



HOUSE OF COMMONS

European Scrutiny Committee

Oral evidence: UK's new relationship with the EU, HC 167

Monday 20 May 2024

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Members present: Sir William Cash (Chair); Paul Bristow; Brendan Clarke-Smith; Richard Drax; Mr David Jones; Greg Smith; Sammy Wilson.

Questions 273-383

Witnesses

I: Rt Hon Lord Cameron, Foreign Secretary; Robbie Bulloch, Director, Gibraltar Negotiations Taskforce, Foreign, Commonwealth and Development Office; Olaf Henricson-Bell, Europe Director, Foreign, Commonwealth and Development Office.

Examination of witnesses

Witnesses: Lord Cameron, Robbie Bulloch and Olaf Henricson-Bell.

Chair: Foreign Secretary, good afternoon.

Lord Cameron: Good afternoon.

Chair: On behalf of the Committee, thank you for appearing this afternoon. I understand that you have to be away by 4.30. For various reasons, today's session is long overdue, and we are looking forward to questioning you on the full gamut of UK-EU affairs. We will be questioning you on the Windsor framework and the trade and co-operation agreement, the EU's soon to be introduced entry/exit system, UK-EU defence co-operation, the EU's migration and asylum pact, and the UK's negotiations on a trade and border deal for Gibraltar.

There was a time when some of these issues were less prominent in the collective consciousness than others, as you may recall. I think it is fair to say that they now all have equal billing. The Windsor framework is not resolved for many, entry/exit is regularly taking up column inches, and the public are worried about whether the UK deal with the EU on Gibraltar is safe and secure. You have found yourself Foreign Secretary at an incredibly important time for UK-EU relations, when a clear strategy and approach is required to ensure that most is made of our sovereignty, post-Brexit freedoms and opportunities outside the EU.

I see that you have two officials appearing alongside you. We have heard from Mr Henricson-Bell before, but would they both like to introduce themselves?

Robbie Bulloch: I am the director of the Gibraltar negotiations taskforce. I have been leading the negotiations with the EU on Gibraltar for the last two and a half years.

Olaf Henricson-Bell: I am Olaf Henricson-Bell, the EU director in the Foreign Office.

Q273 **Chair:** Foreign Secretary, to be fair—and I think also to be blunt—do you understand the meaning of UK sovereignty in relation to Gibraltar? Have you read the constitution of Gibraltar?

Lord Cameron: I think I understand the meaning of sovereignty, which is that Gibraltar is a sovereign UK territory. That should not and will not change. In our negotiations, there are three things that are absolutely paramount. One is the sovereignty of Gibraltar; the second is the operation of the defence facility; and the third is trying to achieve a deal that is good for the people of Gibraltar and, crucially, backed by the Government of Gibraltar. Those are our aims, but we do not want to see anything that diminishes in any way UK sovereignty over Gibraltar.

Q274 **Chair:** That is a good starting point. I will now ask you whether you have read the constitution of Gibraltar, in particular on the role of His Majesty's



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Government in relation to external affairs, defence and internal security, which obviously includes the question of borders subject to that sovereignty.

Lord Cameron: No, I have not read the constitution recently, but I am very happy to go away and study it. But I think I have a good understanding of what we are trying to do in this negotiation and why it matters so much.

Maybe I could just say two things quickly. One is that we want to achieve a deal, because that would be good for the people of Gibraltar, who want to have their status sorted out and who want their economy secure for the future. Fabian Picardo is not here, but he would say the same thing: we have some very clear lines that we cannot cross. If a deal is not possible, we will not agree a deal, but we are hopeful. We think that there has been some good movement in the last few rounds of talks, but we are very clear that if a deal is not right, we will not sign it.

The second thing I want to say, looking at this and coming to it afresh—a lot of the things that have been agreed in this negotiation were settled, as you know, in the new year's eve agreement in 2020—is that fundamentally we are trying to do two things. We are trying to safeguard the sovereignty of Gibraltar, but at the same time, we are trying to put in place what the Government of Gibraltar want, which is to have a frictionless border with Spain. They have chosen that; that is their choice, as the Government of Gibraltar.

Q275 **Chair:** You have mentioned the sovereignty of Gibraltar. We have already agreed, have we not, that this is about the sovereignty of the United Kingdom?

Lord Cameron: Yes, that is what I mean. We are not going to change the United Kingdom's sovereignty over Gibraltar. The point I am trying to make is: in this negotiation, why we are having this negotiation? Partly, we are having it because the Government of Gibraltar have an overriding aim, within being a sovereign part of the UK, which is to have a frictionless border with Spain. They want that because they believe that is the best way to secure their economy. Every day, 15,000 people cross from Spain into Gibraltar to work in its largely services-based economy. It is very successful. As we all know, going back over many years, when the border controls are operated, they are often turned off and turned on, and you get huge border queues and huge problems. Their overriding goal, inside not—along with us—ceding any sovereignty, is to achieve this frictionless border to safeguard their economy.

I read very carefully your good session with David Rutley. I think a lot of the things that people are concerned about flow from that decision, which is what the Government of Gibraltar want and what, as Foreign Secretary, I am trying to help them achieve, inside our red lines. It is important to put it like that, because that is why so many of these things come about.

Q276 **Chair:** I do understand what you are saying. We have also made it clear in our correspondence with David Rutley, and in other ways, that we,



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too—we have been to Gibraltar—respect the fact that there are issues relating to the people who live on either side of the border between Gibraltar and Spain. We will deal with that in the course of these discussions.

Going back to the defence issue, I want to ask a question. It may be rhetorical at this stage, but I will ask it all the same. Have you read the Gibraltar Civil Aviation (Air Navigation) Regulations?

Lord Cameron: No, I haven't. I am sorry, I will have to put them on my weekend reading list. I promise I will. I am trying to immerse myself in every aspect of this problem.

Chair: Shall I tell you why I ask, very simply?

Lord Cameron: Yes, do.

Q277 **Chair:** Let me offer you an answer to the question I put to you. It is quite explicit under those regulations that RAF Gibraltar, including the airport, is owned and operated by the Ministry of Defence and regulated by the Military Aviation Authority. I think that is important—

Lord Cameron: Very.

Chair: Because this is about the exercise of sovereignty. I just wanted to get that out of the way.

Lord Cameron: This is really important. When we talk about the airport, it is very important, as you have just said, to remember that the whole thing is owned and operated by the MOD. What is absolutely crucial in these negotiations is that the defence function, as it were, must continue to be able to operate in exactly the same way as it does now. People and matériel—we must have the full control and operation of the airbase without let or hindrance. That is incredibly important, because ultimately it is one of the things that Britain benefits from so much by having Gibraltar.

But just to be clear about the airport: in the terms of the negotiation, obviously there is the safeguarding of the MOD in every way, but we are really talking a lot about the civilian passenger terminal and how that is going to work if we can achieve what the Gibraltar Government want and what was agreed in the new year's eve 2020 agreement: to have the border controls inside the airport rather than at the border.

Q278 **Chair:** That is the question that I am coming to. Do you accept that any Schengen border inside the airport on the soil of Gibraltar is within the authority of the Ministry of Defence and regulated by the military authority—I have already read out the regulations—and is therefore under the use or control of the Minister of Defence or the Secretary of State for Defence and the Government of the United Kingdom?

Lord Cameron: Well, the Government of the United Kingdom would have to agree—this is what the treaty is all about—to that happening.



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Obviously, the Government of Gibraltar are responsible for their immigration and customs system and always have been—

Chair: Wait a minute: subject to the point that we have already agreed on.

Lord Cameron: If what you are asking is whether anything that happens in the airport of Gibraltar has to have the full-hearted consent and agreement of the UK Government as the sovereign power, and this treaty is one that we would be signing, then yes.

Q279 **Brendan Clarke-Smith:** Welcome, Foreign Secretary. Last Thursday, I believe, you co-chaired the TCA Partnership Council meeting. Could you tell us a little more about what was on the agenda and what was discussed?

Lord Cameron: Part of my job is to manage the relationship with the EU, with Maroš Šefčovič, the Commissioner on the other side. Thursday's meeting, which was quite a sort of formula meeting, was to run through all the discussions we have been having and the conclusions to those discussions—a sort of stocktake across the board. For instance, we noted the fact that we had come to some reasonable agreements on joining the Horizon-Copernicus programme and the agreement about financial services. We also noted where we were not happy with some of the things that we wanted to see them make more progress on; they did the same with us.

That was part of the day. We also had a review of the Windsor framework and its operation. Then we agreed one or two things for what is next. I think both sides are keen on more energy co-operation—I am particularly interested in this idea of making the electricity interconnectors work better, which could mean lower energy prices for our citizens. It is quite a workmanlike review of where we are, what we have done, what we are doing and how to make the most of the trade and co-operation agreement.

Q280 **Brendan Clarke-Smith:** One thing that the Committee wrote to the Minister about was state aid. Was the European green deal mentioned? Were there any concerns about state aid? Was that discussed?

