

Research Briefing

27 November 2024

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# UK-EU negotiations on Gibraltar-EU relations



## Summary

- 1 Background
- 2 Impact of Brexit
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# Summary

## Background

The UK and EU have, since 2021, been negotiating a proposed agreement on Gibraltar's relationship with the EU. This is based on a [framework agreement announced by the UK and Spain on 31 December 2020](#).

Gibraltar left the EU along with the UK in January 2020, although Gibraltarians had voted overwhelming to remain in the EU in the 2016 UK referendum on EU membership. Spain maintains a sovereignty claim over Gibraltar. At Spain's insistence, Gibraltar was not included in the territorial scope of the Trade and Cooperation Agreement (TCA) which sets out arrangements for the UK-EU post-Brexit relationship.

Since the vote to leave the EU, Gibraltar's government has stressed the [importance of maintaining an open "fluid" border](#) between Gibraltar and Spain, given the importance to Gibraltar's economy of the large number of frontier workers residing in Spain but working in Gibraltar. This is also important to the local economy in the Spanish municipalities bordering on Gibraltar.

Spain has implemented a unilateral measure to allow Gibraltar residents to continue to cross the border without the passport stamping normally required to enter the EU/Schengen area, with Gibraltar reciprocating for Spanish residents coming into Gibraltar.

## UK-Spain Framework Agreement for Gibraltar

The [December 2020 framework agreement](#) (PDF) included a provision for Gibraltar to be associated with the EU internal border-free Schengen area. Physical infrastructure and barriers to the movement of goods and people at the Gibraltar-Spain border would be removed, with a customs union between Gibraltar and the EU also envisaged.

The framework provides for Spanish officials to be responsible for ensuring Schengen rules are observed at external entry points into Gibraltar (at the port and airport of Gibraltar), although officials from the EU Frontex border agency would provide assistance in carrying out these tasks for a four-year implementation period. Schengen border checks by these officials would follow border checks by the Gibraltar authorities to ensure compliance with Gibraltar immigration policy.

The framework agreement also envisages provisions to ensure a level playing field on the environment, state aid and employment to avoid distortions to trade, measures on equal treatment of frontier workers and cooperation on tax matters, social security, transport and police and judicial matters.

## UK-EU negotiations on Gibraltar

The negotiations began in October 2021. The UK and Gibraltar have adopted a [joint approach to the negotiations](#), with UK ministers reiterating that they will not agree to arrangements under which sovereignty over Gibraltar would pass to another state, or to an agreement with the EU that Gibraltar is not content with. This stance has been reiterated by ministers since the Labour government took office in July 2024.

The EU published its [proposed mandate for talks](#) with the UK in July 2021. Its proposals involved giving Spanish authorities wide ranging powers in relation to immigration and asylum policy in Gibraltar and the EU institutions would have powers to enforce relevant legislation in Gibraltar. The EU's proposals met with [objections from the UK and Gibraltar](#). Although the EU's position was subsequently amended, the UK government said that some of its proposals remained unnecessary, disproportionate and [beyond what was agreed](#) in December 2020.

Negotiations are still continuing, despite repeated indications that an agreement might be imminent. Key sticking points in the negotiations have reportedly included the precise [role of Spanish officials operating Schengen checks](#) at external entry points to Gibraltar, and the [status of Gibraltar airport](#) which also hosts an RAF base and is managed by the Ministry of Defence.

According to a joint statement following a first meeting under a new format in April 2024, involving the UK and Spanish Foreign Ministers, the Gibraltar Chief Minister and the European Commission vice-president, general political lines had been agreed, "[including on airport, goods and mobility](#)".

Then Foreign Secretary Lord Cameron said in May 2024 that the Government was clear that the UK's military base in Gibraltar [would have to continue to operate in the same way](#) as it presently does. He also stressed that that the arrangements for the border would not involve Gibraltar joining the Schengen area but would create a "Schengen-adjacent territory" in order to have a fluid border. Gibraltar would need to adopt some legislation that was equivalent to EU law, but he said there would be no direct oversight by EU institutions.



## Negotiations under new UK Labour Government

Negotiations have continued under the Labour government since the July 2024 election, with Gibraltar's Chief Minister Fabian Picardo indicating that UK [negotiating stance has not changed](#).

The Chief Minister said in October 2024 that the UK/Gibraltar had made [“fair” and “balanced” proposals](#) which respected the security of the Schengen area and the integrity of the EU Single Market, and that it was [up to the Spanish government to decide](#) if it would accept them. Spain's Foreign Minister Jose Manuel Albares also referred to [“balanced and generous” proposals](#) that Spain/the EU had made.

The Paymaster-General (responsible for relations with the EU) Nick Thomas-Symonds said in October that the UK and Gibraltar governments were “working exceptionally hard” to conclude the negotiations but were [also prepared to cover “all eventualities”](#) if an agreement could not be reached. The UK Government has been supporting Gibraltar preparations for a non-negotiated outcome and the Gibraltar Government [has issued guidance](#) (PDF) for such an outcome.

All sides have also stressed the [importance of reaching an agreement](#) before the implementation of the [EU's new entry/exit system \(EES\)](#), an automated border system involving biometric checks, which Spain would also need to implement at the border with Gibraltar if there is no agreement on new arrangements. EES implementation had been scheduled for November 2024, but this has been postponed.

# 1 Background

## 1.1 Status of Gibraltar

Gibraltar is a British Overseas Territory, with a population of around 39,600.<sup>1</sup> It lies at the southern tip of the Iberian peninsula, bordering with Spain, and was ceded by Spain to Britain under [Article X](#) of the 1713 Treaty of Utrecht.<sup>2</sup>

Gibraltar's constitutional relationship with the UK was defined in the [Gibraltar Constitution Order 1969](#), 23 May 1969, which was repealed and replaced by the [Gibraltar Constitution Order 2006](#) from 2 January 2007.<sup>3</sup>

Greater domestic responsibilities were given to the Gibraltar Government by a new constitution in 2006. It has a high level of internal self-government, but the UK Government is responsible for Gibraltar's external affairs. This includes its international borders.<sup>4</sup>

### Further reading

For more detail on Gibraltar's status, political system and former status within the EU see Commons Library Briefing Paper, 7963, [Brexit and Gibraltar](#), 2 May 2017

## 1.2 Sovereignty over Gibraltar and UK-Spain talks

Spain maintains a sovereignty claim over Gibraltar. However, successive UK governments have maintained the position they will never transfer the sovereignty of Gibraltar against the wishes of its people. The border between Spain and Gibraltar was closed between 1969 and 1982. It was reopened in 1982 as a condition of UK support for Spain's accession to the then European Community (EC), though several restrictions remained in place which were

<sup>1</sup> Based on United Nations estimate of population for 2024, World Population Review, [Gibraltar Population 2024](#) [accessed 29 October 2024]

<sup>2</sup> Gibnet, [Article X of The Treaty of Utrecht](#) [accessed 29 October 2024]; Europa World, [Gibraltar: Overview](#) [accessed 29 October 2024]

<sup>3</sup> Gibraltar's constitutional relationship with the UK is discussed in Library Research Paper 06/48, [Gibraltar: diplomatic and constitutional developments](#), 11 October 2006.

<sup>4</sup> Europa World, [Gibraltar: History](#) [accessed 29 October 2024]



not removed until 1985.<sup>5</sup> The UK and Spain also began a dialogue on Gibraltar in the early 1980s ahead of Spain's accession to the EC.<sup>6</sup> This provided for discussions between the UK and Spain on topics including sovereignty. In these discussions, known as the Brussels process, Spain proposed integrating Gibraltar into Spain. This included a proposal for an indefinite transitional period of joint sovereignty.<sup>7</sup>

The Brussels process talks lapsed in the 1990s but were revived in 2001. However, proposals for shared UK-Spanish sovereignty were strongly resisted by Gibraltar and were rejected in a 2002 referendum in Gibraltar.<sup>8</sup> 99% of voters in Gibraltar rejected the proposal.<sup>9</sup> This was similar to the referendum result in 1967, when over 99% of voters in Gibraltar rejected a proposal for Spanish sovereignty over the territory.<sup>10</sup>

There were various attempts to revive talks and establish a new forum for dialogue on Gibraltar between the 2002 referendum and the UK decision to leave the EU in 2016.

In September 2006 the governments of Spain, the UK and Gibraltar signed the Cordoba Agreement which included measures on making border crossings easier and improving transport and telecommunications links between Spain and Gibraltar. This also enabled direct flight to Gibraltar from Spain and other European countries.<sup>11</sup> The Spanish Airline Iberia launched direct flights from Madrid to Gibraltar in 2006, but these were halted for commercial reasons in 2008.<sup>12</sup>

The UK and Spain also signed an agreement in December 2007 allowing for the joint civil use of Gibraltar airport, constructed on territory that Spain claims is not covered by the Treaty of Utrecht<sup>13</sup> (see below). The agreement was then blocked by the Gibraltar government with Spain retaliating by blocking Gibraltar's participation in European aviation agreements.<sup>14</sup>

Spain withdrew from talks with the UK on Gibraltar following the election of a new centre-right government led by Mariano Rajoy of the People's Party (PP) at the end of 2011, with disputes over fishing rights and the introduction of tougher border checks by the Spanish authorities. The latter came amid

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<sup>5</sup> [HC Deb 19 July 1983 c176](#); [15 December 1982: Goodwill gesture reopens Gibraltar border after 13 years](#), Sur in English, 15 September 2017

<sup>6</sup> See House of Commons Library briefing paper, [Brexit and Gibraltar](#), 2 May 2017

<sup>7</sup> House of Commons Foreign Affairs Committee, [Gibraltar: Time to get off the fence](#), 24 June 2014.

<sup>8</sup> As above

<sup>9</sup> The results were as follows: "18,176 voted representing 87.9% of the electorate. There were 89 papers spoilt of which 72 were blank 18,087 of which 187 Voted YES, and 17,900 voted NO", Gibnet, [The 2002 Referendum](#) [accessed 29 October 2024]

<sup>10</sup> Gibraltar National Archives, [50th Anniversary of the Referendum 1967-2017](#) [accessed 14 November 2024]; Gibnet, [The Referendum 1967](#) [accessed 14 November 2024]

<sup>11</sup> [Historic deal agreed on Gibraltar](#), BBC News, 18 September 2006

<sup>12</sup> [Spain's Iberia cans historic Gibraltar air route](#), Reuters, 22 September 2008

<sup>13</sup> [EU angers UK with support for Spain's Gibraltar airport claims](#), The Guardian, 28 February 2019

<sup>14</sup> [2 December 1987: Spain and UK sign doomed Gibraltar Airport agreement](#), Sur In English, 2 December 2022

Spanish complaints about tobacco smuggling from Gibraltar. The Spanish government also complained that Gibraltar was operating as a tax haven and was allowing environmental standards to be contravened in its waters.<sup>15</sup>

## Recent UK government statements

Recent statements by both Conservative and Labour governments in the UK on Gibraltar have stressed a continuing commitment to UK sovereignty over the territory.<sup>16</sup> At the UK-Gibraltar Joint Ministerial Council held in Gibraltar on 29 March 2021, the then Foreign Secretary, Dominic Raab reiterated that:

[the UK] will never enter into arrangements under which the people of Gibraltar would pass under the sovereignty of another state against their freely and democratically expressed wishes. Nor will it enter into a process of sovereignty negotiations with which Gibraltar is not content.<sup>17</sup>

In response to an urgent question on Gibraltar-Spain border checks in the House of Commons on 14 October 2024, the Minister for Development at the Foreign, Commonwealth and Development Office (FCDO) Anneliese Dodds referred to a “double lock” for Gibraltar:

the UK Government will never enter into arrangements under which the people of Gibraltar would pass under the sovereignty of another state against their freely and democratically expressed wishes. We will never enter into a process of sovereignty negotiations with which Gibraltar is not content; that double lock is safe with this Government, and we are fully committed to it.<sup>18</sup>

## Spain’s position on sovereignty

Spain disputes UK sovereignty over Gibraltar. Spain’s foreign ministry website describes Gibraltar as a colony which is incompatible with the 1960 United Nations General Assembly [resolution 1514 \(XV\) on the granting of independence to colonial countries and peoples](#). It states that the applicable principle is not that of self-determination of peoples but rather restitution of Spanish territorial integrity. It refers to repeated requests to the UK to reach a definitive solution to this dispute.<sup>19</sup>

The Spanish foreign ministry also notes that while Gibraltar was ceded to the UK by the Treaty of Utrecht, this related only to “the city and castle of Gibraltar together with its port, defences and fortresses belonging to it”, and not the isthmus, adjacent waters or the overlying airspace. These, it states, were not ceded by Spain and have always remained under Spanish sovereignty and the occupation of them by the UK “does not meet the

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<sup>15</sup> House of Commons Foreign Affairs Committee, [Gibraltar: Time to get off the fence](#), 24 June 2014.

