



HOUSE OF COMMONS

European Scrutiny Committee

Oral evidence: Negotiations with the European Union in respect of Gibraltar, HC 170

Wednesday 1 May 2024

Ordered by the House of Commons to be published on 1 May 2024.

Watch the meeting

Members present: Sir William Cash (Chair); Dame Andrea Jenkyns; David Jones; Greg Smith; Sammy Wilson.

Questions 146 - 225

Witnesses

I: David Rutley MP, Parliamentary Under-Secretary of State, Americas, Caribbean and the Overseas Territories, Foreign, Commonwealth and Development Office; and Robbie Bulloch, Director, Gibraltar Negotiations Taskforce, Foreign, Commonwealth and Development Office.



Examination of witnesses

Witnesses: David Rutley and Robbie Bulloch.

Q146 **Chair:** Good morning, Minister. Thank you for appearing to give evidence today.

When you answered my urgent question on 11 March, I and many members of the Committee across the House were concerned that the Government were planning to wrap up Gibraltar negotiations without providing time for consultation or scrutiny, so we are very pleased that you have made yourself available this morning.

We have heard from Gibraltar's Chief Minister twice in public and twice in private. It is now time for the UK Government to account for a negotiation for which they are solely responsible, as you know. A deal will be reached between the UK and the EU, not with Gibraltar and Spain.

The emerging contours of the trade and border deal for the Rock are concerning us very much. There has been talk of a Schengen border on Gibraltarian soil, dynamic alignment with EU rules, as in Northern Ireland, and changes to the status and management of the airport. We understand that there are also naval and military implications, as part of the military assets.

Some of these issues were trailed in the UK-Spain new year's eve framework agreement: others were not. Of course, the devil is in the detail. For example, we can discuss Schengen border controls at a high level of abstraction, but will there be a Schengen border at Gibraltar's airport that UK nationals wishing to visit only Gibraltar will have to go through, with their biometric information being taken by Frontex, the EU border agency? I recognise that border fluidity is important for the people and businesses of Gibraltar. This must not, however, be pursued at any cost. There are other prevailing factors.

Arrangements must be reached that respect the UK's and Gibraltar's sovereignty and the integrity of the entire UK family. These negotiations are not being undertaken in a vacuum. The outcome will reverberate from here to Belfast and across the Atlantic, to Stanley in the Falklands. In your role, Minister, I will expect you to be especially alive to all of this.

Today, we will cover the conduct of the negotiations and the timeline to a deal; the border and alignment with the Schengen acquis trade and level playing field considerations; and the airport, military assets and the whole issue of any nuclear capability, for example.

For those watching at home, would you mind briefly explaining your ministerial responsibilities, particularly with regard to the Gibraltar negotiations? You have with you an official, Mr Robbie Bulloch, from whom we have heard before. It would be helpful, Mr Bulloch, if you introduced yourself and specified your responsibilities after the Minister has done so.

Thank you very much for coming. I think that you would like to make a



HOUSE OF COMMONS

statement after I have finished mine, which I am just about to do. Over to you, Minister.

David Rutley: Thank you very much, Chair. I appreciate your concern. I know that the members of the Committee who are present have a very keen interest in this issue, and it is entirely appropriate that we discuss it. I am pleased that you have noted that a series of Ministers have already appeared before your Committee, which is entirely appropriate.

I am the Minister for the Americas, the Caribbean and the overseas territories, which include Gibraltar, so I have a very keen interest in overseas territories. Gibraltar was brought into that set of ministerial responsibilities fairly recently, as you know. That is why I am here today—because I have that ministerial accountability.

Thank you for the opportunity to say a few words. I will keep them brief, but, like you, I think that it is important to set out the stall before we go into the questions.

Q147 **Chair:** Before you start that, may I mention the relationship, which is a little puzzling to some, between you, the role of the Minister for Europe and, of course, the Foreign Secretary, who has taken an active interest in this Gibraltar question? He was in the European Commission talking to Commissioners about this recently. It would be interesting to get some insight, because he is coming to see us quite shortly. It would be interesting to get your take on what is going on and what role he is playing, as well as you, in relation to these negotiations.

David Rutley: Of course. We can talk more about that.

In summary, these negotiations have been going on for two and a half years—and longer. We are now at a point of intensive negotiations. At that point, the Foreign Secretary takes a very keen role, as do I. He has asked me to take on the ministerial responsibility at this moment.

Thank you for the opportunity to appear before the Committee today to provide you with a very brief update on where the UK and EU negotiations are in respect of Gibraltar. I will make a few opening remarks before the questions.

I would like to be clear at the start of our session today that the United Kingdom will only reach an agreement with the EU on Gibraltar, first, that the Government of Gibraltar are content with; secondly, that safeguards Gibraltar's sovereignty; and, thirdly, that fully protects the operations and independence of the UK's military facilities in Gibraltar—a point that I know is of critical importance to you, Sir Bill. These are effectively our red lines. They have been from the start, and they continue to guide us as core principles in negotiation.

I would now like to offer the Committee an update on the latest developments. You will have seen that on 12 April the Foreign Secretary, alongside the Chief Minister of Gibraltar, met EU Commission executive



HOUSE OF COMMONS

vice-president Maroš Šefčovič and Spanish Minister for Foreign Affairs José Manuel Albares in Brussels, as part of our efforts to conclude a UK-EU agreement in respect of Gibraltar. This was the first meeting in this format. Discussions took place in a constructive atmosphere and the core elements of the treaty—the core elements—were agreed upon, including on the airport, goods and customs and mobility of persons, which are the key issues that you are looking—

Q148 **Chair:** I also mentioned military assets and the naval capability.

David Rutley: Understood.

The meeting reaffirmed Ministers' shared commitment to concluding a UK-EU agreement to secure the future prosperity of Gibraltar and the wider region. The treaty will bring confidence, legal certainty and stability to the lives and livelihoods of the people of Gibraltar and the region, without prejudice to the parties' existing legal positions on sovereignty.

Intensive negotiations will continue over the coming weeks. The UK Government continue to work side by side with the Government of Gibraltar as we seek to conclude an agreement that will benefit Gibraltar, its people and its economy.

I spoke to the Chief Minister of Gibraltar on Friday. He is a staunch defender of Gibraltar's sovereignty, and we are united in our approach, including on our core principles. Today, I will reiterate his offer to brief this Committee on his approach to negotiations and their content.

As I have said, and as I hope is clear from our actions, the Governments of the United Kingdom and Gibraltar are committed to concluding an EU treaty. We also continue to work closely on preparations to ensure that robust contingency plans are in place for all eventualities, including no negotiated outcome.

The UK remains steadfast in our approach to Gibraltar. I reiterate that we will agree only to terms that the Government of Gibraltar are content with, that ensure that sovereignty is safeguarded and that ensure that our military facilities can continue to operate unimpeded. Those principles have been and always will be fundamental to our approach. I look forward to answering the Committee's questions.

