



PROCEEDINGS OF THE GIBRALTAR PARLIAMENT

AFTERNOON SESSION: 3.01 p.m. – 7.36 p.m.

Gibraltar, Tuesday, 3rd March 2026

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The Gibraltar Parliament

The Parliament met at 3.01 p.m.

[MADAM SPEAKER: Hon. Judge K Ramagge GMH *in the Chair*]

[CLERK TO THE PARLIAMENT: P A Borge McCarthy *in attendance*]

Order of the Day

Madam Speaker: Yes, the Hon. Leader of the Opposition. I presume, if he would like to reply.

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Government Motions

Hon. Dr K Azopardi: Yes, Madam Speaker. Indeed, your presumption was correct. Madam Speaker, may I start by also making the same observations that the Chief Minister made this morning that our thoughts indeed are with those Gibraltarians and Gibraltar residents that are stranded in the UAE because of the current situation in that part of the world.

Madam Speaker, the choice facing Gibraltar is generational and invidious. It is unwanted, but it is inevitable that we should face it. Because finally, after many years, a deal for a new relationship with the EU is on the table for scrutiny by our people.

It brings opportunities as well as challenges. It brings benefits, but it demands high prices in exchange for those. We need to balance all those issues in coming to a decision today on this motion. I want to first cover a summary of points, if I may, on what we consider the agreement does and does not do and then delve into context as well as then round up on detail.

Madam Speaker, the agreement promises us the personal freedom of mobility within the EU Schengen area. However, in exchange, there will be Spanish police controls within Gibraltar and the ability of armed Spanish law enforcement agents to be in Gibraltar in different guises.

What has been described throughout the negotiations as boots on the ground. There are aspects of those boots on the ground that have not really been explained at all or adequately appreciated by the public during the last few years. Visa-free travel is secured, as is, importantly, ease of passage across our land Frontier.

This is a major benefit for residents of Gibraltar, given that in practise they acquire the right to move around, although not reside, check-free in the EU for periods of 90 days in every 180 days. As an aside, I am not clear whether Government attempted to obtain the more ambitious benefit from the EU that in exchange for the concessions that Gibraltar evidently makes under this deal, our residents would obtain full rights of freedom of movement, including the right of residence in the EU. This possibility seems to exist because under Article 2(5) of the Schengen Borders Code, which defines persons having the right of free movement under Union law as including third country nationals and their family members, whatever their nationality, who under agreements between the Union and those third countries enjoy rights of free movement equivalent to those Union citizens.

Such persons under Article 2(6) of the Schengen Borders Code do not fall within the definition of third country national and as such would not then be restricted to the 90-day rule under Article 6. I understand, for example, that Liechtenstein, which is a place of comparative population to Gibraltar, has the benefit of an agreement with the EU and as such its nationals have the full right of freedom of movement in the EU, including the right to work and reside, and are not subject to the 90-day rule. Irrespective of that, the contents of the present agreement removes the prospect of a harder border for residents and therefore is a welcome measure.

People will recall that under the Schengen Borders Code, crossing into the Schengen area could be subjected to checks on whether they had proof of a hotel stay, for example, and some of our residents, blue and green cardholders, have had to endure these for some time. Without an agreement, red ID cardholders would also face such checks, and the agreement envisages that all Gibraltar residents are also exempt from the EES.

The mobility of the land border is also important for the economy, for tourism and financial services in particular, and in turn for jobs, public revenue and our ability to remain economically self-sufficient. With all that comes Spanish checks into and out of the Schengen area to be principally conducted at the airport, in certain circumstances by or under the supervision of Spanish officers. Under this agreement, border crossing points are set up under Article 29 for checks to be carried out in accordance with a regime demarcated in the agreement and administrative arrangements. The Treaty also establishes wider powers of border control by Spain under Article 33 and that includes powers of arrest in certain circumstances.

Beyond such powers, and as we will see under Articles 55 and 56, other Spanish law enforcement agents will have the right to enter Gibraltar for the purposes of surveillance or in hot pursuit of criminals and do so armed. There will be joint patrols, Article 58 importantly, of our waters. The fact that some of these powers also allow Gibraltar law enforcement to deploy to Spain or that within the Schengen acquis those powers may be standard does not lessen the uncomfortable reading of those provisions or the realisation that because Spain claims our sovereignty, those powers are much more poignant and much harder to stomach. Ultimately, we were also told that boots on the ground was unacceptable to the Government for a long time.

Madam Speaker, the agreement creates a Customs Union with the EU but of a nature that brings promise for some and pain for others. It needs to be juxtaposed with the prospect of no deal and all that means. A harder border for ourselves and the economy. It is easy to envisage that the full entry into effect of the Schengen Border Code restrictions could easily be abused by Spain to pressurise the economy. If we are to reflect on our understandable fear, it is that without a deal, Spain could not be trusted to abuse her position and powers in a no deal scenario and seek to strangle our economy. Unfortunately, that same fear is precisely the nagging doubt that tarnishes perceptions of how Spain will also then use what she gains in this agreement and the potential for abuse in future.

