

Foreign Affairs Committee

Oral evidence: UK/EU Treaty on Gibraltar, HC 1838

Monday 20 April 2026

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Members present: Emily Thornberry (Chair); Fleur Anderson; Alex Ballinger; Alan Gemmell; Edward Morello; Sir John Whittingdale.

Questions 1-45

Witnesses

I: Hon Fabian R Picardo KC MP, Chief Minister at HM Government of Gibraltar, and Michael Llamas CMG KC, Attorney-General at HM Government of Gibraltar.

II: Stephen Doughty MP, Minister for Europe, North America and Overseas Territories at Foreign, Commonwealth & Development Office, and Hazel Cameron, Director, EU and Gibraltar at Foreign, Commonwealth & Development Office.

Examination of witnesses

Witnesses: Fabian Picardo and Michael Llamas.

Q1 Chair: We are doing a session about the British-Spanish agreement on Gibraltar and we have the great honour of having in front of us Gibraltar's Chief Minister, Fabian Picardo, and its Attorney General, Michael Llamas. Thank you very much for coming. We have a series of questions, and if you don't mind, we will just kick off.

You told the Gibraltar Parliament that the agreement is the "fruit of compromise". In your view, what are the main benefits to Gibraltar of the treaty and what are the costs and downsides?

Fabian Picardo: Madam Chair, thank you so much for giving us the opportunity to address the Committee, and thank you to the Committee for taking an interest in the fruit of the work that the Committee has been following for almost a decade, since the Brexit vote.

This has been a complex negotiation. We had objectives that were very clear. I know from the work that you have all done in the past, under separate Administrations, that you understand the economy of Gibraltar; I did a lot of work with Sir John when he was at the Department for Culture, Media and Sport. So you understand that we have an economy that is based principally on services: financial services and gaming services, both of which are sold from Gibraltar to the world. In each instance, our principal market is the United Kingdom. The regulatory standard in Gibraltar is extraordinarily high. I go around the world evangelising about the fact that our standard of regulation for gaming services is the highest in the world.

I am joined in the room today by Gibraltar's Minister for gaming and financial services, Nigel Feetham KC. Also with me is Gemma Arias-Vasquez, the Gibraltar Minister for Business.

What was the key driver that we were trying to achieve as part of this negotiation? The ability to get the people who work in the financial services and gaming industry in Gibraltar, but who live in the European Union—that is to say, in Spain—across that border every morning, without its being snarled up to such an extent that our businesses in those key areas might say, "We can no longer continue to do business in Gibraltar." That is hugely important. Now, with this fluidity arrangement, they will not even have to flash a passport at a Spanish police officer or a Gibraltar border guard. Going from Gibraltar to Spain and from Spain to Gibraltar will be like going from Belgium to Luxembourg.

There is another element, of course. Business matters and is hugely important; the economy matters, and public services are funded through the public revenue that our economy generates—but what matters most is people. Apart from those people who cross the frontier to work, and apart from those people who cross the frontier to come and see Gibraltar,



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Gibraltarians are intertwined through family links with the people who live around Gibraltar, in the area known as the Campo de Gibraltar, and vice versa. From 1969 to 1982, when the frontier was closed by the fascist dictator, people would literally have to hold up their newborns at the frontier to show them to their relatives across the way.

That is not what was going to happen if we did not do this deal; the frontier was not going to close, but it was going to get very sticky indeed. We would have had to comply with the Schengen border code, which means we have to show that we can sustain ourselves when in the European Union, and so on. We would have had to comply with the European entry/exit system. In the very near future, also, we would have needed a digital visa waiver, a little like the ETA that the UK is now requiring all European citizens to have—this is called the ETIAS. The arrangements mean that people can move fluidly from Gibraltar to Spain, and vice versa, to see their families, to enjoy their leisure time and generally to enjoy their magnificent and privileged lives not just in 2.5 square miles, which is what Gibraltar amounts to in geographical terms, but in all the area.

At the same time you will recall, Madam Chair, that when we voted in 2016, 96% of us voted to remain in the European Union; 96% of our goods come to us across the frontier also. If you go back to 1713 and the treaty of Utrecht, one thing that happened under that treaty was that Gibraltar was ceded to the British Crown, but there was to be no ability to victual Gibraltar across that frontier. This new agreement, because it provides for a customs union between the territory of Gibraltar and the customs union of the European Union, provides for the fluidity of those goods, too. Gibraltar can therefore now enjoy the fluidity of people—not free movement, because—

Q2 Chair: We are going to ask you some questions specifically about trade in goods a little later. What you are saying is very interesting, but what you have not told us—may I perhaps reiterate this part of the question—what are the downsides?

Fabian Picardo: I do not think that there are downsides—

Chair: There we are.

Fabian Picardo: I will tell you why—because we have negotiated very hard to ensure that there are no downsides. When we went into this process, for us the key issue was not to compromise on anything to do with the sacrosanct issue of sovereignty. I think that the attitude of the European Union and of Spain is to say, “Well, look, we understand that we have to put those things to one side”, because of course the European Union has not got a sovereignty claim over Gibraltar.

Q3 Chair: I was going to ask you about that. You say that you believe the new treaty does not affect UK sovereignty over Gibraltar. What might you say to those who still have concerns about that to reassure them?



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Fabian Picardo: I will tell them this: the Gibraltarian Parliament is not known for being soft on British sovereignty of Gibraltar. Indeed, the Gibraltarian Parliament has shown that it is a tighter guardian and a more alert guardian of British sovereignty of Gibraltar than—if I may say so, with respect—the British Parliament has been. In 1984, the then Conservative Government were prepared to agree the Brussels process, which was to discuss with Spain under the auspices of the United Nations resolutions, which talk about the reintegration of Gibraltar's territory into Spain, the sovereignty and future of Gibraltar.