Chair: That is very good. Thank you very much. David Jones would like to ask the first question.

Q149 **Mr Jones:** It is just a brief matter of clarification. Are you the Minister with oversight of the negotiations with the EU, or is someone else doing that?

David Rutley: I am the Minister responsible for Gibraltar and, therefore, what is going on with the negotiations. However, as I have highlighted, these are very important negotiations and the Foreign Secretary is personally involved with them.



HOUSE OF COMMONS

Q150 **Mr Jones:** So he is responsible for the conduct of all of the negotiations.

David Rutley: He is responsible for all of our foreign policy.

Q151 **Mr Jones:** I understand that. In terms of the practicalities of the negotiations with the EU, which Minister has the conduct of those negotiations?

David Rutley: The Foreign Secretary has oversight of those negotiations and has been involved with them. I am the Minister responsible for our relations with Gibraltar and for—

Q152 **Mr Jones:** I understand, but you are not actually involved in the negotiations.

David Rutley: I have only recently been appointed, so not at this stage. I have oversight of those as well, as my ministerial brief.

Q153 **Chair:** Effectively, you take your instructions from the Foreign Secretary, and he is doing the negotiations as such.

David Rutley: At this stage.

Q154 **Chair:** When you answered my urgent question on 11 March, and yesterday at Foreign Office questions, you spoke of the importance of the UK Government's negotiations with the EU in respect of Gibraltar not undermining our sovereignty and that of the Rock. Practically, for those not well versed in constitutional law and theory, what does sovereignty mean in the context of UK-EU negotiations on a trade and border deal for Gibraltar? I will come on to the question of legal certainty in a moment, but is there any question of a Bill in Parliament to deal with any of these matters? Is that something that you have in mind, because we have a very clear statement in relation to our sovereignty in Acts of Parliament? Of course, there is also the question of the wording of any such Bill being clear and unambiguous. I will not go into the detail of that now.

Let us drill down a little into what is at stake. Will you be direct, please? Would the following be compatible with the Government's idea of sovereignty and its interpretation: first, alignment with the EU in law in respect of Gibraltar; secondly, a Schengen border on Gibraltarian soil; and, thirdly, joint or shared management of the airport and any other military or naval assets, which are of importance to our NATO commitments and to our integrity as an independent nation? We will come to those issues in more detail later, but I want to present that as a kind of concept. What is the Government's notion of sovereignty in relation to Gibraltar in that context?

David Rutley: There are multiple questions within the question.

Chair: I know.

David Rutley: There are a lot of questions there.

Chair: Yes.



HOUSE OF COMMONS

David Rutley: We will get into the detail, I am sure.

Chair: They are very important questions.

David Rutley: They are very important questions.

Q155 **Chair:** You can ask Mr Bulloch about any of those questions, of course, if you feel that it is desirable.

David Rutley: Of course. We will involve him. Robbie has been playing an important role throughout.

Let me start. You raise the question of whether there will be any legislation. As things stand today, we do not see that there will be any need for legislation. This is a treaty. The treaty would go through the normal process. I understand that there will probably be a question on that later. We can go into the detail then.

We have been very clear throughout—I responded to you on this in the UQ and yesterday—that we will safeguard the sovereignty of Gibraltar. There is a double lock on that, which has been in place since the last Labour Government, I understand.

As regards whether any of the issues that you have highlighted undermine sovereignty, with the flights, we all recognise that there will be economic benefit from flights going from Gibraltar to the EU, but we will do that only when we know that we will fully protect the operational autonomy and independence of the UK's military facilities.

You have raised the issue of a level playing field on a number of occasions. As I made clear in the UQ and will make clear again today, this will be about agreeing mutual and reciprocal rules, through a bilateral agreement. We are not taking on the rules of either party. We have done that in the TCA. We have done that in the CPTPP. It is normal to have these mutually agreed and reciprocal arrangements in place in these sorts of arrangements.

The movement of people is another key issue. I think that it is the main reason for this negotiation and treaty, which sets it apart from what has happened in Northern Ireland. I am sure that we will hear more about that in the questions. This is not about Gibraltar joining Schengen. In all of the things we are talking about here, sovereignty will be upheld. Robbie may want to come in on this.

Robbie Bulloch: To clarify, I am the director in the Foreign Office who has been working on the negotiations for three years. I am also the deputy chief negotiator, so I have been involved in the negotiations over the full period.

Q156 **Chair:** The people watching this might need to know the director's name. Can you remind us?

Robbie Bulloch: I am Robbie Bulloch.



Specifically on the last question, around the Schengen checks on Gibraltarian soil, that is a core part of the agreement. It is what was agreed in the political framework, which I think the Committee has seen. In our opinion, that does not require any infringement of sovereignty. It is an agreement to facilitate an open border, which the Gibraltarians want and need to facilitate their economy. It is a shared objective.

Q157 **Chair:** What about the Spanish Government? What is their attitude?

Robbie Bulloch: It is a shared agreement. The political framework that was agreed with the Spanish Government at the end of 2020 has as part of it an agreement that there will be Schengen crossing points at the port and airport, and entry and exit through them will be permitted only on completion of both Gibraltar and Schengen checks. It operates in a similar way to juxtaposed controls. You are having dual checks. Both the UK and the Spanish Government agreed to that, as well as the Gibraltarians.

Q158 **Chair:** That is precisely why I talked in relation to the airport about joint or shared management. That is an issue that has been raised by a Minister in Spain who has responsibility for these matters. It has also become quite a matter of concern to us, because of the implications in relation to the Ministry of Defence, for example, and the Secretary of State for Defence. These matters are effectively under his control—we need to get that quite clear—and not just a matter for the Foreign Secretary, because they are matters of significance to our military capabilities. These days, we do not know exactly which way things are going to go on any particular part of stability in those areas of concern. You see what I mean. Can you give us an insight into where the Spanish Government are at the moment in relation to the airport?

David Rutley: Yes. I think that all parties agree that there are benefits to exploring practical and technical options to facilitate flights from Gibraltar to the EU. That is tangible and real. We will agree only to those terms that the Government of Gibraltar and importantly—especially in relation to your question—the Ministry of Defence are content with.

The MOD is a fundamental part of our negotiating team. There is an active engagement in these negotiations not just with the Foreign Secretary but with the Secretary of State for Defence. If we can find a way to open up flights between Gibraltar and the EU that respects our red lines—the key red line we talked about before, around sovereignty and military control of the airport—we should look at and explore those options, which we are actively doing now.

Just a few weeks ago there was this first meeting where we had the UK and the EU, the primary parties, at the table with Spain and Gibraltar—four ministerial participants trying to deal with all of these issues, which are quite technical. We are clear on our red lines.

Chair: Fine. We will be coming back to these issues in more detail.