Lord Cameron: Yes, I did mention that and bring it up. If you take a step back, you can see those big movements by the United States, with their state aid Act, IRA, and there is the European Union green deal. When we look at the European Union green deal, it has turned out to be much less big than we thought it was going to be, but state aid is something that is discussed. Obviously, we noted the fact that we had got an extension on the tariffs on batteries and electric vehicles, which is helpful to our industry. Yes, all these things are covered.

Q281 **Sammy Wilson:** Foreign Secretary, last week you chaired the meetings of the Withdrawal Agreement Joint Committee and the Trade and Co-operation Agreement Partnership Council. What issues were raised during those meetings?



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Lord Cameron: We talked about some of the issues where there has been agreement in the Northern Ireland institutions—for instance, the organic pet food regulation—and we discussed areas where there has not been agreement, such as geographical indicators. There was just an exchange of views about that. As I say, this is quite a formal meeting, because we are trying to look at the overall shape of how these things are operating.

Q282 **Sammy Wilson:** Just to correct you, there was an agreement on the organic pet foods, but it came too late. The information was never passed in time, which irked the Scrutiny Committee, and they have already written to the Joint Committee about that—

Lord Cameron: I gather that there have been some problems about not getting information to the Committee quickly enough, which I have seen in the correspondence, and we need to do better on that in future.

Q283 **Sammy Wilson:** There are outstanding issues—for example, the goods that are deemed to be at risk and therefore the number of checks—and it is significant that the checks have gone up to the point that DEFRA is not releasing the figures on the number of checks. There are also outstanding issues around the Windsor framework agreement. Were any of those discussed?

Lord Cameron: The basic position between the two sides is that they say we are not doing enough to implement the checks and the procedures, and we keep reminding them that it is so important that the devolved institutions are back up and running. We keep explaining the importance of understanding the unique circumstances of Northern Ireland and asking for forbearance and time to put in place things in a way that can make them work.

Q284 **Sammy Wilson:** But were crucial issues such as the number of goods at risk or veterinary medicines, all of which are high on the agenda at the moment, discussed at this meeting?

Lord Cameron: I cannot remember everything we discussed, but as we move to the UK internal market system, we ensure that the only checks when goods move within the UK internal market system are those conducted by UK authorities as part of a risk-based or intelligence-led approach to tackle criminality. We were making the point about what we are going to put in place. I am not sure what you are getting at.

Q285 **Sammy Wilson:** The promises in the Windsor framework agreement were that the number of checks would go down, that more goods would be removed from the checklist, and that veterinary medicines—a very important issue for Northern Ireland—would be dealt with quickly. Are you telling me that none of those issues was discussed?

Lord Cameron: We did discuss veterinary medicines, yes.

Q286 **Sammy Wilson:** And is that close to resolution?

Lord Cameron: This was not one of those meetings. Because it was a formal, big meeting with both sides, it was not one where we got into a

haggle about how we are going to fix this. We just noted how important it was and that we need to reach agreement.

Q287 **Sammy Wilson:** And have the Government been clear about the issues that the Assembly has disagreed with the EU on and the measures that it does not want to introduce? Have the Government made it clear that they will back the Assembly on that in the Joint Committee?

Lord Cameron: We once again repeated how important the Stormont brake is, that it was put in place for good reason and that it should be operated as appropriate.

Q288 **Sammy Wilson:** Can I come on to the negotiations on Gibraltar? You have mentioned the Government's red lines on a number of occasions, but what are they?

Lord Cameron: No diminution of sovereignty: every inch of the Rock—as Fabian has put it and I repeat—remains British. The base must be able to operate, as it does now, to safeguard our defence now and into the future. Thirdly, we will not agree to a deal that the Government of Gibraltar do not back and do not find satisfactory. That is the aim, and has been the aim ever since the agreement in 2020.

I said to Sir Bill that it is always difficult negotiating these things, but it is particularly difficult because the Government of Gibraltar want to achieve this status of being not in Schengen but plugged in in a way that means a totally fluid border with Spain. They absolutely believe—I can understand why, so I back them in this view, but Committee members might take a different view—that that is the right answer for Gibraltar and Gibraltar's economy. That is the puzzle we are trying to unlock: how do you do that and put arrangements in place that are satisfactory?

Q289 **Sammy Wilson:** You have mentioned the term "frictionless border". I get very nervous when I hear that term, because I know what the implications of that for Northern Ireland were.

Let me press you on some of the red lines. Would one of the red lines be that there will be no dynamic alignment with EU laws? Would one be that there will be freedom of movement of UK citizens into another UK territory, namely Gibraltar? Will the European Court of Justice have no say on what goes on? What are your red lines?

Lord Cameron: I can give you satisfaction on most of those, but it might be worth standing back and looking at the difference between the Northern Ireland situation and the Gibraltar situation.

In the case of Gibraltar, there is not much meaningful trade in goods. This is not about goods access or single market access. It is literally about people. That is the aim: this fluid border. That is what they want. It is not a by-product of something else; it is actually what they want.

Another difference from the Northern Ireland protocol is that this is a treaty that has termination clauses, so if you don't like it, you can leave it.



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That is another point on the sovereignty aspect. This is not a treaty that is unamendable; it is a treaty that you can leave.

On the specifics on EU law and all of that, no, this does not mean Gibraltar adopting EU law. It means that Gibraltar will have to write into its own law some law that is equivalent in some ways, particularly on the operation of Schengen. It will be adjudicated by Gibraltar judges in Gibraltar courts. The ECJ will not have direct read-across to it or judicial oversight of it.

Q290 Sammy Wilson: Are you saying, then, that the fluid border they have at present, where the checks are on the Spanish side, can be achieved only with checks inside UK territory? If they are inside UK territory, what implications does that have for the movement of UK citizens into Gibraltar? Will they be subject to checks?

Lord Cameron: Again, let us take one step back. It is perfectly possible that you could say, "Why don't we put these new Schengen checks at the border?" If you did that, you would not really solve the problem, because you would have quite big queues going back over the border; you would have the same problem when the 15,000 people are coming into work every day and people are going out of Gibraltar every day. There is a perfectly legitimate case to ask, "Why don't we have the Schengen checks at the border?", but it is just not what the Gibraltar Government want, and it would not achieve the goal they are after.

That is why, in the new year's eve agreement, the concept of having the checks in the airport was arrived at, because it solves this problem. In bald terms, it means that instead of something like 10 million to 15 million checks a year as people cross the border, you will only have something like 250,000 checks a year. People who fly into Gibraltar or come in by boat will go through the Gibraltar checks and then through a Schengen check, and then they are in Gibraltar and able to travel into Spain as and when they like. As I say—I am not hiding this from anybody—that will have consequences, and we will maybe come on to what that might mean for British visitors and other things. But it all flows from that choice by the Gibraltar Government to say, "We want a frictionless border."

Shall we take the case of the British citizen travelling to Gibraltar? Today there is no automatic right—it's odd for sovereign territory, but actually the Gibraltar Government is in charge of immigration and customs—to be granted access, and they can turn you away.

That is point one. Point two is that, at the moment, there is a three-month, 90-day restriction on British visitors to Gibraltar. You can then apply for a residence permit or what have you. In future, instead of arriving in Gibraltar and then having to do border checks as you cross the border into Spain, you will arrive in Gibraltar and do—away from the border—Gibraltar checks, and a Schengen check operated by Frontex. What that will mean is that once you have done that check, you are free to stay in Gibraltar, or to go into Spain and the rest of Schengen. That is the vision that this whole thing is based on, and—as I keep saying, and it's



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worth repeating—the reason for that is that the Gibraltarians want to have a fluid border with Spain.

Q291 **Sammy Wilson:** Would it be an unfair summary, Lord Cameron, to say that the UK Government is negotiating with the EU, and the UK Government has the ultimate decision on whether the agreement is suitable, but the red lines that the UK Government will set can be somehow determined by the desire to have a fluid border? You said we will come to the implications later, but you have already said that that means that we will have EU checks inside UK territory in order to obtain this fluid border.

Lord Cameron: The way I would put it is that, in this negotiation, there is the Chief Minister of Gibraltar, Fabian Picardo, and me, and we are negotiating with the Spanish Foreign Minister, Mr Albares, and Commissioner Šefčovič. Fabian Picardo and I are joined at the hip: we will not agree anything that we are not both comfortable with.

As I say, the Gibraltar Government have made the choice about wanting to have this frictionless border, and I respect their views. They are responsible for customs and immigration and also thinking about the future of their economy. I actually think they are making the right choice, but I understand, having read what the Committee wrote, that you could come to a different conclusion. You could say, "No, no. Gibraltar should keep their pretty tough border with Spain and should just take on the chin the fact that it is going to get tougher now that they are out of the EU and Spain is a Schengen country." But their view, having thought about it deeply, is that the border problems they have had in the past will probably get worse in that circumstance, and that is why they have opted for this model.