In 1987, the airport agreement was made by the Conservative Government of the time. It was all about sharing Gibraltar airport, which we will not do under this agreement. Those are two key sovereignty issues, and the Gibraltar Parliament was against both the Brussels process and the airport agreement. In 2002-03, the Labour Government did not exactly cover themselves in glory when they considered the issue of joint sovereignty in relation to Gibraltar.

The Gibraltar Parliament has unanimously supported that this treaty be entered into by the United Kingdom on behalf of Gibraltar. I can confidently say that because the Socialist Labour party, which I proudly lead, the Liberal party, which is in coalition with us in Government, and the Social Democrats, who are in opposition in the Gibraltar Parliament, have all voted to support the entry into the treaty by the United Kingdom. I am sure that none of us would have done so if we believed that a sovereignty issue was in play.

Chair: On that rousing note, I will hand over to John.

Q4 **Sir John Whittingdale:** It is reassuring to hear that there is unanimity around the issue of sovereignty not being protected, but there are elements on which you have had to reach compromise. One is around immigration controls and the arrangements whereby Spanish officials, alongside officials from Gibraltar, will conduct checks on people arriving on Gibraltar. How will that work, and under what circumstances will Spanish officials be able to conduct checks in Gibraltar?

Fabian Picardo: They will not conduct checks within Gibraltar, nor alongside Gibraltarian border officials. The checks are sequential, so Gibraltar border officials will be the first to determine whether you will be admitted into Gibraltar or not, and the Schengen border officials—they will be the Spanish border officials—will carry out a subsequent check.

You will first be checked for permission to enter Gibraltar, which can be denied. If permission is given, you will move to the Schengen check. If permission is not given, you will still move to the Schengen check, but you can only be given Schengen-only clearance, so you would not be able to come into Gibraltar. You might be able to wander into Gibraltar, but you would then be there illegally, and you could be removed into the Schengen area.



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The second check is the Schengen check, carried out by the Spanish authorities or any other Schengen authorities. During the summer, for example, you often see authorities from other member states carrying out and assisting the Spanish with checks at Algeciras, or even at Gibraltar—you could have, say, an Italian present alongside Spanish police—but Spanish police will be the ones habitually carrying out the Schengen checks, so they will determine whether you are given Schengen clearance. If you are given both Gibraltar and Schengen clearance, you can access both Gibraltar and Schengen. If you are given one but not the other, there are some circumstances in which you can come into just Gibraltar, not the Schengen area, or into just Schengen—although that is a little bigger than Gibraltar—not Gibraltar.

The Spanish will be in a new area that will be created at Gibraltar airport. The proposal for that was made by the Government of Gibraltar during the negotiations and had the approval of the British Prime Minister and the Foreign Secretary of the time, Boris Johnson and Liz Truss. That proposal was accepted, in what we call a second-line checks area. It will be created to be equidistant into Spain and Gibraltar, with both Spanish police and law enforcement agencies and Gibraltar police present—so if the Spanish are coming into our territory a little, it is only because we are going that same distance into theirs. That therefore neutralises the issue of how and where the checks will be carried out.

Q5 Sir John Whittingdale: If somebody passes the Gibraltar check but is denied Schengen approval, so can enter Gibraltar, how are they prevented from entering Schengen?

Fabian Picardo: There are some circumstances in which they can enter Gibraltar: the treaty specifically provides for how we can allow them into Gibraltar but not the rest of Schengen. That is modelled on the European Union's provisions and visa directive, where you might, for example, be refused a Schengen visa, but none the less can have access to just Germany or just Italy. That model is similar to the one we have in play today. Of course, how we control that depends on the practical mechanisms between law enforcement agencies that are still to be put in place.

Q6 Sir John Whittingdale: But if there are no checks on the border for citizens moving from Gibraltar into Spain—

Fabian Picardo: Or vice versa.

Sir John Whittingdale: —or indeed vice versa, how do you stop somebody who is allowed into Gibraltar but not into Schengen?

Fabian Picardo: Let me give you the model in the other direction. Let me tell you how we are planning to deal with people who might be refused entry into Gibraltar but are permitted entry into Schengen. We are going to have a lot of live facial recognition cameras in the area of the border. That person, if they had been told that they are not permitted into Gibraltar, but they are permitted into Schengen, would be illegally in Gibraltar if we found them, and they would be arrested for an immigration



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offence. There are other potential ways of policing this in the future with technology and with the retention of individuals' passports, so that they would have an incentive not to go outside the immigration area that they have been granted access to.

Q7 Sir John Whittingdale: What happens at the port?

Fabian Picardo: Very little will happen at the port because we have agreed that, as the numbers of people who will be accessing Gibraltar through the port will be de minimis, we will deal with all immigration relating to those individuals at the airport. As you know, Sir John, the distances between Gibraltar's marinas and port and Gibraltar airport are shorter than the distances that one traverses when arriving at Heathrow on an aircraft and the walk before you get to passport control, so we think that is entirely manageable. We have been able to agree with the Europeans that we would be taking people to the airport for them to carry out their immigration formalities at the airport.

Q8 Sir John Whittingdale: So there are no circumstances under which Spanish officials will actually be on Gibraltar soil, other than this slight shuffle at the airport.