The new economic model in this agreement is a sea change for the retail and wholesale business and for the commercial handling of goods. Of course, without this form of bespoke Customs Union, it is hard to see how aspirations of personal freedoms of mobility could be fully achieved, still less enjoyed. Equally, it represents a leap into the unknown for many businesses, which may be unable to sustain competition against larger, more resourced businesses. The fact that with greater mobility across the Frontier, there will inevitably be an even larger loss of domestic consumers in some areas, without any immediate or obvious way of replacing customers.

It is in our wider interests that businesses survive and prosper through these choppy waters and transformative times. It is incumbent on Government to ensure that they are assisted through these changes, not just with help but information and, as necessary, adjustment of detail in the overall scheme to help them along the way. This morning, the Chief Minister has set out in description the framework of some assistance measures that the Government will make to support business. We welcome that. We will speak in greater detail about those measures when we digest the impact of those measures. It may be that my colleagues Roy Clinton or Craig

90 Sacarello will wish to address that, but certainly we will digest and welcome in principle the fact that the Government is already minded to consider business support measures to help them navigate those choppy waters.

Madam Speaker, both in terms of the rights of mobility and to complement the economic and trade, as well as other parts of the agreement, a series of intrusive informational controls or other decision-making powers are granted to the EU and Spain.

95 Those are far-reaching in nature, and while some are naturally complementary of an ambition in the uncontroversial area of crime prevention, there are other controls, checks, supervisory and informational powers that are economic in nature and could be abused in future. This is an agreement that says principally in Article 2, but also elsewhere, that it is without prejudice to and not affecting the respective legal positions of the United Kingdom or Spain as to sovereignty and jurisdiction, although not control, and that it does not constitute the basis for any assertion or denial of sovereignty, including in legal proceedings or otherwise. That is, of course, welcome, and it does remove any argument that exercise of powers conferred has legal effect in terms of sovereignty acquisitions.

100 But, as we will see, by act of our own domestic decision, by the UK entering into this agreement on our behalf at the Government's request, and subsequently by any domestic legislation to come to implement the mechanics underlying some of these provisions into Gibraltar law, we are also, in our own sovereign decision, being asked to hand a number of intrusive powers to the EU and indeed Spain, powers that Spain would not have had had we remained in the EU. Welcome as it is, as a defensive reservation, this particular Article, Article 2, once again belies a bilateral and old view of sovereignty, which for us, and I assume for the purposes of this statement, both sides of this House, is an insufficient reflection of our rights as a people, and entirely out of keeping with modern times and modern notions of sovereignty, which I will address a bit later.

105 Because the sovereignty of Gibraltar does not belong to Spain or to the UK, it belongs to the people of Gibraltar. This is our land and that is why we have the right to self-determination. So, they, the UK and Spain, can reserve their positions as much as they want. However, this is our sovereignty, first and last. Of course, I understand the practicalities of the statement in Article 2 as a safety net for us, especially in the existing legal context. However, surely, we do not go to the United Nations twice a year if we think the outer limits of our aspirations are simply to wrap ourselves up in the Union Jack. It is because we believe in our rights and our right to decide our future, and the fact that were it not for the Spanish sovereignty claim, we might be, would be, in a different place, possibly in a different status today.

110 So, whatever we do, and in the future, has to be driven with the interests of Gibraltar and our sovereignty in mind. That is not to be judged from London or Madrid, but here, in this place, and in our Constitution, where the sovereign rights of our people reside.

115 This is a deal that delivers certainty in some fundamental ways, but still leaves us harbouring under some significant lingering uncertainty, in that the powers of terminating the agreement, which simply requires 12 months' notice, are in some respects in the hands of Spain, or subject to rigorous compliance mechanisms of EU law and implementation of new relevant EU law, Article 19, in this case a three-month notice of termination, or a general power of termination at 12 months' notice, this time vested in the EU under Article 334. Significantly, insofar as the Article 65-66 termination power is concerned, Article 66(2) says that where the Kingdom of Spain has requested the Union to terminate this agreement, in accordance with Paragraph 1, the Union will proceed to such termination.

120 Of course, all that means that we must plan for our future on a still twin-track basis, lest political decisions elsewhere mean that the agreement is put to an end. That creates an uncomfortable backdrop that businesses are being asked to plan on the basis of a new system that may or may not endure and is terminable at 12 months' notice at the political whim of governments we have never really trusted. Under this agreement, therefore, and because of those termination clauses, people and the Government can never really be sure of plans for the future and will have to have back-up plans in case of termination at short notice in the foreseeable future.

One where there are two very distinct future relationships, a soft, mobile, permeable border for people or goods on the one hand, with the challenges and loss of powers that brings, or a harder border for people and goods as a restored outcome and within which we need to recalibrate the economic goods model in the traditional way it has run but also face the economic pressures on other pillars. In some ways, those are also the inherent choices between this agreement and no deal. Even within such qualified certainty that the agreement delivers via this new framework of powers, rights, freedoms and obligations, it is evident that the agreement leaves much for future work, implementation and review.

As such, the implications for resources at human, technical, administrative, financial or technological level are huge. The pressures on a small administration will be significant and the need for lawmaking to give effect to these clauses as well as administrative arrangements is clear. It will require ongoing work and cooperation between all concerned as well as investment of energy and resources. All that will need to be taken on board by this Government as well as any future Government.

