

Northern Ireland Affairs Committee

Oral evidence: [The land border between Northern Ireland and Ireland](#), HC 329

Wednesday 15 November 2017

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Members present: Dr Andrew Murrison (Chair); Mr Gregory Campbell; Maria Caulfield; Lady Hermon; Kate Hoey; Jack Lopresti; Nigel Mills; Ian Paisley; Jim Shannon; Bob Stewart

Questions 120-176

Witnesses

I: The Hon Fabian Picardo MP, Chief Minister of Gibraltar; the Hon Joseph John Garcia MP, Deputy Chief Minister of Gibraltar; and Michael Llamas QC, Attorney General of Gibraltar.

Examination of witnesses

Witnesses: The Hon Fabian Picardo MP, the Hon Joseph John Garcia MP and Michael Llamas QC.

Q120 Chair: Good morning everybody, and a very warm welcome to the Chief Minister of Gibraltar, Mr Garcia and Mr Llamas. It is a great pleasure to see you here. I know you are no stranger to these precincts, and you will know the batting order that we apply in Select Committees. I am also very aware of the huge investment you have made in time and effort to inform our deliberation today.

I open simply by passing the floor over to you to give us a bit of a rundown on how you see the future post-Brexit, particularly perhaps with your thoughts on how it might affect Northern Ireland, which is our principal preoccupation today.

Fabian Picardo: Thank you very much, Mr Chairman, of course, for the invitation to be here today.

I am joined not just by Dr Garcia, the Deputy Chief Minister, and Mr Llamas, the Attorney General, but by the Collector of Customs for Gibraltar, whom I thought it might be useful to have with us in the event you ask me a more technical question than I am able to deal with about how we deal with the movement of goods across the frontier. I should just point out that providentially the Leader of the Opposition in Gibraltar is also in the precinct today and is joining us for the hearing of the Committee.

As Members will know, Gibraltar has of course looked at the issue of Brexit with some trepidation from the moment that the referendum was convened. That led to a result in respect of that referendum that is well known in these parts, with 96% choosing to remain within the European Union. But we are all democrats in Gibraltar, and we accept the will of the British people expressed as a collective—and we must therefore plan for the moment when the United Kingdom, and with it Gibraltar, leaves the European Union.

That is really what has taken up most of my time since the morning of 24 June—is it only a year and a half or so ago? I have been looking in particular at the operation of the frontier between Gibraltar and Spain. I would like to start by telling you some of the differences between the Gibraltar frontier with Spain and the border between Northern Ireland and the Republic of Ireland, in particular by pointing out that, of course, Spain is a part of the Schengen area of the European Union. Therefore, access from Gibraltar into Spain is access from outwith the Schengen area into the Schengen area.

The change will be that there has been to date access from one part of the European Union into the Schengen zone, and in future we will be accessing the Schengen zone from outside the European Union. That



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could change the dynamic of the flow of people, but of course it does not have to change that dynamic. If there is pragmatism and good will on both sides, the fluidity we are able to see on most occasions across that frontier will continue. A lot of our planning is to ensure that Gibraltar's ability to receive migrant workers—we receive 13,000 across that frontier every day—is not in any way affected by the United Kingdom's departure from the European Union.

Better to illustrate how the frontier at Gibraltar works, I have brought some A3 aerial photographs of that area in particular, as I imagine we will be looking at it in some detail. I wonder whether we might show members of the Committee so that I am then able to refer you to particular parts of the site and you can quiz me on their operation.

Chair: If you could, just hand them around the Committee.

Fabian Picardo: Mr Chairman, I am at your disposal.

Q121 **Chair:** Thank you very much indeed. That is very helpful. Although we perhaps may have to describe some of the annotation on here for the benefit of the reporter, it is extremely useful to have that schematic to focus our thinking in the matter.

By way of an icebreaker from me—it is completely apropos of nothing to do with this inquiry—can I ask whether the unfortunate situation in Catalonia has in your view refocused Madrid on retaining what is legitimately Spanish?

Fabian Picardo: Mr Chairman, I have tried not to make any statements in relation to Catalonia that deal with what might be internal matters related to Spain. The Chief Minister of Gibraltar is expected to be an expert on the right of self-determination of the people of non-self-governing territories, and he should stick to that in the context of what he makes statements about.

However, I do hope that Spain will see Brexit as an opportunity to strengthen the links between Gibraltar and the region around Gibraltar—the Spanish region known as the Campo de Gibraltar—and, indeed, the very strong links there are between the United Kingdom and Spain. Leaving the European Union does not mean that we cannot remain very good friends and co-operate on matters of security—and, indeed, matters of day-to-day relationship between people and how we as politicians can facilitate them continuing to live their lives as easily as possible and not create new obstacles.

Q122 **Chair:** Thank you for that. A lot of our deliberations today will focus upon the technicality of this border that clearly preoccupies you and preoccupies us in Northern Ireland too—since there may well be parallels.

Indeed, it is often said in this Brexit debate that the United Kingdom is exclusively focused on the border between Northern Ireland and the Republic of Ireland. It is one of the principal issues the interlocutors in



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Brussels are considering as part of the first round. But, of course, there is another border of interest to the UK Government that will be created after March 2019, and that is the border between Gibraltar and Spain, which will be the border between a United Kingdom territory and the European Union. On that you are an expert, and that is why we are very grateful to have you here today.

In December 2016 in evidence to the House of Lords EU Committee, you drew parallels between Gibraltar's dilemma, if I can put it that way, in relation to Brexit and that of Northern Ireland. I wonder whether you could expand on that a bit. Before you came into the room, we had been discussing the strong links that exist between Gibraltar and Northern Ireland. It seems to me that this goes further in relation to this Brexit matter, since there are parallels between the two situations. I suspect you have given that some considerable thought.

Fabian Picardo: I have indeed. Of course, there are as many differences as there are parallels. Let us perhaps start with the parallels.

It is true that the people of Gibraltar feel a strong affinity with the people of Northern Ireland, in particular because many Gibraltarians were evacuated to Northern Ireland during the Second World War, including my own parents. My mother was in Ballymena for many years.

Jim Shannon: That is very dodgy—very, very dodgy.

Ian Paisley: It is the best part of the nation.

Fabian Picardo: The relationship is a strong one, and there is a great affinity between our peoples. The absence of a common travel area between Gibraltar and Spain or Gibraltar and the European Union marks the biggest difference in the ability of people to move freely from Gibraltar into Spain, which people from the Republic and Northern Ireland would have to move from north to south unimpeded.

As a result, in my memory there has always been an immigration check in the movement of people between Gibraltar and Spain. That immigration check has not changed since Spain entered the Schengen zone of the European Union. People are required to show their passports or another recognised identity document. Gibraltarians have identity cards; we are the only area where British citizens are able to have an identity card if they wish to have one. That identity card is validated for travel within the European Union, including the crossing point—the frontier between Gibraltar and Spain.

Gibraltar has never formed part of the common customs union, and therefore there is a customs frontier between Gibraltar and the rest of the European Union. In particular, that manifests itself in the movement of merchandise from Gibraltar into Spain or from Spain into Gibraltar. The flow is from the European Union into Gibraltar; Gibraltar does not produce any agricultural or other products and, therefore, we are not big exporters.



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I have set that out for you. You can see we look enviously at the operation today of the border crossings between the north and south of Ireland, which are much more fluid. But, to set it in context, the image you have before you is a close-up of 0.75 miles, which is the extent of the land frontier between Gibraltar and the rest of the European Union. That is 1.2 kilometres. There is one border crossing and one commercial border crossing, so we are dealing literally with that one point on the geography.

From my general knowledge, the border between Northern Ireland and the Republic of Ireland is in the region of 400 kilometres and you have in the region of 200 crossing points. We are lucky to be dealing with one in the context of Gibraltar, and we do not envy you in that aspect of the work you will have to do, because you have so much more to cover.