Fabian Picardo: That is right. We do not envisage any such circumstances. There could be—this would be normal—emergency situations whereby it would be agreeable to the Gibraltar police authorities to ask the Spanish authorities to assist them. For example, if we found ourselves in a very difficult situation with the arrival of 300 immigrants on a vessel, we might all agree that we wanted to deal with immigration formalities in a particular way, but the day to day will not provide for the presence of Spanish police officers doing immigration checks outside the new second-line check facility at Gibraltar airport.

Q9 Fleur Anderson: We have seen the photos of the Schengen shack, which is a considerable shack. In practice, what will change for UK visitors to Gibraltar when this treaty is in force? You have talked about some special circumstances for refusal, but what are some examples of conditions for which Spain could refuse entry into Gibraltar to UK nationals?

Fabian Picardo: Let me start at the end. The circumstances in which the Schengen authorities could refuse entry of British nationals to Schengen are set out in the treaty establishing the Schengen area. There are no different conditions; they are exactly the same conditions as would apply if you were to arrive at Málaga, Charles de Gaulle or Fiumicino airports. There is nothing new there. You need to satisfy the Schengen authorities that you comply with their rules for entry into Schengen. You need to satisfy the Gibraltar authorities that you satisfy our rules to enter Gibraltar, even if you are a British citizen.

If you are a non-resident British citizen—not resident in Gibraltar—there have always been immigration criteria for you to be able to come to and remain in Gibraltar. That does not change. In those circumstances, when you arrive at Gibraltar airport, you will be doing the two immigration checks, one after the other. Remember that something like three quarters



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of all British non-resident arrivals at Gibraltar airport use it to access southern Spain. They do not use Gibraltar airport to access Gibraltar. Today, you are doing your passport check at Gibraltar, collecting your bags, and then going to the frontier and subjecting yourself to the Schengen check. You will be able to do that in one shot at Gibraltar airport.

- Q10 **Fleur Anderson:** What is the practical impact of the treaty on the import of goods to Gibraltar? Will it affect the supply of British food and other products to your shops? In Northern Ireland, there have been issues over baby milk or dental amalgam. When small issues have popped up, have you been assured, during this process, that all of that has been made smooth?

Fabian Picardo: The big problem for the arrival of British goods in Gibraltar is Brexit. That has caused us a huge problem because of the disappearance of the then de facto SPS agreement through membership of the European Union. We could get our Great British banger into Gibraltar supermarkets, because it could come from our leading supermarkets—I will not mention the name—in the north of United Kingdom all the way down the European Union to the frontier with Gibraltar, and the only frontier check was on exit from the European Union and entry into Gibraltar. Now it is very difficult to get fresh produce from the United Kingdom to Gibraltar. In certain circumstances, at Christmas time, it is being flown in, but it cannot really get to Gibraltar other than by sea.

In our view, the new arrangements will provide a much more fluid mechanism for the arrival of goods in Gibraltar. It is propitious that, at the same time as these arrangements are going to be negotiated, we expect—from what we see reported in the British press—a new SPS agreement between the United Kingdom and the European Union. Therefore all the barriers to the arrival of the Great British banger will once again disappear, and we will be back where we were 10 years ago.

- Q11 **Fleur Anderson:** So will there be no red or green streams? When the goods arrive in the port, some of them will be going to southern Spain, and some to Gibraltar. Will they be going through two different channels? Does this treaty change that?

Fabian Picardo: No, the arrival of goods will now be principally through the land frontier. Goods will be cleared by Spanish customs, as they are today. Remember that all goods that arrive at Gibraltar—they do not arrive through the port or airport—have to be cleared through Spanish customs. Over 90% of our goods arrive through the frontier—96% at the time of the Brexit referendum. They are already being subjected to that clearance.

Now there will be a different system, because instead of having a sales tax—the value added taxation-type model—we will have a transaction tax. That will be triggered on importation of the goods into Gibraltar, so Spanish customs will be consigning the goods to Gibraltar customs for the purpose of ensuring payment of the Gibraltar transaction tax.

Q12 Fleur Anderson: What is the likely impact of the new taxes on goods that you have to introduce? Could Spain, Schengen or the EU pressure you into raising your taxes in the future?

Fabian Picardo: We do not think this will affect—in fact, it will not affect—food goods, because those are going to be zero-rated for transaction tax purposes. We are going to follow the same model in terms of tariff rates. Our rate of transaction tax in the first year will be 15%, which is the minimum in the VAT directive, going up to 17% in the third year. Based on the model, that means Gibraltar will never have a lower rate of transaction tax than the European lowest value added taxation applicable at any time. At the moment, 17% is the lowest applied, in Luxembourg.

There will be a new, independent observatory established under the treaty. That will be able to look at whether distortions in trade might be arising between member states as a result of our rates of taxation, and can then offer us the opportunity of putting those rates down as well as up. It is not just a question of being pressured to put rates up; we might also benefit from rates going down.

We are therefore very comfortable with the balance that has been struck in the treaty, because we think it is fair. There will also be products at 5%, which is the super-reduced rate, and 0%. We think that the basket of goods that affects inflation is principally going to be represented by the 5% and 0% rates, so we do not expect to see inflation as a result of this new model of taxation.

Q13 Fleur Anderson: Finally, what is in this whole deal for young Gibraltarians? What is there in terms of their opportunities to study and work abroad?

Fabian Picardo: This is all about young people. I talked before about people being able to cross the frontier. This is all about keeping what has been the reality in all our years of membership of the European Union, in common with Spain, since we once again managed to kick open that frontier, which only a dictator had been able to close. This is about the ability of young people to ski in the Sierra Nevada mountains or surf off Tarifa—to enjoy the whole of the European Union and the European continent—without having these new barriers put in their way. Our young people will enjoy the benefits of Erasmus once again, because they are British citizens studying at British universities. They have those opportunities. I know that this is a bit soppy—I keep saying it, and people might get tired of hearing it—but my motivation in all this is to ensure that people can continue to build the human relationships that make up communities, and in particular that young people can fall in love with people regardless of where the frontier is.