That is why it is so important to understand what they are trying to achieve. I am trying to help them achieve that in this negotiation, but absolutely safeguarding the British Government's red lines, which are Gibraltar as a sovereign UK territory, the base operating as it does now—vital for our defence—and a deal that the Government of Gibraltar are 100% happy with.

Chair: Basically, Foreign Secretary, you are trying, as it were, to move the goalposts.

Lord Cameron: Like the badgers!

Q292 **Chair:** Well, you have done this before; we have some record of this. All I can say to you is that there is a suggestion that you could, through this treaty, be doing things that would amount to—subject to this inquiry that we have set up—deliberately keeping us and the public somewhat in the dark.

Lord Cameron: No, no—

Chair: Well, wait a minute. You have just said that there would be a termination clause in this treaty, for example, and no doubt there are



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many other things. You have to appreciate that we have not seen this treaty. Nor, to my knowledge, has anybody else.

Lord Cameron: Sorry, I ought to have said, to be clear, that the treaty is not agreed. As you know, nothing is agreed until everything is agreed. I maybe overstepped the mark by saying that; I was just trying to reassure the Committee.

I am not trying to move the goalposts at all. The goalposts were set at new year's eve 2020, when the framework agreement was put in place between one of my predecessors—Dominic Raab, I think it was—and the Spanish and the Commission. I am trying to kick the ball through the goalposts successfully by achieving this deal. But let me say it again: if we cannot get the deal done in a way that safeguards defence, safeguards our sovereignty and means a deal that the Gibraltar Government are happy with, then we won't kick the ball.

Q293 **Chair:** We do need to move on, but you are constantly interweaving questions that are, in many respects, contradictory in the context of sovereignty. We will come on to this later.

Lord Cameron: Well, I don't think they are.

Chair: You will say that, and it wouldn't surprise me if you did say it—we have heard it before.

Lord Cameron: No, no. I care as much about British sovereignty as anyone in this Parliament. I care deeply about it.

Chair: I am very glad to hear that.

Lord Cameron: Look: on my way to this negotiation, I went to St Pancras and passed through the juxtaposed border controls, and there was a French border police officer in a French uniform. I didn't suddenly feel that St Pancras wasn't British. We made a choice to do things—

Chair: Well, we are coming on to that.

Lord Cameron: Yes, but I don't think that having that sort of arrangement in place, if it is to the benefit of your country, is a diminution of your sovereignty. As I said, if members of the Committee take the view that, actually, the border should be where it is now—I agree—with the border controls on the border, that is a perfectly legitimate case to make.

Chair: We also think that that could be achieved in a different context.

Lord Cameron: That is why I was so keen for Fabian to be here, because, ultimately, what I do not want to do—and what I think British Governments have promised not to do—is negotiate over the head of the Gibraltarian people. I think that is very important.

Chair: But that is also, as it happens, one of the by-products or aspects of the fact that sovereignty means sovereignty, and—I have already been into this, so we will not go into it again—there are inherent difficulties in



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trying to match up two things that may prove to be mutually inconsistent. That is all I want to say.

I want to move on, and to ask about the defence side of things. I will ask Richard Drax if he would be kind enough to ask the next question on that.

Q294 **Richard Drax:** Foreign Secretary, good afternoon. Forgive me, but I have to go at about 4 because I have a Defence Committee visit to Brussels—it is not for any other reason.

As we have said and as you know, the Rock is of great military importance. It functions as a forward operating base, and hosts nuclear submarines and Queen Elizabeth-class carriers. What does the United States think of the prospect of its service personnel, potentially in national security-focused roles, being subject to EU checks to enter a British overseas territory?

Lord Cameron: These all have to be negotiated, but in my view, as I said, the base must operate in every regard as it does today.

Q295 **Richard Drax:** As an RAF base?

Lord Cameron: As an RAF base. That means that, for people and equipment, including sometimes nationals of other countries and all the rest of it, you need to have them in that base, out of that base, and working in the base, and you need contractors going into the base—that is absolutely essential. It's an RAF and a naval base, it's an important asset and it's got to operate in the same way. What you've just suggested is not how it operates now, and I don't think it should operate in that way in the future.

Q296 **Richard Drax:** Right. So you can assure the Committee that it will not operate in that way in the future.

Lord Cameron: That is what we are trying to achieve.

Q297 **Richard Drax:** I am assuming, Foreign Secretary, that you have spoken to the United States and our NATO allies. We know that Spain does not like NATO ships visiting. The Red Arrows were cancelled the other day. Spain does not like Great Britain in or on the Rock.

Lord Cameron: I am fully aware of that.

Richard Drax: I am sure you're aware.

Lord Cameron: Again, taking a step back, why are we all doing this? The Gibraltarians want their economy to be safeguarded. Britain wants this last piece of the jigsaw to be fixed; of course, Spain insisted that Gibraltar was kept out of the Brexit negotiations, so we want to get that fixed. I think there is an advantage, if we can get an agreement that also would include a defence and security aspect to it, that actually we could—

Q298 **Richard Drax:** What aspect would that be, so far as Spain is concerned?



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Lord Cameron: Well, if we can get this agreed, the relationship between Spain and Britain over this issue might get a bit better, which wouldn't be a bad thing.

Richard Drax: But you said a defence aspect. What defence aspect are you negotiating with Spain?

Lord Cameron: That you will have to ask the Secretary of State for Defence.

Richard Drax: You don't know?

Lord Cameron: I do know, but I don't want to answer for another Cabinet Minister. What I am trying to say is that one of the advantages of a deal—as I have said, if we can't get a deal, we won't have a deal—would be that all of this would be on a more substantial platform, so you would not get the difficulties and the games that sometimes can be played, which I do not want to refer to—I do not want to make the negotiation even harder. That is the point.

Q299 **Richard Drax:** Foreign Secretary, I hear you, but you are the Foreign Secretary. You cannot just say that the Defence Secretary will answer questions on such a crucial issue as an MOD base. This is very basic—

Lord Cameron: No, no.

Richard Drax: May I continue?

Lord Cameron: Yes, sure.

Richard Drax: There is a fear among some that there is going to be some compromise—others would call it a sell-out—so far as the MOD—

Lord Cameron: Absolutely not. As I have said, the base must operate in every regard as it does today. That is absolutely essential. You are not going to have Spanish inspectors wandering around inspecting the base. Despite all the fears you read about, that is not on. It is a sovereign British base—a vital defence asset.

Q300 **Richard Drax:** You mentioned discussions going on about defence with the Spanish.

Lord Cameron: Yes, of course we talk to the Spanish.

Richard Drax: What are those about?

Lord Cameron: Well, they are discussions, as two NATO partners, about how we work together. But let me be absolutely clear: that is separate from the operation of the base and the way the base works. My point is that if we could settle this issue through a treaty, the relations between Britain and Spain would move on to a better place, with some of the things that it would be nice to have, like being able to have RAF flights over mainland Spain and all the rest of it. It would be much easier. We are



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going to come on later to PESCO. There are so many things that the Spanish can sometimes—

Q301 **Richard Drax:** Is that what they are saying to you? That if you do something, they might let you fly over—

Lord Cameron: To be clear, they are not saying that. I am trying to make a more general point about the relationship, but that is not the reason for doing the deal. The reason for doing the deal is to safeguard Gibraltar in the post-Brexit universe and to have a deal that is good for the Government and people of Gibraltar. That is what it is about.

Q302 **Richard Drax:** What is the United States' view?

Lord Cameron: I have not actually spoken to the United States about this issue. I know their view because I have seen it in pieces of paper, but I have talked to them about everything else. I know what they will say, which is, "This is a vital asset. Will you safeguard it?" And I will go, "Yes, I will. That is the whole point of the negotiation."

Q303 **Chair:** But they are affected by Spanish fishing vessels, in relation to our nuclear submarines, and also as part of NATO. That has been a problem.

You have just referred to the question of airspace, and I am glad you did. There is a major question here: Spain does not allow us to have access to their airspace for military reasons. They even stopped the Red Arrows going across the other day. These are serious questions, and there are serious inconsistencies in your approach to this.

Lord Cameron: What is the inconsistency? I do not understand.

Chair: It is for me to ask the questions, but I am going to answer your question, as it happens, in my own terms. You are saying that you think that you can come to an accommodation over this. The problem is that when it is properly investigated—we are doing part of that now for the first time—we are faced with the fact that there are things like military airspace over Spain and RAF personnel being detained at borders. We are aware of things that have been going on. These are serious matters and they are current.

If there is a way of solving these things and benefiting the people of Gibraltar at the same time, that is another way of putting it. But at this juncture, not only because we have not seen the treaty, but because of the reasons that Richard Drax has just raised, the issues we are raising relating to Schengen, and the status of the airport that is under the control and the management of the RAF, with this framework and this attempt to be, as you put it, fluid—

Lord Cameron: No, the only thing that is being fluid is the border. You are accusing me of—

Q304 **Chair:** I will finish my question. Fluidity could result if you put too much emphasis on moving towards the aims of the EU. This is not just between Spain and Gibraltar; it is also an EU question versus the UK. The reason



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you are here is that we are looking at this through the prism of the EU-UK treaty. Have you got that point?