Q159 **Sammy Wilson:** Minister, you have, by my count, mentioned sovereignty seven times in your answers. Given the experience of Northern Ireland, the UK Government's definition of sovereignty seems to be fairly flexible on occasions. Sovereignty can still be maintained while foreign law is imposed on a territory, while the European Court of Justice adjudicates on that and while border posts with EU officials in them are located within the territory. As we have seen this week, where we want to align with laws on animal products that apply in the UK, we have to vote in EU laws, rather than have the UK Government make those laws for Northern Ireland—so when I hear you talk about sovereignty, I get very nervous.

Let me go back to a couple of the points that the Chairman raised. I think that you said that the checks at the airport and the Spanish and EU presence there were partly to facilitate flights into other EU countries. Why is it necessary to have an EU presence? We fly from here to other EU countries. We do not require EU officials to be present at airports in the UK. Is this not a case of a demand being made by the EU—a demand that it has been pushing for a long time? Are the Government really going to concede on that principle in order to facilitate flights that could be facilitated anyway, without an EU presence in Gibraltar?

David Rutley: It is an interesting question. I want to reassure you and the Committee that these are separate issues. The flight issue is different from the issue of fluidity across the border.

The key issue—the difference that we are trying to underline—is that the border arrangements, which have been on the table now for two and half years to be discussed and negotiated, are to enable fluid movement across the border from Gibraltar into not just Spain, but Schengen. That is why the approach has been put on the table and why we are negotiating around it.

Somebody coming into Gibraltar through the airport or the port will, first, of course, go to the Gibraltar border force and be checked there. Once they are in Gibraltar, they could quite conceivably—and quite often—go through into Schengen, across a border where the border controls will have moved. There will still be a border—a very clear border—but there will not be the border controls. That is why there is the second layer of having Frontex officials, so that individuals who come into Gibraltar and may well then go into Schengen have had the adequate checks.

That is the situation. It is not really to do with the flights. The flights are related to other issues. The border point, which is about the fluid movement of people across the border, requires this second step at the border, at the airport and port.

Q160 **Sammy Wilson:** The existing border checks, of course, are on the Spanish side. Why is that arrangement not suitable after these negotiations?



David Rutley: The point of the negotiations is to continue to respect that border completely, but to remove the controls at the existing border, so that there is fluid movement of people across. Remember: 15,000 frontier workers come across that border every day into Gibraltar and then go out. We are trying to remove the friction at that point. The people of Gibraltar want, first, to create certainty of movement. There have been issues around blue card holders, which may well come up in the conversations today. That will remove the uncertainty there. Secondly, it is to help to safeguard Gibraltar's prosperity, which requires this fluid movement of people.

Q161 **Sammy Wilson:** Do you envisage the same situation as in Northern Ireland, where, for the movement of goods across the border, Gibraltar will have to take EU single market rules? If so, what are the implications and the differences between the situation now and the situation that will exist?

David Rutley: There will be some alignment, but the situation is very different from that in Northern Ireland. You are much more expert on Northern Ireland than I am, but this situation is very different. Gibraltar puts duties on goods coming in from the UK. Gibraltar has never been part of the single market. In fact, the flow of goods coming into Gibraltar, compared with Northern Ireland, is very small. The amount of goods going out of Gibraltar is much, much smaller. Everybody who has spent time in Gibraltar will know that it is a service-based economy, and services are not included in this negotiation.

I hope that that gives you and the Committee some reassurance. There will be some alignment on a proportionate basis, where required, but this is not about joining the single market. Gibraltar has never been part of it.

Q162 **Sammy Wilson:** The flow of goods from Northern Ireland into the EU is very small—0.4% of the total amount of goods moving into the EU move through Northern Ireland—yet there was a requirement for alignment of EU laws with laws in Northern Ireland. What alignment do you envisage? You say that it is a small percentage, but even with a small percentage the EU has always argued, "We need to safeguard our markets. It can be a small percentage today, but it could be a big percentage tomorrow, if it becomes a gateway." That was the argument that they made in respect of Northern Ireland. What degree of alignment do you envisage?

David Rutley: It will be proportionate to the goods that are being moved across the border. Robbie, you may want to come in on this technical point.

Robbie Bulloch: The principle is that you no longer have a border. The objective is to allow people to cross, but, of course, if people can cross, they can carry goods. There need to be assurances to the EU that those goods conform to the same standards, because they can move into the single market. In certain circumstances, they will need to be aligned with



the rules, but that would be done under Gibraltar law. It would not be a direct application of EU law.

Q163 **Sammy Wilson:** You use the phrase “in certain circumstances”. This all gets very vague. You say, “In certain circumstances, there will have to be some alignment.” Of course, if that alignment does not take place, who adjudicates whether an offence has been committed? Is that decided by the European Court of Justice? Can you not be any more exact in your answers? We have seen this before—vague promises made that there is not going to be a great deal of disruption or interference, yet the interference becomes phenomenal. Having learnt from Northern Ireland, we want to make sure that we do not do the same with Gibraltar, especially since Gibraltar is a disputed territory as far as Spain is concerned—and the EU has backed Spain in its dispute over that.

Robbie Bulloch: To be clear, I do not think that there is a problem for the Gibraltarians about ensuring that goods in Gibraltar and coming to Gibraltar are compliant with EU rules. Most of them already are.

As regards the ECJ, there is not going to be direct application of law. There may be cases where there is referral, but that is very different from direct oversight.

Chair: At this juncture, we probably have to move on, but I think that Mr Wilson’s remarks and questions are very relevant to our consideration of these issues.

Q164 **Greg Smith:** Minister, there is one little bit that did not really come out of your opening statement or the answers that you have given to the questions so far. In your opening remarks, you referenced the fact that this has been going on for two and half years—maybe three years, Mr Bulloch suggested. Where has this sudden push come from? We know how slow negotiations with the European Union can be, but a pressure-cooker environment seems suddenly to have come up. Who is pushing for this to come to a head right now? Is it the Commission? Is it to do with the European Parliament elections? Where is the pressure point?

David Rutley: As you rightly say, these negotiations have been going on for a long time. I have not been party to them all over the years. Many of you have been scrutinising them for a long time.

In terms of the areas of discussion, there are no surprises here. These are issues we have been working away and negotiating on. We are now coming to a point of intensive negotiation.

This is not a pressure cooker. This is recognising that there are moments in time ahead. We are not going to do a deal that is not the right deal. We are not going to do a deal that does not respect the red lines that I highlighted in my opening remarks.

I think there is an opportunity to move forward. The first four-way meeting was an important moment. We can see that this opportunity lies



HOUSE OF COMMONS

ahead, as can the Chief Minister, but we will not sign up to any deal; it has to be the right deal for the people of Gibraltar.

Q165 **Greg Smith:** Has the European Commission put to the UK Government an end date by which it wants this to be achieved?