In the context of those processes of ongoing review, it is also clear that the arrangements entered into in parallel between Gibraltar and the United Kingdom are key. Those need to be clear, binding commitments that put the powers set out in this agreement squarely in the hands of the Gibraltar Government, subject to our influence and control and enabled only with our consent.

Let me be clear. It would be unacceptable to be creating an agreement that subjects' reviews, implementation and ongoing work to processes where the trigger for the United Kingdom in respect of Gibraltar, to use the defined term in the agreement, were in anything but Gibraltar hands. That is easier said than done, but it is essential because we should be the arbiters of the future, solely us, as to whether this deal works now, continues to work in future, should be altered in any respect or should be terminated.

It would be unacceptable to have divested ourselves of powers that we cannot influence or control or created a scheme that could change by decision of the UK and EU, or worse still, the UK and Spain, without us having the ability to have the last say. That would have created a raft of defined powers to be used by others in Joint Sovereignty in all but name. I am sure that is not what the Government intend.

However, to close that possibility, the political and legal arrangements with the UK are important and these need to be underpinned by first a Concordat, but in my view then, if necessary, also by binding constitutional change, to clarify if necessary.

After the Chief Minister handed us the draft text of the agreement 21 days ago, I asked him for sight of the UK-Gibraltar arrangements. Last Sunday afternoon, two days ago, he gave me a copy of the draft Concordat on Privy Council terms, with the agreed exceptions that I could share that with Opposition MPs on similar terms of confidentiality, could give my Party executive that was meeting that Sunday evening impressions of the document and so I could comment on the generality of it during this debate.

I will have more to say about it a bit later. So, in overall terms, in exchange for personal freedoms within the EU, we give away powers, information and controls in Gibraltar and open Gibraltar economically in a way where it is hoped financial successes will outweigh business casualties. We could become financially stronger, but we will also be much more economically dependent on the region and susceptible to real controls that can impact on inward investment.

Some of our businesses will be much more fragile than before and in a way that does not help the wider economy. They will need to be carefully helped so that they too can reposition, diversify and adapt. The consequences of this deal in terms of overall economic viability are uncertain and seismic, although the consequences of no deal are pretty dire in themselves. So, this is not a choice between desirables, but a choice between undesirables.

The Treaty may also have an effect on our identity, which we must proceed with caution on. Whatever happens from this point on, as was the case from 2016, a lot of things will never be the same.

Madam Speaker, we have repeatedly said, both in this House and outside, that in the same way as we did not want to leave the EU, we wanted a good agreement on a future relationship with the EU. We have said that the deal, when it came, needed to be assessed against our long-standing yardstick of whether it was safe and beneficial for Gibraltar. By that we mean safe in terms of sovereignty, jurisdiction and control, and beneficial in terms of its social or economic benefits.

That assessment is not easy, for the reasons I have already flagged, as well as issues that I will go on to develop. It requires examination at different levels of analysis, of detail and of consequence, both in terms of what it represents, as much as what not entering into such a deal would do, and what happens in a post-deal Gibraltar. I will come to that overall assessment later, but first it is important to start with an overview of context and some preliminary observations.

Madam Speaker, this is a seminal moment for Gibraltar, and in a seminal debate as to our future, about how best it is navigated, and fundamentally about whether this deal, that is a done deal, a deal that cannot now realistically be reopened, whether this deal, brought back after many years of negotiation, is a safe and beneficial deal for Gibraltar. In that debate, we do well to reflect on where we were, and where we were left following the 2016 Brexit Referendum. We also should have a realistic and honest debate of the contents and effects of this deal, and about what has happened along the way, with, if necessary, brutal honesty and clarity, so people understand, without the hyperbole of unprecedented success or victory, because now is not the time for hyperbole or hollow statements.

So, Madam Speaker, to that extent, when the Business Minister in a recent Viewpoint said that people could not have believed where we would be in getting this agreement, implying a great deal had been negotiated, it was, in our view, wholly exaggerated, created impossible expectations that can never be consummated, and was naive. Our people deserve nothing less than a realistic and honest debate. That means some basic truths about everything, context, evolution of the negotiating journey, and content of the final deal, without holding back the truths or unsavoury facts, without pretending that this is rosier than it is, understanding that this is not a one-sided or necessarily clearly binary debate.

We found ourselves in a place where, realistically and honestly, we are balancing hopes and expectations with challenges, where, realistically and honestly, things have been given away that would not otherwise surely have been given away. Understanding that, in that process, and before we get to the assessment on the deal, there are some basic truths that, in my view, set the context of this debate, and to which I want to turn to now.

The first truth, Madam Speaker, is that we did not want this. We have, for many years, seen our future in Europe. So, we did not want to be here. That is an aspiration of a future in Europe that should not change.

In 2016, ten years ago, this summer, we were left outside looking in, having to negotiate on the basis that we were leaving the EU, as we did in 2020, and with the raw deal of having to negotiate a special deal from the outside. It was truly unprecedented, because since the European Community was born, there has been no factual regional parallel. There has been nothing like we have encountered since the EC was born because for the first 25 years, neither Spain nor ourselves were in the European Community.