Lord Cameron: Yes, I have. I just want to say one thing. There is nothing fluid about me—I want to make that clear. The only thing that we want that is fluid here is Gibraltar’s wish to have a fluid border with Spain. There is nothing fluid about giving way, trading in, selling out or anything else; that is just not what this is about.

To be fair, the outline framework has been there since new year’s eve 2020, so there has been plenty of time. Of course, we do not have a treaty: we are negotiating a treaty. We have to do that—as treaties are often negotiated—in some private space, because it is really hard work trying to get this stuff right. I am delighted to be here trying to answer questions about it, and I will come back as often as you like to talk about it, but we are trying to negotiate the treaty. Then, obviously, if we have one, it will be published and dealt with, with constitutional reform and everything else.

Chair: We are asking the right questions. Richard, do you want to follow up on any of that?

Richard Drax: No, I am happy, thank you.

Chair: In that case, I will ask David Jones if he would like to ask some questions.

Q305 **Mr Jones:** Thank you, Chairman. Good afternoon, Foreign Secretary—it is very odd not to call you Prime Minister, but nevertheless.

Lord Cameron: We can call each other David.

Mr Jones: Can we go back to the issue of fluidity? Forgive me if I am misinterpreting what you are saying, but you have made it clear that the issue of fluidity is the prime consideration in these negotiations.

Lord Cameron: Of the Gibraltarian Government.

Mr Jones: I understand that.

Lord Cameron: If Fabian were here he might put it differently, but I am putting it like this to try to explain why we are having this discussion and why all these questions arise. It comes from that aspect, which is probably the most difficult to get right. That is where a lot of the issues come from.

Q306 **Mr Jones:** Yes. The Committee, as you probably know, has in fact visited Gibraltar, and it was made clear to us by both the Gibraltarian Government and ordinary Gibraltarians that the issue of a fluid border is the chief thing they are concerned about, particularly businesspeople. We understand that.

The fact is that, at the moment, the border is relatively fluid. As you said, up to 15,000 people come across from Spain every day to work. Frankly, the only times when there is a problem with fluidity is when the Spanish have adopted obstructionist policies, which happens from time to time. In



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fact, the Chief Minister told us that, on occasions, the queues to go across the border have been over six hours. I think everyone understands that this is a problem, but would you accept that it has largely been a problem of the Spaniards' making?

Lord Cameron: I am, obviously, trying to negotiate with the Spaniards right now, so I want to be careful what I say.

Mr Jones: You are also giving evidence to a Select Committee.

Lord Cameron: Look: there is no doubt about it that in 20-odd years I have been dealing with these sorts of things, that has often been a problem. Right now, to be fair, they have not fully introduced the Schengen checks that you would have on a Schengen border with a non-EU country. The difficulty is that if that were to happen—and it would happen, I suppose, in a non-deal scenario—you would have more questions and checks at the border, because you have to check on the 180-day and the 90-day thing, the purpose of a visit and other Schengeny things. At that point, the situation could get worse, which is why the Gibraltar Government and people want to try to put this beyond doubt. I think you have to bear that in mind. The status quo is not forever.

Mr Jones: Yes, I think that is fair.

Lord Cameron: And the status quo, as you said, can be switched on and off to a certain degree. That is frustrating, but I think the status quo would get worse in a full Schengen check scenario.

Q307 **Mr Jones:** So that is the reason why you say that we need Schengen border control on British territory at the airport.

Lord Cameron: Well, I didn't say it; Dominic Raab said it in the negotiations that completed on new year's eve 2020. The Gibraltar Government believe it very profoundly, and having come into this job and looked at this whole issue, I can understand why the Gibraltar Government have reached that opinion. I am trying to work with them through this negotiation to bring about what they want, while also bringing about the important outcomes that we want too. But I can totally see that if you were running an entirely services-based economy with hardly any goods produced—an extremely successful and very wealthy part of the continent—you would prioritise the people coming to work in your services economy. That is vital for their economic future, which they have done extremely well to carve out.

Q308 **Mr Jones:** You will appreciate the Committee's concern about foreign border guards being present on British territory.

Lord Cameron: Yes, I totally understand.

Q309 **Mr Jones:** You mentioned St Pancras, but of course there is a difference between the state of affairs at St Pancras and what is proposed at Gibraltar. For example, a British citizen flying into Gibraltar airport would be required to give his or her personal details to a foreign border guard. That is obviously a different state of affairs from that citizen going to a



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foreign country, which is the case when he or she goes to St Pancras.

Lord Cameron: I don't think it is that different. I make the argument two ways. Point one is that having a French border guard at St Pancras doesn't make St Pancras any less British. Point two is that it was done for good reason: we wanted to try to make the border work better between France and Britain.

Thirdly, the point was made at, I think, your last meeting that it is not totally symmetrical because you don't have a Gibraltar border guard in Spain checking in Spanish people as they come into Gibraltar, but the difference is that you are going from Britain—a third country—into Gibraltar, and then into all of Schengen if you wish, whereas if you cross from Spain to Gibraltar, you are just in Gibraltar; you don't get to go to Britain.

Q310 **Mr Jones:** But if you don't particularly want to go to Schengen, you are nevertheless required to produce your passport.

Lord Cameron: Absolutely bang on, and that is the point. This negotiation isn't finished and there are all sorts of things to discuss, but this is one of the questions that we are going to have to answer.

Q311 **Mr Jones:** But is that still being negotiated?

Lord Cameron: Everything is being negotiated, until—

Mr Jones: So that aspect is not completed.

Lord Cameron: No, I don't want to mislead in any way. The working assumption is that you arrive in Gibraltar, you go through Gibraltar checks, you go through the Schengen checks, and then you are in Gibraltar and you can go to Spain without any further let or hindrance should you choose. That, I would argue, is definitely an advantage to the Gibraltar people: no border in and out of Spain, as they like with 15,000 people crossing a day.

I would also argue that some people in Britain might think that is an advantage, because when I fly to Gibraltar, I have my checks done once, and then having got into Gibraltar, I can go forward and back to Spain as often as I like. You are absolutely right that if that were the case, a British citizen flying to Gibraltar who simply wanted to stay in Gibraltar would undergo a Schengen check without actually wanting to go to Schengen. As I say, it is one of those things that flow from the overarching decision of the Gibraltarians to have the checks in the airport.

Q312 **Mr Jones:** And that British citizen who is simply visiting Gibraltar would find that the length of his stay in Gibraltar counted towards the 90 days out of 180 that applies to visits to the Schengen area.

Lord Cameron: Well, again, nothing is agreed until everything is agreed. It is also true to say that if you go to Gibraltar today, you are restricted to 90 days as a British citizen.

Q313 **Mr Jones:** Yes, but that doesn't relate to your stay in Schengen.



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Lord Cameron: No, but your overriding point is correct. If you put the Schengen checks in the airport and you check everyone through the Gibraltar checks and Schengen checks as they come into the airport, that has consequences for the ease of being able to go in and out of Spain, but it also has consequences for those people who don't want to go to Spain or have spent time in other countries, if that is the way the negotiation goes. Fundamentally, the big-picture approach by the Government of Gibraltar has some consequences, and we have to all get comfortable with those—or not.

Q314 **Mr Jones:** Would those Schengen officials be able to refuse access to Gibraltar, effectively?

Lord Cameron: Again, everything is to be negotiated, but fundamentally at the moment there is no right for anyone to visit Gibraltar unless they have the clearance of the Gibraltar authorities. In the future, there will be two sets of checks: one by Gibraltar and one by Schengen. If there were a Schengen alert, yes, that could be the circumstance, if that is what is agreed.

Q315 **Mr Jones:** So the effect of that is that a Gibraltar border official would be able to permit a British citizen to enter Gibraltar, and then a few yards further along a Schengen border official would be able to say to that British citizen, "No, you can't come to Gibraltar."

Lord Cameron: That is not unlike what happens at St Pancras: you go through the British border, and then you come to the French border guard, and if a Schengen alert pings, you would be stopped.

Q316 **Mr Jones:** Yes, but to remind you, you are then visiting a foreign country, not British territory.

Lord Cameron: Yes, but it is the same concept. In order to create a fluid border, you are having both checks at the same time.

Q317 **Chair:** I think we are back to your fluidity, if I may say so, Foreign Secretary.

Lord Cameron: Look, I really object to that, actually. I am being incredibly strict about how we try to negotiate this deal. The only fluidity here is the border. I am not changing anything else. That is the thing that the Gibraltarians want.

Chair: Well, that's what you say.

Mr Jones: Could I continue, Chair?