<sup>16</sup> See also responses to Parliamentary Questions: [UIN 41409, tabled on 28 June 2016](#); [UIN HL714, tabled on 3 September 2024](#)

<sup>17</sup> UK Government, [A treaty between the UK and EU in respect of Gibraltar: joint ministerial statement](#), 19 March 2021

<sup>18</sup> [HC Deb 29 October 2024 c604](#)

<sup>19</sup> Spain, Ministry of External Affairs, European Union and Cooperation, [Gibraltar](#) [accessed 5 September 2024]

requirements of international law for the acquisition of sovereignty”. It describes the occupation of the isthmus by the UK as “illegal and contrary to international law” and requests its unconditional return. It states that Spain “does not recognise the occupation of the isthmus or the fence as a border”.

<sup>20</sup>

### Position of Spanish political parties

The two leading parties in Spain, the centre-left Spanish Socialist Workers’ Party (PSOE) and the centre-right People’s Party (PP), both adhere to the traditional Spanish position regarding Gibraltar’s sovereignty as outlined above. PSOE (in government since 2018 under Prime Minister Pedro Sánchez) has generally been viewed as taking a more flexible stance on Gibraltar than the PP and a greater willingness to engage with the UK on common issues relating to Spain and Gibraltar.<sup>21</sup>

Opinion polls in the run-up to the election in Spain in July 2023 indicated that the PP would be the leading party at the election and there was speculation that it may form a pact with the right-wing Vox party in order to form a government.<sup>22</sup> The PP manifesto for the July 2023 general election in Spain pledged to resume “a responsible dialogue with the British government to address the decolonisation process of Gibraltar and the recovery of sovereignty, in accordance with the doctrine established by the United Nations”.<sup>23</sup> Vox had previously taken a hardline stance on Gibraltar and called for Spain’s border with Gibraltar to be closed.<sup>24</sup>

A centre-left coalition led by PSOE however retained office following the election. Prime Minister Sanchez referred to Spain’s position on sovereignty over Gibraltar in an address to the United Nations General Assembly in September 2023 saying that a UK-EU agreement on Gibraltar should “fully respect the United Nations doctrine on this territory, with which Spain fully aligns”.<sup>25</sup>

### Gibraltar position on self-determination

Gibraltar’s Chief Minister, Fabian Picardo, delivers an annual address to the Special Political and Decolonisation Committee (Fourth Committee) of the United Nations General Assembly in New York. In his address on 7 October 2024, he affirmed that Spain ceded sovereignty over Gibraltar in 1713 “in perpetuity” and that the UN General Assembly resolutions that Spain relies on

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<sup>20</sup> Spain, Ministry of External Affairs, European Union and Cooperation, [Gibraltar](#) [accessed 5 September 2024]

<sup>21</sup> Gareth Stockey, [Spain's Partido Popular government is reverting to Francoist type over Gibraltar, to the detriment of all](#), LSE blog, 13 August 2013; [Spain's new leader expected to have flexible approach over Gibraltar according to Telegraph report](#), GBC, 4 June 2018; [In Spain's new political landscape, a different view of Gibraltar](#), Gibraltar Chronicle, 4 June 2018

<sup>22</sup> [Gib must 'hold its nerve' in treaty talks as Spanish election looms](#), Gibraltar Chronicle, 30 May 2023

<sup>23</sup> Partido Popular, [Programa Electoral - un proyecto al servicio de un gran país](#) (PDF), 2023

<sup>24</sup> [UK and Spain inch forward on Gibraltar deal](#), Euractiv, 27 January 2023

<sup>25</sup> [Sanchez reaffirms commitment to Gib treaty in speech to UN](#), Gibraltar Chronicle, 6 September 2023

were “legally worthless”. He said that the only UN General Assembly resolution that really mattered in Gibraltar’s case was General Assembly Resolution 1514 (XV) which explicitly declared the existence of the right of self-determination.<sup>26</sup>

## 1.3 UK military presence in Gibraltar

The UK continues to maintain a permanent joint military presence of approximately 1,100 personnel in Gibraltar (British Forces Gibraltar) and maintains a Forward Mounting Base there. This includes:

- Her Majesty’s Naval Base Gibraltar, home to the Royal Navy Gibraltar Squadron, which contributes to maritime security operations around the strategically vital Straits and helps assure the integrity of British Gibraltar Territorial Waters.
- RAF Gibraltar, which supports contingent operations as well as providing Gibraltar with its international airport.
- The [Royal Gibraltar Regiment](#), a light infantry battalion that provides security and force protection for the forward mounting base, and contributes to the protection of Gibraltar.

The base’s communication systems, runway facilities and harbour also make it an important base for NATO.<sup>27</sup>

The UK Government’s 2021 Integrated Review highlighted the need to “continue to deter and challenge incursions in British Gibraltar Territorial Waters”.<sup>28</sup>

On 1 November 2022, a new £155 million facilities management contract for the MOD estate in Gibraltar came into operation. The first in a suite of new overseas estate contracts, it will provide maintenance work, repairs, servicing and facilities management to all aspects of the estate from the harbour and runway to offices and accommodation for Service personnel. The contract is expected to sustain 200 jobs in Gibraltar over the next seven years.<sup>29</sup>

In a written answer to a [parliamentary question on 2 May 2023](#), then defence minister James Heappey gave some details on UK military capabilities in Gibraltar :

The Royal Navy Gibraltar Squadron consists of two Royal Navy Patrol Launches permanently based at His Majesty’s Naval Base Gibraltar. They are supported

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<sup>26</sup> Gibraltar Government, [Chief Minister Address to UN Fourth Committee - 645/2024](#), 7 October 2024

<sup>27</sup> Further information is available at: [The British Army in Gibraltar](#).

<sup>28</sup> HM Government, [Global Britain in a Competitive Age](#), CP403, p71

<sup>29</sup> Ministry of Defence, [Press release](#), 1 November 2022

by a range of Royal Navy rigid inflatable boats, Gibraltar Defence Police launches and rigid inflatable boats, diving platforms and harbour work boats.

The Naval Base routinely hosts other RN or allied warships and auxiliary vessels for operational visits and maintenance periods. HMS TRENT is forward deployed to Gibraltar to support operations in the Mediterranean and Western Africa.

There are no aircraft either permanently based or temporarily stationed at RAF Gibraltar.<sup>30</sup>

In response to a Parliamentary Question tabled on 6 November 2024 regarding the Government's approach to the security of Gibraltar, the Defence Minister Luke Pollard said that the UK Government was committed to safeguarding the security of all UK Overseas Territories, including Gibraltar. He said that the Ministry of Defence "undertakes regular assessments of the requirements for Defence support to Gibraltar".<sup>31</sup>

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<sup>30</sup> [UIN 182428, tabled on 24 April 2023](#)

<sup>31</sup> [UIN 11556, tabled on 29 October 2024](#)

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## 2 Impact of Brexit

### 2.1 Gibraltar in the EU

Gibraltar joined the then European Community in 1973, alongside the UK, as an external European territory of the UK. Gibraltar was exempted from the Customs Union and EU external trade policy and certain other provisions, but otherwise enjoyed full access to the single market.<sup>32</sup>

### 2.2 2016 Referendum on UK membership of the EU

Gibraltarians took part in the referendum on UK membership of the EU in June 2016 and voted overwhelmingly (96% in favour) to remain in the EU. Gibraltar's Government backed remaining in the EU. It argued membership strengthened its economy and helped Spanish workers contribute to Gibraltar's economy as they could cross the border without restriction.<sup>33</sup>

In evidence to the House of Lords European Union Committee in December 2016, the Gibraltar Chief Minister Fabian Picardo said support for remaining in the EU was shared by all political parties, all members of the Gibraltar parliament, and all trade unions and employers' organisations in Gibraltar.<sup>34</sup>

Following the referendum vote, the Spanish government tabled a new proposal for joint Spanish-UK sovereignty over Gibraltar. The proposal, tabled at the United Nations in October 2016, also involved joint UK-Spanish nationality for Gibraltarians and a special status for Gibraltar within the EU.<sup>35</sup> However, the proposal was rejected by the Gibraltar government.<sup>36</sup>

The UK government also continued to reject the notion of joint sovereignty following the decision to leave the EU, and continued to reiterate that it would "never enter into arrangements under which the people of Gibraltar would pass under the sovereignty of another state against their wishes" and would

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<sup>32</sup> House of Lords European Union Committee, [Supplementary written evidence – Government of Gibraltar \(GLT0001\)](#), 13 December 2016

<sup>33</sup> House of Commons Foreign Affairs Committee, [Written evidence from HM Government of Gibraltar to the Foreign Affairs Committee](#) (EUM0034), March 2016

<sup>34</sup> House of Lords European Union Committee, [Uncorrected oral evidence: Brexit: Gibraltar](#), 13 December 2016.

<sup>35</sup> Elcano Royal Institute, [The joint sovereignty proposal for Gibraltar: benefits for all](#), 13 June 2017

<sup>36</sup> [Gibraltar rebuffs Spanish proposal for joint sovereignty to save EU status](#), The Guardian, 6 October 2016

not “enter into a process of sovereignty negotiations with which Gibraltar is not content”.<sup>37</sup>

## Gibraltar’s position on future arrangements with the EU

In statements following the referendum, Gibraltar’s government emphasised the need to ensure the border with Spain remained open. Chief Minister Picardo told the European Parliament Constitutional Affairs Committee (AFCO) in January 2017 that a free-flowing border between Gibraltar and Spain was particularly important for tourism and frontier workers.<sup>38</sup> Frontier workers are those who cross the border from Spain to work in Gibraltar, and vice versa. Figures in late 2015 showed that 40% of the 26,000 jobs in Gibraltar were filled by frontier workers (around 10,000 jobs), with more than half of these Spanish nationals.<sup>39</sup>

The then foreign office minister David Lidington said in July 2016 that ensuring a well-functioning Gibraltar-Spain border would be one of the government’s “top priorities” in the negotiations with the EU.<sup>40</sup>

The Chief Minister told AFCO in January 2017 that Gibraltar was prepared to consider “any reasonable solution to safeguard border flow”, including a special relationship with the Schengen Area or the establishment of a common travel or immigration area between Gibraltar and the EU.<sup>41</sup>

The Gibraltar Government also emphasised the importance of access to the EU single market, notably in relation to services. In evidence to the House of Lords European Union Committee in 2017, it said that three of the four main sectors of its economy (tourism, financial services and online gaming<sup>42</sup>) were developed on the basis of access to the EU single market, and the loss of access would be “a severe blow to the Gibraltar economy”.<sup>43</sup>

Maintaining a free-flowing border and access to the single market was also seen as important to the adjacent Spanish territory bordering with Gibraltar known as the “Campo de Gibraltar”, with Gibraltar accounting for 25% of employment in the Campo region and contributing to the regional economy

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<sup>37</sup> [Britain rejects Spain's talk of joint sovereignty for Gibraltar](#), The Guardian, 24 June 2016; [JIN 41409, tabled on 28 June 2016](#); [JIN HL692, tabled on 11 July 2017](#)

<sup>38</sup> Government of Gibraltar, [European Parliament Constitutional Affairs Committee: Speaking Note \(PDF\)](#), 30 January 2017

<sup>39</sup> House of Lords European Union Committee, [Brexit: Gibraltar](#), HL Paper 116, 1 March 2017; House of Lords European Union Committee, [Supplementary written evidence – Government of Gibraltar \(GLT0001\)](#), 13 December 2016

<sup>40</sup> [JIN 41409, tabled on 28 June 2016](#)

<sup>41</sup> Government of Gibraltar, [European Parliament Constitutional Affairs Committee: Speaking Note \(PDF\)](#), 30 January 2017

<sup>42</sup> The other key economic sector being port services.

<sup>43</sup> Lords EU Committee, [Brexit: Gibraltar](#), 1 March 2017, HL Paper 116, [Evidence GLT0001](#) (from Government of Gibraltar)



through the import of goods and services and spending by Gibraltar residents in the region.<sup>44</sup>

### Further reading

For further discussion of issues related to the impact of Brexit on Gibraltar see Commons Library Briefing Papers: 7963, [Brexit and Gibraltar](#), 2 May 2017 and 8278, [Brexit: Gibraltar update](#), 5 April 2018.