Q123 Chair: You are right in terms of the scale—the two are very different—but some of the principles may be the same, especially in relation to the vexed issue of infrastructure, for example, which we will come on to in questions shortly.

One of the issues we are grappling with at the moment is what to do with local trade—that is to say, very small-scale operations crossing and re-crossing the border. That relates particularly to Northern Ireland. I know you raised this issue in January in the European Parliament, the subject of EC Regulation 1931/2006, which holds out the prospect of a derogation for small-scale traffic across the border to make the border as seamless as possible. How does that or could it operate in Gibraltar and how might it operate in Northern Ireland?

Fabian Picardo: It is potentially a very attractive existing mechanism for local border traffic. As you will know, this regulation deals only with individuals established within 30 kilometres of the frontier or crossing point. For Gibraltar, it is very useful: Gibraltar's length from this crossing point is two and a half miles south, so all the radius of Gibraltar would be covered by the existing ambit of 1931/2006. On the Spanish side we receive goods and services from beyond the 30 kilometre limit, but the 30 kilometre limit comfortably covers the Campo de Gibraltar, which is the hinterland of Gibraltar where most of our small commercial traffic will come from.

When we deal with this particular regulation, it is important for me to give you some understanding of how our border operates in respect of commercial traffic. Non-commercial traffic of pedestrians and vehicles will go through one part of our frontier. Commercial traffic will go through another part of our frontier. If you are selling a refrigerator into Gibraltar, that will have to go through the commercial gate; if you are importing a kitchen, that will have to go through the commercial gate. Even though you are a supplier in La Línea, you are going through the same gate that the big Morrisons' lorries with container-loads of food will be going through during the course of the same day.



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If you are a plumber and you are coming into Gibraltar with your kit bag to deal with the plumbing, you are not going through the commercial gate. We are not requiring you to declare your tools as you come in and out. If your stock and trade is in your van and you are coming in and out to deal with small jobs like that, we allow that to happen through the non-commercial avenue. Therefore, that could continue to be covered by this particular regulation.

I do not know enough about the geography of the towns around the frontier in Northern Ireland with the south of Ireland to know whether you would be sufficiently within the radius of the 30 kilometres the regulation provides for. It extends to 50 kilometres in some material respects, but principally it is 30 kilometres of radius that the regulation presently allows for.

It may be that the regulation could be amended in the context of the coming departure of the United Kingdom from the European Union better to cover the circumstances of Northern Ireland and the circumstances of Gibraltar. A slightly larger radius would cover more of the towns that would be relevant, certainly to our circumstances and likely also those of Northern Ireland. The European Parliament might be able to propose this itself, if the Commission were not to look at it quickly.

Q124 Jim Shannon: First of all, I am very glad your mother survived Ballymena. That is always good news for us all, especially the honourable Member for North Antrim, Mr Paisley. Every time there is a high state of flux between Spain and the United Kingdom the border closes and it becomes more difficult: there are queues of cars, mostly people from Spain wanting to come to work in Gibraltar. But most of the time we have something that works and works well.

As you said, it is not necessarily about the movement of goods across the border; it is more about the movement of people. Obviously, in Northern Ireland we have a large number of people who traverse the border with both sides coming across to work, from Northern Ireland to the Republic and from the Republic to Northern Ireland. We want to make sure that can continue, so I am very keen to know how those workers cross the border. Do they have passes? Are there passport stoppages and controls? Do they go through with a permit to work? How does it work?

There is another thing that is very important. Obviously, Gibraltar is a place where people want to go and enjoy the tourism facilities. There are things that take place on both sides, of course. For us, the seamless border we have at the moment would be the most important issue. I am always very conscious, Mr Chairman, that in Northern Ireland we do not want to have a busload of people from the Republic stuck at the dock on a bus for half an hour to get across the border. If that happens, they will not come; we will not have tourists travelling across the border. How do you handle that transfer of tourists, for instance, who are coming into Gibraltar to see the facilities and the wonderful places you have?



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Those are my questions. I just want to understand better how the workers traverse the border and how that can happen quickly—but, more importantly, how it can happen for tourism. For us in Northern Ireland, tourism is a critical factor. We want to grow it, and we cannot grow it if we have a border that is not seamless.

Fabian Picardo: Thank you for the opportunity to explain what happens every morning at the Gibraltar-Spain frontier and then in the evening as people go back. It is one of the most important issues for us, and it will help inform how things may develop in the future and what the key ingredients to making it work will be. If I can start with that, the key ingredient to making anything work at a frontier is good will and then resources. We can then layer on top of that the legal regime, but if you have not got the good will and you have not got the resources, then whatever legal regime you have is not going to work.

To give you an example of the numbers, I will take you now to the photograph you have. You will see point 1 towards the top left of that map. That is the area in Spain where people start to access the secure zone before they reach the frontier. You will see a row of cars. There the Spaniards operate one row—sometimes two, but not often—of cars coming into Gibraltar; to the left of that as you are looking at it will be the flow of pedestrians into Gibraltar.

In the mornings between 7.30 and 9.30, we will receive approximately 13,000 every day crossing that bottleneck. If they are EU citizens, they will be required to come into Gibraltar with either a valid identity card or a passport. In that area, Spain operates some of the machines that you may have seen recently installed at Heathrow airport, and it conducts a human check. Very often, people are not required to use the machines and are subject only to the human check as they walk through the frontier. I know nothing else about what technology Spain may be operating at that frontier.

In vehicles, people are required to show their passports or identity cards to guards at point 4 and point 5. Point 4 is the Gibraltar border and immigration, and point 5 is Gibraltar customs. In the context of how we do our immigration, it would be impossible for 13,000 people to put their passports in a scanner on one morning, even if the scanner only took five seconds and never failed. We do not have enough room in 0.75 miles to set up enough scanners for people to get through in those numbers at that time of the morning without having to queue.

What we operate—I will give you this detail in writing so that Members have it after today's session—is a complex system of technological measures at the frontier so we are able to have a cursory human check backed up by technological solutions that will flash up to us anybody coming into Gibraltar who is wanted on an Interpol, UK or Gibraltar site. We have 15 9K resolution cameras at the entry point; we have 17 automatic number-plate recognition cameras operating between point 4 and point 5. All those are constantly checked against databases in case a



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number plate comes up of a vehicle that is identified as being stolen or otherwise wanted.

Q125 **Chair:** Can I just interrupt you? To be clear for the reporter who is recording this for the report, am I correct in thinking point 4 is the Spanish exit point?

Fabian Picardo: Point 4 is the Gibraltar border and immigration point.

Chair: And what is point 5?

Fabian Picardo: Point 5 is the customs point. Point 3 is the Spanish immigration point.

Chair: Yes, that is fine. Thank you. Just for the record, the three are very close together. Points 4 and 5 are separated by a short space.

Fabian Picardo: Yes, that is right; it is a short, open space. Thank you.

Chair: Yes.

Fabian Picardo: We therefore are able to allow people to flow quickly through this area, this bottleneck. The human interaction will be there in the event that the individual who is on duty that day sees something that concerns him, and humans are always—or, at least, I should say, until now have been—better than machines at spotting suspicious behaviour. Beyond the immigration officer, who does that human check of immigration documents, Gibraltar customs is also there for pedestrians. They have an opportunity to observe people and decide whether they want to take them to one side. That means we are able to get people into Gibraltar and to their place of work by 9 or 9.30.

The next important moment for us is the arrival of tourists. Once people have got to their place of work, we start to see a flow of coaches coming into Gibraltar. These are 50-seater coaches, which will access Gibraltar through the same artery. Police officers from the Spanish side will usually go into the coach quickly to check people aboard the coach, and Gibraltar will do the same thing. Very often we have people coming into Gibraltar on coaches who are not European citizens, and there is a visa waiver scheme in place if those individuals have Schengen multiple entry visas.

Q126 **Jim Shannon:** How long does that process take? How long does it take for the buses to get in?