Lord Cameron: By the way, they care as much about sovereignty as we do, if not more. When you have got Fabian Picardo in the room with me—I think it defines people in Gibraltar. They care so passionately about their British sovereignty. The idea that they are going to sign up to some sell-out deal is not a very sensible contention.

Q318 **Mr Jones:** Under the terms that you are proposing in the negotiation, would the entirety of the Schengen convention apply to Gibraltar?



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Lord Cameron: I don't know the answer to that question, because that is all still being negotiated—

Mr Jones: But that is crucially important.

Lord Cameron: Hang on, let me try to answer it better. It is crucially important because they are not joining Schengen. They are basically trying to create a Schengen-adjacent territory in order to have that—let's use the word again—fluid border. That is what they are trying to do. It doesn't mean you have to do everything, or to do everything in exactly the same way as everybody else, but of course that is part of the argument we are having in these discussions. It's quite important, because they weren't in the single market. They weren't in the single market for services, and they're not going to be in the single market for services. They are really just trying to achieve this border thing. Every situation in these complicated negotiations is different, but it is worth bearing that in mind.

Q319 **Mr Jones:** This is extremely important, because we do need to have a flavour of what is proposed in relation to the Schengen convention. For example, would article 40—the provision relating to surveillance—apply, whereby Spanish police authorities would be able to cross the border to continue surveillance—

Lord Cameron: These are exactly the sorts of thing that we are discussing. As you can imagine, there is huge concern about getting this right, from both the Gibraltar side and our side. I cannot give a sort of running commentary on where we are at the moment.

Q320 **Mr Jones:** Well, can you go so far as to say that that is potentially the case?

Lord Cameron: If this is going to work, we have to get agreement with the Spanish and, crucially, with the EU about how the border would operate. This is very much part of the discussions.

Q321 **Mr Jones:** Would article 41, which would give Spanish Guardia Civil officers the right to enter Gibraltar in hot pursuit, apply?

Lord Cameron: Again, I cannot give a running commentary on where we are. There are all sorts of issues here about what Gibraltar and the United Kingdom would be prepared to sign up to, and all sorts of questions about reciprocity.

Q322 **Mr Jones:** Surely the United Kingdom could not agree to foreign police authorities coming in hot pursuit without consent.

Lord Cameron: Well, could the Spanish authorities agree to Gibraltarian authorities doing hot pursuit into Spain?

Mr Jones: That's not really the question. The question—

Lord Cameron: Well, that's the question I've got in my mind.

Q323 **Mr Jones:** Well, that's not the question I've got. The question I've got is



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whether British sovereign territory is potentially to be infiltrated by Spanish police authorities who want to carry on surveillance or hot pursuit on British territory.

Lord Cameron: If you try to achieve a Schengen-adjacent territory in your negotiations with the European Union, you are going to have to discuss all sorts of different issues, and we are discussing them. We have some things that we absolutely would not say yes to, and some things that we are happy to discuss.

Mr Jones: So you are happy to discuss that.

Lord Cameron: Look, in a negotiation, you have to discuss everything, but that does not mean you are going to agree to it. As I say, let's put it the other way around: are the Spanish happy for Gibraltar police to do hot pursuit into Andalusia?

Q324 **Mr Jones:** As I say, I am really more concerned about the impact on British territory. You said that there would be no direct ECJ jurisdiction, which tends to imply that there would be ECJ jurisdiction indirectly, because domestic Gibraltar law would be altered to accommodate the jurisdiction of the European Court of Justice.

Lord Cameron: I might ask one of my experts to do this. My understanding is that they are not joining the EU; they are not putting the *acquis* into the law; they're not subjecting themselves to the ECJ. It's about writing some parts of the Schengen agreement into Gibraltar law, which is written in the Gibraltar Parliament and judged by the Gibraltar courts. As the courts do that, will they sometimes need to look across to decisions that have been made by the ECJ? Yes, they might want to do that, but that doesn't mean they have to align with it. It's a sovereign—

Q325 **Mr Jones:** So those decisions would not be binding upon them.

Lord Cameron: No, not binding. Absolutely right.

Q326 **Mr Jones:** Has the Chief Minister spoken to you about the Schengen shack?

Lord Cameron: Yes, but he does not call it that.

Mr Jones: He does, actually.

Lord Cameron: When he saw me, he called it a joint facility, but anyway.

Q327 **Mr Jones:** He called it the Schengen shack when he came to this Committee back in July. He explained what the Schengen shack was, and he said that it would be connected physically to the airport. The airport, of course, was quite deliberately built directly on the border, so that it would be quite easy to construct a structure on the other side of the border, and in fact that probably would be quite a good idea—there would be direct access to the airport from the Spanish side of the border, should everything else be agreed. He told us that the Schengen shack would be a common operating space between Gibraltar and Spanish police and



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immigration. It would be possible for the Schengen border control to be located inside the Schengen shack on the Spanish side of the border. It would not be necessary for it to be in British territory.

Lord Cameron: There are lots of options on this. The only thing is that, if you are trying to be true to the new year's eve declaration of 2020 and trying to achieve the fluid border, you have to do the checks when people arrive, rather than have border controls as people go in and go out.

I have said this a few times, but I will say it again, because if we are going to have a difference between us, we all have to be frank about it. If you want to have Schengen checks at the border, which is a perfectly legitimate proposal, you should get Fabian here and say, "Actually, we think that sovereignty will be diminished unless you have the checks at the border, and we want checks at the border." He can then explain why he thinks Gibraltar wants a different answer and we should respect its views and the choice it wants to make, as a country¹ that is responsible for its own customs and immigration.

Q328 **Mr Jones:** The attraction of what I have just proposed, from the point of view of British sovereignty, is that any British citizen wanting simply to visit Gibraltar would never have to pass through a Schengen border control.

Lord Cameron: The problem with that—and it was an ingenious thought—is that if you have a fluid border, a British person arriving in Gibraltar, who then goes out of the airport and into Gibraltar, would be able to go into Spain as and when they wanted, because there is no border check. That is the problem with that idea.

Q329 **Mr Jones:** But that is at the expense of compromising sovereignty, surely?

Lord Cameron: The trouble is that if you had that arrangement, you would not have done a Schengen check on what could be quite a large number of people going to Gibraltar, who can walk out of the airport, stay in Gibraltar and then go to Spain, so you have a problem.

Q330 **Mr Jones:** Well, they could go through the Schengen shack—

Lord Cameron: Well, how would you know? The trouble is that you are then creating two groups of people. How would you know whether the person crossing the border is the person who should be in the Schengen shack rather than the person who has already done the check?

Q331 **Mr Jones:** Forgive me, but it seems fairly obvious. If you are flying to Gibraltar airport, and you want to go into Schengen, you then go through the Schengen shack. If you simply want to stay in Gibraltar, you do not go through the Schengen shack.

Lord Cameron: But if you do not have border checks, how do you know?

Q332 **Mr Jones:** But you do have border checks.

¹ Lord Cameron intended to say 'UK overseas territory' instead of 'country'.



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Lord Cameron: No, you don't. If you want to have border checks, that is a very different concept. The concept in which the Gibraltar Government are most interested is having people checked as they get off the plane or boat, so once they are in Gibraltar they can travel freely. Robbie, come in if I am being a doofus and getting this wrong, but if you say, "No, you can arrive in Gibraltar, go and stay at the hotel on the Rock, and the next day walk into Spain", they are walking into a Spain where there are no border controls. That is going to be a problem, isn't it? You are creating a big—

Q333 **Mr Jones:** The point I am making is that it is not a huge problem at the moment. The border is fluid. It accommodates 15,000 people coming in every day from Spain to work in Gibraltar.

Lord Cameron: Under your idea, David, would you still have a border when people cross from Gibraltar to Spain? You would have to, because otherwise people would not know whether you went to the Schengen shack.

Q334 **Mr Jones:** The point is that you arrive at Gibraltar airport; if you want to stay in Gibraltar, or indeed if you want to go to Schengen, you go through Gibraltarian passport control. If, however, you also want to go into Schengen, you turn right and go through the Schengen shack.

Lord Cameron: I get that, but what do you do with the person who goes through the Gibraltar check, goes to stay at the hotel, and then the next day wants to go into Spain?

Mr Jones: You go through the current border controls.

Lord Cameron: But there aren't going to be going to be border controls; it is a fluid border.

Mr Jones: I appreciate that, but—

Lord Cameron: We come back to the same point: if you want to have—

Mr Jones: Forgive me, but there would be border controls.

Lord Cameron: Well, then you have got border controls.

Q335 **Mr Jones:** The point is that that would be alleviated by the fact that you have got the Schengen shack and people arriving in aeroplanes.

Lord Cameron: Not really, because, of course, the major issue at the border is the 15,000 people coming in and out every day and the fact that the checks are causing these four-hour queues.

Q336 **Mr Jones:** Which, as I say, is only a problem when the Spanish cut up rough.