## 2.3

### Withdrawal Agreement negotiations

When launching the process for UK's withdrawal from the EU, then Prime Minister Theresa May confirmed that Gibraltar's constitutional status post-Brexit would remain secure and that the UK government would not enter into a process of sovereignty negotiations with which Gibraltar is not content.<sup>45</sup> Mrs May said the UK government was "committed to involving Gibraltar fully" in the work the government was doing in preparing for the withdrawal negotiations and would be having regular discussions with the Government of Gibraltar.<sup>46</sup>

The Spanish Government also indicated that it would not be seeking to make the status of Gibraltar a focal point of the withdrawal negotiations.<sup>47</sup> However, the European Council adopted guidelines on the withdrawal negotiations on 29 April 2017 which stated that:

After the United Kingdom leaves the Union, no agreement between the EU and the United Kingdom may apply to the territory of Gibraltar without the agreement between the Kingdom of Spain and the United Kingdom.<sup>48</sup>

Spain's demands in the negotiations focused on rights for frontier workers and action on tobacco smuggling, tax evasion and environmental degradation in the waters around Gibraltar. The latter was reportedly caused by Gibraltar's ship bunkering services as well as other industries, while Gibraltar was also described as the biggest entry point for illegal tobacco products in Spain. Spain wanted stricter tax residence criteria in Gibraltar,

<sup>44</sup> As above

<sup>45</sup> [HC Deb 29 March 2017 c282](#);

<sup>46</sup> [HC Deb 29 March 2017 c282](#)

<sup>47</sup> Commons Library Briefing Paper, [Brexit and Gibraltar](#). Financial Times, [Spain backs early trade talks in Brexit negotiations](#), 26 January 2017

<sup>48</sup> European Council, [Guidelines following the United Kingdom's notification under Article 50 TEU](#) (PDF), 29 April 2017

pointing to over 55,000 registered businesses in a territory of just over 30,000 residents.<sup>49</sup>

## 2.4 Protocol on Gibraltar

In 2018, the UK and EU negotiated a Protocol on Gibraltar as part of the Withdrawal Agreement (WA) which set out the arrangements for the UK's withdrawal from the EU. The Protocol was finalised in November 2018 as part of the first version of the WA negotiated with the EU by Theresa May's Government. Although this version of the WA was not approved by the House of Commons, the Protocol remained unchanged in the final version of the WA concluded by Boris Johnson's Government and the EU in October 2019 and implemented when the UK left the EU on 31 January 2020.

The Protocol on Gibraltar set out areas of bilateral cooperation that will be underpinned by future arrangements between Spain, the UK and Gibraltar.<sup>50</sup> Among issues covered were the following:

- **Citizens' rights.** The Protocol provides for close cooperation between the governments of Spain and the UK to ensure that workers' rights guarantees set out in Part Two of the WA (relating to EU citizens resident in the UK and UK citizens resident in the EU) apply to frontier workers in Gibraltar and Spain. This also involves exchange of information on the workers covered and establishment of a coordinating committee to monitor employment and labour conditions (Article 1). This committee will report to the joint UK-EU Specialised Committee on Gibraltar established as part of the governance structure for the WA.
- **Gibraltar Airport.** The Protocol maintains the status quo and provides that EU law which does apply to the airport only becomes applicable if the UK-EU Joint Committee that oversees the WA decides that it should. This would follow notification from the UK and Spain that they had reached a satisfactory agreement on the use of the Airport (Article 2).
- **Taxation.** The Protocol provides for UK and Spain to cooperate on tax transparency, in tackling fraud, smuggling and money laundering and resolving tax residency conflicts. Gibraltar will also comply with international (G20 and OECD) standards on good fiscal governance, transparency, information exchange, harmful tax practices and economic substance criteria. In addition, the UK will extend to Gibraltar its ratification of two international conventions on tobacco control on the elimination of the illicit trade in tobacco and ensure that standards

<sup>49</sup> [Future of Gibraltar after Brexit: Spain hopeful of closing Gibraltar Brexit deal with UK by October](#), El Pais, 21 September 2018

<sup>50</sup> For further detail on the Protocol on Gibraltar, Memorandums of Understanding and background see: Section 9.2 of the Commons Library Briefing Paper on the November 2018 Withdrawal Agreement, [The UK's EU Withdrawal Agreement](#), CBP8453.

equivalent to those of the EU on the traceability and security of tobacco products are in force in Gibraltar. The UK will also ensure that for alcohol and petrol, there is a tax system that aims to prevent fraudulent activities in Gibraltar.

- Environmental matters. The Protocol provides for the UK and Spain to discuss environmental issues such as waste management, air quality, scientific research and fishing. The EU will be invited to participate in these meetings. The coordinating committee will report to the Specialised Committee on Gibraltar on a regular basis (Article 4).
- Police and customs. The Protocol provides for a coordination committee for monitoring and cooperation on police and customs matters. The EU will be invited to participate in these meetings. The committee will report regularly to the Specialised Committee (Article 5).

Article 6 of the Protocol sets out the tasks of the Specialised Committee on Gibraltar. These include facilitation of implementation of the Protocol and discussing any difficulties in relation to the Protocol raised by the UK or the EU. The Specialised Committee also examines the reports of the coordination committees established under the Protocol and makes recommendations to the main WA governing Joint Committee on the functioning of the Protocol.<sup>51</sup>

## 2.5

### Spain position on UK-EU future relations agreement

Following the announcement of the WA on 14 November 2018 there were reports that Spain was threatening to veto it over the wording of Article 184 which refers to the UK and EU using their best endeavours to negotiate a future relationship agreement. The Spanish government had sought a clarification that the future relations agreement would not apply to Gibraltar.<sup>52</sup>

On 24 November 2018, the then European Council and European Commission Presidents, Donald Tusk and Jean-Claude Juncker sent a letter to the Spanish Prime Minister, Pedro Sánchez, confirming their “shared interpretation” of Article 184 and the territorial scope of the future relations agreement which would not include Gibraltar.<sup>53</sup> This was followed up by two declarations adopted by EU heads of state and government (minus the UK) at the European Council summit on 25 November 2018 which confirmed this interpretation. The first declaration stated that there was “no obligation or

<sup>51</sup> Official Journal of the EU, Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community 2019/C 384 I/01, [Protocol on Gibraltar](#), 2019/C 384 I/01; See also Section 9 of House of Commons Library briefing paper, 8453, [The UK's EU Withdrawal Agreement](#), 8 July 2019

<sup>52</sup> [Spain accuses UK of treachery over Gibraltar Brexit deal](#), The Guardian, 22 November 2018

<sup>53</sup> [Letter from the Presidents of the European Council and European Commission to the Prime Minister of Spain](#) (PDF), 24 November 2018

presumption” for the future relations agreements to have the same territorial scope as the WA, and also noted the UK declaration that it also shared this interpretation. The second declaration confirmed that Gibraltar would not be included in the territorial scope of the future relationship agreements to be concluded between the EU and the UK while not precluding the possibility to have separate agreements between the EU and the UK in respect of Gibraltar.<sup>54</sup>

## 2.6

### UK-Spain-Gibraltar Memorandums of Understanding

Following on from agreement of the draft protocol, the governments of the UK and Spain concluded four Memorandums of Understanding (MoUs, these are non-legally binding political agreements) on Gibraltar on 29 November 2018. These covered citizens’ rights, cooperation on environmental matters, cooperation in police and customs matters, tobacco, and other products. The three governments also agreed to conclude a tax agreement covering tax transparency and cooperation. The MoUs provided further detail on the implementation of the protocol, including the composition and activities of relevant committees and other information sharing and monitoring mechanisms.<sup>55</sup>

A Concordat between the UK and Gibraltar government was published alongside the MoUs. This states that the MoUs and the Protocol on Gibraltar will be implemented in accordance with the Constitution of Gibraltar, with the Gibraltar Government responsible for implementing them.<sup>56</sup>

Following on from the commitment in November 2018, the UK and Spain reached an agreement on taxation and the protection of financial interests regarding Gibraltar in March 2019. The agreement sets out rules on tax residency and arrangements for administrative co-operation overseen by a Joint Coordination Committee which will also seek to resolve disputes.<sup>57</sup> The agreement came into force in March 2021.<sup>58</sup>

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<sup>54</sup> European Council, [Special meeting of the European Council \(Art. 50\) \(25 November 2018\) - Statements for the minutes](#) (PDF), 25 November 2018

<sup>55</sup> Foreign, Commonwealth and Development Office (FCDO), [Brexit negotiations: Gibraltar memoranda of understanding](#), 30 November 2018

<sup>56</sup> Foreign, Commonwealth and Development Office (FCDO), [Concordant concerning the implementation of the Gibraltar protocol to the Withdrawal Agreement and related Memoranda of Understanding](#) (PDF), 30 November 2018

<sup>57</sup> Foreign and Commonwealth Office, [UK/Spain: International Agreement on Taxation and the Protection of Financial Interests regarding Gibraltar \[CS Spain No.1/2019\]](#), 15 March 2019

<sup>58</sup> Foreign, Commonwealth and Development Office, [UK/Spain: International Agreement on Taxation and the Protection of Financial Interests regarding Gibraltar \[TS No.78/2024\]](#), 9 October 2024

## 2.7

## Post-Brexit bridging arrangements

Following the end of the Brexit transition period (when EU rules continued to apply to the UK) on 31 December 2020 some bridging arrangements remained in place between Gibraltar and the EU pending the negotiation of new arrangements for the Gibraltar-EU relationship. These bridging arrangements included the following:

- reciprocal access for health care to residents of Spain and Gibraltar, where medically necessary, during temporary stays in each other's territory
- reciprocal recognition of driving licenses (UK and Gibraltar licenses in Spain, and Spanish licenses in Gibraltar) for persons legally resident in each other's territory<sup>59</sup>
- Reciprocal measures allowing road haulage operators licensed in Gibraltar, Spain and the EU to carry passengers by road between Spain and the EU and Gibraltar<sup>60</sup>

These bridging arrangements were periodically extended. However, arrangements for road haulage no longer applied from 1 March 2022, after the Spanish Government withdrew the measure enabling this.

Similarly, the bridging measure on reciprocal healthcare ended on 30 June 2022 following a Spanish Government decision not to continue with it. The Gibraltar Government advised residents of Gibraltar that as of 1 July 2022, they should ensure that they have appropriate travel insurance with medical cover each time they go to Spain. This would be irrespective of the duration of the stay, even if only for a few hours.<sup>61</sup>

The bridging measure on driving licenses ended on 30 April 2022 after the Spanish Government decided against further extension.<sup>62</sup> However, in March 2023 the UK and Spanish Governments came to an agreement providing for the reciprocal recognition and exchange of UK and Gibraltar driving licences in Spain.<sup>63</sup>

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<sup>59</sup> These were set out in a set of technical notices on the Gibraltar Government website [Brexit page](#): See [Technical Notice - Extension of Spanish Bridging Measures](#) (pdf), 25 June 2021; [Technical Notice - Extension of Spanish Bridging Measures](#) (pdf), 27 October 2021; and [Technical Notice - Further Extension of Spanish Bridging Measures](#) (pdf), 31 December 2021.

<sup>60</sup> Gibraltar Government, [Technical Notice - Road Haulage](#), 15 February 2022

<sup>61</sup> Gibraltar Government, [Technical Notice - End of Reciprocal Healthcare Arrangements with Spain](#) (pdf), 28 June 2022

<sup>62</sup> Gibraltar Government, [Technical Notice - Exchange and use of Gibraltar driving licences by Gibraltar residents of Spain](#) (pdf), 30 April 2022

<sup>63</sup> Gibraltar Government, [Technical Notice - Reciprocal recognition and exchange of Gibraltar driving licences with Spain](#) (pdf), 14 March 2023 and [Technical Notice - Reminder Driving licence recognition, exchange and data exchange](#) (pdf), 27 October 2023. See also Gibraltar Chronicle, [Spain agrees licence deal for Gib and UK drivers](#), 15 March 2023

## Checks on Spain-Gibraltar border

Under a unilateral interim Spanish measure, citizens holding a red identity card (for Gibraltar citizens and permanent residents) have been able to continue to cross the border into Spain without having their passport stamped.<sup>64</sup> There have however been occasional reports, and complaint from the Gibraltar government, that the Spanish authorities have tightened checks at the border.<sup>65</sup>

In early 2022, there were complaints that UK citizens with blue temporary residence cards were being subjected to stricter checks and passport stamping, with some denied entry at the Gibraltar-Spain border if they could not provide evidence of onward travel plans.<sup>66</sup> The Gibraltar Government said this was triggered by the UK decision to require EU citizens to have passports when entering the UK and no longer be able to enter with just an identity card.<sup>67</sup> The matter was raised with the UK Government by the House of Commons European Scrutiny Committee in May 2022.<sup>68</sup>

Stricter controls on unaccompanied minors crossing the border from Gibraltar to Spain were also introduced by the Spanish authorities in October 2022.<sup>69</sup>

In April 2024, there were also reports of residents of Gibraltar with red identity cards being fined if they travelled beyond the Campo de Gibraltar without a passport stamp.<sup>70</sup>

### Spain temporarily suspends interim border arrangements in October 2024

On 11 October 2024, the Gibraltar Government said it had been notified the previous evening that Spain had ceased the interim border arrangements that enabled red identity card holders to pass through without passport stamps. It said that this action had occurred “without any prior warning whatsoever”. However, the Gibraltar Government said it appeared that the instruction had been given by a Spanish police officer without authorisation and that the Spanish government had not been notified of the change. The Gibraltar

<sup>64</sup> [Govt unaware of any change to Red ID interim measures, but urges caution if travelling afar](#), Gibraltar Chronicle, 23 April 2024

<sup>65</sup> Gibraltar Government, [Government will take reciprocal action at the border - 569/2023](#), 25 August 2023

<sup>66</sup> See European Scrutiny Committee, [Summary of meeting with ‘blue card’ holders 6 July 2022](#) (pdf); See also SUR in English, [More stringent controls being carried out by Spanish police at the Gibraltar border](#), 19 April 2022