When Britain joined the EC in 1972, with effect from 1 January 1973, we were consulted as to whether we should join it with Britain. We did, although some other British European parts, the Channel Islands and the Isle of Man, chose a different path.

The Chief Minister has already alluded, on Thursday in particular, to the fact that in October 1972 there was a seminal debate in this House. I also want to refer to it and read into Hansard a couple of quotes, one of which he also did on Thursday. Sir Joshua Hassan, then Chief Minister, in moving the Bill on the European Communities, which then became the European Communities Act, said:

245 It may be many years before a wider appreciation of the brotherhood of man comes about, and before physical and other national barriers are removed, but at least we are starting on the right road, and I am certain that future generations, while wondering why it took us all so long, will thank us for having taken it in the end. Although Gibraltar will be only a minute part of this new enlarged community, we have here perhaps a particular interest in the long-term aims and effects of this gathering, together for the common benefit of peoples of different nationalities, but of similar historical backgrounds, civilisation and culture.

250 We can therefore, I think, only welcome this movement towards a united Europe, express the hope that the development of its political and human aspects will gather speed and momentum, and from a local point of view, that it will eventually lead to a solution of our difficulties. I am sure that the patience we have exercised in the past, and which we will need to continue in the future, will, at some future date, be rewarded. It is in this spirit that I earnestly commend this Bill to the House.

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Major Bob Peliza, then Leader of the Opposition, said:

260 The sentiments and feelings of the Opposition on joining the common market are well known. I was in fact rather criticised by certain sectors when I said I was jubilant, in the beginning, that Gibraltar was joining the common market. So, I think the feelings of the Opposition are well known and hardly need expressing again.

265 But, there is, I think, a very fundamental matter involved here, and it is the balance between the economical and the political. As has been restated by myself and my colleagues, whether Gibraltar can eventually overcome the present restrictions and harassment of the Spanish Government will greatly depend on whether or not Gibraltar is an integral part of Europe. The British Government is prepared to ensure that Spain will not be allowed to join the common market unless and until they respect the people of Gibraltar and grant us the rights that we are so legitimately entitled to our territory, to our institutions and to our rights.

End quote.

270 Madam Speaker, the aspirations of seeing Europe as a possible mechanism for the solution to the political issues faced by Gibraltar have endured for decades. This can hardly be a surprise. We are actually in mainland Europe.

275 One of the features of British disconnection on Gibraltar that has fascinated me most is the talk, often in the press, about Northern Ireland having the only British border with the EU, forgetting in one glib moment the people of Gibraltar that have very often been an afterthought. Except for Sir Joe Bossano, who has been a witness throughout, if there was a time capsule, it might have surprised some Members of the House then, in 1972, that the tables would turn this much and that we were now having to negotiate a relationship with an EU from the outside with Spain remaining inside, with all the cards and the support of the EU. That is evident in documented clarity now.

280 A reversal of hopes that from within we could get our problems solved on Spanish entry. It might have surprised some of those Members then to hear that the EC of six countries that was going to grow to nine countries on the 1st of January 1973 with the accession of Denmark, Ireland and the United Kingdom had now been transformed into an ever-closer union of 27 Member States and nine further candidate countries. Bob Peliza's hopes that Britain would stand firm against Spain were reasonable and understandable but of course did not become reality.

290 Spanish accession did not lead to much more than a different methodology of persistence with Spanish claims to Gibraltar. There were of course improvements along the way with the opening of the Frontier and a softer approach from democratic Spain, but the hot and cold tactics have endured in the decades that followed. Those of us old enough to remember closed Frontier Gibraltar and Francoist Spain also remember those other watershed moments in our history between 1982 to 1985.

295 First with a pedestrian opening of the Frontier in 1982 and then the full opening of the Frontier for vehicular traffic in 1985. During those closed Frontier years there was a feeling of safety but with it a forced and magnified physical insularism caused not through choice but by the closure of the Frontier in 1969 and inevitably the economy then was a shadow of what it is now. For context the 1981 census shows us that the population on census night was just under 30,000.

300 It had grown from 28,000 in 1971 but there were only 12,857 jobs in the economy. Now there is more than 30,000. Of those jobs in 1981 there were only 5,200 private sector jobs in the economy.

305 So, the early 1980s were as many moments of risk and concern as they were of opportunity. As a teenager I remember that moment just before the opening of the Frontier when this House voted to prefer to keep the Frontier closed during a few of the silent hours after midnight but how this was swiftly rescinded under pressure from the UK Government. I have had occasion before to remark that governing in closed Frontier Gibraltar cannot have been easy without the burdening resources of a modern vibrant economy of today's Gibraltar and incredibly reliant on the MOD.

310 The years since the opening of the Frontier were years of new promise and development of Gibraltar. It came against a backdrop of a diminishing UK military presence and soon thereafter the commercialisation of the dockyard. It forced upon Gibraltar a rethink and a need to privatise and diversify the economy diminishing the reliance on the MOD as the main employer.