David Rutley: These negotiations will be concluded only when our red lines are respected and we can navigate through what are still quite complex technical and political issues. As you have indicated, there are moments in time ahead—more importantly, with good will being shown by all parties—that would suggest this is the time to intensify negotiations. That is where we are. That is why Robbie and his team are working so hard and now have the focus of the Foreign Secretary and me on this, but we will not sign up to any deal.

Q166 **Greg Smith:** That is a position I understand and support. That is the UK side of the negotiation. What I am trying to understand is the pressure from the Commission and, potentially, pressure from Spain as a nation state. The UK has red lines; they have red lines because this is a negotiation, but I get the sense that they are pushing much harder for a deal to be done, irrespective of the fact that the UK is standing up for its own red lines. Irrespective of whether we are prepared to do the deal, has the European Union or Spain given a deadline by which they would like a deal done?

David Rutley: We are working on this negotiation, which has carried on for years. There is now an opportunity to move this forward, possibly over the coming months or even sooner, but I reiterate that we are working in lockstep with the Gibraltarians. They want to see a deal done because there is an opportunity to remove uncertainty and find a way forward that will help with the prosperity of Gibraltarians and the wider region, but I say a third time that we are not going to do anything that rides roughshod over our red lines, which are very clear. Robbie, is there anything that you want to add?

Robbie Bulloch: The Minister is absolutely right. These negotiations were going on even under the 2020 framework. That is why I say it is longer than two and a half years, but the negotiation for two and a half years is not a process that has been rushed. The objective of any negotiation is to get to the end of it. If you see an opportunity to get to the end of it you move for that opportunity, because there is continued uncertainty in Gibraltar, and every day that goes by is another day of uncertainty for the people of Gibraltar.

David Rutley: To be clear, there is no hard deadline here.

Q167 **Greg Smith:** No one has asked for a date by which they wish this to be done?

David Rutley: Yes; I just underline that.

Q168 **Chair:** I want to add something in the light of what you have just said. Of



HOUSE OF COMMONS

course, the position as regards Spain seems to have been expressed by other European Commissioners, for example, recently. There was a quite categorical statement by one of them that Gibraltar belongs to Spain. This kind of comment naturally causes concern. It sounds as if there is some sense of political determination on the part of some. I trust not only that you are aware of that, but that you will bear it in mind with the pressures that are brought to bear in terms of any conclusion that needs to be resolved, if it can be.

David Rutley: To answer that important point, we are aware of that, Sir Bill. You are a student of these matters. I think you also recognise that that was a Commissioner who did not have the right responsibility for that area and whose remarks were corrected by the Foreign Minister of Spain, so that is an important point to note.

Q169 **Mr Jones:** We would like to move on now to the specifics of what is proposed. There are two elements: the border and trade. If we could focus first on the border, as I think you know, the Committee visited Gibraltar and was told of the importance of a fluid border. There is a border there at the moment. As you rightly said, Minister, 10,000 to 15,000 people cross the border every day to work in Gibraltar. At the moment, that is a Schengen border, is it not?

David Rutley: Yes.

Q170 **Mr Jones:** It has operated in recent years pretty fluidly. What is now proposed is that the existing Schengen border should be moved from its current location effectively to the airport and port. That is the proposal, is it not?

David Rutley: I would like to clarify it a little bit. First, what is being proposed in this arrangement is that the border continues to be where it is, but the border controls are removed. It is important to clarify that those border controls are removed from the border to enable fluidity across the border so that people can pass backwards and forwards, which they need to do every day. In the light of that, it will mean that those people coming into Gibraltar from the airport or port will have to pass through, as they always have, the Gibraltar border controls. Because there is a very high chance that they will also go into Schengen and Spain, they will then go through Frontex, or the Schengen border control, in the airport or port. I just want to clarify that, but I may have a further point on it.

Q171 **Mr Jones:** Thank you for helping me with that. At the moment, the border is where the border is and the Schengen controls are on the border. The border operates pretty fluidly because, as we have heard, 10,000 to 15,000 people come in every day. It is quite hard to understand how that will be improved by moving it to the airport—British soil—rather than having it in its current position where, as far as we can see, it operates pretty well, except when the Spanish are being obstructive, which happens from time to time for whatever reason,



whether political, the state of their digestion or whatever. That is a worry, because we are now arriving at a point where it appears to me that the British Government are conceding that there should be foreign border officials operating on British soil. What has changed in respect of the current border that means we have to remove the controls from that location?

David Rutley: If we look at the situation at the border, we see that, yes, there is a degree of fluidity already. There is uncertainty. That is why people in Gibraltar and the Gibraltarian Government are asking for absolute certainty about the fluidity of that border. To make sure that happens, the border controls will be removed.

The other matter—we may well talk about this; you may even have a question on it—is that the issue around blue card holders can be a point of friction.

Q172 **Mr Jones:** We will be coming to that in a moment.

David Rutley: Indeed. I will save that, but what we are proposing here—this is why it has been on the table since the political framework three years ago—is to underpin, align and create certainty about the border arrangements by taking steps currently proposed and agreed in principle by the Government of Gibraltar as well. This is not the UK Government seeking to impose these issues on the people of Gibraltar; the Chief Minister and people of Gibraltar want this degree of fluidity.

To make one final point before handing it back to you—this is different but similar—as Robbie said earlier, this is not without precedent, in the sense that we have French border police in Dover and St Pancras who facilitate people's swift movement across the border into France and into Schengen from the UK. This is not unprecedented. I agree that the context is different. In terms of the benefits around removing uncertainty and safeguarding prosperity, hopefully increasing prosperity through the other arrangements, this is why we are at the table negotiating these points with Spain—sorry, with the EU.

Q173 **Mr Jones:** You mentioned Spain, and I think that is quite important. Spain has been problematic ever since the United Kingdom decided to leave the European Union. You will recall it insisted that Gibraltar be kept separate from the wider negotiations. As far as Spain is concerned, this is a huge opportunity to exert more pressure upon the United Kingdom and Gibraltar. For many years, we have had a Schengen border with border controls operated at that location. The only reason this is being moved is that the Spaniards are taking political advantage of the current situation. There is really no need, is there, to have border controls on British soil in the airport?

David Rutley: I have already highlighted the desire of the people of Gibraltar—

Q174 **Mr Jones:** Forgive me for interrupting. I appreciate what you say about



the desire of the people of Gibraltar. The point is that we are talking here about sovereign British territory. Gibraltar is as British as Berkshire. What is happening at the moment is that those controls are being moved. I understand what you say about what the people of Gibraltar want. That is a concern for this Committee, but at the same time there is the issue of British sovereignty, which it appears to me—and may appear to some of my colleagues—is being compromised as a consequence of what is being proposed, and what appears to be acceptable, sadly, to the British Government.