<sup>67</sup> [UK move on EU ID cards triggered passport stamps for Gib ‘blue card’ holders, Govt says](#); Gibraltar Chronicle, 7 October 2021

<sup>68</sup> See European Scrutiny Committee, [Negotiations with EU over Gibraltar border ‘no small issue’: MPs launch inquiry](#), 9 June 2022. See also UK government response: [Letter from The Rt Hon. James Cleverly MP Minister of State Europe and North Americas to the Chair of the European Scrutiny Committee](#), 30 May 2022 (pdf) and Parliamentary Question, [UIN 25751, tabled on 27 June 2022](#)

<sup>69</sup> Gibraltar Government, [10/10/2022 - Technical Notice - Information with respect to minors crossing the border](#), 10 October 2022

<sup>70</sup> [Govt unaware of any change to Red ID interim measures, but urges caution if travelling afar](#), Gibraltar Chronicle, 23 April 2024

Government said it had given instructions to move to immediate reciprocity of treatment for crossings from Spain to Gibraltar unless the immediate arrangements were reestablished.<sup>71</sup>

By late morning on 11 October and following the build-up of a large queue at the border, the Spanish police reverted to the interim arrangements meaning Gibraltar residents with red identity cards would not have their passports stamped. Following the day's events, Chief Minister Picardo said that:

Given the sporadic nature of the manner in which Spain has either through direct instructions, or at the whim of Spanish Police officers, decided that it can lift interim measures at any time, it is best for those who need to cross the frontier into Gibraltar to always have their passports with them in case we are forced to require them, as we were today. If the benefits currently afforded to Gibraltarians are undone, HM Government of Gibraltar will immediately reciprocate.<sup>72</sup>

The brief revocation of the unilateral measure was raised in an Urgent Question in the House of Commons on 14 October 2024. Responding for the Government, the Minister for Development, Anneliese Dodds, said that the Minister for Europe, Stephen Doughty, had contacted his Spanish counterpart about the matter, and that the Spanish government had indicated that the change had been instigated locally by a Spanish border official. The matter had then been “dealt with swiftly by Spain and usual border arrangements resumed”. She said that the UK Government was “grateful to the Government of Spain for the continued implementation of the informal bridging measures”.<sup>73</sup>

The Gibraltar Government statement on 11 October noted that the Spanish government had indicated that the unilateral measure on the border would need to be withdrawn when the new automated EU entry/exit system for checking travel documents, also involving biometric checks, comes into operation.<sup>74</sup> This had been scheduled for November 2024, but was postponed again in October 2024 and will not be implemented until 2025 (see section 3.7).

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<sup>71</sup> Gibraltar Government, [Policia Nacional Unilaterally Suspends Interim Measures at Frontier : Gibraltar Immediately Reciprocates - 661/2024](#), 11 October 2024

<sup>72</sup> Gibraltar Government, [Policia Nacional Unilaterally Suspends Interim Measures at Frontier : Gibraltar Immediately Reciprocates - 661/2024](#), 11 October 2024

<sup>73</sup> [HC Deb 14 October 2024 c603](#)

<sup>74</sup> Gibraltar Government, [Policia Nacional Unilaterally Suspends Interim Measures at Frontier : Gibraltar Immediately Reciprocates - 661/2024](#), 11 October 2024



## 3 Negotiations on the future EU-Gibraltar relationship

As set out in section 2.5, at the insistence of the Spanish government, Gibraltar was not covered in the negotiations on a new UK-EU agreement which culminated in the UK-EU Trade and Cooperation Agreement (TCA) in December 2020. Instead, the UK and the EU agreed on a framework for negotiations on a separate agreement on Gibraltar's relationship with the EU, which would require the prior agreement of Spain.

Negotiations on a UK-EU agreement on Gibraltar-EU relations began in October 2021 and are still continuing.<sup>75</sup> There have been repeated indications that an agreement might be imminent, but this has not materialised.<sup>76</sup>

Negotiations were interrupted by the Spanish general election in July 2023 and a period of political uncertainty and deadlock in Spain with the coalition led by the Spanish Socialist Workers' Party (PSOE) (in government since November 2018) not being reconfirmed in office until November 2023.<sup>77</sup>

After negotiations appeared to gain momentum again at the end of 2023 and early 2024, they were interrupted by the July 2024 general election in the UK. This also coincided with the end of the institutional cycle in the EU, with a new European Commission being assembled following the European Parliament elections in June 2024 and due to take office in December 2024.

### 3.1 December 2020 Framework Agreement

Discussions between the UK and Spain were held in parallel to the negotiations on the TCA, leading to a non-binding framework agreement on 31 December 2020.

This was intended as the basis of negotiations between the UK and EU on an agreement relating to Gibraltar. The framework agreement included the following elements:

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<sup>75</sup> For a timeline of negotiation rounds until May 2022, see Gibraltar Government, [Chief Minister's Statement to Parliament: UK/EU Treaty negotiations - 341/2022](#), 16 May 2022

<sup>76</sup> [Post-Brexit talks on Gibraltar's future drag into 2022](#), Politico, 16 December 2021, accessed 29 March 2022

<sup>77</sup> [Pedro Sanchez secures another term as Spain's prime minister, set to form government](#), CBNC, 16 November 2023

- Gibraltar would become part of the EU internal border-free Schengen area. Physical infrastructure and barriers to the movement of goods and people at the Gibraltar-Spain border would be removed, with a customs union between Gibraltar and the EU also envisaged.
- Spanish officials would be responsible for ensuring Schengen rules are observed at external entry points into Gibraltar (at the port and airport of Gibraltar), although officials from the EU Frontex border agency would provide operational assistance in carrying out these tasks for a four-year implementation period. Schengen border checks would follow border checks by the Gibraltar authorities to ensure compliance with Gibraltar immigration policy. If after the end of the implementation period either Spain or the UK/Gibraltar were not satisfied with these arrangements, the agreement could be terminated.
- Provisions to ensure a level playing field on the environment, state aid and employment to avoid distortions to trade.
- Cooperation on tax matters, transport and police and judicial matters.
- Measures on social security cooperation and to ensure the equal treatment of frontier workers.<sup>78</sup>

An article in the Spanish newspaper El Pais commented that these arrangements would create a paradox whereby Gibraltar “could be more integrated in the EU now that it is out of it than when the UK was part of the bloc, given that it was not part of Schengen, nor the customs union or common market”.<sup>79</sup>

The agreement was welcomed in a statement by then UK Foreign Secretary, Dominic Raab, who said that it would be sent to the European Commission to initiate negotiations and that all sides in the meantime were “committed to mitigating the effects of the end of the [Brexit] Transition Period on Gibraltar” and to “in particular ensure border fluidity, which is clearly in the best interests of the people living on both sides”.<sup>80</sup>

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<sup>78</sup> See Council of EU [Letters regarding a proposed framework for a UK-EU legal instrument setting out Gibraltar’s future relationship with the EU](#) (PDF), 5 January 2021 (and attached Non Paper: Proposed framework for a UK-EU legal instrument setting out Gibraltar’s future relationship with the EU), published on website of Spanish newspaper, El Independiente

<sup>79</sup> [Gibraltar after Brexit: Spain, UK reach ‘preliminary agreement’ that will see an end to the border with Gibraltar](#). El Pais, 31 December 2020

<sup>80</sup> UK Government, [UK-Gibraltar-Spain agreement: statement from the Foreign Secretary](#), 31 December 2020

## 3.2

## UK and Gibraltar joint approach to negotiations

Then Foreign Secretary Dominic Raab, and the Chief Minister of Gibraltar, Fabian Picardo, agreed a joint approach to the negotiations with the EU at the UK-Gibraltar Joint Ministerial Council held in Gibraltar on 29 March 2021.

As noted in section 1.2, the Foreign Secretary reiterated the UK's longstanding commitment that it would “never” enter into arrangements under which the people of Gibraltar “would pass under the sovereignty of another state against their freely and democratically expressed wishes” and nor would it “enter into a process of sovereignty negotiations with which Gibraltar is not content”.<sup>81</sup>

The Foreign Secretary and the Chief Minister issued a statement on the proposed agreement, saying that it was aimed at securing “future prosperity for Gibraltar and the surrounding region” and ensuring “fluid and open movement of people and goods between Gibraltar and the EU”. However, they said that the treaty “must be on the right terms” preserving Gibraltar's British identity and the UK's sovereignty and that if this did not prove to be the case or the deal on offer was not right then they would be “fully prepared to accept the implications”. The statement said that UK would stand fully behind Gibraltar, its people and its economy in any scenario.<sup>82</sup>

The statement noted that the political framework agreement had set out a “pragmatic model to achieve the fluid movement of people between Gibraltar and the Schengen area” under which there would be a joint operation with Frontex for an initial four-year implementation period of four years. The statement noted that the agreement could be terminated if after the end of the implementation period either Spain or the UK/Gibraltar were not satisfied with the arrangements.<sup>83</sup>

The statement said that arrangements should reflect the “unique character and limited scale” of Gibraltar's economy, with the aim of minimising barriers between Gibraltar and the EU “without requiring a disproportionate regulatory, legal or administrative burden”. The UK and Gibraltar were however prepared to make level playing field commitments “proportionate to the scale of Gibraltar's economy and the levels of market access in the treaty”, to ensure that unfair distortions do not occur. They also agreed that the agreement would need to include provisions for transport, environmental

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<sup>81</sup> UK Government, [A treaty between the UK and EU in respect of Gibraltar: joint ministerial statement](#), 29 March 2021

<sup>82</sup> UK Government, [A treaty between the UK and EU in respect of Gibraltar: joint ministerial statement](#), 29 March 2021

<sup>83</sup> UK Government, [A treaty between the UK and EU in respect of Gibraltar: joint ministerial statement](#), 29 March 2021

protection, social security coordination, citizens' rights (frontier workers), and data protection.<sup>84</sup>

The joint statement said that governance of the agreement should also be proportionate “reflecting the nature of the treaty as well as the judicial autonomy of the parties” involving a simple joint committee structure and dispute settlement.<sup>85</sup>

### 3.3 EU negotiating mandate

The EU subsequently published its proposed mandate for talks with the UK on Gibraltar on 5 July 2021. This included proposals for the removal of border checks for people between Gibraltar and the Schengen area, although Gibraltar would not apply other Schengen provisions or participate in the development of Schengen rules. Schengen border controls would be carried out by the Spanish authorities, who would have a range of powers to implement immigration and asylum policy. A customs union would be established between the EU and Gibraltar, and associated level playing field measures implemented, and EU institutions would have powers to enforce relevant legislation in Gibraltar.<sup>86</sup>

The proposed mandate was met with objections from both the UK and Gibraltar Governments. Then Foreign Secretary Dominic Raab said that the Commission's proposed mandate directly conflicted with the framework agreed in December 2020 and “seeks to undermine the UK's sovereignty over Gibraltar and cannot form a basis for negotiations”.<sup>87</sup>

Some aspects of the proposed EU mandate were amended before it was adopted in October 2021.<sup>88</sup> Following the adoption of the EU mandate, then Foreign Secretary Liz Truss said that while the final mandate had not been published, the Government understood that it importantly now referenced the role of Frontex in delivering “the fluid movement of people between Gibraltar and the Schengen area”. She said that both the UK Government and Government of Gibraltar had been clear that “the operation of frontline Schengen external border checks on the territory of Gibraltar by Spanish

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<sup>84</sup> UK Government, [A treaty between the UK and EU in respect of Gibraltar: joint ministerial statement](#), 29 March 2021

<sup>85</sup> UK Government, [A treaty between the UK and EU in respect of Gibraltar: joint ministerial statement](#), 29 March 2021

<sup>86</sup> European Commission, [EU-UK relations: Commission proposes draft mandate for negotiations on Gibraltar](#), 20 July 2021

<sup>87</sup> UK Government, [Draft mandate for negotiations in respect of Gibraltar: Foreign Secretary statement](#), 20 July 2021

<sup>88</sup> Council of EU, [EU-UK relations: Council authorises the start of negotiations for an agreement in respect of Gibraltar](#), 5 October 2021; Wendy Morton MP, Minister for European and the Americas, [Letter to the Chair of European Scrutiny Committee: Negotiations with the European Union in respect of Gibraltar](#), 13 October 2021

officials would not be acceptable”.<sup>89</sup> However, she noted that there remained “a number of areas where the opening EU position directly conflicts with the Political Framework agreed between the UK and Spain”.<sup>90</sup>

In a letter to the European Scrutiny Committee on 13 October 2021, the then Minister for Europe Wendy Morton set out areas of the EU negotiation mandate that the UK was concerned about. These included the following EU proposals:

- Spain would be responsible for issuing short and long stay visas and residence permits for Gibraltar
- Spain would be responsible for asylum claims made in Gibraltar “in cooperation with the UK”
- Law enforcement measures “going well beyond what is in the Political Framework which would have direct implications for UK sovereignty”
- Measures on mobility of goods and on the level playing field “wholly disproportionate to what is needed to deliver the objectives of the Political Framework”.<sup>91</sup>