Lord Cameron: No. It is also a problem when the Schengen checks come in. I think you are missing the point a bit. As I say, it is perfectly fair to say to the Gibraltarians: "No, you have got it wrong. Keep the border, do not put the checks in the airport, and let's have a discussion with the



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Spanish about how we make the border work better." That is a perfectly legitimate approach; it is just not what the Gibraltar Government want.

Q337 **Mr Jones:** Do you appreciate that there is concern in Gibraltar about arrangements with Spain, given their history?

Lord Cameron: Yes, of course.

Q338 **Mr Jones:** Do you appreciate that they are very suspicious of the motives of the Spanish?

Lord Cameron: Yes, with good reason.

Q339 **Mr Jones:** In fact, only a few days ago, the Spanish Foreign Minister was saying quite loudly that agreement had been reached in the context of these negotiations for the joint management of the airport at Gibraltar. If I were Gibraltarian, that would make me extremely uneasy. Frankly, as a British politician, it also makes me feel uneasy.

Chair: He did say "decided".

Lord Cameron: No. Nothing is agreed until everything is agreed. Nothing has been finally agreed. Lots of ideas are going around in these negotiations. We are four years since the new year's eve agreement. We are on round 18. Sometimes things go forward; sometimes things go backwards.

Ultimately, the air passenger terminal is now being looked at as part of the deal. If we cannot get agreement about it, we will have to take it out of the deal because it was not in the deal to start with. The point of having it in the deal is that we could make things better for Gibraltar. If it is part of the deal, you could have EU flights from other countries flying into Gibraltar airport, which would enhance its status as a hub and enhance its status for services and everything else. But again, if you cannot get a deal with the things you need guaranteed, then we will have to take the airport out and start again.

Q340 **Mr Jones:** He was saying quite clearly that that was an element that had been agreed. Are you telling the Committee that that has not been agreed?

Lord Cameron: Nothing is agreed until everything is agreed.

Q341 **Mr Jones:** So you take issue with Mr Albares?

Lord Cameron: I am trying not to take issue with Mr Albares because I am trying to negotiate with him. I could give you a list of all the brilliant things I have agreed so far in this, but I do not want to do that because he might—

Q342 **Mr Jones:** Your negotiation is essentially with the European Union?

Lord Cameron: It is both. It really is a four-cornered negotiation.

Q343 **Mr Jones:** I appreciate that, but the treaty will be concluded with the European Union.



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Lord Cameron: Yes.

Q344 **Mr Jones:** Then, of course, we had the Greek commissioner the other day crowing that Gibraltar was Spanish. Does that make you uneasy?

Lord Cameron: Very. If anyone ever says that Gibraltar is Spanish, I get extremely uneasy. In fact, I would say I get rather angry about it.

Q345 **Mr Jones:** Can you understand why Gibraltarians and British politicians are concerned as to the EU's motives in these negotiations when you have a senior figure in the European Union saying that it is Spanish?

Lord Cameron: You have to go into these negotiations with huge caution and care about everybody's motives. I just know what our motives are, which are absolutely the right ones: secure the base; secure the sovereignty; do a deal that satisfies the Government and people of Gibraltar. That's it. And if we can't, no deal.

Q346 **Mr Jones:** You don't feel you are negotiating with the crocodile?

Lord Cameron: I get on quite well with Maroš Šefčovič. He seems a reasonable person who is trying to get to an agreement. He is trying to show flexibility. If you think about it, this is something that is adjacent to Schengen, but not in Schengen. It requires flexibility on all sides if you are going to try to get, as I say again, what the Gibraltar Government say they want, which is a fluid border with Spain.

Q347 **Chair:** Before I ask Paul Bristow to come in on this, I will say that every time I hear you make these statements about flexibility and fluidity, it is not something which this Committee finds terribly easy to understand, for the very simple reason that sovereignty means sovereignty, territory means territory, borders mean borders.

Lord Cameron: Yes.

Chair: And they do matter.

Lord Cameron: Yes.

Q348 **Chair:** And therefore the sovereignty question, which surrounds all these questions, is vital because of our defence interests.

Lord Cameron: Yes.

Q349 **Chair:** Military airspace over Spain is not given to us by the Spanish. The Red Arrows were stopped the other day. It's an incident. It's a symbol. There are real questions, which Mr Jones has raised, that are of incredible importance. I hope you found that the starting of this operation, which was an urgent question that I put in about eight weeks ago, is helping.

Lord Cameron: It is really helping, because it is helping me to—obviously these are really important questions, and it is incredibly difficult. It has been really helpful, and your session with Minister Rutley was very helpful, because, in this, we have really got to understand what it is that is being proposed, and what the consequences are—is sovereignty safeguarded if



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we agree this? We've really got to understand that, so I think that the Committee is doing an excellent job at posing these questions.

The only thing that I want to make sure of is that we understand why these questions are arising and what the benefit is that the people and Government of Gibraltar are trying to seek. Otherwise, it would be much easier if we just said, "Keep everything as it is. Try to make the border operate a bit better"—a very different deal.

Q350 Paul Bristow: I will try not to ask too many questions, but I was very intrigued, Foreign Secretary, when you referred to the situation with French border control at St Pancras station; I actually thought about that myself when I went to Lille relatively recently. I guess an important difference, though, is that the French do not claim sovereignty over St Pancras station—at least, not yet. So, if Spain does claim Gibraltar as Spanish territory, what weight has been given to that consideration?

Lord Cameron: It is a very good point. A lot of weight is given to it, in that we should approach this negotiation with a high degree of scepticism, with very hardened senses about not agreeing to things that we would in any way regret.

I would say, though, that one of the advantages, if we could get this treaty—even though it is a treaty that, as I said, would have provisions so that you could leave it if you wanted to—is that, if we had the treaty, it would regularise and formalise the position in a very positive way, I think, for the UK.

Q351 Paul Bristow: I guess the concern is "Is this just salami-slicing tactics?"

Lord Cameron: No, it really isn't, because it is not this deal, then another deal, then another deal; it is like, "Can we achieve this combination of things—base, sovereignty, and success for the Government of Gibraltar?" Then, that is it. Because, you see, they don't want to join the EU; they don't want to join the customs union; they don't want to join the single market. This is not like a country that is sort of moving towards the EU in lots of ways; literally, it just wants this ability to have a border that is open because of its economic model.

Q352 Paul Bristow: But Spain does want Gibraltar as a Spanish territory.

Lord Cameron: Of course—and they're not going to get it.

Q353 Paul Bristow: I certainly don't want you to upset the Spanish at this stage of the negotiations—

Lord Cameron: We probably have already, but there we are.

Q354 Paul Bristow: How would you characterise the attitude of Spain during these negotiations, both in public and in private?

Lord Cameron: They say that they want to achieve a deal because they would like to get this situation regularised and sorted. Don't underestimate the shared prosperity agenda between Gibraltar and southern Andalusia. Gibraltar gives work to 15,000 Spanish people—highly paid work in



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attractive sectors. But that is what they say; they would like to see a deal for those reasons.

Q355 **Paul Bristow:** But a fluid border is in the interests of Spain as well as Gibraltar, right?

Lord Cameron: Yes, it is in the interests of both, but it is certainly the thing that Gibraltar wants, which causes a lot of the questions that we have been having to consider.

Paul Bristow: If a fluid border is in the interests of both Spain and the people of Gibraltar, and the status quo—I heard you say that the status quo is not forever; I heard you say that—

Lord Cameron: That is the status quo about the operation of the border control—

Paul Bristow: As it is right now—

Lord Cameron: Let me be clear, because I don't want to be misquoted. I am not saying that the status quo is not forever in terms of Gibraltar; as far as I am concerned, the status quo of Gibraltar, as sovereign British territory, is forever.

Paul Bristow: No, I understand that—

Lord Cameron: I am literally saying the status quo with the way that the border controls are operating today, because they haven't introduced the full Schengen controls yet.

Paul Bristow: I appreciate that, and I certainly wasn't suggesting for one second that you were saying that the status quo around Gibraltar's place within, or as, British territory was that status quo. I understand that. But you said that the status quo around the transitional border arrangements that we have at the moment is not forever. If that fluid border is in Spain's interests, in Gibraltar's interests, and is working now—

Lord Cameron: It is not working now.

Q356 **Paul Bristow:** Why is it not working now?

Lord Cameron: Because at the moment, there are still times when the queues get quite long, and 15,000 people have to go through the borders every day. Also, we think there has been a bit of—

Q357 **Paul Bristow:** That is only if Spain's attitude changes and hardens, right?

Lord Cameron: There are two answers to that question. One is that the border is not operating brilliantly today, even though full Schengen checks have not been introduced. Also, it tends to be either people who have temporary residence cards or British citizens who are having the worst experience at the border, frankly. So it is not working great at the moment.