Fabian Picardo: It does not take more than two to three minutes to clear each bus. It does not take longer than that. This is the good-news story I am telling you—the arrival into Gibraltar. It is easier to get them into Gibraltar, because they are exiting Spain. Spain has immigration controls on exit, but they are not stringent.

Once we have got all those people into Gibraltar, the issue is how we get them out again during the course of the day. In your introduction, you



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said that when there are difficulties between Gibraltar and Spain or between the United Kingdom and Spain, they will close the border. Well, they have not closed the border to pedestrians since 1982. It opened in 1984 for vehicles. But they have almost closed the border by making the checks so stringent at times that one car might get through every five minutes in the afternoon.

When you have the flow I have described in the morning seeking to get out of Gibraltar in the evening—and knowing the geography of Gibraltar, as you will—this can cause utter gridlock in Gibraltar. If I take you back to the photograph, you will see area 6. Some of you will have that area with some arrows on it; some may not. That is what we call our loop, and that is the access road into the crossing point with Spain. In the evening, all the traffic that has come into Gibraltar during the course of the whole day will want to get out, usually between 3.30 in the afternoon, when schools end in Gibraltar—there are a number of private schools in Gibraltar, and some people come from Spain into those private schools—and when offices and other places of work conclude for the day.

We find that this is the most challenging moment. Gibraltar does not carry out any exit immigration checks but Spain carries out sometimes very lax and sometimes very stringent immigration checks on entry and customs checks. If you can see the photograph I have shown you, you will see it contains eight lanes from the Gibraltar side. Those eight lanes funnel down to two at the crossing point, and then on the Spanish side there is one green lane and one red lane for custom checks going out. We are not in the common customs union. The Spanish are entitled to run a red channel and a green channel, and they are entitled to have immigration controls on entry into Schengen as well. There are some days when controls mean there is absolutely no backlog whatsoever, and there are some days when controls result in backlogs. Just earlier this week, the backlog was an hour and a half; last week, it was an hour. At the worst of times—the times you are describing, when Gibraltar has done something absolutely dastardly like be recognised by FIFA to play in football or when one of our citizens has won the Miss World contest—you might find the queues can extend for up to three hours.

It is really down to good will. If the good will is there, the system can operate very effectively: tourists can come in very easily; they can get out very easily. Of course, as you say, if you bring a tourist to Gibraltar and make him wait three hours to get out, he is not coming back soon. In that context, it is important that we have notices around that area so that people who are made to wait understand who is making them wait and why. I hope that is helpful.

Q127 Jim Shannon: That has been very helpful. On the numbers of pedestrians you see, do you do a spot check? Do you have cameras on pedestrians coming through similar to those you have on cars coming through? This is a very quick question, Mr Chairman.



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Fabian Picardo: We have cameras on all pedestrians coming through, and the technology will tell us very quickly whether a person is of interest. The cameras continue beyond the frontier, so we know where they are in case we get something flagged up later and, in good time, we will be able to control them.

I should tell you that in future traffic will move into Gibraltar not along the area known as Winston Churchill Avenue and marked as point 12 on the photograph. Traffic will turn and go under the Gibraltar air terminal, which is the hexagon-style building you see there, and go eastwards to a tunnel under Gibraltar's runway. At the moment, you will know the road marked 12, Winston Churchill Avenue, goes over Gibraltar's airport runway. It is one of the few runways in the world you still drive through in order to get into a metropolis. We have to close the runway whenever an aircraft is to land. That can cause backlogs into Spain if we have an aircraft landing or taking off at peak times, which we obviously therefore seek to avoid.

Q128 **Ian Paisley:** It is great to see you and your team here, sir. Your friendship towards the United Kingdom is highly regarded. It is important that you bring back the good wishes, certainly of the people of Northern Ireland, to the people of Gibraltar.

Fabian Picardo: Thank you very much.

Ian Paisley: They are our brothers and sisters, and we welcome you here—so thank you.

Can I ask you a question in terms of what you have said to my colleague Jim about the technological solutions? I do not want you to give away any of the important security systems you use, but you mention number-plate recognition systems and camera systems. The flow at your end is one where you want to be progressive and helpful. Is it fair for me to characterise the Spanish approach to your country as that they could do the same but they attempt to lay it on thick?

Fabian Picardo: Mr Paisley, I know that you know Gibraltar well, and you know the politics of Gibraltar well. Those who have visited Gibraltar know that very few get the recognition that Mr Paisley gets when he delivers a speech on National Day. He has a way of getting the Gibraltarian going, and he has succeeded in tempting me to get going on the issue of Spain and controls on the frontier.

I would put it this way, however: there are many other ways in which Spain could ease the flow of people into and out of Spain if they adopted some of the technological solutions that we have adopted. Indeed, I am sure there are other technological solutions available that are more advanced than ours; we installed ours some years ago already. With investment, it is now possible to make easier the lives of citizens who want to go about their lawful business while having controls in respect of those who might be of interest for other reasons.



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On the issue of customs, for example, Gibraltar customs has led in terms of technological solutions at the United Nations Conference on Trade and Development. They have set up a centre of excellence at Gibraltar University. It is their only centre of excellence in Europe. What they have created is something called ASYCUDA, which is a system that allows trusted traders to pre-declare what they are importing into Gibraltar and to have an account with the Government through which they pay their duty in an entirely frictionless way.

The development of ASYCUDA has been something where technology developed in Gibraltar is now being shared in 100 other countries. That has worked well in respect of this frontier; it has worked well in terms of the yacht arrivals into Gibraltar, where people on yachts are able to pre-declare what they are bringing into Gibraltar to customs and do immigration controls on the system. Some of the other modules that have been developed by Gibraltar customs are also in use very effectively not just in Gibraltar but across the world. The technology is there and it is developing.

Do we have the political will to deploy the technology? Do we have the political will to make the resources available to law-enforcement agencies and, in that way, ensure that citizens going lawfully about their business are not obstructed in any way? The answer is that the Gibraltar authorities do. Within our limited budgets, we have made available the resources that we have been able to make available. I would commend to the Spanish authorities, and indeed to authorities around the world, that in the future those solutions should be the ones they should invest in.

I will give you a more neutral example, which I am sure will be closer to everybody's hearts. Travelling into the United States has been made a lot easier by the technology now deployed as you enter, without necessarily having to go to an individual and spend time with fingerprints and so on. However, I do find that the easiest way into the United States is by taking the flight to Shannon, clearing there and then arriving in the United States as if you were on a national flight.

Q129 Ian Paisley: Airport authorities in the Republic of Ireland will welcome your advertisement of that way in.

I just have a couple of technical issues and then one political question. How much does your system cost your Government and how many people do you have to deploy to make it run effectively? In terms of transiting of goods from Spain, through Gibraltar and then on to somewhere else, how is that affected by the border? Does it just go through the normal customs channel?

Fabian Picardo: I do not have the exact figure for what it cost at the time—we deployed three years ago—but I will make that figure available to the Committee in the context of my written response so you have that available. There is an annual cost, because we need to upload data to



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ensure we retain it for the required periods. There is a cost of service for maintaining that data, which I can also share with you.

In terms of the numbers of people deployed, there are three immigration officials deployed for the whole of point 4, which is pedestrian and vehicular traffic. There are five customs officials deployed at point 5 for vehicular and pedestrian traffic.

In fact, the Collector of Customs has a better memory than I do, and he can remind me now that the cost in sterling was £200,000 for the electronic system, and the monthly maintenance fee for that mechanism is £17,000.

Q130 Ian Paisley: That is very helpful. My political question is this: your border is clearly a disputed border. Spain have objections to it. Our border was disputed, and thankfully the Republic of Ireland removed their claim to our territory. It is only really troublemakers who dispute our border now.

The Republic of Ireland is obviously very negative about our Brexit decision. As a politician from a region that voted Remain but is going with the Leave campaign now and accepting all the parameters of that, what advice would you proffer to the Republic of Ireland in terms of how it now conducts itself in responding to our border? At the moment, I must say, as a citizen of the United Kingdom I am really disappointed that my nearest neighbour is just shouting at my border and thinking that is a policy. What advice would you proffer to them to help us get to a better relationship about this?