The open Frontier brought challenges and opportunities and those grew when Spain acceded to the European Community from 1 January 1986. Even so we remained hopeful that it could provide a legal container within which solutions could be reached.

315 Madam Speaker, the European project is not perfect, far from it but it has brought untold stability in a region which before then had had its own share of conflict. It should not be lost in thought that one of the primary objectives of the 1957 Common Market was to achieve that peace in our time that gave Europe stability with its ups and downs it has endured for nearly 70 years. It has also brought prosperity to Europe and through the use of the redistribution of funds and readjustment of economic wealth and opportunity especially in Southern Europe and now towards the East much greater prosperity for European peoples.

320 Even though we have had a number of ups and downs in the EU over our membership the truth is that Gibraltar has also prospered during the years of an open although unpredictable Frontier and European Community membership and what we face today is an imponderable whichever way we turn.

325 Despite such huge cultural diversity Europe as a whole has allowed many nations to come together for the greater good not with common languages necessarily but recognising the diversity of language and culture among them in one Europe celebrating that diversity in a common project of peace, stability and prosperity and in the hope that in that environment of greater peace and prosperity there would also be greater understanding and harmony and through collective action greater strength.

330 That is sometimes not possible. The history of the world is littered with examples of this harmony not least now, but the building blocks of the European project made sense and our political predecessors in this House were right to identify the possibilities for the future although they may have been dismayed about our current predicament.

335 Of course, there have been tensions between those who wanted closer integration in Europe and those who did not those who wanted economic measures in a large free trade area and those who aspired to greater political integration. Those tensions were as evident in the departure of the UK as in the pillars of the deal the UK entered for itself post Brexit because for the UK it was and has been for some time all about trade.

340 For us in Gibraltar it is and has always been about personal freedom of movement. It is important to reflect on that not just now but as we go forward as a community our interests and those of the UK have not always been the same and are not necessarily the same now.

345 The UK has had a long and equivocal relationship with the EC and then EU voting by referendum to stay in 1975 and then to leave in 2016. It had tried hard first to join, commencing talks to join the EC in 1961 with De Gaulle vetoing down two British membership applications in 1963 and 1967. Eventually Britain joined and then swiftly sought to hold a referendum on continued membership a couple of years later. However, while the mainland UK equivocated the people of Gibraltar have been clearer about Europe.

350 There was uniform political support for our entry into the EC and uniform political support for
us remaining within the EU. Much and unfairly caricatured as it has been some of us who have
written about sovereignty and Europe have held the core view that the people of Gibraltar who
are sovereign in our little corner of Europe should decide our future and that it lies within Europe.

355 Almost 35 years ago in my very first newspaper article in Panorama as a perhaps brave 24-
year-old and before the Maastricht and Amsterdam treaties transformed the then European
community I wrote about the possibilities of some form of European solution for Gibraltar that
could combine free association with Britain and greater integration in Europe.

360 This depended on more constitutional development recognition by the United Nations and the
need to deliver a permanent alternative. In that latter regard I said then in 1991 that permanence
meant that the solution should survive if Britain left the European community. In any event what
I thought was necessary in 1991 was a two-pronged approach of developing the constitutional
position of Gibraltar and increasing our participation with a greater Europe. I saw that as a way
for Gibraltar to seize greater control of its destiny and obtain a secure future. In many ways that
remains the case today although the immediate participatory dynamics have been inverted with
the departure of the UK and the arrival of Spain into the Union.

365 A few months later I would stand for Election with a few people four of us in this House today
who had the temerity of putting the European flag on their emblem and in their manifesto and
argued that a secure place for Gibraltar in Europe should be the centrepiece of constitutional
reform because we saw Gibraltarian nationalism as meaning the development of greater power
for the people of Gibraltar within Europe. Maybe some of us still believe that.

370 That for many years was easier to package and foresee within the European Union but now
depends on some form of pragmatic relationship with Europe that is safe and beneficial so that
our political and economic viability is secured so that we do not return to fragile insularism and
an environment that is viable but solitary.

375 This is especially important in the post-Brexit world of new global politics where technology is
both the currency of development and is weaponised where it is possible to use and abuse
safeguards for international criminality where there are challenges of terrorism and the need to
rely on international resilience for global and regional security. The future, our future, is for a
relationship with Europe understanding and accepting where we are and who we are a Latin
Mediterranean people in southern Europe with our separate identity, with our rights to self-
determination seeking to stay economically afloat backed by waves of global politics trying to
punch above our weight but stronger together than alone. While we have the rights to our land
to adopt the cry of 1964 and the rights to determine our future and have for 300 years developed
a sense of identity and now self-governance institutions to conclude that journey, we also need
to obtain recognition of our rights and take our place in that wider world first European and then
international.

385 Indeed, that has been the challenge and fight for the international recognition of our right to
self-determination. It is a hollow set of words if it is not understood that we want to achieve that
international recognition of our rights as a people so as to continue to decide our destiny and our
governance. However, in exercising our right to decide our future it does not mean that we swap
one colonial master for another in the same way that it does not mean that we go through life
alone.