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If full Schengen checks were introduced, which is what Spain says it would have to do as a Schengen country next to a non-Schengen country, there is a good chance that the border situation could get worse. That is why I said that the status quo is not forever. We are not comparing the status quo as it is today on a good day with what happens when you are doing Gibraltar checks and Schengen checks inside the airport, or wherever it is going to be. That is not comparing apples and apples. Do you get me?

Q358 Paul Bristow: Yes. How would you characterise the EU's approach and attitude to these negotiations?

Lord Cameron: It is a bit exasperated. To me, there are 30,000 incredibly important people living in Gibraltar. But I think the EU's attitude is sort of, "Can we please try to make some progress and do a deal, because there are lots of other things we have to focus on?"

I would say that it is being constructive. As you know, when it comes to doctrine about anything, the EU can be incredibly stubborn; we have seen that over Northern Ireland and elsewhere. There is a bit of that going on. But generally speaking, I would say that Šefčovič would like to get an agreement and put this to bed.

Q359 Paul Bristow: Finally, going back to the issue of Spain and its attitude, are you confident that the views of the Spanish region bordering Gibraltar, Andalusia—some of the mayors and administrations—have been taken into account in the Spanish position, or is it all rhetoric?

Lord Cameron: I think they have, in that the Spanish Government is quite cognisant of what the Andalusian border region would like. They refer to that. When I bring it up, they check it and agree with it. So I would say yes.

Q360 Paul Bristow: Their interests and Madrid's interests, especially coming up to the European elections, are not always aligned.

Lord Cameron: That is a very good point. Understanding each other's politics is very important, which is another reason why this Committee meeting is very helpful.

Chair: I am very glad we are being so helpful.

Q361 Greg Smith: Foreign Secretary, after a big chunk of the meeting on Gibraltar, you may or may not be relieved to know that we are moving on to the EU entry/exit system.

Lord Cameron: Oh, gosh.

Q362 Greg Smith: The Committee has done significant work on this. It is meant to go live in October, although there is still some fuzziness around that date. There are considerable concerns from the county of Kent, the road haulage sector, coach operators and the general travelling public about the delays that may come about due to some of the requirements of the entry/exit system.

For the Committee's knowledge, what UK-EU forums have you raised



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concerns about EES in? Are we partially in the dark on some areas of its implementation?

Lord Cameron: I literally raise that everywhere I go, from President Macron to former Minister Colonna, and now her replacement, Stéphane Séjourné. I have raised it with Šefčovič, and with anyone from the Commission I ever meet. I raised it everywhere.

We have made some progress. I think you heard from some of the relevant Ministers. We are making some progress, but it is still worrying because we have quite big choke points at Dover and St Pancras, and I am really worried about there being long delays for people. The technology still needs testing, improving and all the rest of it. We have to do everything we can domestically to get ready for it. There is a lot of work being done, and we have regular meetings of all the relevant Ministers in a sort of sprint to look at where we are and what still needs to be done.

Q363 **Greg Smith:** Has the technology been tested anywhere?

Lord Cameron: It is not our technology. It is an EU scheme. When it was first tested, I think it was found wanting, and that was one of the reasons for the original delay.

We are both getting ready in every way we can but also talking to the Commission and others about how to make sure not only that the technology works—over time, it would be great if you had an app where you could do your entry away from the border. I think there is a lot of work to be done on this.

Q364 **Greg Smith:** On the technological point, I fully accept that it is not our technology that we are questioning here. We take the view that it is your job as Foreign Secretary, and the job of the wider FCDO, to get the best deal for Britain from those abroad that we are dependent on.

One of the big questions is the app that you just mentioned. I apologise if I use the wrong technological term—its back end is apparently ready, but its front end isn't. What negotiations is the FCDO doing with the French to try and get that ready?

Lord Cameron: I don't want to slide away from my responsibilities, but I will make this point. First, this is an EU scheme. They are putting it at their borders, but obviously because of the juxtaposed controls, it will be at Dover and St Pancras. It is also a Home Office responsibility to oversee this. Of course, it is the Department for Transport that has a lot of work to do at Dover and at St Pancras, and I know they are doing it at speed to put those things in place. Lots of difficult issues remain. Olaf, do you want to come in on this and say where you think we are getting to?

Olaf Henricson-Bell: Your terminology is right, Mr Smith, for the different phases of the app. You have the back end, which is being done by the EU, by Frontex, and then each member state will add their layer on to the front of it. I don't think they have finished the back end yet.



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Our interest is both the timetable of that process, and then the timetable for, in this case, mostly the French—but not only the French—system that is being implemented and the level of utility they bring to it. We are absolutely raising that in every meeting and are urging both greater flexibility and a faster timeline.

Q365 **Greg Smith:** Given that the timelines are unknown, would it not be sensible to try and negotiate a further delay in the entry/exit system being implemented?

Lord Cameron: I am trying to answer that question very diplomatically. I think the best thing we can do is to prepare as much as we possibly can, and to keep explaining to our friends in other European countries and to the Commission the technical and other problems.

We should do that on the basis that we are not the problem—we have built what we need at Dover, and we have put in place the rooms for the terminals and everything else at St Pancras. We should do everything we can, but keep having that conversation, because ultimately it is their technology and their system. If it is not working properly, it would be a big hit to French tourism and everything else.

Q366 **Greg Smith:** I certainly agree with that, but equally, if it is not working properly there is going to be a big hit on our side of the border to the county of Kent and so on.

Lord Cameron: Absolutely. In my talking points whenever I go and see a European Foreign Minister, after Ukraine, this will be point two or three. It really does matter; we have got to get this right. It is not entirely within our control because it is their system. What I am trying to say is, we will be in a stronger position if we do everything we possibly can to say, "Look, we have put in place all the things we could do but look at these projections."

Q367 **Greg Smith:** One of the things that this Committee has heard evidence about that we could potentially be in active negotiation on would be a derogation from the current set-up of EES to enable some of the biometrics to be taken away from port. That would shut down the length of time it takes an entire coachload of people to get off the coach, walk through a hut and put all their biometrics into a system. Are you asking for that derogation?

Lord Cameron: As I said, the Home Office lead on how we manage this, but we are looking at all those sorts of options, including the different ways you might do buses and cars. All those issues are being looked at, including whether we can do something specifically with school trips.

Greg Smith: That is very helpful.

Q368 **Chair:** Would you be good enough to tell us whether there is and has been a trial in Gibraltar on entry/exit?

Lord Cameron: On EES?



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Chair: Yes.

Lord Cameron: Not that I am aware of, no.

Chair: There was a rumour flying around that there had been.

Lord Cameron: I haven't—Robbie?

Robbie Bulloch: We were aware that there were some iPads and things about six to nine months ago, but we haven't had any formal details shared.

Q369 **Brendan Clarke-Smith:** Foreign Secretary, this leads on from some of your earlier answers about whether EES would apply to British nationals who arrived at the Rock and did not actually leave it to go into Spain under Schengen. Some concerns have been raised about biometrics, fingerprints, and whether that breaks the red lines or is a reasonable trade-off. Have there been any discussions with the Spanish authorities or reassurances about how they would use the data?

Lord Cameron: We are having discussions with them about how you would make this vision of checks in the airport, rather than checks at the border, work. That is what we talk about; what I have tried to share with the Committee is that it is extremely difficult and complicated. There are some potential drawbacks, as you say, but there are also huge advantages for the people of Gibraltar and arguably for other people visiting. We talk about all this stuff.

Q370 **Brendan Clarke-Smith:** Okay. On entry and exit with the EU, how would we be able to monitor all that?

Lord Cameron: It comes back to the same problem I was having with David. It is an interesting question. If you just went full EES at the border, you really could have some long queues—I mean, really. That is why I keep coming back to the same point, but that is the trouble: it is the EU system, they are putting it in place and we have to cope with it, because we are a third country and so is Gibraltar. They have to work out how to deal with it.

Q371 **Mr Jones:** A very brief question: if chaos is caused at St Pancras and Dover, do the Government keep open the option of removing juxtaposed controls altogether and reverting to what we had previously with controls on the other side?

Lord Cameron: The difficulty is that juxtaposed controls have been, I would argue, an advantage to us. If we did not have juxtaposed controls in Calais, never mind small boats: we would have big boats. People would be coming off ferries, and they would be at Dover rather than at Calais. I think that the juxtaposed controls are good, and that we have to try to make them work in this new system.

Q372 **Mr Jones:** I think that is the problem. I agree with you. I think they are wonderful in St Pancras: you can get on the train in London and just walk off the train in Paris or wherever—marvellous. But if, in fact, you are



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going to have to wait several hours and there is chaos in St Pancras or chaos in Dover, might not the only alternative be to say, "Well, they don't work any more"?

Lord Cameron: This is slightly an answer of despair, but if the system is bad and does not work, it will be just as bad in Gare du Nord as it will be in St Pancras.

Q373 **Mr Jones:** It will only be half as bad, because you will have one more check, as opposed to two checks, which we have at the moment.