David Rutley: I understand the point you make, David. I would say in response that Gibraltar is as British as St Pancras or Dover. As for the uncertainty faced by the people of Gibraltar, which sometimes involves queuing for two or three hours at the border, as well as inconveniences for whatever it might be, they want to see that removed. I have also highlighted that there are precedents in our arrangements with various EU countries and the EU, with a very limited number of Frontex officials in this situation doing a second check at the border in the airport and port.

This has been on the table for three years. Several Ministers have been before this Committee to explain these things, as has the Chief Minister. All we are doing now is continuing these negotiations, wanting to safeguard sovereignty and seeking to find a way to tackle these issues around uncertainty and improve future prosperity.

Q175 **Mr Jones:** The only reason that we need to move the location of the controls to the airport is that Spain has applied pressure. That is the truth of the matter, is it not, Minister?

David Rutley: This is a negotiation. When I have spoken to the Chief Minister—you have heard it from him directly—he is very supportive of moving this arrangement for greater fluidity at the border.

Q176 **Mr Jones:** Can we go through some of the specifics? Later today we have a session with a Home Office Minister on the entry/exit system that is due to be introduced shortly, with which I am sure you are familiar. That requires biometric details to be produced. It is slightly problematic at St Pancras, and so on. If there is to be a Schengen border on British soil—Gibraltar airport—will British nationals need to have their biometric information, including fingerprints and so on, taken at that point under the new arrangements?

David Rutley: I will let Robbie take the lead on that one.

Robbie Bulloch: This is a matter for the EU in discussion with us and the Government of Gibraltar, as and when they come in. We are focused on the specific arrangements as of today, but clearly the entry/exit system is coming in and, if we get this treaty agreed, provision will need to be made in negotiation with the EU.

Q177 **Mr Jones:** Therefore, a British national or, for that matter, a resident of



HOUSE OF COMMONS

Gibraltar will have to produce biometric details, including fingerprints, in order to enter British territory. Is that right?

Robbie Bulloch: We have not had any discussion on the details at the moment.

Q178 **Mr Jones:** Is it the position of HM Government to resist that?

Robbie Bulloch: It is a separate negotiation; it does not form part of this.

Q179 **Mr Jones:** Forgive me. It seems to me to be an important and integral part of these negotiations. It appears to me that HM Government are on the brink of conceding that British nationals should have to produce their biometric details in order to enter British territory.

David Rutley: And at St Pancras, as well. We will come back to the Committee fully on this. As Robbie said, this is not part of the ongoing negotiations, but, clearly, just as British nationals going into France through St Pancras have to provide information—

Q180 **Mr Jones:** Forgive me, Minister. This is really important. You are talking about British nationals entering a foreign country. I am talking about British nationals travelling from one British territory to another British territory. It appears to me rather alarming that the Government are on the brink of conceding that we, the British people, should have to provide those biometric details to go to another part of our own sovereign territory.

David Rutley: With the added point, which I have tried to underline several times and I know has been in front of the Committee before, that in coming into Gibraltar it would also give that person the opportunity, as is often the case, to progress through into the Schengen area.

Q181 **Mr Jones:** I do not want to appear to be rude, but I think that is deliberate obfuscation, if I may say so. I was not talking about British nationals going into Schengen territory; I was talking about British nationals going to Gibraltar and staying in Gibraltar, moving from one British territory to another British territory. That is very alarming.

David Rutley: I think we know each other well enough that I would never seek to obfuscate. I was genuinely trying to provide context. I would kindly ask for that word to be withdrawn. I think we know each other well enough. That is your point.

Q182 **Mr Jones:** I suggest it looked like obfuscation. We know each other well enough for me to accept your assurance that if you are not obfuscating you are not obfuscating, but that was what it looked like.

David Rutley: If that is the case, I apologise; I was merely trying to set out the context. You are the last person with whom I would seek to obfuscate on this.



HOUSE OF COMMONS

We will provide clarity to members of the Committee. I was trying to provide context. As this negotiation moves forward, we realise that we have to counterbalance various aspects to enable the objectives of removing uncertainty and shared prosperity to be achieved. We have already set out what that would mean in terms of those borders. We will come back to that point in writing. Once again, Chair, I apologise. I would never seek to obfuscate before this Committee and, notably, parliamentary friends.

Q183 **Chair:** I am sure; I do not think it would be a good idea, either.

David Rutley: Certainly not in front of this Committee. That was never the intention.

Q184 **Mr Jones:** Could we continue, because these are important points?

As you know, under the current arrangements British nationals entering Schengen territory are limited to a stay of 90 in 180 days. That is the case, is it not? If British nationals decide to visit Gibraltar, will they be limited to 90 in 180 days under the current arrangements? Of course, they will have passed through a Schengen control. If, for example, I am a British citizen with a flat in Gibraltar and I want to spend six months there, or I am a Gibraltarian, what will be the situation? Will I be limited to 90 in 180 days?

David Rutley: That is a very good question. Obviously, there are different arrangements about British nationals coming to Gibraltar. Robbie, do you want to come in on this?

Robbie Bulloch: As the Minister explained earlier, with an open border certain aspects of Schengen will need to be provided for and the 90 in 180 days is one of them for visitors. That would not stop somebody who had a flat from having a residence permit.

Q185 **Mr Jones:** What if I wanted to spend, say, four or five months in the excellent Rock hotel in Gibraltar and take advantage of the wonderful views and the antics of the macaque monkeys? Are you telling me that I would be prevented from spending several months on British territory as a result of these arrangements?

Robbie Bulloch: The current arrangements are in any case devolved to the Government of Gibraltar, but with an open border certain aspects of the Schengen rules would apply to visitors, but not to residents. If you were visiting, it would be as if you were visiting.

Q186 **Mr Jones:** For total clarity, as a British citizen I will be limited in the time I can spend on British territory.

Robbie Bulloch: If you were coming just as a regular visitor, not if you were coming for a longer stay.

Q187 **Mr Jones:** I would guess that is completely unacceptable to His Majesty's Government and that they will refuse to agree to that. Is that right,



HOUSE OF COMMONS

Minister?

David Rutley: What we need to do is set out to you and the Committee the arrangements on this.

Q188 **Mr Jones:** Can you set it out now?

David Rutley: If it is acceptable to you, I prefer to come back to you in writing.

Q189 **Mr Jones:** Because it is a bit tricky, is it not?

David Rutley: I want to set it out very clearly. You have already highlighted your concerns. I think they are perfectly legitimate questions. We are trying to negotiate these points at the moment. Greg asked whether we were in some kind of tunnel moving inexorably towards the signing of a deal. We are in a live negotiation trying to work through these issues. I want to make sure you get a full answer. You have already highlighted to me that you do not want contextual points, but you are keen to get direct answers and we will provide them.

Q190 **Mr Jones:** This is a matter of great concern. Despite the fact we have received assurances from His Majesty's Government that there will be no diminution in sovereignty, it seems to me that what I am now being told looks like a significant diminution in sovereignty.