The Minister said that the EU proposal would result in “numerous regulations and directives covered by the Single Market, Schengen and Law Enforcement cooperation rulebooks” applying to Gibraltar, overseen by the EU institutions and enforced directly by the Court of Justice of the EU (CJEU). She said this was “clearly unnecessary and totally disproportionate to the size and scale of Gibraltar and the type of agreement we are seeking”.<sup>92</sup> She said that a role for the CJEU was “not mentioned or foreseen in the Political Framework and is not necessary for the purposes of this agreement”.<sup>93</sup>

## 3.4

## Negotiations in 2021 and 2022

Negotiations began on 11 October 2021, with four negotiating rounds have taken place by the end of the year. In a statement to the Gibraltar Parliament in May 2022, the Chief Minister said that eight rounds of negotiations had so far taken place, with positive progress being made in recent weeks and at least two more rounds of formal negotiations required. He said the key issue

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<sup>89</sup> UK Government, Written Statement. Gibraltar: Future Relationship with the European Union, [UIN HCWS316](#), 18 October 2021

<sup>90</sup> UK Government, Written Statement. Gibraltar: Future Relationship with the European Union, [UIN HCWS316](#), 18 October 2021

<sup>91</sup> Wendy Morton MP, Minister for European and the Americas, [Letter to the Chair of European Scrutiny Committee: Negotiations with the European Union in respect of Gibraltar](#), 13 October 2021

<sup>92</sup> Wendy Morton MP, Minister for European and the Americas, [Letter to the Chair of European Scrutiny Committee: Negotiations with the European Union in respect of Gibraltar](#), 13 October 2021

<sup>93</sup> Wendy Morton MP, Minister for European and the Americas, [Letter to the Chair of European Scrutiny Committee: Negotiations with the European Union in respect of Gibraltar](#), 13 October 2021

to be resolved was arrangements for checks on persons entering the Schengen area via Gibraltar, with the practicalities of arrangements for Schengen checks carried out by Spanish officials and assisted by Frontex still needing to be finalised.<sup>94</sup> Further negotiating rounds took place in October and November 2022.<sup>95</sup> A local newspaper report in Spain in early November 2022 suggested that Spain had revived claims for joint sovereignty over Gibraltar in the negotiations.<sup>96</sup>

## Statements on draft agreement text, November 2022

### Gibraltar Government, 18 November 2022

On 18 November 2022, the Gibraltar Government made a statement noting reports that a draft text had been produced for a UK-EU agreement in relation to Gibraltar. The Gibraltar Government said that although some texts had been proposed by both the UK and EU, these were not agreed texts, and the negotiations had not reached the final drafting stages.<sup>97</sup>

However, the Gibraltar Government said that negotiations were continuing very positively, and that it was working very closely with the UK Government. At the same time the Gibraltar Government was continuing to plan for a No Negotiated Outcome (see section 3.8) should it not be possible to reach an agreement. Chief Minister Picardo said that great resources were being deployed to try to reach an agreement but “we are not there yet”. He added that “we can only reach agreement if the proposal is safe and secure for Gibraltar and we are certain we can reach that stage”.<sup>98</sup>

### Spanish Government, 25 November 2022

On 25 November 2022, Spain’s Foreign Minister, José Manuel Albares, announced that Spain and the European Commission had sent the UK the text of a comprehensive agreement for Gibraltar. He said the proposal would make the wider area of the Campo de Gibraltar a “zone of shared prosperity”. The announcement was made in a meeting with representatives of Spanish local authorities with powers in relation to the “Campo di Gibraltar”.<sup>99</sup>

Albares said the text included provisions to guarantee the full fluidity of the movement of people by removing the Spain-Gibraltar frontier. He said this would require that Spain control Gibraltar’s external border, on behalf of

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<sup>94</sup> Gibraltar Government, [Chief Minister’s Statement to Parliament: UK/EU Treaty negotiations - 341/2022](#), 16 May 2022

<sup>95</sup> Gibraltar Government, [31/10/22 - Guidance to Businesses and Certain Public Services](#), 31 October 2022; Gibraltar Government, [Chief Minister and Deputy Chief Minister travel to London for talks ahead of a further round of UK / EU Negotiations - 832/2022](#), 7 November 2022

<sup>96</sup> [Gibraltar Preparing For Brexit Negotiations To Fail](#), Murcia Today, 2 November 2022

<sup>97</sup> Gibraltar Government, [HMGoG notes statements on UK/EU Treaty - 858/2022](#), 18 November 2022

<sup>98</sup> Gibraltar Government, [HMGoG notes statements on UK/EU Treaty - 858/2022](#), 18 November 2022

<sup>99</sup> Spain, Ministry of Foreign Affairs, European Union and Cooperation, [España y la Comisión Europea presentan a Reino Unido una propuesta para que el Campo de Gibraltar sea una zona de prosperidad compartida](#), 25 November 2022

Schengen, and also exercise the necessary functions and powers to protect the security of the Schengen area.<sup>100</sup>

He said the proposal would also guarantee free movement of goods between the EU and Gibraltar. Customs controls between Spain and Gibraltar would disappear, but this would require Spain to exercise controls over goods entering Gibraltar from outside of the EU in order to protect the internal market. There would also need to be measures to ensure fair competition, to ensure a level playing field between economic entities in Gibraltar and those in the EU. In addition, there would be provisions to combat money laundering, guarantee high environmental standards, and ensure nuclear safety. There would also be mechanisms for funding training and employment programmes in the area.<sup>101</sup>

Albares added that Spain's position regarding sovereignty and jurisdiction over Gibraltar remained unchanged and would not be modified by the proposed UK-EU agreement.<sup>102</sup>

### **Gibraltar Government response, 25 November 2022**

Following the statement by the Spanish Foreign Minister, the Gibraltar Government said the UK and Gibraltar had also tabled treaty texts in the negotiations.<sup>103</sup> Chief Minister Picardo made a statement to the Gibraltar Parliament on 25 November 2022 referring to the proposals tabled by the UK and Gibraltar Governments. He said the UK-Gibraltar proposals provide for the removal of trade barriers and the protection of the EU single market “in a manner that would not compromise our fiscal or wider sovereignty concerns”. He said the UK-Gibraltar proposals addressed the issue of movement across the frontier in line with provisions agreed in the December 2020 framework agreement, which would protect the integrity of the Schengen Area.<sup>104</sup>

He said there would also be enhanced cooperation in other areas, and provisions to ensure cross frontier workers continue to enjoy equal treatment

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<sup>100</sup> Spain, Ministry of Foreign Affairs, European Union and Cooperation, [España y la Comisión Europea presentan a Reino Unido una propuesta para que el Campo de Gibraltar sea una zona de prosperidad compartida](#), 25 November 2022

<sup>101</sup> Spain, Ministry of Foreign Affairs, European Union and Cooperation, [España y la Comisión Europea presentan a Reino Unido una propuesta para que el Campo de Gibraltar sea una zona de prosperidad compartida](#), 25 November 2022

<sup>102</sup> Spain, Ministry of Foreign Affairs, European Union and Cooperation, [España y la Comisión Europea presentan a Reino Unido una propuesta para que el Campo de Gibraltar sea una zona de prosperidad compartida](#), 25 November 2022

<sup>103</sup> See [After Madrid meeting, positive messaging laced with politics in treaty 'endgame'](#), Gibraltar Chronicle, 25 November 2022

<sup>104</sup> Gibraltar Government, [Chief Minister's Statement to Parliament on Albares Remarks - 876/2022](#), 25 November 2022



with resident workers in respect of in-work benefits.<sup>105</sup> The Chief Minister said the aim was for an agreement to be finalised by the end of the year.<sup>106</sup>

## UK-Spain talks in December 2022

On 14 December 2022, the then UK Foreign Secretary James Cleverly met with Spain's foreign minister José Manuel Albares in Madrid. At a joint press conference following the talks, the two ministers said there had been "significant progress" that day but that differences remained.<sup>107</sup>

Cleverly said that negotiations were happening "in an optimistic and positive spirit", and that it was now in everyone's best interests for the matter to be resolved "properly but also quickly". Albares said Spain's full proposal for Gibraltar's EU relations was on the table, but Cleverly said "if the proposal was completely acceptable, we would have accepted it".<sup>108</sup>

Cleverly said that one area "where we need to find a resolution" was the question of how passport checks are carried out on air or sea travellers moving between Gibraltar and the UK mainland or other countries outside the Schengen zone. The UK government reportedly remained opposed to Spanish officials checking travel documents inside Gibraltar and wanted officials from Frontex to be used instead. However, Albares said that it was "clear" that, if there was to be an extension of the Schengen area to Gibraltar "then the controls have to be carried out on behalf of the European Union by the approved authorities, which in this case is the Spanish police".<sup>109</sup>

## 3.5

## Talks continue into 2023 and 2024

Negotiations continued into 2023 and 2024. The UK-EU Windsor Framework agreement on the Northern Ireland protocol at the end of February 2023 had led to some optimism that a deal on Gibraltar would follow soon. However, Chief Minister Picardo stressed that these were two separate sets of negotiations with progress in one not linked to the other.<sup>110</sup> The thirteenth round of negotiations took place in April 2023 but did not yield a breakthrough.<sup>111</sup>

<sup>105</sup> Gibraltar Government, [Chief Minister's Statement to Parliament on Albares Remarks - 876/2022](#), 25 November 2022

<sup>106</sup> Gibraltar Government, [Chief Minister's Statement to Parliament on Albares Remarks - 876/2022](#), 25 November 2022

<sup>107</sup> [Gibraltar talks with UK cannot be 'eternal', says Spain](#), Financial Times, 14 December 2022

<sup>108</sup> [Gibraltar talks with UK cannot be 'eternal', says Spain](#), Financial Times, 14 December 2022

<sup>109</sup> [Gibraltar talks with UK cannot be 'eternal', says Spain](#), Financial Times, 14 December 2022

<sup>110</sup> House of Commons European Scrutiny Committee, [Oral evidence: Negotiations with the European Union in respect of Gibraltar](#), HC 124, 5 July 2023, Q123

<sup>111</sup> [UK/EU treaty talks resume in London next week for 13th formal round](#), Gibraltar Chronicle, 21 April 2023

## Dominic Raab resignation comments

Former Foreign Secretary Dominic Raab, who had left the Government in 2022 before returning as Justice Secretary, resigned from the Government in 2023. In his resignation letter Mr Raab said that a senior diplomat had “breached the mandate agreed by the Cabinet” in negotiations with the EU over Gibraltar, and said it was important for ministers “to be able to exercise direct oversight with respect to senior officials over critical negotiations conducted on behalf of the British people”.<sup>112</sup>

Chief Minister Picardo then made a statement stating that he had worked well with Mr Raab, but that at the same time the Government of Gibraltar had “always enjoyed, and continues to enjoy, a strong and professional working relationship with countless senior officials and diplomats” during the Brexit process and in the ongoing negotiations on the EU-Gibraltar relationship. The Chief Minister said that Mr Raab and all officials involved in the negotiations had “at every stage been committed to delivering the outcomes” that the Government of Gibraltar had publicly set out as its objectives.<sup>113</sup>

## Spain seeks regulatory framework for Gibraltar airport

A report in the Times newspaper in June 2023 suggested that talks were in difficulty over a Spanish proposal for a regulatory framework for the management of Gibraltar airport. According to the Governor of Gibraltar, Vice-Admiral Sir David Steel, this implied Spanish jurisdiction “which is not something that Gibraltar can tolerate” and this appeared to be reintroducing sovereignty into the talks. The Governor also expressed concern about proposals for management of the border, and the degree of Spanish oversight of Frontex staff in implementing Schengen checks.<sup>114</sup>

The Times also reported that Spanish officials had claimed that the UK and Gibraltar were the obstruction to a treaty being finalised. A Spanish official had commented that while the proposed agreement would make concessions in favour of Spain, it also implicitly recognised UK sovereignty so weakened Spain’s negotiating position in the long term. Chief Minister Picardo rejected the view that the UK and Gibraltar were responsible for the talks faltering, and said he was seeking to move the talks forward. However, he said that he would block any proposals that impinged on Gibraltar’s positions on “sovereignty, jurisdiction or control”.<sup>115</sup>

Concerns were also expressed on both sides of the negotiations about the possible implications of the Spanish general election, which would take place on 23 July 2023.<sup>116</sup> As noted in section 1.2, opinion polls had indicated that the centre-right PP would be the leading party at the election and there was

<sup>112</sup> Dominic Raab (@DominicRaab), X (Twitter), 21 April 2023 [accessed 14 November 2024]

<sup>113</sup> Gibraltar Government, [Government of Gibraltar statement on resignation of Dominic Raab - 25/04/2023](#), 21 April 2024

<sup>114</sup> [Gibraltar airport row threatens post-Brexit deal with Spain](#), The Times, 26 June 2023

<sup>115</sup> [Gibraltar airport row threatens post-Brexit deal with Spain](#), The Times, 26 June 2023