Fabian Picardo: On borders in general, citizens expect us to protect them from people who want to access our nations with ill will. However, at the same time they also expect us to facilitate the ability of people to flow across those international frontiers, which for many people are just lines on a map, in a way that does not get in the way of their daily lives.

Much as in the context of Northern Ireland and the Republic of Ireland, I am sure, in Gibraltar we have a lot of people who have relationships of consanguinity with individuals on the other side of the frontier. One of the most shocking images of the closed-frontier period for Gibraltar is family members standing on one side of the frontier holding up newborn children to be seen by grandparents on the other side, on the Spanish side, because of the closure and what that meant.

Let's try to deconstruct that a little and understand whether that would at all be acceptable in the world in which we live today. If it is not going to be acceptable to have a closed frontier, how restrictive can a frontier get before it starts to get in the way of family life and still be acceptable? I put it to you that citizens expect us to do everything possible to ensure we do not get in their way simply because we have to have controls for those who want to do harm or otherwise bring ill will to their crossing. There is technology that allows us to do that. It comes at a cost, but



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people expect us to invest in that and not use border crossings as a chokepoint for political purposes.

Yes, we must use border crossings for controls that relate to criminality not being allowed to roam freely across continents, but we must not allow anyone to use a border crossing as a political chokepoint. In the future, nobody is going to accept something that looks like, feels like or smells like Checkpoint Charlie in Europe. If the Spanish authorities have not realised that, their citizens would wish they did.

I do not know enough about how the operation of borders in Ireland is used or not used today, but I would commend to anybody on the island of Ireland, whatever side they are on, that they do not see a border as a possibility of creating conflict. All they will do is cause real, personal hardship to real people, to citizens, to the people we serve. We are not paid to get in their way; we are paid to make their lives easier.

Q131 Lady Hermon: Chief Minister and colleagues, it is wonderful to see such a huge contingent from Gibraltar. Thank you very much indeed for coming, and coming early, to see us on this Wednesday.

May I just pick up on your final sentence and then travel backwards? You indicated that in fact you have not recently been to Northern Ireland and you have not seen the border. Are you planning to visit Northern Ireland soon and will that include a visit to the border?

Fabian Picardo: I am indeed. I should add that my Attorney General has been to Northern Ireland to see the border and understand the border in greater detail.

Lady Hermon: That is excellent.

Fabian Picardo: He has also been in contact with law-enforcement agencies in that region so that we better understood the operation of that frontier. I just do not want to comment on the politics of the border in Northern Ireland, because I do not know enough about the politics of the border in Northern Ireland.

Q132 Lady Hermon: I was not going to ask you to comment, although you have made some comments about it. Those are already on the record.

You are going to visit Northern Ireland soon. Will that include a visit to the border?

Fabian Picardo: Yes, I imagine it will. In fact, from what I know of the timetable being set up, I think it does.

Q133 Lady Hermon: That is excellent. I have listened very carefully to what you have said, and it is clear that your border controls are highly dependent on technology—upon cameras. In fact, you said “complex” technological solutions have been applied.

In the UK Government, a number of Ministers, including the Chancellor of the Exchequer, have made it quite clear that cameras on the border



between Northern Ireland and the Republic of Ireland would be “legitimate targets” for those who do not want Brexit. We do have dissident republicans along the border and elsewhere, unfortunately, throughout Northern Ireland. The Secretary of State for Northern Ireland has already made it quite clear to this Committee that there will be no cameras; there will be no physical infrastructure. The words “no physical infrastructure” have been repeated by the Prime Minister.

In that context, how do you imagine the UK can take back control of the border between Northern Ireland and the Republic of Ireland when it has ruled out cameras and physical infrastructure, unlike Gibraltar? Can you suggest some solutions?

Fabian Picardo: I do not know enough about the technology they may have in mind if they do not have cameras in mind. I do not have access to satellite imagery, for example, but they might.

Lady Hermon: We have not had that mentioned. That is a good suggestion. Thank you for that.

Fabian Picardo: I am literally making it up as I go along—I will be very honest with you—because I can only tell you about the technology we have deployed.

Lady Hermon: Yes, absolutely.

Fabian Picardo: Ours was Checkpoint Charlie. Therefore, it is easier to see and small enough to control in the context of that crossing point. However, an answer as to what technology or other alternatives may or may not be available if you are not using the technology we are using would be conjecture. I can only tell you about the technology that we have deployed.

Q134 **Lady Hermon:** Yes, and you can imagine how difficult it is for us to imagine how this frictionless border is going to operate in Northern Ireland. What would be the consequences for Gibraltar if there were to be no deal and the UK just dropped out of the EU? What would be the consequences for your border with Spain?

Fabian Picardo: You may have seen that I have addressed this point in some of the other evidence I have given to some of the other Select Committees, but I have to start by reminding you that we are outside the common customs union, and we have always been outside the common customs union.

Lady Hermon: Yes, I appreciate that.

Fabian Picardo: We have an immigration control between Gibraltar and Spain, because Spain is Schengen and we are not. We do not have a common travel area agreement with Spain or with the rest of the European Union parallel to Schengen.



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In the circumstances where hard Brexit means different things to different people, to many people it means leaving the common customs union without a deal. We are already outside of the customs union without a deal, so in terms of the movement of goods in and out of Gibraltar nothing would change. In terms of the ability to access the European Union, leaving the European Union does not mean you are closing your border to the European Union. You are likely just in a situation where your movement of people is subject to immigration controls. That would be the case today in Gibraltar, and that would continue to be the case.

The only thing we would lose is the right of free movement. You are a third-country national accessing the European Union in that context, in a no-deal context. Respectfully, for those who might be looking at my evidence from elsewhere, I must tell you that is what it feels like for Gibraltarians when we access Spain on days when good will is not the order of the day at that frontier.

In the context of most interpretations of hard Brexit, as I understand them, for Gibraltar it means very little change so long as we are very clear that our relationship with the United Kingdom is not affected by that and is in fact as close as it has been and has grown to be during our period of membership of the European Union. In particular, I mean access to the UK market in financial services, general access from the UK market to us and what we have established in our relationship. That need not change, because that is bilateral and not multilateral like the European relationship we would be dropping out of.

Q135 Lady Hermon: Have you managed to get—I was going to say “extract”—commitments from the British Government that in fact those rights and that close connection with Gibraltar will continue?

Fabian Picardo: We have indeed. The Secretary of State for International Trade has said repeatedly—and so have those in the Department for Exiting the European Union—that the objective is to maintain and enhance the access Gibraltar has to the United Kingdom market. It is a two-way road.

The work we have done in the past 18 months in working groups on financial services, insurance, online gaming and the border and so on. has been to ensure that we cement that maintenance and enhancement and that we will be ready on exit day, whenever that may be, to continue that relationship in a seamless and unabated way.

Q136 Lady Hermon: The fact that Gibraltar is scarcely mentioned in the European Union (Withdrawal) Bill does not concern you? You do not see any need for amendments to that Bill for Gibraltar?

Fabian Picardo: The reference you will see in the Bill as drafted by the Government relates to that one part of the United Kingdom legislation



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that relates to Gibraltar. As you will know, Lady Hermon, the Gibraltar Parliament deals with most legislation that is relevant.

We are watching and waiting to see what the final form of the United Kingdom Act will be, and then we will replicate that with such differences as may be necessary for the circumstances of Gibraltar in a Gibraltar withdrawal Bill. Our legislative process is shorter and quicker, and therefore we do not need the lead-up time that is required in the United Kingdom.

Q137 Lady Hermon: Your Government and you and your Ministers are not seeking any amendments at all to the Brexit Bill that is currently going through the House?