David Rutley: We will come back to you and the Committee.

Chair: Mr Jones has not finished yet, but the question is where the Foreign Secretary stands. No doubt we will come back to this matter when he comes before this Committee.

Q191 **Mr Jones:** You mentioned blue card holders. What would the current proposals mean for Gibraltar resident blue card holders? Would they be limited in the time they could stay in Spain?

David Rutley: Setting out the groundwork to start with, one of the issues we are concerned about is blue card holders being refused entry into Spain. At the moment, the Spanish authorities are responsible for who can enter Spain and the Gibraltar authorities are responsible for who can enter Gibraltar, but these concerns have been raised with the Spanish Foreign Minister and the previous Minister for Europe. They have been raised directly with the Europe Minister. We want to make sure we have the fluid movement of people between Gibraltar and the EU, and this is part of the negotiation.

Q192 **Mr Jones:** We heard from blue card holders when we visited Gibraltar. They explained to us the difficulties they currently face as a result of obstructionist policies pursued by Spain. If these proposals, which seem to me to amount to a significant diminution in our national sovereignty, do not result in significantly improved benefits for blue card holders, this exercise will be pretty futile, because there will be far too many concessions without, frankly, any real benefits.



HOUSE OF COMMONS

David Rutley: The word that I keep trying to bring to the table is “certainty”. What we want to see is certainty across the border, particularly for blue card holders, who have often had to deal with quite challenging questioning at the border. The purpose of this is to make sure we bring certainty for all individuals and businesses moving across the border.

Q193 **Mr Jones:** Certainty has to be a restoration of the rights they enjoyed before the Spanish became obstructionist. Presumably, the Government will be seeking to ensure that that happens.

David Rutley: We want to provide that certainty. Robbie, is there anything that you want to add on where we are at with the negotiations? Obviously, we cannot comment line by line; it is an ongoing negotiation.

Robbie Bulloch: I would endorse that. I do not want to get into the details of it, but I would also highlight that, as it stands, immigration is a competence of the Government of Gibraltar and will remain the competence of the Government of Gibraltar. Immigration policy is not determined by the UK Government.

Q194 **Mr Jones:** In terms of relations with Spain, I fully appreciate that this is a matter for them, but no doubt you would be supportive of the Gibraltar Government’s efforts to ensure that blue card holders continue to have the access that they had prior to the obstructionist policies of Spain.

Robbie Bulloch: Absolutely. As the Minister said, if we achieve the core objective of this treaty, there will not be border checks. Therefore, blue card holders will be able to move freely.

Q195 **Mr Jones:** But that would be accompanied by a diminution in sovereignty to the extent that we would have Schengen controls on our territory.

Robbie Bulloch: Which, as we have explained, was a core part of the political framework that we signed up to in 2020 and is a core part of the treaty.

Q196 **Mr Jones:** The Schengen border rulebook is pretty extensive and it covers laws on firearms and explosives and facilitates the hot pursuit of criminals across borders. Will Gibraltar be aligning with EU rules on firearms or will we be allowing the hot pursuit of criminals on to the Rock by Spanish police authorities?

Robbie Bulloch: Again, I do not think we want to get into those details here, but all those aspects are under discussion.

Q197 **Mr Jones:** And being resisted, presumably, by the Government.

Robbie Bulloch: Again, I do not think it would be wise for us to get into the details.

Q198 **Mr Jones:** But I think we can guess that it is not being resisted very strongly by the Government. Would you rule out dynamic alignment with EU laws in respect of Gibraltar?



HOUSE OF COMMONS

David Rutley: As I said, we recognise that there will need to be some alignment. We have alignment in our agreement with the EU on the TCA. We have reciprocal arrangements in place with the CPTPP. It is a fundamental element in the negotiations and the treaties that we have with other parties. I would like to underline, as I did with Sammy, that comparatively small amounts of goods are involved in terms of exports because it is a service-based economy.

Q199 **Mr Jones:** You mentioned the CPTPP. Of course, there is no supranational court regulating the CPTPP, whereas we have the European Court of Justice. Mr Bulloch has already said that there will be no direct jurisdiction for the European Court of Justice, but there will be indirect jurisdiction because Gibraltar courts will be applying EU laws. That is right, is it not?

David Rutley: As he said, there will not be any direct application.

Mr Jones: No, that was not what I put to you.

David Rutley: I am just replying that there will not be direct—

Q200 **Mr Jones:** You are replying to a different question. There will be an indirect application of EU laws by Gibraltar judges.

David Rutley: There will be some reference.

Robbie Bulloch: Again, not wanting to get into all the details, it is envisaged that where Gibraltar needs to and agrees to align with EU rules that will be done via Gibraltar's domestic law.

Q201 **Mr Jones:** Applying EU laws.

Robbie Bulloch: Equivalent laws, not identical laws—not directly.

Chair: The European Court of Justice and the manner in which it works its way into matters of this kind is a critical question because, ultimately, that will be decided by a foreign court in this context. We can just put that on the table for the moment. I sincerely trust that the Government and the Foreign Secretary are well aware of the fact that any expansion or indirect application of the European Court of Justice's jurisdiction to matters relating to these issues will be regarded by this Committee, I feel, as a very serious matter because we have spent a great deal of time, quite clearly, looking at a whole range of what you call details. This is not detail; this is a fundamental question, and it relates directly to sovereignty. We have repealed in our legislation the authority of the European Court of Justice, which was previously in the provisions of section 3 of the European Communities Act 1972 and which no longer applies to the United Kingdom. Have I made that quite clear? Thank you.

Q202 **Dame Andrea Jenkyns:** Before I move on to trade and a level playing field, if I may, I have a couple of points that I need clarifying. Does the UK have any red lines regarding negotiations, because it appears to me that the lines regarding sovereignty have been severely blurred?



HOUSE OF COMMONS

Robbie Bulloch: The Minister set out at the beginning our core principles, and they remain the core principles.

Q203 **Dame Andrea Jenkyns:** They might be the principles, but it appears to be really blurred, especially on sovereignty—the questions that our colleague, David Jones, asked you.

Robbie Bulloch: Those are the core principles, and we will not agree and sign up to any treaty that we consider goes against those principles.

Q204 **Dame Andrea Jenkyns:** Surely, as our colleague David Jones has said, to not be able to go and stay in another part of the UK, which is Gibraltar, you are impeding our sovereignty.

Robbie Bulloch: As I think I have explained before, immigration is a devolved competence to the Government of Gibraltar, so it is not the UK Government who determine whether a British citizen of the UK can go and stay for as long as they like in Gibraltar. That is not currently the case.

Q205 **Dame Andrea Jenkyns:** Okay. I have a final thing before I move on to trade. Are the UK Government becoming a mouthpiece for the EU? It feels like, from what I am hearing, that we are bending over backwards, as we did with the EU negotiations and as we messed up with Northern Ireland. What lessons have been learned with Northern Ireland that you are taking into negotiations with the EU?