Q14 Chair: Will they be able to work there, or will the restrictions be the same as if they were British citizens?

Fabian Picardo: They will be the same, and we have wanted it to be that way. We have not wanted to negotiate a freedom of establishment treaty.



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If we negotiate a freedom of establishment treaty with a bloc that has 480 million people, they get the right to establish themselves in a territory that is two and a half miles by one, where 38,000 people live who would also have the right to establish themselves in the rest of the bloc. So we wanted a fluidity agreement, not an establishment agreement.

- Q15 **Edward Morello:** Chief Minister, you referenced earlier the negotiations over Gibraltar airport that happened under the previous Government. My understanding of this treaty is that a joint Gibraltar-Spanish venture will be established to control the commercial operations at the airport. Can you outline how that affects Gibraltar's operation of the airport and what rights you have had to compromise on? I guess that touches on the sovereignty issue again.

Fabian Picardo: That is not what the treaty says. The treaty says that the joint venture company will be established—we agreed it was going to be established in Ireland—and that it will determine which company gets the tender to operate Gibraltar airport and supervises that it is complying with its tender requirements, not that the joint venture company will be responsible for the day-to-day running of Gibraltar airport. That is what was agreed under the Córdoba arrangements of 2006, which Spain repudiated; the Córdoba arrangements say there will be a joint company—50% Spanish, 50% Gibraltar—and that that joint company will run Gibraltar airport. This treaty does not say that; this treaty says there will be a joint company—50% Gibraltar interest, 50% Spanish interest—and that that joint company will have the right to grant the tender to the company that will run Gibraltar airport. It could be Swiss, Spanish or German, or it could be the Gibraltar company that runs Gibraltar airport today, that has the most experience in it and that is suffering the 6 million loss of running Gibraltar airport.

- Q16 **Edward Morello:** What rights does the Government of Gibraltar have in terms of that joint venture, should you disagree with who the tender is awarded to or should circumstances change? Will you still retain all your previous rights?

Fabian Picardo: The Government of Gibraltar will own 50% of the joint venture company. There will be provisions in the establishment of the joint venture company for how it is to be run. There will be a shareholders agreement and a deadlock agreement; there will be all the provisions that you would expect there should be. We are very comfortable with that because we think that it protects our equities in a way that even the 2006 agreement—which was entered into by the Government of Gibraltar, by the way—did not. This one goes further in the protection of our equities. We accepted the 2006 agreement because, although we were against it when we were in opposition, the people of Gibraltar supported the Government that negotiated it in the general election of 2007. We said, when we were elected in 2011, that we would honour the agreement for that reason, but that we would seek to renegotiate parts of it. In fact, the new Spanish Government, elected also in 2011, repudiated it and did our work for us.



Q17 Alex Ballinger: Why has the provisional application of the treaty been delayed from April to July? Is that causing any practical problems?

Fabian Picardo: One of the key elements of the chronology of the application of the treaty for us—when I say “for us” I mean as much for the United Kingdom Government, the Spanish Government that was prominent in the negotiation by the European Union, and the Commission—was that we had the cliff edge, if I may call it that, of the application of EES coming into effect throughout the European Union, without exception, on 10 April. We all negotiated very hard to ensure we could do all of this in time for 10 April.

The difficulty that we have experienced is a technical difficulty. There is a difficulty on the part of the European Union with translations. As you know, under European law, all the language versions are original. They all have to be complete before the Commission is empowered to sign the treaty, and that has delayed us. But it has given us, to an extent, precious breathing space, because we of course need to bring in all the new rules, which the Attorney General and his team worked very hard to ensure were ready by 10 April. But we have more time to consider them. We have more time to get our businesses used to the new procedures and for the application of the new tax rates. And we have, only because we were ready by 10 April, seen the European side, which is the side that for very good reason was not ready by 10 April, say that the EES at the Gibraltar-Spanish border will continue not to be applied to Gibraltar residents, which is what provisional application would in effect have done.

I can report to you that there is a lot of fluidity across Gibraltar’s frontier today, as there was in the past. There are sometimes difficulties. It is 170 metres from one side to the other, and that is the area where you are going to see major changes. Today, you are talking about perhaps 40 metres where all the traffic goes through, so if non-residents who are subject to the application of EES are there, that can sometimes create a little delay, even for residents. But we are seeing a lot of fluidity at the frontier and a lot of good will on the part of the European Union and the Spanish authorities in the application of the new procedures, so that they do not get in the way of the daily lives of residents on both sides of the frontier.

Q18 Alex Ballinger: Will everything be ready for 15 July, and will all the infrastructure and regulations be there? Has this extra time allowed you to be completely prepared before this starts?

Fabian Picardo: There are two chronological periods to come: provisional application and the temporary structures and infrastructure that are being put in place for that, which will be ready by 15 July. The permanent, post-ratification operations for the final infrastructure will start to be constructed once the temporary infrastructure is in place.

Q19 Alex Ballinger: When will that be ready?



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Fabian Picardo: We are ready; we were ready for 9 April. I envisage that the structures on the European Union side will be ready by mid to late June—certainly in time for 15 July.

- Q20 **Alex Ballinger:** Excellent. On the Northern Ireland protocol, there were some disagreements between the partners on the EU and UK sides about the specific meaning of the language. Is there anything in this agreement where there might be similar disagreements—where people might be able to interpret it in different ways further down the line?