<sup>116</sup> [Gibraltar airport row threatens post-Brexit deal with Spain](#), The Times, 26 June 2023

speculation that it may form a pact with the right-wing Vox party in order to form a government.<sup>117</sup> The PP had historically taken a more robust line on Gibraltar than the governing PSOE and its manifesto for the election had called for dialogue with the UK on the “recovery of [Gibraltar’s]” sovereignty, while the nationalist Vox had previously taken a hardline stance on Gibraltar and called for the border to be closed.<sup>118</sup> PSOE however performed better than predicted in the election and held onto office, with a PSOE-led coalition being reconfirmed in office in November 2023.<sup>119</sup>

## Chief Minister evidence to European Scrutiny Committee, July 2023

On 5 July 2023, Chief Minister Picardo gave oral evidence to the House of Commons European Scrutiny Committee on the progress of the negotiations. The Chief Minister said that “considerable progress” had been made in the negotiations, with both the UK and EU deploying “magnificent resources across Whitehall and Brussels” to enable the negotiation to progress. He said work had been done to identify a way of bringing Gibraltar “within the operation of the Schengen space in matters of immigration” and to enable the free movement of goods between Gibraltar and the EU. He said both sides had taken a tough stance in defending their respective positions and found ways forward. He said an agreement was close, with the sticking points political rather than technical.<sup>120</sup>

Mr Picardo said that the EU was not raising the question of sovereignty, although there were issues that relate to sovereignty and the aim was to strip them out and resolve them in a way that does not touch on and concern sovereignty, and that he was “convinced” that this could be achieved.<sup>121</sup>

The Chief Minister was questioned on some of the sticking points in the negotiation including oversight of border controls and the status of Gibraltar airport, but he said he could not go into the detail of the negotiations.<sup>122</sup> He however said that the report that Spanish proposals for a role in managing the airport had led to the negotiations being stalled was incorrect. He did however indicate there had been a pause in the negotiations because of the Spanish general election.<sup>123</sup>

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<sup>117</sup> [Gib must ‘hold its nerve’ in treaty talks as Spanish election looms](#), Gibraltar Chronicle, 30 May 2023

<sup>118</sup> Partido Popular, [Programa Electoral - un proyecto al servicio de un gran país](#) (PDF), 2023; Euractiv, [UK and Spain inch forward on Gibraltar deal](#), 27 January 2023. See also the discussion of the positions of the Spanish parties in the Chief Minister’s evidence to the House of Commons European Scrutiny Committee, [Oral evidence: Negotiations with the European Union in respect of Gibraltar](#), HC 124, 5 July 2023, Q124 and Q125

<sup>119</sup> [Spain’s Pedro Sanchez secures new term, ending four-month deadlock](#), CNN, 16 November 2023

<sup>120</sup> House of Commons European Scrutiny Committee, [Oral evidence: Negotiations with the European Union in respect of Gibraltar](#), HC 124, 5 July 2023, Q92

<sup>121</sup> As above, Q93

<sup>122</sup> As above, Q100

<sup>123</sup> As above, Q99

Mr Picardo said that the UK and Gibraltar were clear that control of immigration to Gibraltar and customs controls for goods coming into Gibraltar had to be handled by Gibraltar.<sup>124</sup> The Chief Minister said the December 2020 framework envisaged that arrivals in Gibraltar would involve an initial control check by Gibraltar immigration officials and then a second check by Schengen immigration officials overseen by the Spanish but undertaken by Frontex officials. He indicated that this could involve individuals being cleared by Gibraltar immigration but not by Schengen controls and in some cases being permitted to enter Gibraltar and others not, but did not go into the detail of how this would work.<sup>125</sup>

Mr Picardo said that that Gibraltar airport's role as an RAF airbase, and defence and security issues more widely were not issues in the negotiation.<sup>126</sup>

Mr Picardo also indicated that there could be a referendum in Gibraltar on any agreement reached, though it would depend on the content of the agreement.<sup>127</sup>

## Renewed talks in November 2023

On 28 November 2023, the then UK Foreign Secretary Lord Cameron met with José Manuel Albares (who had been [reconfirmed as Foreign Minister](#) by the new Spanish Government on 20 November).<sup>128</sup> Albares said that in a phone conversation ahead of the meeting the two ministers had “agreed that we need to move forward as soon as possible”.<sup>129</sup> After the meeting on 28 November, Albares said that there was “friction” over the status of Gibraltar airport (in relation to which Spain had reportedly proposed “dual use”) but he said there had been “advances” and a deal was close. He told reporters that “Most of the agreement is already agreed upon”.<sup>130</sup> Albares said there was “political will on the part of the Spanish government” and that the same was needed from the UK government, but that “nothing will be agreed until it's all agreed”.<sup>131</sup>

According to a Gibraltar media report, UK officials were “clear” that “whatever the latest proposals from either side, there was no agreed text yet on which a deal could be sealed, and that any agreement must respect the fine-tuned balance reached in the New Year's Eve framework”.<sup>132</sup> According to

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<sup>124</sup> As above, Q101

<sup>125</sup> As above, Q104 and Q109

<sup>126</sup> As above, Q96 and Q102

<sup>127</sup> As above, Q141

<sup>128</sup> [Cameron and Albares discuss Gib as all sides seek swift conclusion to treaty talks](#), Gibraltar Chronicle, 28 November 2023

<sup>129</sup> As above

<sup>130</sup> As above

<sup>131</sup> [Spain ready to sign post-Brexit Gibraltar deal, says foreign minister](#), The Guardian, 28 November 2023

<sup>132</sup> [Cameron and Albares discuss Gib as all sides seek swift conclusion to treaty talks](#), Gibraltar Chronicle, 28 November 2023

a report in The Guardian, sources in Brussels were also cautious, saying that there was “a long way to go”.<sup>133</sup>

## Exchange of letters with European Scrutiny Committee, March 2024

The then Europe Minister Leo Docherty wrote to the then chair of the European Scrutiny Committee, Sir William Cash, on 8 March 2024 to update the Committee on the negotiations. He said the latest round of negotiations had taken place in February and intensive negotiations were planned throughout March to move towards an agreed text.<sup>134</sup>

He said that ensuring “fluid movement of people across the border with Spain has been the key area of discussion”. To achieve this, he said the negotiators were seeking to conclude the practical details of “a mobility arrangement with the Schengen Area, not membership of it” which would remove checks from the Gibraltar-Spain border. He said this would involve those arriving in Gibraltar passing through Gibraltar immigration, followed by Schengen immigration. Other areas of the agreement would include movement of goods, law enforcement and criminal justice, transport, social security coordination, citizens’ rights, a ‘level playing field’ for cross border trade, and data protection.<sup>135</sup>

The Minister referred to the Spanish Foreign Minister’s wish to include an agreement on Gibraltar Airport. Mr Docherty said that while an airport agreement was not part of the political framework agreed with Spain in December 2020, the UK had been flexible in exploring practical and technical options to facilitate flights between Gibraltar and the EU which “could further the economic opportunities of the region”. However, he said the UK would only agree to terms that the Government of Gibraltar are content with and “will not agree to anything that compromises sovereignty”. The UK was also working closely with the Government of Gibraltar on No-Negotiated Outcome (NNO) contingency planning.<sup>136</sup>

Mr Cash replied expressing concerns that what had been agreed by the UK and EU over Gibraltar was “deeply troubling” and said talk of “Schengen border checks in Gibraltar, the notion of a ‘level playing field’ for cross border trade and ‘flexibility’ regarding joint UK/Spain management of Gibraltar airport” was alarming and did not accord to how the UK position had been

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<sup>133</sup> [Spain ready to sign post-Brexit Gibraltar deal, says foreign minister](#), The Guardian, 28 November 2023

<sup>134</sup> FCDO, [Letter from Leo Docherty, Minister for Europe, to Sir William Cash, Chair of the European Scrutiny Committee](#) (PDF), 8 March 2024

<sup>135</sup> FCDO, [Letter from Leo Docherty, Minister for Europe, to Sir William Cash, Chair of the European Scrutiny Committee](#) (PDF), 8 March 2024

<sup>136</sup> FCDO, [Letter from Leo Docherty, Minister for Europe, to Sir William Cash, Chair of the European Scrutiny Committee](#) (PDF), 8 March 2024

previously set out.<sup>137</sup> He asked Mr Docherty to appear before the committee, and also tabled an urgent question in the House of Commons.

The urgent question was responded to in the House of Commons on 11 March 2024, with a debate on the UK-EU Gibraltar negotiations following. David Rutley, then Minister for the Overseas Territories at the FCDO, responded on behalf of the government. He said there had so far been 17 rounds of formal negotiations on the proposed agreement since they began in October 2021, supported by numerous technical sessions as well as official and ministerial engagements. Significant progress in the negotiations had been made. He said the UK was steadfast in support for Gibraltar and was working side by side with the Gibraltar Government of Gibraltar. The UK position in the negotiations had not changed and it would not agree to anything that compromises sovereignty. He said the UK Government was unable to provide a running commentary on the negotiations.<sup>138</sup>

Chief Minister Picardo also wrote to Mr Cash on 11 March 2024 and said that the Gibraltar Government and the UK Government were working closely together on the negotiations and he was confident that an agreement could be reached without any concessions with regards to sovereignty, jurisdiction or control. He said he had been liaising closely with the Foreign Secretary (Lord Cameron) in what now felt like the closing stages of the negotiation and that the UK and Gibraltar had “never worked more closely together in delivering the outcome that the People of Gibraltar want”.<sup>139</sup>

In a letter to Mr Cash on 1 May, the Chief Minister said that “the impression some of your members have expressed, that British sovereignty will be diminished in any way by the agreements we are seeking, is one that is abhorrent to me”. He added that he was “not prepared to cede an iota of our British sovereignty” and that were there any such risk “my team would have walked away from these talks immediately”.<sup>140</sup>

## April-May 2024: New EU-UK-Spain-Gibraltar format for talks

On 12 April 2024, the European Commission Executive Vice-President Maroš Šefčovič, Spanish Minister for Foreign Affairs José Manuel Albares, UK Foreign Secretary David Cameron and Chief Minister of Gibraltar Fabian Picardo, met in Brussels for the first time in a new format for the talks. They issued a joint statement stating that discussions had taken place “in a constructive atmosphere, with significant progress achieved”. According to the joint statement, general political lines had been agreed, “including on airport,

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<sup>137</sup> European Scrutiny Committee, [Letter from the Chair of the Committee to Leo Docherty](#) (PDF), 8 March 2024

<sup>138</sup> [HC Deb 11 March 2024, cc35-37](#)

<sup>139</sup> Gibraltar Government, [Chief Minister writes to Chairman of EU Scrutiny Committee - 167/2024](#), 11 March 2024

<sup>140</sup> Gibraltar Government, [Letter from the Chief Minister of Gibraltar to Sir William Cash](#) (PDF), 1 May 2024

goods and mobility” and negotiations would continue over the coming weeks to conclude the UK-EU Agreement.<sup>141</sup>

A second meeting was held under this format on 16 May 2024. According to a joint statement following the meeting, discussions had taken place “in a constructive atmosphere, with important breakthroughs and additional areas of agreement” and that all sides “are reassured that the agreement is getting closer and will work closely and rapidly on outstanding areas towards an overall EU-UK agreement”.<sup>142</sup>

## FCDO evidence to European Scrutiny Committee, May 2024

### Minister for Overseas Territory, 1 May 2024

David Rutley, who as then Minister for the Overseas Territories had taken over responsibility for Gibraltar, appeared before the European Scrutiny Committee on 1 May 2024 to provide an update on the negotiations. He appeared alongside Robbie Bulloch, Director of the Gibraltar Negotiations Taskforce at the FCDO.