390 Madam Speaker, I want to pass on to truth two which is that the EU was built on a different
understanding of sovereignty. On an aside, the Chief Minister mentioned and quoted from three
legal opinions this morning. They were, as I heard them, all legal opinions about legal territorial
sovereignty but not sovereignty in the wider sense of that meaning which is really about also
power and the divestment and transfer of power.

400 So those opinions are as good as they are and as good as they flow but it is worth investigating
and assessing that theory of what the meaning of sovereignty is because truth two, Madam
Speaker is that the EU was built on a different understanding of sovereignty. The second truth is
that within the modern European project it is important to understand that it has been premised

on an understanding of sovereignty that has tried to take us beyond the old and historic notions of territorial integrity, territorial sovereignty and insular territorial power. Of course, with mixed success along the way because old sovereignty revives its head frequently.

405 However, the history of the EC and now EU depends precisely on sovereign states or sovereign peoples by act of their own sovereignties pooling these and their powers by acts of consent. It depends on powers going up to the supranational entity the EU council, EU commission, EU Parliament so that laws are made for all Member States and Union citizens and it depends on the greater devolution downwards subsidiarity of power to regions and localities. All those depend on cooperation to work but that has been the evolving, enduring European pact over the last 70
410 years.

That method saw a process of division and combination of powers, sovereignty internally within the EU that led to these being enhanced externally. This was something that some scholars described as taking us beyond the sovereign states.

As the leading Scottish constitutional academic Neil McCormick once said:

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The key question becomes whether there can be a loss of sovereignty at one level without its inevitable and resultant recreation at another. Is sovereignty-like property which can be given up only when another person gains it or should we think of it more like virginity something that can be lost by one without another gaining it and whose loss in apt circumstances can even be a matter for celebration.

He advocated a vision for Europe beyond the sovereign states one where he observed that subsidiarity points us to better visions of democracy than all-purpose sovereignty ever did. He said there is a possible future reality preferable to the past of nostalgic mythology.

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At least that was the theory although the history of Spain's membership of the EC and then EU has shown us that unfortunately in the case of her behaviour towards Gibraltar, she has often sought to persecute the nostalgic mythology disguised as European modernity. So, the reality Madam Speaker is that in first joining the EC and then staying for almost 50 years after 1973 we had already consciously pulled our sovereignty within the EU and divested a lot of powers upwards
425 to Brussels. That is why so many domestic laws on our statute book have an original European source.

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That was an act of conscious sovereignty and democratic legitimacy in this House in 1972. We did not want that act of pulled sovereignty to cease because that is the clear message of the people of Gibraltar when asked in 2016 because despite the flaws of the European project our people wanted to stay. So that was our mandate in 2016 and there is no political party that has ever advocated leaving the EU and did not advocate leaving it in 2016.

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So, the mandate of the people was clear, and I believe the European project understood by the people. I believe people appreciated while we were within the EU that within the Union powers sovereignty is pulled as part of the price of membership. They understood that and had no objection to it. They still voted overwhelmingly to remain. So, what under the envisaged new circumstances however that popular mandate should be renewed in a further act of democratic legitimacy is something that deserves consideration.

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As membership of the European Union brought with it a pooling of sovereign powers it follows that as a matter of principle the pooling of powers in an international agreement with the EU should not be a cause for not proceeding with an agreement in itself. Indeed, I understand that in a safe and beneficial agreement necessarily some powers will be pooled. The question is who is exercising those powers and how?

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Truth three Madam Speaker is that for negotiating with the EU read Spain because of course the voluntary pooling of sovereignty within the EU was one thing but quite another was the attempt by Spain to continue to prosecute its resisted claim to our sovereignty meaning our legal sovereignty even sometimes within the EU. What I have just described as a nostalgic mythology trumping modernity. The EU has sometimes allowed itself to be used as a vehicle by Spain or

sometimes has adopted the role of bystander preferring not to intervene and considering Gibraltar a bilateral issue between the UK and Spain.

450 That happened on countless occasions throughout our membership of the EU to the dismay of Gibraltar and the particular dismay of those who have always believed in Europe with hope for Gibraltar. That brought to the fore a tension that is also at the heart of the democratic legitimacy of the European project. That it works if it has the legitimacy of the peoples of the nations of Europe who voluntarily decide to share power, but it crumbles if states abuse shared institutions

455 to prosecute their narrow anachronistic claims predicated on antiquated notions of sovereignty.

This is the third truth that the irony of the post-Brexit era is that a European project built on advocating a notion of new sovereignty would allow itself to become the effective puppet of what a Member State would want or may want in Gibraltar in future not in the name of enlightened democracy but as a continued prosecution of its own territorial claim that lies in flat contradiction

460 to notions of modern sovereignty. Those tensions are evident in the process leading to this agreement in the contents of the agreement and in the future methodology of action stemming from this agreement.

The conundrum after 2016 is that having fought for so many years to obtain parliamentary representation within the European Parliament, we were now outside looking in and an EU, scorned by Britain, no longer was the bystander on Gibraltar with just one of the warring siblings left in the club it took the easy route and decided to support its remaining sibling member.