Fabian Picardo: There is an amendment that is being circulated by colleagues from the SNP that would be very useful to Gibraltar. I do not know the reference to it, but it is a specific reference to Gibraltar that in effect puts in legislative language the language of the Secretary of State on maintenance and enhancement of access to the United Kingdom market. If it were to find its way into the Bill, that would be very useful indeed, because it would demonstrate the commitment to deliver that. I do not politically doubt that, because I am involved in the work to deliver it, but there is nothing better than the legislative word of Parliament.

Q138 Lady Hermon: Yes, it would very nice to see the verbal commitment translated into black and white in the Bill.

Finally, could we just sum up then? Whether it is a hard Brexit or not, for Gibraltar and Spain there will be a continuation of the high reliance on cameras, which we know have been ruled out in Northern Ireland. Was I right in hearing you say that the Gibraltar police board the coaches that come in to Spain? You regularly have police officers who board coaches at the border?

Fabian Picardo: It is the Gibraltar immigration authorities. We do not do that through our police. There is a police presence at the frontier for security purposes, but they do not deal with immigration issues—although every police officer retains the power to deal with an immigration issue, of course.

We have a force called the Borders and Coastguard Agency, and they are the ones who deal with accessing these coaches and who deal with these passport controls and so on. They used to be called Security and Immigration, which in my head still pops up, but it is the Borders and Coastguard Agency.

Q139 Lady Hermon: Do they regularly or frequently board coaches?

Fabian Picardo: They board coaches on a daily basis. A coach is one of the more difficult things to monitor with camera. We can get a photograph of its number plate, but we cannot see inside.

Q140 Lady Hermon: I agree entirely; I agree entirely. But in fact it would be



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very high risk for UK border officials, the PSNI and HMRC, to stand along the border between the Republic of Ireland and Northern Ireland. But I am very grateful to you for your evidence. It just highlights the difficulties we will have achieving a frictionless border between Northern Ireland and the Republic of Ireland. It will be very difficult.

Fabian Picardo: Thank you.

Q141 **Chair:** Chief Minister, in a sense you are kind of halfway there, as you intimated, in that you lie outwith the customs union. What tariff differentials exist between Gibraltar and Spain? How is trade with other countries, for example Morocco? Clearly, you are very close to Morocco and there is a great deal of traffic between Gibraltar and North Africa through Morocco. How would you characterise the trade with Morocco? How is that impacted by the fact you are outside the customs union? Where are the major areas of tariff differential between Gibraltar and the rest of the European Union that presumably impact upon the conduct of business at the border?

Fabian Picardo: The first major difference in the levying of tariffs is the absence of a value added tax in Gibraltar. Because we are not in the common customs union, we are not required to levy a value added tax. In the absence of a value added tax, Gibraltar has various import duties. Those import duties fluctuate from 16% in respect of some goods—and there are some that have higher import duties, for example if we want to restrict the importation of a particular commodity—down to zero in respect of others.

There is a whole spread of tariffs. These are now electronically in the ASYCUDA system to make it easier for traders to deal with the differences in tariffs. Gibraltar is an attractive place in which to buy perfumes, alcohol or cigarettes because of the low duties in respect of those. They are much higher than they used to be but still not as high as they are in some other places on the continent. Gibraltar has a high duty on the importation of building materials. Because of the reduced geography, it is important that we control building in Gibraltar in some way and that the taxpayer should profit from the importation of materials for building. There is a whole spread of tariffs.

That provides us with a facility, which means that, when we look south towards Morocco, we are able to control the access of goods from Morocco without having to have regard to their wider spread through the European Union from Gibraltar—because they would face a customs border at Gibraltar, and therefore there is that restriction. You will be surprised to see the importations from Morocco are not, as they used to be, very high into Gibraltar. The highest importations are from the United Kingdom and from Spain, and the traffic from the United Kingdom is a constant flow of container lorries through the continent of Europe into Gibraltar.



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One of the key issues for us is how that will continue in the future—whether those lorries will be able to exit the United Kingdom and then remain in effect in bond through the European continent until arriving at the Gibraltar frontier and then accessing Gibraltar as they do today. A lot of our groceries will come to Gibraltar in that way. In the time of the closed frontier, a lot of our groceries came either through airlift from the United Kingdom or from Morocco. We would even import bread and flour from Morocco, and all fruits would come from Morocco. The Gibraltarian still has a taste for Moroccan fruit; we think it tastes better than fruit from elsewhere.

Lady Hermon: You must go and buy some Bramley apples in Armagh when you visit Northern Ireland.

Q142 **Bob Stewart:** Fabian, Joseph, Michael and your strong team, you are among friends here. It is really nice to see you. By the way, I used to go through Checkpoint Charlie a lot, and in the old days it was just a flash of an ID card as you went through in uniform. It was actually pretty seamless, providing you were the right sort of person—that is, in the military.

I do not know the answer to this question, but I should do. You have entry into Gibraltar by air, obviously, by land—across the border crossing point—and by sea, with yachts and cruise ships coming in. Because of the 13,000 people coming in daily, do you have a fast catamaran coming from Algeciras daily? It is not that far. It might work. Of course, the return leg would be empty, but do you have that sort of system as well?

Fabian Picardo: We do not. If you look at the Brussels agreement of 1984, it is an agreement that never enjoyed the support of the people of Gibraltar, because it also referred to a process for the United Kingdom and Spain to talk about the sovereignty of Gibraltar, in keeping with the UN resolutions that talked about the handing of the territory Gibraltar back. One of the things that agreement also did was talk about the re-establishment of maritime links between Gibraltar and Spain. Despite that agreement, no maritime links were re-established.

Subsequently in 2006, under the Cordoba agreement, there was reference again to the re-establishment of maritime links and a line was established between Gibraltar and Algeciras. It was not popular, and it did not survive commercially. There is not the interest manifested in the traffic coming across the bay in that way.

Q143 **Bob Stewart:** I had a sneaky feeling that would probably be the answer: because it was not commercial viable. However, the good will in Algeciras and the area is pretty enormous towards Gibraltar, isn't it?

Fabian Picardo: I do not know about Algeciras, but it is certainly in the area. One of Gibraltar's antagonists in recent times has been the Mayor of Algeciras, but the mayors of all the other towns are very positive about the influence that Gibraltar exerts in the region. They see us as the second largest employer in Andalucía after the Junta de Andalucía, and



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they see us as an influence of good and of mutual benefit for the whole region.

Q144 Bob Stewart: Whatever the future scenario is, there is no way there could not be a check at the border anyway. We are aiming for a seamless border in Northern Ireland. This Committee—I think I speak for everyone—does not want anything particularly visible on the border of Northern Ireland if it can be avoided. But in the case of Gibraltar, you will always have to have a check of an identity document and possible vehicle documents as well for commercial business as well. That is accurate, isn't it?

Fabian Picardo: Absolutely, yes. That is accurate, and we cannot imagine it being any other way.

If you take a step back and look at the international politics of the issue—coming back to the point Mr Paisley was making before—the Spanish have always argued that there should not be a frontier there, because they do not recognise the isthmus. Despite the Helsinki Accords and the acceptance of the frontiers as they were in post-war Europe, the Spanish have never wanted to recognise that. At an international level they refuse to call that international line on the map a frontier. They say there is no frontier, that it is a verja. A verja is a fence. They say it is a fence set up by the British in the 19th century and they do not recognise it as an international crossing.

Cut forward to the morning after the Brexit referendum. The then Foreign Minister of Spain was saying that it was going to be very cold for Gibraltar outside the external frontier of the European Union, which would mean exactly the place where they do not recognise that there is a frontier—where there is just a fence that some Brit in a military uniform put up in the 19th century. Is it a frontier or is it not a frontier? Is it something just set up by the Brits or not? They do not police it, on occasion, as if it was not there. When there is a hole in our fence, which might be created by smugglers one evening, they complain bitterly that the fence that a Brit in a military uniform set up in the 19th century has a hole in it, and can we please repair it—but they refuse to set up a frontier themselves.