Fabian Picardo: I do not think there are, but we will see—how long is a piece of string? I am a lawyer, and so is the Attorney General, and we could argue over anything. It is not impossible that there could be reasons to find argument, but we do not anticipate that that will be the case. The travaux préparatoires are very clear; what the parties intend to achieve is very clear. We have not minced our words in the context of the negotiation.

It is better to have a fraught negotiation and a happy picture at the end rather than a happy picture throughout negotiations and then a distraught result when you are trying to apply the fruit of the negotiation. We have been very frank in the room. Everybody knows what we mean; we know what the other side mean. That is going to enable us to see this process, which has taken decades, produce—I hope—the result we all expect.

Chair: We have three or four questions and about 10 minutes to get through them—hopefully we will be able to.

- Q21 **Alan Gemmell:** Thank you for joining us, Chief Minister. What has caused the continued delay in the negotiation and publication of the UK-Gibraltar concordat? Is it just bandwidth issues at the FCDO, or are there substantive issues that you are still dealing with?

Fabian Picardo: No. I think the key issue has been the work that we have been doing together to be ready for provisional application on 10 April. We were clear that the concordat is, in effect, a document between members of the same family. We are working out together, and putting down on a piece of paper, that which we have already been talking about throughout the process of negotiation. As we came to a particularly difficult part of the negotiation, we could say to each other, “Okay, we can resolve that in the concordat between us.” We know what we want, and we can put something in the treaty that looks like they want it to look on that side of the table. We know what this means to us, and we will write it down in the concordat.

Much of that is represented in the work of the concordat. We did a very good concordat during the course of the withdrawal agreement discussion— we have a model for this, and we have been working on it throughout this period. We have to finalise a few points that relate to British constitutional law more than to Gibraltar constitutional law, and how those interface with each other. I do not see it as delayed; I see it as a continued work in progress, because we want the best possible product at the end of it.

Q22 **Alan Gemmell:** Are you ready to publish now, or are those negotiations ongoing?

Fabian Picardo: We are not ready to publish yet, but we will be ready to publish very soon. The motion, which was unanimously approved by the Parliament in Gibraltar, is contingent on the terms of the concordat being agreeable to the Government of Gibraltar and being consulted on with the Leader of the Opposition in Gibraltar, and the concordat being laid on the Table in the Gibraltar Parliament. It is still a key and final plank of the architecture, but one about which I have absolutely no concerns. We have been working on it for two years already.

Q23 **Alan Gemmell:** Have you received the commitment you wanted from the UK Government that it will terminate the treaty if so requested by the Government of Gibraltar, and that it will not terminate it against your wishes?

Fabian Picardo: That is the key issue for us. We are very clear that there are circumstances in which Spain is now able to request—not require—that the European Union be able to terminate the treaty, in particular, when it comes to the four-year horizon period on the Schengen assessment, but not generally, because Spain does not have that right under the general termination clause. We are very clear that there should be a similar trigger in the hands of Gibraltar, not just in the context of the four-year horizon, but in the context of the total application of the treaty.

All these matters relate principally not to external relations but to immigration and trade, which the United Kingdom has determined are under the constitutional purview and control of the Government of Gibraltar under the 2006 constitution. So the continued application of those principles must be a matter for Gibraltar; the United Kingdom would not enter into this treaty if it was not asked to by Gibraltar. Therefore, there is no logic in the United Kingdom continuing with the application of these arrangements if Gibraltar is not content with them.

At the same time, there should not be a position where a United Kingdom Government can decide that, because of its own ideological stance—perhaps on the relationship with the European Union—it can come in and decide for the people of Gibraltar, whose constitutionally elected Government is saying the opposite, that the arrangements should come to an end.

Q24 **Alan Gemmell:** Have you had that commitment?

Fabian Picardo: We will not accept a concordat that does not contain that commitment.

Q25 **Alan Gemmell:** Are there any areas where the Government should have gone further in giving you a role in overseeing the implementation of the treaty?

Fabian Picardo: Not at all; quite the opposite. The Government, in the driving seat of the implementation of the treaty is the Government of Gibraltar, for the UK side. If you look at the terms of the treaty, there is a



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new terminology there: the United Kingdom in respect of Gibraltar. That means the Government of Gibraltar. The lion's share—if not all—of the obligations for implementation post the formal constitutional process of ratification are for the Government of Gibraltar.

- Q26 **Sir John Whittingdale:** You just talked about what would happen if the UK Government or Gibraltar wished to terminate the agreement. However, what happens if Spain wishes to terminate the agreement? You will be aware that the Opposition parties have described this as a fiasco and there is a general election in Spain in the foreseeable future, after which the Opposition parties might well take office. How vulnerable is the treaty to a change of Government in Spain?

Fabian Picardo: The treaty of Utrecht, which ceded Gibraltar in perpetuity, was breached before the ink was dry on the parchment. Article 66 of the new treaty, which is the only article that provides that Spain has a say on termination—in the jurist-linguist legal scrub, it changed—now provides that if Spain requests termination, the Commission will go off and start the process for that termination.

In European Union legal speak—Sir John, you will know this as well as me, because you were a Minister when the United Kingdom was a member of the European Union—that means qualified majority voting. It requires a qualified majority of all members of the European Council for Spain to be able to use that trigger, which is the only trigger in its hand.

I would also say that with maturity comes responsibility. Gibraltar must ensure that it complies with its obligations under the treaty and that we never give the European Union or Spain the excuse to suggest that we are not complying with our obligations under the treaty, and therefore that there is some objective reason why it should be terminated. Without that objective reason, which I am sure Gibraltar and my Administration or any other will not give, the treaty is safe. However, international relations are international relations.