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So, in reality, the negotiation and the future now meant more sharply that any new deal depended on Spanish consent that we were negotiating with the EU in name but on the understanding that it was to some distinct effects going to allow itself to be used as a proxy by Spain. That is evident from the fact that as a matter of process the point we have arrived at today has depended on first the negotiation with Spain of the framework and thereafter its continued involvement at all stages of the negotiations. It is evident in how we are told future powers will be exercised.

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In that process notions of old sovereignty would be used by Spain who wanted and still talk the language of old sovereignty. So much so that she has even got the EU to sometimes adopt the language of old sovereignty or its tools in deference to its own now singular membership of the Union. That language of old sovereignty is even present in the proposed council decision adopting this agreement that prefaces formal adoption of the agreement with references to the United Nations resolutions on decolonisation on Gibraltar and the quote:

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480 full respect of the territorial integrity

close quotes, of its Member States.

That is code for old for the old sovereignty claimed by Spain and not the modern sovereignty I spoke about before. So, in 2016 when the referendum left us outside the club we were left with the task of seeing if the scorned club could be persuaded to allow us to use the swimming pool and the restaurant even though we were not members and of course that is not free.

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So, truth four is that nothing is free and there are prices. It is inevitable that that fourth truth means that a price would need to be paid for what we wanted. It would not come for free, and it is unrealistic or dishonest to think a price is not paid in this agreement. Indeed, a price comes whether we do a deal with the EU or we do not do a deal.

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There are consequences from both forks in the road. There is no easy path without consequences or prices for this community. There is a price if we follow the no deal scenario and a price if we do this deal. The price for doing this deal that is now presented by the Government is several large economic and political concessions.

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There are a number of intrusive economic controls, some of which I will highlight, as well as concessions of control which will be deeply uncomfortable for some people and indeed unacceptable to some against the backdrop of Spain's enduring sovereignty claim. In trying to do

500 a balance of prices with consequences, I also observe that in so far as the valuation of the latter, we are bereft of information to make an informed choice as to economic consequences.

Truth five, Madam Speaker, is that this is not a good deal, but it is the one on the table. So, I mean, good is subjective of course, because it requires a comparison with other scenarios. It is a deal, but it is never the deal we or surely the Government would have wanted to have aimed for.

505 It is not the deal that we saw for our future in Europe because we did not want to leave or the deal that we would have aspired to get as a final destination in the natural combination of, had it continued, continuing full membership of the EU, domestic constitutional development and decolonisation. A destination that would have needed always to be underpinned by the sovereign act of the people of Gibraltar in referendum. It is not even the deal that the Government wanted to get and announced it would obtain that New Year's Eve in 2020, at least in one important respect.

510 Whether it is the best deal that we could have got had we worked together, we will never know because the Government decided to go at this process alone without involving the Opposition, despite our offers to help, as far back as my predecessor, Daniel Feetham. Indeed, after I became GSD leader in 2017, I also offered our help to the Government in this process. It is, of course, up to them to go it alone if they want to.

515 They are the Government and it is for them to decide how they negotiate. This is not the GSD saying, let me be clear, this is not the GSD saying from any position of arrogance that we could get or could have got a better deal. It is the other way around.

520 It is us saying that it is arrogant for the Government to think that we could not have got a better deal had we all worked together. That sometimes in little Gibraltar, and because we agree on some fundamentals, at least on sovereignty and self-determination, that pooling abilities and increasing our political resources might have taken us further, like we did in COVID at the worst moments, like Sir Joshua and Peter Isola at the United Nations, like we did on constitutional talks in 2002. The political community has on occasion demonstrated, and usually in the international field, that working together makes sense.

525 This was an opportunity lost by the Government going alone. So, we will never know whether we could have got a better deal together because of the way the Government handled the negotiations. We will all rue the results of that particular exclusionary view.

530 So, the fifth truth is that this is about judging their deal, which they have brought back without our help or knowledge, and judging it against no deal. Therein lies another of the difficulties we have today, because we first saw the text of this draft agreement on the 10th of February 2026, only 21 days ago. We had not seen a single page of travelling text before then.

535 We had not seen the economic studies underpinning the assessment or how it compares with no deal. We only have our own gut instinct of what no deal would represent. However, no information has been shared with us on a statistical or economic analysis to help guide our own view, despite the fact that we have asked for it before.

540 Of course, all that makes our task even harder and less enviable. How do we judge the impact, not just of no deal, but of this particular deal if we do not have the assessments that the Government has had? So, we are largely asked to vote blind on instinct and assumptions not armed with statistical or economic analysis the Government has had.

545 Madam Speaker, truth six is that no deal is not the present situation. As I said earlier, there are consequences whatever fork in the road is taken, because things will not revert to how it was in 2016 and will not remain the same. We are now operating under loose allowances of easier travel at the border than that enjoyed throughout Europe by non-EU citizens and British nationals coming into the EU. That is also a reality.

550 The proposal for a Council decision that annexes this agreement makes clear that on entry of the EES system, the European Commission and Council would expect it to be applied at the border if this agreement is not in place. So not having some form of arrangement would or likely inevitably result in less mobility at the border that would bring economic pressure as well as lifestyle changes to people.