The international politics of the Spain-Gibraltar issue and the dogma that Spain has pursued over the past 60 years on this issue is coming up against Brexit—and not just Brexit but the External Frontiers Convention of the European Union and the reality that there is a frontier between Gibraltar and Spain. As far as we are concerned, there always will be.

Q145 Mr Campbell: You are very welcome here today. You talked about your Borders and Coastguard Agency. We have watched on our television screens, particularly over the past two years and particularly in the summer, people trying to access the EU by sea because of problems in North Africa. Have there been any instances of people trying to avoid the hardware at the border—or the fence, as the Spanish may call it?



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Fabian Picardo: Please feel free to call it a border or frontier—and do not fall into the trap of calling it a fence.

Q146 **Mr Campbell:** Yes, I was saying “as they call it”. But have there been instances of anyone trying to access the EU via Gibraltar?

Fabian Picardo: Yes, there have been instances of that. To understand what Gibraltar looks like from the south, from the sea, Gibraltar is monolithic. As you know, it is one of the Pillars of Hercules, with the other being Jebel Musa on the other side of the Strait of Gibraltar.

Gibraltar is two and a half miles by one mile—not a big place. It is not easy to hide here. Because of this frontier fence, people who are trying to access the European Union know that, if they land in Gibraltar, getting into the rest of the EU is going to be dastardly difficult—so they do not want to land in Gibraltar. Gibraltar is a point they can see that steers them towards the Spanish coast. Once they are on the Spanish coast, they are able to access the rest of the European Union and come up north or stay in Spain—so we do not see very large numbers landing in Gibraltar.

Just last week, seven people who were seeking to emigrate to the EU landed in Gibraltar. They were not from sub-Saharan Africa; they were of Moroccan nationality. They were economic migrants, not refugees. I understand they are already in the process of being returned to Morocco.

In some instances, our police have picked up small boats containing people who are seeking to arrive on the shores of the European Union, and they are dealt with in the way you would expect: when we are able to determine their identity, they are returned to their country of origin. In just about every instance, they are Moroccan, rather than from the rest of the African continent.

Q147 **Mr Campbell:** The Committee is obviously looking to see what similarities there may be in other jurisdictions. It is difficult. You have provided us with the aerial photograph that shows the singular focus, the funnelling to the border access, which is the complete opposite of our border. As you outlined, there are 200 crossing points, and many of them are in rural, minor roads and laneways and so on.

This comes back to Lady Hermon’s point. Given the proximity and the number of crossing points, is the clamour we hear about a hard border resulting from a lack of a deal a practical proposition, given the impossibility of implementing a hard border?

Fabian Picardo: You are asking me a question specifically about Ireland, and I would get very annoyed if somebody who knew nothing about the circumstances of Gibraltar ventured an opinion about our frontier. Indeed, most of my compatriots would get very annoyed, and social media would be alight with all the things that person might have got wrong in his answer.



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If you do not mind, I am going to cop out, as we would colloquially say, and not give any detailed answer—other than to say, as you have indicated, that this is a relatively small area of land. We are therefore able to control it in a way that is helpful in some instances and less helpful in the instances I have outlined, on some occasions, given the attitude of Spain.

Q148 **Mr Campbell:** I fully understand that. Perhaps when you come to Northern Ireland again and you go to see the border, you will see—

Fabian Picardo: I might still be welcome because I have not given an answer.

Q149 **Mr Campbell:** That is fine. I have one final question. I do not know whether Gibraltar has the same thing we have here, in that “the Westminster bubble” is a phrase we use where there is intense political discussion, debate, explanations and rationales for various issues. Outside that, there is the real world. I do not know whether you have that in Gibraltar.

However, in the Gibraltar real world in terms of business attitudes, are they getting on with issues or are they in fear and trepidation of what lies around the corner in 15 or 16 months? What is their general attitude? Is there a variety of attitudes? Is there a general thrust of how they are adapting to what lies ahead?

Fabian Picardo: Gibraltar’s business outlook is very positive despite the decision to leave the European Union, and it is very positive because we have ensured the most important market for us is preserved—and that is the United Kingdom. Gibraltar’s businesses do not deal in agriculture or goods, principally; they deal in services. They sell services principally into this market, into the UK.

Our access to this market has been secured as a result of our membership of the EU. The single market rules granted us access, but we are the only bit of the single market that is leaving with you and we were in it because of you.

That is why we were able to persuade—though not much persuasion was necessary, I must confess—the former Prime Minister, David Cameron, that Gibraltar should continue to have access to the United Kingdom market after the UK leaves the European Union. That was confirmed by the current Prime Minister in the words I referred to you from the Secretary of State for International Trade.

As a result, Gibraltar business is very confident that we will continue to have the ability to grow the work they do in this market, in particular in well-regulated insurance, online gaming—we are the toughest regulator of online gaming in the world—and other services that are sold to the United Kingdom. That means we can see the Gibraltar economy continuing to grow. The Gibraltar economy has grown approximately 8% in the past year and an average of 10% in the past six years. We are not



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seeing the growth abate as a result of the Brexit decision, because we have secured access to that market.

Dealing with the point about the “Westminster bubble”, I confess that I read as much as I can and I watch as much as I can. I am finding it intellectually difficult to deal with some of the things I am hearing. With the best will in the world, as optimistic as I am, I do sometimes think there must be people much cleverer than me and anyone in my team who have answers we have not yet thought of, and I very much look forward to seeing what they are.

Q150 **Jack Lopresti:** Hello, Fabian. It is nice to see you.

Fabian Picardo: It is nice to see you, too.

Q151 **Jack Lopresti:** We all know that Gibraltar is strategically vital to us and to NATO, and we appreciate everything you do on that. There must be some pretty serious co-operation on law enforcement between Gibraltarians and the Spanish on the wider issues of smuggling and border control in general.

I wonder whether you can just expand or explain how that works. Do you have any fears that this may change once we leave the European Union? How will that impact on daily life and law enforcement in Gibraltar?

Fabian Picardo: Thank you very much. Mr Lopresti was a Chairman of the All-Party Parliamentary Group for Gibraltar; he is a very good friend of Gibraltar and knows Gibraltar well.

From that question, I can see that you also understand the logistics of this frontier would not work as well as they do if there were serious security concerns. The one thing the police in Gibraltar and their counterparts in Spain have been able to do at every point, whatever the politics of the moment may have been, is to get on well and share intelligence and issues relating to security. I have no doubt that is going to endure.

Having said that, the politics of co-operation has defeated us. It has never been possible to reach an agreement between Gibraltar, the United Kingdom and Spain on co-operation. While there are excellent relationships at a human level between the coppers who are getting on with the job and making sure that those with ill intent do not cross that frontier or are dealt with on either side, the minute the politicians try to put it all down, we bring all our prejudices and all our political issues to the document, and it does not get beyond the first page.

Now, absent that political interference, the law-enforcement agencies are doing excellent work together to ensure they deal with issues as and when they arise, in particular at sea, for example. The Spanish have a very sophisticated mechanism to observe their southern coast and the Strait of Gibraltar. They also work together more generally in relation to



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organised crime, where there is deep co-operation between Gibraltar law-enforcement agencies, the Moroccan authorities, the Spanish authorities and the British authorities in the United Kingdom.

That helps to build a better picture for law-enforcement agencies as they deal with those we would all be expecting them to deal with. I do not envisage that Brexit is going to affect that in any negative way, but I also have not been able to see an agreement materialise in that respect.

Q152 Jack Lopresti: That is very reassuring. Could we perhaps learn lessons from how the Spanish enclaves in North Africa manage their external borders with the rest of North Africa?

Fabian Picardo: If you look at the way the Ceuta border has been set up and policed in recent years, it is not entirely edifying. Cecilia Malmström, who was the Commissioner at the European Commission dealing with matters of immigration, had stern words for Spain as a result of the way in which they dealt with the border issues in Ceuta.