David Rutley: We are not a mouthpiece; far from it. We are in a very live negotiation. Our principles have been set out for three years. We have been negotiating for two-and-a-half-plus years on these issues. This Committee has been scrutinising us every step of the way. We are in a very live, intense period of negotiation right now. We will write back on some of these matters, as I promised to David earlier.

Q206 **Dame Andrea Jenkyns:** Robbie, if I can go back to you, please, what lessons have been learned from the negotiations with the EU regarding Northern Ireland that you are bringing into these negotiations?

Robbie Bulloch: As the Minister explained earlier, the context for Northern Ireland and the Windsor Framework is a very different context from the context of Gibraltar. For one thing, Gibraltar would have direct open access to Schengen in a way that is not the case in Northern Ireland.

Of course, there are some lessons, and we speak to colleagues who have worked on the Windsor framework, but there are more differences, it is fair to say, than there are parallels.

Q207 **Dame Andrea Jenkyns:** On the trade aspects of the deal, the UK-Spain new year's eve framework agreement touched on competition considerations and the idea of the UK-EU level playing field commitments. Should we expect the same environment with labour and social provisions, as provided in the trade and cooperation agreement?



HOUSE OF COMMONS

Given the size of Gibraltar's trade with the EU, as Sammy Wilson already mentioned, why would these arrangements be necessary?

David Rutley: We need to have reciprocity and mutual agreement on the arrangements. That would be true for any negotiation that we have or in any other treaty that we have with other entities and other countries. That is what we are seeking to do here. They would be proportionate, given the goods that are being traded in Gibraltar and given the volume of trade.

Q208 **Dame Andrea Jenkyns:** Do you have anything to add, Robbie?

Robbie Bulloch: I just want to endorse what the Minister said and highlight that these aspects of the negotiations are ongoing.

Q209 **Dame Andrea Jenkyns:** Is the EU fearful of the UK using Gibraltar as a back door to the single market?

David Rutley: It wants to protect the single market; that is clear. In any negotiation, as I said, we need to find some reciprocal arrangements to make what elements of trade are required to be done on a mutually agreed basis.

The difference with Northern Ireland, as I said earlier, is that this is predominantly about the freedom of movement of people. People could be bringing with them goods, but this is predominantly about the fluidity of people. From our perspective, it is not predominantly about access to a single market, but there are single market implications, and that is why we have to be cognisant of that. We are not negotiating in a vacuum; we are negotiating with the EU.

Chair: If I may say, your remarks have an extraordinary similarity to circumstances that arose in the context of Northern Ireland. I remember, I think Bertie Ahern saying that when you are dealing with these border questions and where it is really just *de minimis*, which it really is—in other words, very little in the way of transfer of goods going across the border—by implying and imposing a rule of law in this context that is of no real consequence it then begins to turn into a much bigger issue, and ultimately we ended up with the Windsor framework.

The fact is that these matters of principle are not just theoretical abstractions. They are actually about opening doors. The negotiators, and particularly those, if I may say, in the European Commission, whom I have been dealing with since I first came on to this Committee in 1985, are pretty adept at finding a foothold from which they then proceed to another stage, and that can be extremely damaging to British national interests.

I just put that on the table for you, because the way in which this conversation is going is providing evidence of opening doors and putting feet in that door, which is a matter of not just theoretical concern but of practical significance to the people who live in Gibraltar as well as to the



people who represent those people through our Westminster jurisdiction.

Q210 **Sammy Wilson:** Minister, I have to emphasise the point that the Chairman and Andrea made. The more I listen to you, it seems that the way in which the Government are approaching these negotiations is that they give the opportunity for the EU to say, "Look, there is likely to be a difficulty here, whether it is the movement of people, movement of goods or whatever," and we accept that. We accept initially that that will not have much of an impact.

I can tell you from what was started in Northern Ireland that we have to make sure that goods can flow across the world. We now have a whole infrastructure of paperwork, physical border checks, EU officials on the ground, laws having to be changed and the UK Government not being able to make laws in respect of Northern Ireland, and it all came down to the fact that we have a common land border.

You have said that the situation in Gibraltar is different, but it is not any different at all, because there is a common land border, and that is the hook, if the Government are not clear on red lines. We have asked a couple of times this morning about world trade lanes. We are not asking you for the details of the negotiations. We are simply asking: where is the bottom line on border posts, on checks, and on freedom of movement of people? All we are getting is that you cannot divulge the details of these negotiations.

I just want to know this: where are the principles that the Government are standing on here? You do not have to tell us what is going on in the negotiations.

David Rutley: I was very clear in setting out the principles. We are working in lockstep with the Government in Gibraltar. We want them to be content with whatever the arrangements are. We want to safeguard Gibraltar's sovereignty. I understand there are questions that are being put from this Committee about a number of issues, and hopefully we have answered a number of those as far as we can and the best we can. There are one or two questions that we need to come back in writing on. Critically, we want fully to protect the operations and independence of the UK's military facilities in Gibraltar. They are very clear.

We will obviously take note of this Committee. We always do. Coming before this Committee is never done lightly by any Minister, and we will take note of the points that are being raised, particularly concerns that are being raised by colleagues who have been involved with other negotiations with the EU.

Q211 **Mr Jones:** You mentioned the military significance of Gibraltar, which we all know and are all concerned about. Will Frontex officials manning the Schengen controls be able to refuse access to Gibraltar?

David Rutley: They will be able to raise concerns about individuals if there are concerns raised at the border. Is there anything you want to add to that?



HOUSE OF COMMONS

Q212 **Mr Jones:** Forgive me, just for clarification, that means they will be able to refuse access.

David Rutley: They would be able to refuse access to Schengen. It is something you might want to come in on, Robbie.

Robbie Bulloch: This is not to obfuscate or infuriate the Committee, but you will appreciate that these points are precisely the points that are under negotiation at the moment.

Q213 **Mr Jones:** That is a very important point, is it not?

Robbie Bulloch: Yes, it is a very important point.

Q214 **Mr Jones:** Gibraltar residents could be refused access and British citizens could be refused access.

On the point of the military importance of Gibraltar, which you mentioned, could British military personnel or allied military personnel be refused access to Gibraltar by a Schengen official?

Robbie Bulloch: Again, I would not want to get into the details. What you have done is rightly identify that there are different groups of people. Military personnel and residents of Gibraltar will come into a different category from visitors to Gibraltar.

Q215 **Mr Jones:** I find that very odd because we are still talking about a British territory and you are saying that British people can be refused access to British territory by Schengen officials parading on British soil.

Robbie Bulloch: Again, without getting into the details—

Q216 **Mr Jones:** The answer is clearly “yes”, frankly, because that is a question that demands either a “yes” or a “no”, and if you cannot say “no” it looks like a “yes”.

David Rutley: The details here need to be worked through.