Olaf Henricson-Bell: The issue would particularly be, given the way the short straits work as a system, that if you end up with that queue in Calais, you still have the push-back of the queues into Dover, which is the situation, as you will recall, that we had before we had the juxtaposed controls. You end up with the same problem.

Q374 **Mr Jones:** So this could be really catastrophic, couldn't it?

Lord Cameron: We are working as hard as we can to try to make sure that the introduction runs as smoothly as possible, but we are absolutely apprised of the risk.

Q375 **Chair:** Will the EES apply to British nationals arriving at the Rock's airport and not intending to leave the British overseas territory for the Schengen area?

Lord Cameron: I think we have dealt with this one, which is that nothing is agreed, but the problem with the David Jones solution of saying, "If you do not want to go to Spain, you just do the Gibraltar checks and stay in Gibraltar" is that if you have no border, that person is obviously actually free to go to Spain, so you have just created a system with a massive great hole in it.

Q376 **Chair:** Does that mean that Brits will have their biometrics taken and recorded by a foreign power to enter a British overseas territory that they do not intend to leave for the Schengen area?

Lord Cameron: We keep coming back to this thing. If you put the Schengen check in the airport, which is to have the open border, that does have consequences, because everyone will go through the Gibraltar check and the Schengen check and then stay in Gibraltar or go to Spain as they please. That is great for getting rid of the border fence, great for the 15,000 people going back and forward, and great for anyone going to Gibraltar who wants to spend a day there and go to Spain, but I accept that for someone who simply wants to go to Gibraltar, stay there and not go to Spain, if that is what it ends up with, that would be an additional burden. But you have 10 million checks a year, and under this system that goes down to 250,000. As I say, that is all part of the big picture of what the Gibraltar Government want to achieve.

Q377 **Chair:** Are you satisfied that these proposals, even with the fluidity that you introduce into them, do not break your red lines on sovereignty, jurisdiction and control?



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Lord Cameron: I wouldn't sign anything that did, but in my view you don't lose sovereignty simply because you have a Frontex border guard doing a check, just as we are not less sovereign because we've got a French border guard at St Pancras.

Chair: Well, we've been through that one.

Lord Cameron: We have been through it, but I am not satisfied that I'm not right about it.

Chair: Well, perhaps we're not either.

Lord Cameron: Right, but I didn't want to leave you with the last word on that one.

Chair: That is quite difficult to achieve.

Lord Cameron: I am always up for it, Sir Bill.

Q378 **Chair:** The other thing I was going to ask was this: we have heard that there are serious concerns with the direction of these negotiations, and we share them—we have already made that quite clear, as you know. Part of that is because you are approaching them very much from the point of view of a variety of different angles, from different territories, but of course this is ultimately a UK-EU treaty, as we have said repeatedly. Let's put that in the box. The UK Government, and only the UK Government, will sign this deal with the EU—that's the point—and it concerns our national security. We have already talked about airspace, and we have talked about questions relating to people who may be undesirable for a variety of reasons passing through borders.

One of our concerns is that it does affect our national security, and that, in line with what the constitution says, and as I mentioned at the beginning, questions of external affairs and defence are ringfenced within the framework of our sovereignty. Do you not think that this arrangement that you are entering into could set a dangerous precedent for other overseas territories? Unlike what appeared to be the case a few weeks ago—there was a bit of an appearance of a rush to get to the end of these negotiations, and the opening of a tunnel, as I think they put it—is what you are saying today that you are pausing these negotiations for the time being, to have a good look at all these questions?

Lord Cameron: Well—

Chair: Wait a minute—let me put it to you. We would invite you, in the light of this, to take stock and address these concerns before you go any further. I think it is implicit in what you have already said that you are doing that. Is that right?

Lord Cameron: Just to be clear, what I said was that of course after every round of negotiations, we have a good look; after every round of negotiations, we take stock. As I have said very clearly, if we cannot achieve a deal that we think safeguards all our red lines, we will not sign a



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deal, but we are committed to trying. We think we have made good progress.

Obviously every day that goes by is another day of uncertainty for the people of Gibraltar, who would like some certainty in this regard, but just to be absolutely clear, we are not going to sign a deal that gives up British sovereignty. We are not going to sign a deal that in any way puts in danger vital defence assets.

Of course, with the responsibility I have for the other overseas territories, I look very closely at all of these things and think, "Does it have a read-across or a disadvantage anywhere else?" I feel passionately about these things. I am the first Foreign Secretary to have visited the Falkland Islands since about 1996, so I have proved with my own shoe leather that I care about this stuff. I really do, and I don't want to do anything that would in any way endanger other overseas territories that we have, vital as they are.

I think the unique point about Gibraltar is that it has this interest in having a more open border with Spain, because of the nature of its economy, and I don't think that is mirrored in the same way in other overseas territories.

Q379 Chair: There are also the questions I have mentioned regarding these rumours, perhaps, that RAF personnel were detained only quite recently. Do you know anything about that?

Lord Cameron: I don't know anything about that. I wonder whether it was when they were trying to cross the border because there are border checks, rather than going to the base. The point about the base is that people and matériel must be able to be moved into the base without let or hindrance. That is absolutely key.

Q380 Chair: I have one last question. I take it from what you have said that if we wanted to take this matter further with you or with anybody else—of course we are anxious to see Mr Picardo, which we are hoping to do fairly soon, but also, of course, the Defence Secretary, because he may have views on this subject, which he may or may not have communicated to you already.

Lord Cameron: I had a meeting with the Defence Secretary this morning. We discussed Gibraltar, among many other things. I think it's very good; I think you should have further meetings. As I said, I wanted to bring Fabian here today, because I think trying to understand the connection between what the Gibraltar Government want and our red lines on sovereignty and defence is very important. I know he would be delighted to come again, and I think summoning the Defence Secretary would be a very good idea. He can talk to you about the wider defence and security picture.

Chair: Are there any further questions that anybody would like to put?

Q381 Mr Jones: I would like some clarification on a point arising out of one of the last questions. Is it the case that British military personnel would be



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required to give their passports to foreign border guards when entering Gibraltar?

Lord Cameron: The aim is to carry on having the base work in every regard in the way that it does now.

Mr Jones: So the aim is to avoid that?

Lord Cameron: The aim is "In every way."

Q382 **Chair:** Lastly, because we are just coming up to your 4.30 deadline, I will simply say, "Do look after the blue card holders."

Lord Cameron: Yes. They are the ones who at the moment are having quite a tough time, actually. That is part of the issue at the border.

My parting plea would just be that we should remember the double lock, which is that Britain should never discuss—I am going to read it to you, so that we all remember it: "the UK Government will never enter into arrangements under which the people of Gibraltar would pass under the sovereignty of another state against their freely and democratically expressed wishes." Secondly, we will never "enter into a process of sovereignty negotiations with which Gibraltar is not content." It is very important to remember that we must be in lockstep with the people of Gibraltar and the Government of Gibraltar, and that is exactly what I intend to do.

I just want to be clear. Fabian, of course, wants to get this deal. He wants to have this border arrangement, to safeguard the future of his economy. But he is an incredibly tough negotiator. He is not going to give up one inch of sovereignty over the Rock of Gibraltar, and Gibraltar itself, and neither am I. You can absolutely be assured that we negotiate toughly but, more importantly, jointly. We agree everything.

Chair: You can also take it that we as a Committee have a similar approach in our questioning, as you have probably noticed.

Lord Cameron: I have. I have thoroughly enjoyed it.

Chair: I have one last point. What you have just mentioned comes straight from the constitution of Gibraltar, which I am not sure you necessarily knew, but—

Lord Cameron: On the double lock, I think it was a Minister who originally—

Olaf Henricson-Bell: It was agreed in the 2000s.

Lord Cameron: It was agreed in the 2000s.

Q383 **Chair:** Can I just add one last point? Gibraltar is part of His Majesty's dominions, and His Majesty's Government have given assurances to the people of Gibraltar that Gibraltar will remain part of His Majesty's dominions, among other things, "unless and until an Act of Parliament



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otherwise provides". So there are very, very clear lines in the constitution of Gibraltar—

Lord Cameron: Just to be clear, under this deal there is no question of Gibraltar being anything other than one of His Majesty's Dominions—absolutely no question about that in any regard. It all about "Can we actually safeguard that and write that into a new treaty, to give Gibraltar a new chance of success and thriving in this decade and beyond; and crucially, can we do something that gives Gibraltar's economy the certainty of continued prosperity and success?" Now, that is something that is worth spending some time over, and that is why I am delighted to be taking part in it.

Chair: As the clock strikes, I will simply say that I am very glad to have been able to have you here—but also to evaluate, in the course of time, whether what you have said to us today meets the challenges that we have tried to present to you.

Lord Cameron: And I will do the same with your questions and check that they are also ones that we have given the best answers to. Thank you, Bill.

Chair: We shall see.

Lord Cameron: Okay.

Chair: Thank you.