Spain is facing massive logistical issues there. The numbers of people coming up to that frontier, seeking to access the European Union through Ceuta, have outdone the expected estimates. We have seen some pretty terrible scenes in the past 24 months. I would not be looking at that frontier as a way of setting up a frictionless mechanism for the future—put it that way. It is high fences and barbed wire. It is people throwing themselves at the barbed wire. It is people losing their lives on the barbed wire and at sea. It is not something I would wish to ever see there again or, indeed, replicated anywhere in the rest of the European Union—and certainly not on the frontiers of the United Kingdom.

Q153 Jack Lopresti: On a slightly different note, what opportunities are there for Gibraltar in terms of international trade and tourism once we leave the European Union? I remember you were setting up a World Trade Center in Gibraltar. I do not know whether you have completed that yet. It was a while ago that I looked at it. Is there any optimism at all about the potential benefits?

Fabian Picardo: The World Trade Center is now complete, and it is full. It was full before it was completed, and there are plans to build more World Trade Centers in Gibraltar. That almost gives away what we are looking at doing, doesn't it? It is world trade we now have to deal with.

We may have been complacent in the context of our membership of the European Union. The European Union provided for Gibraltar the opportunity to trade with the United Kingdom in a seamless way and with the rest of the EU. About 10% of our trade was in the rest of the single market; 90% was with the United Kingdom. There are now going to be opportunities for us to trade beyond the EU.

That does not mean I would change what I thought was the best decision for Gibraltar 18 months ago, if I had to vote again, but you put your



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thinking cap on and you reinvent yourself. Gibraltarians are nothing if they are not entrepreneurs. We have dealt with the evacuation of Gibraltar; we have dealt with the siege of Gibraltar even in modern times; and we will not just survive Brexit but thrive out of Brexit. I have said that before.

What the Secretary of State for International Trade is doing is inclusive of the ambition of Gibraltar to be able to access those markets that the United Kingdom accesses in the future. I am unable to estimate—in any way that is beyond what I read in the newspapers—how quickly it will be possible to do those deals, but as long as Gibraltar has access to the United Kingdom market, we will be well and we will be able to grow.

If you take a moment to look at where Gibraltar is—you talked about its strategic significance earlier—80% of all goods traded in the European Union cross the Strait of Gibraltar every year. It is 80%. That just goes past our door. One-third of the world's oil goes past our door every year. Gibraltar's position geographically is not just strategically significant for the United Kingdom even today as the United Kingdom embarks once again on its ambition to trade with the whole world. Gibraltar was important when the United Kingdom was doing that in the old days; it will be important again in the future in that context. It is also important militarily, of course, in securing the whole of Western Europe, not just the defence of the United Kingdom.

We are on the world's most significant trading route. If we are able freely to access world trade, our location must not just be significant; it must also be potentially lucrative in some way.

Q154 Maria Caulfield: Thank you for your warm welcome when we came to visit you earlier this year. I just wanted to touch on the customs union issue, because Gibraltar has never been in the customs union. It has quite a unique situation in that it is part of the EU, but it is not part of Schengen or the customs union.

Has Gibraltar ever had pressure on it to join the customs union? What is the rationale for always being outside that in terms of the benefits that brings you? What is your advice for the UK if it is planning to come out of the customs union—that seems to be state of play today—in terms of how the UK can thrive as a country once it leaves?

Fabian Picardo: Thank you—and very welcome you were in Gibraltar, too, as would all members of the Committee be if they wanted to observe the operation of the frontier.

The decision to keep Gibraltar out of the common customs union has to be understood in the context of when it was made. It was made in 1972 when the United Kingdom was accessing the then European Economic Community. The single market did not exist, but the common customs union did. In 1972, Gibraltar was accessing a club with which it would not have a land frontier. Remember that in 1972 Spain was under



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General Franco. For Europe, it was a pariah. The European Economic Community would start in Europa Point in Gibraltar, go north for two and a half miles and then not start again until you reached the Pyrenees.

Gibraltar's then Government made the wise decision to keep us out of the common customs union, because Gibraltar was then in effect a free port in the context of the work that we did. Our port was our only land access, and it made sense to continue in that way. Since then, there has been no reason for us to want to join the common customs union. Progressively, as you know, you get more of the VAT back, but for a long period VAT was levied in a member state and sent to Brussels for the cost of the administration of the EEC/EU. Gibraltar was levying import duties that remained in Gibraltar and were part of the revenue Gibraltar relied on to fund its Government expenditure.

Only recently have Governments got back a larger share of the VAT than they sent to Brussels. By then, the decision would have been a very difficult one for Gibraltar, because we are so established in the way that we do business. The importation of goods into Gibraltar is so established on the terms of our customs tariffs, some of which have to be lower in order to make it attractive to bring goods that far south to the market in Gibraltar. It would be very difficult to see how we could now join the common customs union without upsetting that.

It is something we have to consider. We considered it in the context of the period before the referendum. We looked at what our revenues could be, and whether they could be maintained or enhanced by joining the common customs union. After that came Brexit, and we have not looked at the possibility of joining the common customs union since then.

Q155 Maria Caulfield: Do you see benefits for the UK from leaving the customs union, from Gibraltar's experience?

Fabian Picardo: The United Kingdom's economy is so different from the Gibraltar economy. It is a production economy and it is an agricultural economy. If we had to export into the European Union, then some of the answers I have given you may not stand. But I have not done that exercise. I know there are arguments on both sides in the United Kingdom, and it would be foolish for me to give an answer that might be challenged, because I am not properly prepared to address it.

Q156 Maria Caulfield: No—that is very helpful. The border is very different in Gibraltar from the border in Northern Ireland. It is much shorter, and Gibraltar itself is a much smaller place.

Fabian Picardo: What I would not give for an extra 400 miles.

Maria Caulfield: I do not want to raise that in this Committee.

Jack Lopresti: That is a lot of land reclamation.

Mr Campbell: What we would not give for 199 fewer crossings.



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Q157 Maria Caulfield: In your experience of managing such a contested border, is it possible with technology to have some of those checks not physically at the border? I know that is very difficult because your country is so small, but is there the possibility of doing the same checks but not necessarily in the format of it being a physical border?

Fabian Picardo: The answer is yes. One of the ways we have demonstrated that is with the commercial gate and the ASYCUDA system, which I referred you to earlier. To adopt the nomenclature I see used in the United Kingdom, if you are one of those trusted traders who is on the platform and you have an account with the Government of Gibraltar and we know you are coming in through the ASYCUDA system, you are very quickly cleared by a customs officer. A customs officer will only check you if there is a suspicion there is something on that vehicle that is not right. Otherwise, you will literally just pass through and you will reconcile your importation against a payment on your online account. You receive an e-certificate as you cross the frontier, and that is it. Any check can take place later if necessary.

Q158 Maria Caulfield: Do you do a significant amount of checks on people who have already crossed the border and who are living in Gibraltar, so they are not just checked at the border but there is a continuous checking process inland?

Fabian Picardo: We do that, but we do that when people come up against the system. For example, when you apply to put your children in a school, if we do not have an address or we do not have you registered at that address, we will do a spot check on that address. We are not sending people to knock on doors and see who lives there, but if somebody says, "I live at X address," and we do not have a record of that, we will carry out a check.

Alternatively, if you say that you live at X address and we know that is a three-bedroom apartment and we have 30 people registered at that address, which is not unusual by the way, we will carry out spot checks to see who is living there.

Q159 Maria Caulfield: You are not solely reliant on what happens at the physical border?

Fabian Picardo: No, we are not—but we are solely reliant on that to deal with immigration issues other than when those immigration issues arise in the context of employment, schooling or otherwise.

Q160 Chair: Do you feel free to enter into trade arrangements with other countries? I do appreciate that you do not manufacture or grow things and you chiefly exist in the financial services space. To what extent do you feel you have latitude to enter into arrangements with other countries, particularly given that you exist outwith the customs union?



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Fabian Picardo: The Gibraltar constitution provides that Gibraltar is not able to conduct its external relations, but commercial relations with third countries are not necessarily external relations.