Chair: The last question goes to Edward Morello, who claims that he really is not from Gibraltar—despite the surname.

- Q27 **Edward Morello:** Chief Minister, you mentioned a couple of times that this treaty received unanimous approval by the Gibraltar Parliament. Now that it is to be ratified, what is your message to the British Parliament from the people of Gibraltar?

Fabian Picardo: If the people of Gibraltar, as one, speaking through their elected representatives, are saying they want this treaty, it would be very strange indeed if the British Parliament were to tell us that we are not to have it. In the same way it would be unacceptable for the British Parliament to impose a treaty on Gibraltar if there was a unanimous motion of the Gibraltar Parliament saying we did not want that treaty, the opposite must also be true. Thank you for the opportunity to say that, because it is hugely important that all Members of Parliament understand that nobody understands the circumstances of Gibraltar better than the elected representatives of the people of Gibraltar. It would be pure,

unashamed colonialism to pretend otherwise. Madam Chair, may I say one thing?

Chair: Of course you may. How could I stop you?

Fabian Picado: This will be the last time I appear before your Committee, unless you decide to summon me immediately. I have been the Chief Minister of Gibraltar for 15 years, and I want to thank the Committee for the occasions when it has considered my evidence.

Chair: It has been a real pleasure. It has been a pleasure on a personal level, and I know that many of Gibraltar's successes in the recent past have been down to your ability to form really close relationships with people with sway, not least the senior people within the Spanish Government.

Fabian Picado: As all good authors say, all the mistakes picked up are my colleagues'; all the mistakes that remain in the text are mine.

Chair: Very good. Thank you for your time today. If anything else occurs to you that you think we should know about, please write to the Committee with your thoughts. I hope Members do listen to what you have been saying today about the importance of the treaty. I am sure they do.

Examination of witnesses

Witnesses: Stephen Doughty and Hazel Cameron.

Q28 **Chair:** For today's second session we are joined by Stephen Doughty, the Minister for Europe, North America and Overseas Territories at the FCDO, and Hazel Cameron, director of EU and Gibraltar at the FCDO. Thank you very much for joining us.

We just heard from the Chief Minister about the treaty being the "fruit of compromise". What is your assessment of the overall balance of costs and benefits? Just so you know, he tells us that there are no costs, just benefits. Could you also highlight the various elements of the treaty that allow Spain to carry out official functions within Gibraltar? What are the risks of Spain encroaching on UK sovereignty over Gibraltar in that way?

Stephen Doughty: Thank you very much for having this session. I did not have the pleasure of hearing what the Chief Minister had to say but, having worked very closely with him and his team throughout this process—indeed, the way in which we and the elected Government of Gibraltar have been able to work together so constructively has been one of the great successes of this process—I have some sense of what he may have said, and I am sure I would agree with almost all of it.

First, it is worth setting out why we were in this position. Obviously, Gibraltar was not included in the UK-EU trade and co-operation agreement negotiated by the previous Government following Brexit. As a result, there has been a direct impact for the people and businesses of Gibraltar and



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the UK. They faced an uncertain future, so it was a major priority to make the agreement happen. That is why we, the Government of Gibraltar, Spain, and the European Commission have agreed what we believe is a practical and lasting solution.

Crucially—you touched on this at the end of your remarks, Chair—it is a solution that protects Gibraltar's economy and way of life for the long term, while safeguarding sovereignty. Those were very much the principles that we set out. It also protects UK interests, particularly when it comes to the autonomy of military facilities and our ability to operate in the way we have. Crucially, it delivers a fluid border between Gibraltar and Spain, which is going to mean jobs, investment and stability across the whole area for people on both sides. The Chief Minister will undoubtedly have taken you through various aspects, and you may wish to go into those further.

The Government of Gibraltar were at the table throughout the negotiations, and you will know that its Parliament unanimously approved the treaty and its trade-offs, which are of course a matter of devolved authority for the Government of Gibraltar. It is worth understanding that we have been very respectful throughout this process about decisions that the Government of Gibraltar have needed or wanted to make. Also, we were equally clear that we would not agree to anything that they were not content with. I think unanimous support has been shown there—indeed, we have also engaged with the Opposition in Gibraltar over the years, as well as with businesses and people—which sends a very positive signal to this House about the level of support and the willingness to accept the different arrangements that have been made.

We also welcome the EU's recent announcement on the agreement from COREPER. That is an important milestone, and we are now proceeding to the final stages on a timetable relating to the EU processes. Obviously, we are working at pace to achieve that as soon as possible, and we hope to bring in a provisional application of the treaty as soon as possible.

We have tried to be transparent throughout the process. I gave an oral statement, as you know, and I answered many questions. We have provided lots of briefings on this issue to parliamentarians, including the all-party group, which has provided really helpful scrutiny at different points. I have also provided briefings to the Opposition.

We think this is a good deal for Gibraltar, for the United Kingdom, for Spain and for Europe, and it really solves one of the last, leftover challenges and problems that were created by the UK's departure from the EU. Most crucially, at its heart this is good for the people, businesses and future stability of Gibraltar, and that has always been our aim. Sovereignty was never on the table in the negotiations, and we included various clear provisions in the treaty and its arrangements to make sure that that is not the case.

Q29 Chair: We have heard very similar evidence from the Government of Gibraltar and the Government of the UK, saying the treaty is a success.



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You have touched on this question, but how significant is this for the UK's relationship with Spain and the rest of Europe?