The Minister referred to the first meeting in the new format and said that the “core elements of the treaty ... were agreed upon, including on the airport, goods and customs and mobility of persons”. In addition to the UK’s redlines on sovereignty and ensuring Gibraltar was content with the outcome, the Minister said the UK would only agree to a deal “that fully protects the operations and independence of the UK’s military facilities in Gibraltar”.<sup>143</sup>

The Committee expressed concern about the status of Gibraltar airport, which is run and managed by the Ministry of Defence (MoD). Mr Rutley said that the MoD was also involved in the negotiations and would need to be content with the agreement. He said that options to facilitate flights between Gibraltar and the EU were being looked at, but this would be done in a way to “fully protect the operational autonomy and independence of the UK’s military facilities”.<sup>144</sup>

On EU rules for movement of goods, Mr Rutley said there would be some alignment with EU rules. This would be on a proportionate basis given that the flow of goods was very small and was not about Gibraltar joining the EU single market.<sup>145</sup> Mr Bulloch said there would not be direct application of EU law.<sup>146</sup>

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<sup>141</sup> UK Government, [Progress of UK-EU Agreement in Respect of Gibraltar: Joint statement](#), 12 April 2024

<sup>142</sup> UK Government, [Progress of UK-EU Agreement in Respect of Gibraltar: Joint statement](#), 16 May 2024

<sup>143</sup> European Scrutiny Committee, [Oral evidence: Negotiations with the European Union in respect of Gibraltar, HC 170](#), 1 May 2024, Q147

<sup>144</sup> As above, Q155, Q158, Q221,

<sup>145</sup> As above, Q161

<sup>146</sup> As above, Q163



## Foreign Secretary, 20 May 2024

Lord Cameron appeared before the European Scrutiny Committee on 20 May 2024, alongside Mr Bulloch, and gave a further update on the negotiations as well as other issues in UK-EU relations. He reiterated several of the points made by Mr Rutley and said there had been “some good movement in the last few rounds of talks”. He said that the UK Government was trying to achieve a deal that was good for the people of Gibraltar, but that it was also “very clear that if a deal is not right, we will not sign it”. He said the talks were aimed at putting in place “what the Government of Gibraltar want, which is to have a frictionless border with Spain”. He said that the latter was the choice of the Government of Gibraltar and that much of what had been agreed was already set out in the December 2020 framework agreement.<sup>147</sup>

Lord Cameron said that the UK’s military base in Gibraltar would have to continue to operate in the same way as it presently does.<sup>148</sup> Arrangements relating to the airport would safeguard the MOD “in every way”.<sup>149</sup> Lord Cameron stressed that that the arrangements for the border would not involve Gibraltar joining the Schengen area but would seek to create a “Schengen-adjacent territory” in order to have a fluid border.<sup>150</sup> T

The Committee also questioned Lord Cameron as to whether British citizens visiting Gibraltar would in future be subject to Schengen-related checks and limits on stays. Lord Cameron said discussions on how this would work were ongoing, although he noted that British citizens were already limited to 90-day stays in Gibraltar unless they held a Gibraltar residence permit.<sup>151</sup>

Lord Cameron also suggested that the agreement would not be unamendable and that either party could terminate their participation. He said Gibraltar would not have to adopt EU law, but it would need to adopt equivalent law, particularly on the operation of Schengen. EU institutions would not have direct oversight.<sup>152</sup>

Following the session, Chief Minister Picardo said that the session showed that Lord Cameron was on top of his brief and criticised the European Scrutiny Committee for misunderstandings of the issues being negotiated.<sup>153</sup>

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<sup>147</sup> European Scrutiny Committee, [Oral evidence: UK’s new relationship with the EU, HC 167](#), 20 May 2024, Q274

<sup>148</sup> See above, Q295

<sup>149</sup> See above, Q277

<sup>150</sup> See above, Q318

<sup>151</sup> See above Q290, Q311-312, Q369 and Q375. See also [Brexit row as Cameron admits EU could soon be policing British tourists at Gibraltar border](#), The Independent, 21 May 2024

<sup>152</sup> See above, Q289

<sup>153</sup> Gibraltar Government, [Chief Minister reaction to European Scrutiny Committee Evidence Session - 354/2024](#), 20 May 2024; Fabian Picardo (@FabianPicardo), [X \(Twitter\)](#), 20 May 2024 [accessed 6 September 2024]

## 3.6

## Talks under the UK Labour Government since July 2024

The new UK Prime Minister, Sir Keir Starmer, met with his Spanish counterpart Pedro Sanchez on 18 July 2024. A statement from the UK Prime Minister's Office said that he had set out his plan to reset the UK's position on the international stage and said he "hoped the change in approach would forge the way for an agreement on Gibraltar that worked for all parties".<sup>154</sup>

According to an English language newspaper in Spain, Spanish government sources had said they were now confident that it would be possible to conclude an agreement on Gibraltar in the coming months.<sup>155</sup> The new UK Foreign Secretary David Lammy had also spoken to his Spanish counterpart on 7 July and agreed to "move swiftly" towards reaching an agreement.<sup>156</sup>

An article in a Spanish regional newspaper on 2 September 2024 suggested that optimism that an agreement was imminent had turned to uncertainty in recent weeks. It said that the Gibraltar government was now "trying to cool down an agreement" over concerns that it would undermine its territorial integrity under the terms being negotiated. This followed a statement by the Spanish Government in Spain's parliament that Spanish police officers will be able to move "freely around the (Gibraltar) border area, in uniform and carrying weapons" which upset Chief Minister Picardo.<sup>157</sup>

### Foreign Secretary-Chief Minister meeting, 4 September 2024

Following the first face-to-face meeting between David Lammy and Chief Minister Picardo in London on 4 September, the Chief Minister said that: "Gibraltar has a real friend in David Lammy. He showed a keen interest in the progress of the negotiations and provided the solid reassurance that Gibraltar's sovereignty is 'sacrosanct'".<sup>158</sup>

Following the meeting, the Foreign Secretary said that the UK Government "is committed to concluding a UK-EU agreement which provides certainty for Gibraltar and its people" and that he had reaffirmed the UK Government's support to Gibraltar "in all eventualities and reiterated that we will only agree to terms that Gibraltar is content with".<sup>159</sup>

<sup>154</sup> UK Government, [PM meeting with Prime Minister Sánchez of Spain: 18 July 2024](#)

<sup>155</sup> [Spain's PM confident of reaching agreement with UK on Gibraltar after Keir Starmer meeting](#), SUR in English, 19 July 2024

<sup>156</sup> [Albares and Lammy commit to "move quickly" on Gibraltar](#), The Diplomat in Spain, 12 July 2024

<sup>157</sup> [La resistencia de Picardo dificulta el acuerdo entre España y Reino Unido sobre Gibraltar](#), Heraldo de Aragón, 2 September 2024

<sup>158</sup> Gibraltar Government, [Treaty discussions with new Foreign Secretary - 579/2024](#), 4 September 2024

<sup>159</sup> [UK committed to Gib treaty, Lammy says after meeting CM](#), Gibraltar Chronicle, 5 September 2024

Mr Lammy and the new Europe Minister, Stephen Doughty had reportedly been briefed on the negotiations by the Gibraltar Government prior to the general election and the outgoing Foreign Secretary Lord Cameron had reportedly briefed his successor. In an interview following the meeting, the Chief Minister said Mr Lammy was fully up to speed on the negotiations and had taken up the negotiating position “as if there had been no change in government in the United Kingdom”. Picardo said that the Gibraltar government would continue to work “hand in glove with the UK government”.<sup>160</sup>

The Chief Minister described the negotiations as a “roller coaster” with some things progressing very well, and other issues “becoming more difficult as the technical aspects of them become more apparent in the negotiating table”. He expressed optimism that concerns could be overcome but emphasised that red lines could not be transgressed. He noted that Spain also had red lines that could not be transgressed, and there was a need to ensure “that our red lines do not cross each other” which would be difficult.<sup>161</sup>

## EU-UK-Spain-Gibraltar meeting, 19 September 2024

On 19 September 2024, the Foreign Secretary, the Chief Minister, Spanish Foreign Affairs Minister Albares and European Commission Executive Vice-President Šefčovič, met for the third time since the new format for talks was established earlier in the year. This was the first meeting in this format under the new UK government.

A joint statement from all four parties following the meeting stated that their talks were “constructive and productive” and that this had resulted in further progress in the negotiations “namely in the area of people and goods”. They all agreed to remain in constant contact, with teams working “closely and intensely” on outstanding areas.<sup>162</sup>

## Debate in the House of Commons, 14 October 2024

Responding to the urgent question on Gibraltar-Spain border checks in the House of Commons 14 October 2024 (see section 2.7), Minister for Development Anneliese Dodds said that the Government was committed to finalising a UK-EU agreement in respect of Gibraltar as soon as possible and was making progress in the negotiations. She said that one reason why the Government was working hard to achieve a deal was the upcoming introduction of the EU entry/exit system (EES, see section 3.7 below), which would involve automated checks at the EU’s external borders. Ms Dodds said that the UK Government would continue to work with the Government of Gibraltar on how best to mitigate the impacts of border disruption should an agreement with the EU not be possible. She said that ensuring the fluid

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<sup>160</sup> [UK committed to Gib treaty, Lammy says after meeting CM](#), Gibraltar Chronicle, 5 September 2024

<sup>161</sup> [UK committed to Gib treaty, Lammy says after meeting CM](#), Gibraltar Chronicle, 5 September 2024

<sup>162</sup> UK Government, [Progress of UK-EU agreement in respect of Gibraltar: joint statement, 19 September 2024](#)

movement across the Gibraltar-Spain border was the top priority for the UK Government.<sup>163</sup>

## Chief Minister United Nations and “Gibraltar day” speeches

On 7 October 2024, the Chief Minister delivered his annual address to the Special Political and Decolonisation Committee of the United Nations General Assembly in New York. As well as reasserting Gibraltar’s right to self-determination over Spanish claims to sovereignty he referred to the negotiations with the EU. He said the UK/Gibraltar had proposed “balanced, imaginative and sovereignty neutral solutions” and it was a matter for the Spanish authorities, as part of the EU negotiating team, to decide whether they wanted to accept these. He said these were fair solutions, “respectful of the systems and security of the Schengen Area and the integrity of the Single Market”.<sup>164</sup>

In a speech in London, marking “Gibraltar day” on 14 October 2024, Chief Minister Picardo praised the work of the UK and Gibraltar negotiators and said he remained optimistic about reaching a deal. He reiterated previous comments about the “fair” and “balanced” proposals made by the UK/Gibraltar and urged Spain to accept the proposals or propose “acceptable derivatives”.<sup>165</sup>

Speaking at the same event, the UK Paymaster General (responsible for relations with the EU) Nick Thomas-Symonds said that the UK Government was working to reset relations with the EU, and that “Gibraltar is at the heart of this”. He said that the UK and Gibraltar governments were “working exceptionally hard to conclude those negotiations” but were also prepared to cover “all eventualities” if an agreement could not be reached. He said the UK Government would stand with Gibraltar “whatever the outcome” and that the change of government in the UK had not brought any change “in our unwavering support for Gibraltar”.<sup>166</sup>

## Statements on relevance of UK-Mauritius agreement on BIOT

In the debate on the urgent question on 14 October, opposition MPs drew parallels between the UK-EU negotiations on Gibraltar and the announcement by the UK Government on 7 October of [an agreement with Mauritius](#) recognising the sovereignty of Mauritius over the British Indian

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<sup>163</sup> [HC Deb 14 October 2024, c603, c611](#)

<sup>164</sup> Gibraltar Government, [Chief Minister Address to UN Fourth Committee - 645/2024](#), 7 October 2024

<sup>165</sup> Gibraltar Government, [The Chief Minister’s Address at Gibraltar Day In London Evening Reception - 673/2024](#), 14 October 2024

<sup>166</sup> [Gibraltar ‘at the heart’ of UK’s reset of EU relations, Thomas-Symonds says](#), Gibraltar Chronicle, 15 October 2024

Ocean Territory (BIOT)/Chagos Archipelago.<sup>167</sup> Ms Dodds said that the agreement on BIOT addressed unique circumstances and had “absolutely no bearing on the wider UK Government policy regarding our other overseas territories”.<sup>168</sup>

In his statement on the agreement with Mauritius on 7 October, the Foreign Secretary said the agreement did not signal any change in policy on Britain’s other overseas territories. He said the situations were “not comparable” and that UK sovereignty over Gibraltar and the other territories was not up for negotiation. He cited Chief Minister Picardo who had vocally supported the agreement and acknowledged that there was “no possible read across” to Gibraltar on the issue of sovereignty.<sup>169</sup>

### 3.7 Launch of the EU entry/exit system: a deadline for the talks?

As noted in section 2.7, the Spanish government has indicated that bridging measures on the border with Gibraltar will need to be withdrawn when the new automated EU entry/exit system (EES) comes into operation. EES is an automated system for checking travel documents with travellers entering the EU/Schengen area required to provide biometric data if they are not EU or Schengen country citizens. Following on from EES, the EU travel authorisation system (ETIAS) will also be introduced requiring travellers from non-EU/non-Schengen countries to apply for a travel authorisation ahead of travel. Following repeated delays, EES had been scheduled for November 2024, but it was postponed again in October 2024 and will not be implemented before 2025.<sup>170</sup>

In the House of Commons debate on 14 October Anneliese Dodds said that Schengen border checks on the Gibraltar-Spain border “were always expected” when EES is implemented, and this was one of the reasons why the Government was working so hard to achieve an agreement with the EU.<sup>171</sup>

A technical notice issued by the Gibraltar Government in July 2024 advised citizens about the forthcoming implementation of EES and ETIAS. It said that in line with their Schengen obligations, the Spanish border authorities had commenced the installation of the relevant infrastructure and that the new systems would apply to the border crossing from Gibraltar to Spain. The Gibraltar Government said that if an agreement on the EU-Gibraltar

<sup>167</sup> UK Government, [Foreign Secretary's statement on the Chagos Islands, 7 October 2024](#); See House of Commons Library briefing paper, 10115, [British Indian Ocean Territory: 2024 UK and Mauritius agreement](#)

<sup>168</sup> [HC Deb 14 October 2024, c606](#)

<sup>169</sup> [HC Deb 7 October 2024 c47](#)

<sup>170</sup> See House of Commons Library constituency casework article, [The EU Entry/Exit system and EU travel authorisation system](#)