I do not determine what British foreign policy interests are, but it is not necessarily going to be obvious that you are going to cross those issues if you are just dealing with tax-information exchange agreements, for example, which are signed by Gibraltar itself on the basis of letters of entrustment given by the United Kingdom.

Commercially, we have never experienced any control in our ability to represent Gibraltar internationally and to establish such relationships as we may wish to. The Gibraltar constitution provides that, in respect of the European Union, for example, matters relating to the EU are not external relations matters if they are otherwise the responsibility of Ministers in Gibraltar. That has been a dynamic that has worked well in the period of our membership—although of course it will have to be reviewed now that we are leaving the European Union.

Q161 **Chair:** The existence of the customs border does not bear upon any discussions, agreements or letters you may exchange with other territories so far as you are able to within the constraints of your constitution?

Fabian Picardo: No, absolutely not, but then again we are dealing with principally services—this is why I gave you the example of the tiers—not goods that are subject to customs in any jurisdiction.

Q162 **Chair:** Yes, had there been goods, then there might have been a slightly different picture.

Fabian Picardo: Then it might be an issue—and then the decision to stay outside the common customs union might have been revisited.

Q163 **Nigel Mills:** I sense from your evidence, Mr Picardo, that when there is good will you can make the border work. If there is no good will, it gets a bit harder. Is that a fair summary?

Fabian Picardo: I said that good will was the central ingredient, so it is a fair summary. We believe we bring good will to the operation of the frontier every single day, but we sometimes do not enjoy that good will on the other side.

Q164 **Nigel Mills:** Does the UK's relationship with the Republic of Ireland have a bit more good will to it than your relationship with Spain? That is probably a fair conclusion, isn't it?

Fabian Picardo: I should say so. For example, you have the common travel area, which we do not have, and just that demonstrates the good will.

Q165 **Nigel Mills:** With both sides working, as they have said, to achieve as frictionless a border as possible, you would expect that we could get to a



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better position than you have managed to get to with Spain. That would seem to be a natural conclusion from there being more good will.

Fabian Picardo: It would seem to be difficult for you not to get to a better conclusion than we have got to with Spain. It is one of the most fraught relationships in international diplomacy, and I am sorry that is the case. I sincerely hope that changes in the future.

Q166 **Nigel Mills:** The EU and the Irish, to some extent, are saying that we need to find creative solutions to the question of the Irish border, which is an interesting turn of phrase. One solution the UK Government have proposed is perhaps just not to enforce customs rules for small- and medium-sized enterprises. We could just say that it is relatively local trade and there are no big issues at stake. From your experience with the EU, is there any prospect of them agreeing to that?

Fabian Picardo: Let me put it this way: if you manage that, let me know—or, rather, do not forget us.

Q167 **Nigel Mills:** You have talked about the 30-kilometre area where you allow relaxed border controls for people, and there has been no suggestion from the EU that perhaps you could allow a relaxed customs border for the area around the border?

Fabian Picardo: That is Regulation 1931/2006. It deals with people; it does not deal with goods? It deals with the ability of people to move, not the ability of goods to move?

Q168 **Nigel Mills:** But you are not aware of any suggestion that something similar could be created for goods. If you were just moving farm goods from one side of the border to the other, you could be allowed to do it with a permit or something.

Fabian Picardo: I have no cognisance of that. I know Spain operates a mechanism at the Ceuta border on its documented daily traffic. I answered Mr Lopresti in respect of immigration issues, but in terms of daily traffic they operate a mechanism that allows people in and out of Ceuta that is not under Regulation 1931/2006 and that is lax in the way we are lax with people's ability to bring their stock-in-trade with them. The example I gave you earlier was a plumber bringing his tools with him. We are not requiring him to declare his tools and provide a bond against those tools to ensure they are exported later in the afternoon, which is the formal customs way of dealing with any importation and then re-exportation.

In respect of customs, where we are dealing with goods that would remain in the territory, I do not have any cognisance of such a system operating in the European Union. That does not mean there is no such system, but I have not got cognisance of it now.

Q169 **Nigel Mills:** In reality you like the revenue from having a customs border, don't you? You are not keen to pursue ways of losing those



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revenues, I suppose.

Fabian Picardo: The Gibraltar economic model works in part because of the revenues from the operation of customs dues, and therefore it would not be possible to recast our economic model overnight.

Q170 **Chair:** In my experience, when plumbers come they do not just use their tools; they generally use some consumables as well, to a greater or lesser extent. Presumably, common sense applies in terms of duties levied on those consumables: pipes and widgets and various things. Would that be true?

Fabian Picardo: That is absolutely right. If the quantity gets large, they come through the commercial gate; if the quantity is smaller, they come through what I might call the retail gate. In some instances, the relevant plumber might be honest enough to declare. In most instances, I imagine—I am not attacking the honesty of plumbers—most of them might forget they also have a piece of pipe to declare.

Q171 **Ian Paisley:** I admire how you have managed to turn what could have been a hugely politically disadvantageous situation to a political advantage and, more importantly, into a positive momentum for your country.

Fabian Picardo: Thank you.

Q172 **Ian Paisley:** I wanted to congratulate you on the political craft you and your team have shown in how you have got to that position. We could have been taking evidence today from a very grumpy Chief Minister who has lots of complaints.

Jack Lopresti: He was now and again, actually.

Ian Paisley: To produce it in that way, sir, is absolutely commendable. I hope that people in the Republic of Ireland and people in our own country are listening and learning from that. That is what modern politics and the skill of politics is all about. I just want to put that on the record.

Fabian Picardo: Thank you very much. That is very kind of you. Tell your friends.

Ian Paisley: I think they are listening.

Q173 **Lady Hermon:** This is a very small inquiry, but an important one. May I just go back to the forthcoming visit to Northern Ireland? Again, I do not want you to breach anything that is confidential. Bearing in mind the experience and expertise you have in managing the border with a very difficult neighbour—we have certainly got the impression that Spain has been a difficult neighbour—are you scheduled to meet with the Chief Constable of the Police Service of Northern Ireland to discuss the lessons that could be learned in controlling the border between Northern Ireland and the Republic of Ireland? Is that on the schedule?



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Fabian Picardo: I am not scheduled to have that meeting, but I am reminded by the Attorney General that he has already had those meetings.

I should say that my visit to Northern Ireland is in coming weeks, and we are expecting the arrival of a new member of my family at about the same time. I do hope I am able to keep both appointments, but otherwise I know which will be the most important—and I shall see Ian on another day.

Q174 **Lady Hermon:** Congratulations in advance on the new arrival; that is very welcome news indeed.

I take it that the visit to Northern Ireland is not an official visit. Let me describe the two individuals as the Acting First Minister and the Acting Deputy First Minister. Is it an official invitation from both those ladies?

Fabian Picardo: It is not, but I shall be seeing the Acting First Minister. I think that is the proper description.

Q175 **Lady Hermon:** Will you have any opportunity to meet the Acting Deputy First Minister? Perhaps she has not invited you for a meeting.

Fabian Picardo: That is also on the cards but on another visit. There are two short visits envisaged.

Q176 **Lady Hermon:** You are very welcome indeed, and I do hope I can invite you to make a little trip into North Down at some stage. You would be very welcome.

Fabian Picardo: It will be my first visit to Northern Ireland, and it is long overdue. I shall be very happy and pleased to see where my family were during the Second World War.

Lady Hermon: Yes—and enormous congratulations on the new arrival.

Fabian Picardo: Thank you.

Chair: Before we get into multiple invitations from around the table, Chief Minister, can I draw this evidence session to a close? Thank you very much indeed, and your team, for coming a long way geographically, but not psychologically, from Gibraltar to join us today. What you have said has been of enormous use to us and will benefit greatly the quality of the report we ultimately produce. Thank you very much indeed.

Fabian Picardo: Thank you very much. I would just end with an invitation for you to visit the Gibraltar frontier at any time that you might think convenient. Thank you.