Q217 **Chair:** That is completely a good statement at this stage because they are going to have to be worked through. If I could make a point, sovereignty can be equated with the question: who governs; who makes the decisions; who can come in; who can go out? Borders are in the same category. We have been through quite an experience with this in relation to the Northern Ireland question, and now we are confronting a similar situation in relation to the Spanish position in regard to the negotiations.

You are at this moment in time in the position to say “yes” or “no” to the question of whether there will be an infringement of sovereignty, and that sovereignty is actually about who has the ultimate jurisdiction. We have traversed the issues. We are looking at the European Court of Justice as well. These are matters that we will be looking at more closely.

I now want to finalise this meeting by referring to the airport and the military assets. To our knowledge, questions regarding the management of Gibraltar’s airport—and the same sorts of issues apply with respect to



other military assets and naval assets—were not originally part of the negotiations.

Your predecessor, Mr Leo Docherty, who is now a senior Minister in the Ministry of Defence, told us that the airport is now in scope. Why have you allowed it to be inserted into the negotiations? Who is responsible for that? Have you effectively just given in to Spanish pressure?

David Rutley: We have not given in to Spanish pressure on these issues.

Q218 **Chair:** It is in scope now, which it was not before.

David Rutley: This has been on the table with the Committee, as I understand it, for a couple of years. You may want to comment on that technical point, and then I will come back.

Robbie Bulloch: To be clear on the technical point, Chair, you are right that it was never an essential part, but it was always foreseen that it could form a part, and it was in the political framework agreed under paragraph 17 on air transport, for example. It could be similar to ones included in the EU-UK agreement—the TCA. As the Minister has set out, if we could agree with the EU and Spain on arrangements for the airport that they would be happy with and that we would be happy with, that would be of benefit to Gibraltar, and it would be a good boost for the deal because it would open up flights between Gibraltar airport and other EU destinations that do not currently exist. As the Minister has also said, if we cannot do that on terms with which we and the Government of Gibraltar are content, we will not agree.

Q219 **Chair:** I made the point earlier, Mr Bulloch, about the role of the Secretary of State for Defence, and we are yet to see the Foreign Secretary. These are fundamental questions because it applies to our defence commitments. We know that, with regard to the recent crisis over Iran and Israel, Cyprus was used in that engagement. There are also similar considerations that can arise in the rather unstable world that we are now living in.

These questions are not just theoretical. I know that you and the Minister will be conscious of the fact that this cannot be played around with as if it is something on a chess board. These are really serious fundamental questions about military assets and the extent to which we can play a role, as indeed anyone knows who knows anything about the history of this—it goes back to the second world war and other things. We are in quite serious territory here.

David Rutley: Chair, can I just underline what I said at the beginning? The MOD is absolutely involved with these negotiations and the Defence Secretary is very aware of where we are at with all these aspects.

Q220 **Chair:** To be aware is not necessarily the same as arriving at the right conclusions, but I will take that as read for the moment. This is a parliamentary Committee at Westminster looking at matters that can impinge on the question of our military and naval assets.



HOUSE OF COMMONS

David Rutley: Let me rephrase to be clearer: he is very engaged, not just aware.

Chair: That is good.

David Rutley: I hope that word is a strong enough word to give you assurance.

Q221 **Chair:** As it stands, it is, but when the Foreign Secretary comes I am sure it will step up the pressure, because that is something that matters.

I am going to ask you another question. Are you prepared in any way to agree to the Spanish playing a role, no matter how small, in the management of the airport? That is the moment of truth when something crops up, not in a theoretical, abstractive way, but when it actually becomes relevant to the performance of functions in the military, Navy and RAF.

David Rutley: The airport and the airfield are run and managed by the Ministry of Defence, which will not change. We can look at practical and technical options to facilitate flights to Gibraltar and the EU, but the key point, which I think the Committee wants to know, is that nothing changes in the way the airport and the airfield are run and managed by the MOD.

Q222 **Chair:** That is in all respects. There are questions about winds and cross-winds and things of that kind, which are technical questions that the RAF understands. On the other hand, I just want to be absolutely clear about this. When push comes to shove, the management of that airport is ultimately a question for the RAF and the Ministry of Defence—full stop.

David Rutley: To facilitate flights to the EU, there will be some practical issues that we need to look at, but the fundamentals about the role of the MOD remain the same. Please forgive us. We are in a live negotiation, and I can understand the Committee's frustration, particularly given the experience of some Committee members. Some of the answers here cannot be quite as definitive as I am sure you would like, but you will understand the situation. Is there anything you want to add on that particular point? I am not sure we can.

Robbie Bulloch: No, Minister, you have been very clear.

Q223 **Chair:** I could not be clearer in what I am proposing, so let us just be quite clear about that, okay?

Robbie Bulloch: Yes.

Q224 **Mr Jones:** If I may say, Chair, while I fully understand that you, Minister, cannot be specific about everything, in relation to the matters on which you have been specific you have caused considerable alarm to me and possibly to some of my colleagues. We are talking about foreign border officials operating on British soil. We are talking about the potential for refusal of access of British citizens to British territory. This is all



HOUSE OF COMMONS

extremely worrying, and I would have hoped that you could say that those are our red lines and we will not permit that to happen, but that is not what you are saying today. You are telling us that it is still a matter of negotiation. It is extremely worrying. We are talking about, it seems to me, a significant diminution of British sovereignty that the Government are quite happy, apparently, to play along with.

David Rutley: On the point about Frontex officials being in Spain, this is not a surprise. This has been part of the framework discussion for several years. I understand why you might have the views you have, but this is not a surprise.

On the point about Frontex officials being on the ground, notwithstanding some of the more detailed questions, which I need to come back to you on—and please accept that—there are precedents for having other border control officials in the UK. That in itself should not be a surprise. We will come back to the other points.

Q225 **Mr Jones:** We do not have a precedent where a foreign border official can refuse a British citizen access to British territory.

David Rutley: As has been said, these are points that we are negotiating.

Chair: I think we have more or less covered everything this afternoon. There will be further discussions. I do not think it is going to be just a matter of receiving a letter from you on some of these questions. We have the Foreign Secretary to come, so we will continue to ask these questions. Ultimately, in relation to the issues that we have discussed, there is the broader issue of what sovereignty means in this context and who governs in relation to the critical junctures—the critical matters—that we have discussed. I do not think we have the time now to go into it further, but I just want to put that firmly on the table.

We raised this question on the Floor of the House with an urgent question, in Foreign Office questions and in discussions. This is the moment, therefore, to leave this discussion for the time being, but we will be coming back to it.

I strongly urge that you give further consideration to refining the clarity with which the questions that we have put to you are dealt with by the time we get to the discussions with the Foreign Secretary. It may be that we will need to ask you to come back again. For the moment, that is where we will leave the discussion as of today. Thank you for coming, and Mr Bulloch, too.