<sup>171</sup> [HC Deb 14 October 2024 c603](#)

relationship was finalised by then, it was expected that Gibraltarians, British citizens and other non-EU citizens resident in Gibraltar would be exempt from both the EES and ETIAS, “certainly from the point that that agreement enters into force”.<sup>172</sup>

On 9 October, Spain’s Foreign Minister Albares said it was time for the UK to agree to the “balanced and generous agreement” that Spain/the EU had “put on the table a long time ago”. He said that it was up to the UK to decide whether it wanted a deal to avoid a situation from November when the EES system would apply for Gibraltar residents.<sup>173</sup> Albares said Spain had been “as flexible as possible” in its proposals for the agreement and saw “no real obstacle to carrying it out”.<sup>174</sup> He also noted that EES would not affect Spanish or other Schengen area citizens who would be able “to continue to enter and exit normally, although Picardo later commented that if EES came into operation at the border then Gibraltar would have to reciprocate by checking and stamping passports of non-UK citizens entering Gibraltar.”<sup>175</sup>

Chief Minister Picardo reacted to the comments by Albares by urging Spain to accept the “reasonable and well-balanced” UK/Gibraltar proposals for an agreement “which respect the historic positions of all sides”. He said it was up to Spain to decide whether to accept these proposals or insist on positions “which they know we cannot accept” and which would “condemn us all to controls that will make the life of workers and ordinary people harder”.<sup>176</sup>

The European Commission announced that EES was being delayed again came on 10 October.<sup>177</sup> On 11 October, Picardo said that the delay meant that there was a “a chance to continue with the mutually beneficial interim arrangements we have in place” while “not letting the deal slip any longer than it has to”.<sup>178</sup> He said he was “betting” on a UK-EU treaty on Gibraltar and “giving my all so that this process is a success” and that the “ball is in Spain’s court”.<sup>179</sup> The Chief Minister said that an agreement would avoid a repeat of the problems that occurred at the border on 11 October when a Spanish official instituted checks and stamping of passports (see section 2.7).<sup>180</sup> However, he also said Gibraltar would “not be forced to submit” to “pressure

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<sup>172</sup> Gibraltar Government, [Technical Notice Schengen Entry/Exit System and the European Travel Information and Authorisation System](#) (pdf), 23 July 2024

<sup>173</sup> [Spain urges UK to sign Gibraltar deal before new EU travel checks](#), Reuters, 9 October 2024

<sup>174</sup> [Spain and Gibraltar press for rival treaty proposals as EU border changes loom](#), Gibraltar Chronicle, 10 October 2024

<sup>175</sup> [Spain and Gibraltar press for rival treaty proposals as EU border changes loom](#), Gibraltar Chronicle, 10 October 2024; [Friday border chaos puts focus on treaty talks as CM warns against Spanish ‘pressure tactics’](#), Gibraltar Chronicle, 11 November 2024

<sup>176</sup> [Spain and Gibraltar press for rival treaty proposals as EU border changes loom](#), Gibraltar Chronicle, 10 October 2024

<sup>177</sup> [European Union delays introduction of new border check system](#), BBC News, 10 October 2024

<sup>178</sup> Gibraltar Government, [Policia Nacional Unilaterally Suspends Interim Measures at Frontier : Gibraltar Immediately Reciprocates - 661/2024](#), 11 October 2024

<sup>179</sup> Gibraltar Government, [Policia Nacional Unilaterally Suspends Interim Measures at Frontier : Gibraltar Immediately Reciprocates - 661/2024](#), 11 October 2024

<sup>180</sup> Fabian Picardo (@FabianPicardo), [X \(Twitter\)](#), 11 October 2024 [7 November 2024]

tactics” such as the border measures implemented by Spanish officials on 11 October.<sup>181</sup>

Picardo later said that he was convinced that these measures were “not a signal from Madrid”, also noting that they had mobilised local people on the Spanish side of the border to put pressure on the Spanish Government to find a solution.<sup>182</sup>

The border measures on 11 October had heightened concerns on the Spanish side of the border about the potential impact of frontier workers resident in Spain and working in Gibraltar. The Mayor of La Línea, the Spanish municipality bordering with Gibraltar called for a demonstration to demand an agreement that guarantees border fluidity. He also called on the Spanish government to put in place a contingency plan if there was no negotiated outcome could be reached.<sup>183</sup>

## Talks continue in late 2024

On 24 October 2024, responding to a question in the Gibraltar Parliament, Chief Minister Picardo said the negotiations were in “the tunnel” with “a lot” agreed and negotiations seeking “to agree the final parts of the final stretch”. He urged patience, saying the “last mile is the hardest mile”. He said that a treaty “could be agreed tomorrow” if Spain accepted the “balanced, imaginative and sovereignty-neutral” proposals put forward by the Gibraltar Government.<sup>184</sup>

The Chief Minister met UK Prime Minister Keir Starmer on 21 November 2024 for their first bilateral meeting. The Chief Minister said that the ongoing negotiations for a UK-EU Gibraltar agreement and UK support for Gibraltar were the main issues discussed, and that following the meeting he was “further reassured of the UK’s deep and enduring commitment to Gibraltar”, to the protection of UK sovereignty over Gibraltar, the negotiating positions with the EU and “in the event of No Negotiated Outcome”.<sup>185</sup>

In a letter to the Chair of the House of Commons Foreign Affairs Committee on 26 November 2024, the Foreign Secretary and Paymaster General said that the government was continuing to work “side by side” with the Government of Gibraltar to conclude a treaty and that this was the “last piece of the EU exit jigsaw”.<sup>186</sup> They also wrote that they were in regular contact with negotiating

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<sup>181</sup> Gibraltar Government, [Policia Nacional Unilaterally Suspends Interim Measures at Frontier : Gibraltar Immediately Reciprocates - 661/2024](#), 11 October 2024; [Friday border chaos puts focus on treaty talks as CM warns against Spanish ‘pressure tactics’](#), Gibraltar Chronicle, 11 October 2024

<sup>182</sup> [Gib treaty ‘could be agreed tomorrow’ if Spain wanted](#), Gibraltar Chronicle, 24 October 2024

<sup>183</sup> [Franco announces mass demo to border: ‘There is no Plan B’](#), Gibraltar Chronicle, 11 October 2024. See also [Franco drums up support for Brexit demo: ‘We don’t want another 1969’](#), Gibraltar Chronicle, 22 October 2024

<sup>184</sup> [Gib treaty ‘could be agreed tomorrow’ if Spain wanted](#), Gibraltar Chronicle, 24 October 2024

<sup>185</sup> Gibraltar Government, [Chief Minister holds first formal bilateral meeting with Prime Minister Starmer - 772/2024](#), 21 November 2024

<sup>186</sup> [Letter from Foreign Secretary and Paymaster General to the Chair of the Foreign Affairs Committee relating to responsibilities for UK-EU relations across Government](#), 26 November 2024



partners in Gibraltar, Spain and the EU. The Minister for Europe, North America and Overseas Territories, Stephen Doughty, was also in contact with his Spanish counterpart on the matter. The letter reiterated the UK/Gibraltar red lines on sovereignty and said that all parties involved in the negotiations agreed on the importance of concluding a treaty as soon as possible. They said that:

Negotiations have been technically and politically complex. We are looking to agree mobility and goods and customs arrangements that would ensure people, including the frontier workers who comprise half of Gibraltar’s workforce, can move easily between Spain and Gibraltar whilst safeguarding Gibraltar’s sovereignty and fully protecting the autonomy of the UK’s military facilities in Gibraltar.<sup>187</sup>

## 3.8 Gibraltar guidance on “no negotiated outcome”

On 31 October 2022, the Gibraltar Government issued guidance to businesses and certain public services on preparing for the possibility of a Non-Negotiated Outcome (NNO) of the UK-EU negotiations.<sup>188</sup>

The guidance said that since “neither the UK nor Gibraltar would be able to accept an agreement which would sacrifice fundamentals or put Gibraltar’s future prosperity in jeopardy, we must be ready to walk away”.<sup>189</sup> The guidance was therefore issued to set out the steps the Government had taken to prepare for a NNO and the steps which businesses would need to take in order to prepare for this eventuality.

The guidance covered the following areas:

- **Border checks:** checks at the Gibraltar-Spain border would be thorough, with systematic checks, scanning and stamping of passports in line with Schengen rules. This could cause lengthy delays, extending to several hours. The Gibraltar Government has put traffic management plans in place, with plans to potentially improve border infrastructure in the event of an NNO. It also has plans to arrange accommodation for frontier workers (eg those who live in Spain and work in Gibraltar) providing essential services, such as healthcare.
- **Movement of goods:** this would be less affected in the sense that Gibraltar never formed part of the EU Customs Union, so there have always been checks on goods crossing the border. The only change has

<sup>187</sup> [Letter from Foreign Secretary and Paymaster General to the Chair of the Foreign Affairs Committee relating to responsibilities for UK-EU relations across Government](#), 26 November 2024

<sup>188</sup> Gibraltar Government, [31/10/22 - Guidance to Businesses and Certain Public Services \(PDF\)](#), 31 October 2022.

<sup>189</sup> Gibraltar Government, [31/10/22 - Guidance to Businesses and Certain Public Services \(PDF\)](#), 31 October 2022.

affected the importation of UK products of animal origin into Gibraltar, which since the end of the Brexit transition period need to be cleared at the Algeciras Border Control Post if transiting through the EU.

- **Road haulage and road passenger transport:** In an NNO, holders of Gibraltar licences issued to road haulage operators, and to bus and coach operators, would no longer have a legal entitlement to operate in Spain or the EU. The UK and Gibraltar would continue to work on extension of arrangements under the European Conference of Ministers of Transport (the “ECMT”) and the Agreement on the International Occasional Carriage of Passengers by Coach and Bus (the “Interbus Agreement”) which, if extended to Gibraltar, would apply even in an NNO scenario.
- **Export of waste:** Gibraltar exports most of its waste, including all of its municipal waste, for treatment in authorised facilities in Spain. Since the end of the Brexit transition period, new authorisations for this have been issued by the Spanish authorities under the [Basel convention on hazardous waste](#) and an [OECD decision](#). Although an NNO should not change this, the Gibraltar Government is exploring other options for waste exports.
- **Aviation:** Flights between Gibraltar and the UK and flights between Gibraltar and Morocco will remain unaffected.
- **Financial services and online gaming:** EU Single Market rules on the freedom to provide services in EU Member States stopped applying to operators and institutions based in Gibraltar at the end of the Brexit transition period. These sectors make the largest contributions to Gibraltar’s services economy. The guidance refers to the continued access to the UK market for these sectors and says that the UK is the most valuable market for them. Contingency measures are already in place with regard to EU- facing businesses. The guidance states that the reality is that Gibraltar has been operating in an NNO since 1 January 2021 and contingency arrangements made by operators affected to address any issues that may arise are already in place.
- **Exchange of data between Gibraltar and the EU:** Arrangements since the end of the Brexit transition period should not be impacted, as businesses would already have needed to put in place arrangements to ensure that they can continue to receive data from the EU. Gibraltar was no longer covered by the EU General Data Protection Regulation<sup>190</sup> from the end of the transition period and has not subsequently (unlike the UK) obtained EU data adequacy status with respect to its data protection arrangements.<sup>191</sup>

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<sup>190</sup> See Gibraltar Regulatory Authority, [Brexit](#), accessed 16 November 2022

<sup>191</sup> Gibraltar Government, [31/10/22 - Guidance to Businesses and Certain Public Services \(PDF\)](#), 31 October 2022. See also [Gibraltar Preparing For Brexit Negotiations To Fail](#), Murcia Today, 2 November 2022

In his evidence to the European Scrutiny Committee in July 2023, Chief Minister Picardo said that in the event of non-negotiated outcome, much more information would be made available and that the UK and Gibraltar Government were in continued engagement on planning for this outcome.<sup>192</sup>

The Deputy Chief Minister of Gibraltar, Joseph Garcia, and the Europe Minister, Stephen Doughty, as co-chairs of the NNO planning board, met on 10 October 2024 to discuss planning for NNO. Dr Garcia said the UK and Gibraltar were working together to review contingency planning.<sup>193</sup> The letter to the Chair of the House of Commons Foreign Affairs Committee from the Foreign Secretary and Paymaster General on 26 November 2024 said that the UK government stood “resolutely behind Gibraltar in all circumstances” and that the UK had “supported efforts to increase resilience in the event of NNO” and would work with the Government of Gibraltar to address any further needs which arise.<sup>194</sup>

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<sup>192</sup> House of Commons European Scrutiny Committee, [Oral evidence: Negotiations with the European Union in respect of Gibraltar](#), HC 124, 5 July 2023, Q135, Q136

<sup>193</sup> Gibraltar Government, [UK and Gibraltar Ministers meet to discuss EU-UK \(Gibraltar\) Treaty work and contingency planning - 660/2024](#), 10 October 2024

<sup>194</sup> Gibraltar Government, [31/10/22 - Guidance to Businesses and Certain Public Services \(PDF\)](#), 31 October 2022.

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