Stephen Doughty: It has been incredibly important. I have to say that I have had excellent co-operation with Spanish counterparts not only throughout the process but since. I have an excellent working relationship with my immediate counterpart in the Spanish Government, and a range of other Ministers across the Government have met their Prime Minister and Foreign Minister on a number of occasions.

The UK-Spain relationship is in a very positive place, whether in respect of our economic co-operation, our defence and security co-operation or our long-standing people-to-people co-operation and links. I have certainly felt a real step change in that relationship, which I think reflects the nature of the wider reset that myself and Nick Thomas-Symonds, along with the Prime Minister and the Foreign Secretary, have been taking forward. This bodes very well for the future and shows what you can get done when you get people around a table, and when you negotiate without—let's put it this way—ideological prescription and do things that are right for people and businesses.

Q30 **Chair:** And there is a great deal of positivity, not least coming from the Chief Minister of Gibraltar, who has always told us that he could make a deal in the face of a certain amount of cynicism from many others about that ever happening.

Stephen Doughty: I was always confident too, and I shared his optimism. It required really hard work and, if I may, I want to put on the record my huge thanks to the FCDO officials, the Governor's Office and officials in the Government of Gibraltar. They have put in so much hard work, and it has been really technical and detailed work, particularly in recent months.

I particularly want to thank Hazel and her predecessor Robbie Bulloch, who is now the director of the OTP directorate, for the hours worked, the effort, the level of expertise and the engagement across HMG to make sure that we got to the right place on this, because there was a lot of detail that required many long hours of work. I really pay tribute to them for all the effort they have put in.

Chair: Very good; let's move on as this is beginning to sound more and more like Oscars speeches.

Q31 **Alex Ballinger:** The treaty gives the EU and Spain more say over the movement of goods and people between Spain and Gibraltar. What will that mean for the armed forces? What will change in practice for those who are travelling to Gibraltar, and for any military goods that are moving to our facilities?

Stephen Doughty: As I said, safeguarding the operational autonomy of the UK's military facilities has been an absolute red line for us throughout the negotiations. The good news is that this agreement and the arrangements we have entered into very much protect that autonomy,



make sure that our access and operations remain unfettered and provide our crucial security needs, as well as wider European security needs and needs for the security, and indeed prosperity, of the people of Gibraltar.

Our MOD colleagues and Ministers have been involved throughout, and the Defence Secretary fully supports the agreement. They were involved at every stage and we made sure that those processes were put in place. There was a series of welcome steps forward in co-operation that will deepen and further expand our working relationship more widely with Spain as a key NATO partner but, crucially, will not affect anything we are able to do at the base.

Q32 Alex Ballinger: I noticed that, as positive as they are, the negotiations were unable to get over the restrictions on using Spanish airspace for military flights in and out. Is that under negotiation in respect of our future European security co-operation, military mobility and those sorts of things?

Stephen Doughty: That obviously was not on the table during this process, but we are looking to deepen and strengthen our co-operation at every stage. Ultimately, that would be a matter between our defence ministries and other authorities. We are delighted with the co-operation we have with Spain at the moment. In fact, a Spanish vessel was part of the carrier strike group that went out to the far east recently. I have heard very positive reflections on that. I hope this will be a new era in co-operation and the operational changes that come with that.

Q33 Edward Morello: Article 247 of the treaty envisages the adoption of Northern Ireland-style arrangements for the trade of goods, but those are still subject to further negotiations. What timescales do you envisage for those being concluded?

Stephen Doughty: I think are you referring to some of the different administrative arrangements. I will bring in Hazel in a second on those and other arrangements. Again, this has been subject to extensive discussions, and there are a lot of practical issues about how these things physically happen, but that has been done in full co-operation with the Government of Gibraltar and in the interests of businesses to reduce any difficulties, red tape and challenges they face. Hazel may want to say something about the wider process.

Hazel Cameron: Good afternoon. We are negotiating and have virtually concluded a number of administrative arrangements between the United Kingdom and Spain that will govern some of the practical elements of the co-operation on a number of issues, including on goods and customs. We are working as expeditiously as we can on those—it will be everything from forms to be filled in to very detailed aspects.

In order to provisionally apply the treaty, those administrative arrangements between the UK and Spain need to be applied. You will have noted, and the Chief Minister referred to, 15 July as our shared aim for provisional application. We will need to have completed and signed those administrative arrangements before that date.

Q34 **Edward Morello:** Are you confident that that is an achievable deadline?

Hazel Cameron: Yes.

Q35 **Alan Gemmell:** We heard from the Chief Minister about the impending UK-Gibraltar concordat. Can you update us on the state of play on the UK Government's side?

Stephen Doughty: You may have seen the letter to the Chief Minister, who referred to it in a debate in his Parliament. We operate a principle in relation to all the overseas territories of "nothing about you without you". I will read the exact quote from the letter so that I get it right. I said it is "politically inconceivable that in any normal circumstance, should a democratically elected Government in Gibraltar, or indeed the Gibraltarian people, determine that this agreement does not serve their interests, His Majesty's Government would not take action." That gives you the clear intent here. Obviously, the wider constitutional settlement around that remains, but we have worked hand in glove with the Government of Gibraltar and their elected representatives throughout this, and we intend that to be the case in the future.

Q36 **Alan Gemmell:** If Gibraltar asked the UK to take steps under the treaty to initiate a dispute that would be detrimental to our relations with Spain or the EU, for example, how would the Government balance the demands from Gibraltar with the UK's interests?

