 3 in Communications Technologies.

**Luis Montiel** Minister for Employment, said: "This public/private sector venture

demonstrates what can be achieved through taking a proactive approach in creating opportunities for young people, and equipping them with the appropriate skills to serve the local community's technology requirements for the future."

## A new chair



Sheila Nicoll

**Sheila Nicoll**, a director of Gibraltar-based Argus Insurance Company (Europe) Ltd since 2004, has been

elected its Chairman following her election as Chairman of the parent company, Argus Group Holdings.

With over two decades of experience in the insurance industry, Nicholl has worked at Lloyd's of London and the New York Insurance Exchange.

Nicoll, who also is senior vice President of White Mountains Re Bermuda Ltd and responsible for operations there, is looking to continuing growth of the Argus Group across its Gibraltar, Malta and Bermuda operations.

## Mauritius move

After six years in Mauritius, **Kirby Dupont** has joined STM Fidecs' largest unit, Fidecs Management Limited, as

Director responsible for new business development.

Kirby has over 15 years experience working in offshore financial services, initially with Young Ridgeway in the UK as an investment adviser building an international client base

across a range of jurisdictions, with a particular focus on the mining sector in West Africa.

She moved to Mauritius to establish an office for The Hemery Group - a Jersey

based Offshore Trust Company and was the resident director.

Now Kirby travels widely, advising clients and third party professionals on the benefits of offshore structuring and establishing personal trusts.



Kirby Dupont

# Around & About

'Operator of the Year 2009' prize for consistency of services, leadership in the market, brand strength and commitment to responsible gaming.

A few weeks earlier, **bwin** - which boasts over 20m customers in more than 25 core markets - took first place in the magazine's 'Power 50' ranking for the second time running.

## Mixing politics with the law

**Michael Howard** MP, who was Leader of the British Conservative Party for two years until 2005, and a former Home Secretary, is to be the inaugural speaker at the annual Sir Joshua Hassan

almost 69 at the time, was a frequent visitor to Gibraltar and will make the summer Lecture one of his last public speaking engagements. He is standing down as Member for Folkestone and Hythe at the General Election this year.

Like Sir Joshua, who became Chief Minister of Gibraltar whilst working in law, Howard also has combined law and politics having been a barrister since 1964 and a practising Queens Counsel, a year prior to winning his parliamentary seat in 1983.

Levy joined Sir Joshua at the small firm of Hassans in 1976 and now there are 70 lawyers (24 as partners) and 245 staff.

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## LAST WORD

# Spathetic

**F**act: I suffer from a bad lower back which is treated, usually effectively, by a medical bloke who regularly beats it in his spartan treatment room. And so, on with the story...

I've never really enjoyed cruises, as I don't like to be on holiday with 900 other, usually queue-jumping Italian, people. Nowadays, even the kids have opinions which, whilst lacking in merit and weight, are frequently and inopportunistically articulated.

We were on an Alaskan cruise. I'd earlier hurt my back - badly as it turned out - lugging luggage from Vancouver, inland to Calgary and back on the driving part of the holiday. The kids, expert in opinions, were considerably less so in baggage-carriage.

My wife, in a fit of compassion and vocational exuberance and despite my resistance, organised my first non-sports massage at 'The Spa'. I was possessed of numerous questions. Would I - would it - be safe? Would I have to undress? Should I shave those bits? And what the hell is a Spa? With some trepidation, I arrived at the small reception to be greeted by a large-haired, heavily-painted, ruthlessly slim female, of uncertain age, dressed in a kimono and smiling beatifically at me as if I were an Enlightened Being just landed from another planet.

I was immediately suspicious, the trepidation justified. The place had been consciously purged of any masculinity. I felt that admission had been granted by kind indulgence of the New Age

Gaia-Guru, and only because I'd paid a hundred bucks in advance, plus tax. The Divine Assistant, whose aura-halo was almost visible, ushered me into a cubicle where hung a dressing-gown.

"Please make yourself comfortable with your experience attire", she said, which I assumed was Guru-Tongue for "Strip down to your Y-fronts". She'd probably never heard of, let alone ever seen, a pair of M&S standard issue, Big Fat Bloke Y-fronts. I was tempted to leave my pair hanging from a branch of the Tree of Wellness in reception.

With some revulsion, I donned the dressing-gown and slippers, something I never do in a hotel. I don't know if other blokes are like me but I do not like wearing an article of intimate clothing that has possibly been previously donned by rugby players, mafia bosses, or George Michael!

Another female who, despite stockiness reminiscent of a sumo-wrestler and doing her best to speak Guru-Tongue, asked me to lie face-down on the couch, after removing the dressing-gown. Good job I'd kept the Y-fronts.

At this juncture, any notion I'd previously entertained of a massage being a pleasurable experience was forever extinguished: she'd only just started, but I was already having several uncomfortable sensations.

First, lying face-down involves sticking the protuberant parts of one's face in a hole that makes it difficult to move one's head from side to side without dribbling.

Second, Genghis Khan's

cousin had started to apply oil perilously close to where no woman had gone before.

Third, oil and excess body hair just do not go.

And fourth, this was no gentle, reassuring, quasi-erotic muscle-relaxant. This was hard-core brutality, deep-muscle-and-ligament-stretching agony.

Despite an initial brush with the borders of The Exclusion Zone, the main ambition of the tips of her fingers was in pulverising the convoluted knot of fibres sitting in my lower back.

I now understood: my wife, apparently part of this female plot, had told them exactly what was needed to free me up as the main baggage-handler of the tour.

All the paraphernalia - the noxious odours, the pastel colours, the incense of rare Indonesian timber from managed forests, the flowery garb

of the New Age acolytes - all are designed to make one think one is having a time of self-indulgent, unguent pleasure when it's really just re-hashed sports physio at three times the price, plus tax.

I couldn't wait for it to finish. It was probably the most stressful time of my life.

Emasculated in mind, body and soul, I all too quickly signed up to the final cost and hurried out as fast as my oily feet would carry me. But at least I had the wits about me to resist the purchase of half a crate of creams, gels and other liquids.

So, why is it called a Spa?

I still don't know but it's hard not to conclude that it's a female sexist conspiracy to boot men out of the hotel pool and replace us with wellness wave-sounds, pastel colours and fancy smells. And no hair, anywhere.

Chris Pitaluga

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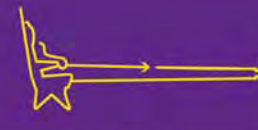
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