Stephen Doughty: I am not going to get into hypothetical situations, for obvious reasons. There are a range of dispute mechanisms under the treaty. There are a range of different committees and things that can be set up, and hopefully we would never enter into that scenario in the first place. Throughout, we have attempted to ensure that the UK's interest and Gibraltar's interest are considered absolutely and equally together. Our first duty is to the UK interest and theirs is to the people of Gibraltar, but we are part of the same family, we share the same monarch and we share the same principles in this process, and we will therefore continue to work hand in glove with them.

Q37 **Sir John Whittingdale:** Can I ask about the next steps? When do the Government intend to begin the formal CRaG process for the ratification of the treaty, and how long is that going to take?

Stephen Doughty: The CRaG process takes the time that it takes, as you know, but we obviously want that to come in as soon as possible. It is literally now down to EU processes and some slight uncertainties. There are a couple of possible dates when we might get the final documents agreed, but our aim is to do this at the earliest possible opportunity. It is one of the reasons—

Q38 **Chair:** Can you give us a clue?

Stephen Doughty: We have a rough idea of when we think it might be. The most likely date is after the General Affairs Council meeting on 16 June or 10 July, and following that we would obviously present it to Parliament in the usual way. The delay—



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Q39 **Chair:** But that would not give us enough time, given that recess would be happening.

Stephen Doughty: We want to make sure that you get enough time, but we are obviously not in charge of the timings on the EU side. That is one of the reasons why I wanted to present the virtually final draft version to Parliament earlier at the time of the statement and elsewhere: so that people could start getting into the detail, and we could provide the opportunity to ask me questions at that time and here today. Unfortunately, it is slightly out of our hands at this stage.

Q40 **Sir John Whittingdale:** Do you intend for there to be a debate in Parliament as part of the process?

Stephen Doughty: I note the Committee's and the Chair's strong interest in this, and her wider views about the CRaG process. I am intensely relaxed about scrutiny on this and Parliament discussing things, and debates can be applied for in the usual way. I will strongly convey the wishes of the Committee for a debate on this, if that is what the Chair and Committee members wish. It is not up to me how parliamentary business is scheduled in the months ahead, but I know that there is interest in this. I certainly have no fear of a detailed discussion and debate about these issues.

Q41 **Sir John Whittingdale:** Are you confident about the attitude taken by the European Parliament?

Stephen Doughty: The European Commission and our EU partners as a whole—obviously Spain—have been very clear that they agree with this. There will always be dissenting voices; it is natural in any Parliament, and it is not for me to speculate on who those might come from or what they might say. We are confident that this should hopefully be with us very soon.

Q42 **Sir John Whittingdale:** Finally, the treaty requires Spanish-UK administrative arrangements to be in place. We have not examined those in detail as a Committee, but do you see any of those potentially causing any difficulties?

Stephen Doughty: I don't think so. They go into quite technical detail about how things practically operate. They are obviously crucial, as Hazel said, but I cannot see any of them posing any difficulty, because they operate within the framework of the treaty—they are not treaty documents and do not require the same process—and they fundamentally operate within the framework of the political agreement reached last year. I don't know whether Hazel wants to add to that.

Hazel Cameron: We will publish the administrative arrangements, so there will be an opportunity to look at them then. They are memorandums of understanding, so they are different in nature to the treaty, but they will be published.

Q43 **Edward Morello:** Sir John asked the Chief Minister earlier about how the treaty is viewed in Spain and the potential for an upcoming election there.



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Are you confident that the treaty will withstand a potential change of Government and political leaning in Spain?

Stephen Doughty: I am not going to speculate on hypotheticals in any domestic politics, but treaties are entered into in good faith. They are signed treaties between countries and entities, and they stand in the normal way that treaties are governed internationally. It is crucial for the stability not only of Gibraltar but of the wider region on the other side of the border in Spain; it has a huge benefit to people there as well. We are confident that this is a good deal for everybody involved.

Ultimately, dispute mechanisms and processes are available—we have touched on some of those already—but this is between the UK and the EU. That is the fundamental thing to remember here: this is a treaty between the UK and the EU, and that carries a suitable amount of weight and certainty behind it.

Q44 **Edward Morello:** On the point about treaties between the UK and the EU, obviously Northern Ireland and Gibraltar are unique in sharing land borders with the EU. As a result of that, the people of both places enjoy far closer and greater freedoms than the rest of the citizens of the UK enjoy. Do you think that is right and fair on those of us who live in parts of the UK that do not share a border with the EU but would like to enjoy those freedoms?

Stephen Doughty: I am clear that they are the right arrangements for those locations. Of course, those are not the only two locations: there is of course the border between the sovereign base areas in Cyprus and the EU as well. There are distinct and unique arrangements in place in all three of those places, and they are the right ones for the circumstances there.

You will know our position on wider UK-EU relations, which is that we are looking to strengthen them, and you will have seen the ways in which my colleagues the Prime Minister and Foreign Secretary, and others, have been taking that forward. We are looking forward to the UK-EU summit later this year.

Q45 **Chair:** Yes, but it's not fair, is it? Those people are going to enjoy a much closer relationship with the EU and we will not. Do you think that is fair?

Stephen Doughty: It is a reflection of the decisions that were taken both in this country and more broadly. It was clear that not having this new deal between the UK and the EU on Gibraltar was going to produce a level of uncertainty and detriment to the people and businesses of Gibraltar far outweighing anything else. That is why it was absolutely crucial that we got this done. I am confident that it is going to be of benefit.

Chair: Thank you. Unless anybody has any other questions, that is it. Thank you very much for coming in and for your time today. If anything else occurs to you once you have left the Committee, please do write to us about those thoughts.