Presumably, although we can still survive if we must, we would agree that that type of existence is not a preferred option for Gibraltar. It would revert to us it would revert us to that more insular environment remote from international trends of globalisation and interdependence and our ability to in some respects call upon our ties with Europe and relationship with the EU as a bloc.

Truth seven, Madam Speaker, is that there have been concessions along the way. The seventh truth is that along the way the Government have backtracked and made concessions and that is most obviously seen in the thorny area of so-called boots on the ground as well as the economic controls that have been developed. So, dealing first with boots on the ground. The New Year's Eve agreement that was entered into on the 31st of December 2020 is different to what has been put forward in this agreement in one very significant way.

As will be recalled, the New Year's Eve agreement in its clause 10 says that the European Borders and Coast Guard Agency, Frontex, would in effect fulfil the Schengen checks for a four-year period if there was a Treaty. Additionally, the practical arrangements specified that Frontex officials would carry out the Schengen checks of persons and their belongings for that four-year implementation period. There was at least then clarity that the Government did not support Spanish officers in Gibraltar undertaking those checks or in any other guise.

Indeed, they made clear that if that four-year period was up, they would advocate for termination if Spain insisted on Spanish police officers doing those roles in practise in future. That New Year's Eve agreement was just a political and non-binding eight-page framework, but it did already create concerns for us because of its parameters. When the Government came to this House on the 15th of January 2021, the first opportunity to make a statement on the New Year's Eve agreement, I said, quote:

I have to say we have serious reservations on the content of this framework of principles. By that I mean the concessions on jurisdiction and control and the bilateralism and the possibility of Spain gaining economic and administrative controls which build on already the MOUs and the new MOUs that will come or a tax Treaty, and that those economic controls will affect our economy and our sustainability going forward.

I added,

is not the proper construction of the agreement in relation to the Frontex arrangement that after the end of four years we are left with the conundrum of a hard Brexit or Spanish officers?

also added,

Is not the effect of this agreement that there are concessions on jurisdiction and control and indeed that even joint patrols of waters are being envisaged?

Well, now we know that Spanish officers are here on day one, not after four years. My predecessor, Daniel Feetham, who then held the shadow responsibility for justice, also asked the Chief Minister specifically about the possibility of Spanish police officers in Gibraltar. The Chief Minister was adamant that there would be no joint patrols of Gibraltar waters envisaged.

We now know under the deal that they have presented that there will be joint maritime patrols of waters, albeit in vessels provided on a roster by both Gibraltar and Spain, and vessels marked with a European flag. In January 2021 the Chief Minister added, quote:

On the question of whether my Government would at any stage accept Spanish law enforcement officials at the airport and the port, I have been abundantly clear already. I do not mind saying that if we do have a Treaty and then in four years' time the option is to continue but with Spanish guards or not continue, I do not mind saying that I would make the choice not to continue.

I said yesterday that while I have breath in my lungs I will be arguing against that because I sincerely believe that it is not in our best interests to have the Spanish police at the airport and the port at the end of this four-year period.

He also said, quote:

If the choice was to do this but only with Spanish guards from day one, we would have said no. If the choice in future is to do it and continue to do it but only with Spanish guards, we would say no.

605 No to Spanish police at the airport and the port for reasons unrelated to today but related to the history of the Spanish institutions and the way that they have dealt with Gibraltar. I have expressed that already.

End quote.

610 There was nothing we disagreed with that and there was nothing ambiguous about that. Indeed, the Chief Minister was right that this was not about today but fundamentally about the historic lack of trust tied in with the sovereignty claim. These were and are unique features that affect our case.

615 They remain relevant today. However, what has changed since the Chief Minister uttered if the choice was to do this but only with Spanish guards from day one, we would have said no. Because this is precisely the deal they now commend to this House and the people.

620 Spanish police from day one and not just at the airport as we will see. Because in this deal checks will be done by Spanish officers in Gibraltar and not just in the so-called Schengen Shack the facility that sits equidistant on the Frontier. Some of the checks will be done within the airport from immigration booths.

What the Government said for years was totally unacceptable. Sometimes describing those checks or their impact in emotive terms.

Sir Joe Bossano was adamant in July 2022 on GBC when on a Viewpoint programme he said quote:

625 Under no circumstances would we be willing to do a Treaty in which control of entry into Gibraltar was carried out by Spanish officials.

630 There is no chance that a GSLP Government or a GSLP party or a GSLP officials or a GSLP membership would accept a Spaniard official controlling who enters into Gibraltar. If there are Gibraltarians willing to serve Gibraltar for the sake of convenience, then they are not Gibraltarians anymore.

End quote.

635 Sir Joe Bossano was equally affirmative later in July 2023 in this House first referring to the fact that I had said in 2022 that I wanted a safe and beneficial agreement that delivered freedom of movement and safeguarded our economic future when he said, referring to me, quote:

640 So, he wants a deal that allows freedom of movement for our people and safeguards our economic future, which is what he told us last year. Does he not know such a deal does not exist? He says we need to be politically and economically sustainable and that a good deal would ensure those prospects if it can be achieved.

645 The reality is it cannot be achieved. The only deal that can be achieved, as has been obvious and publicly stated on many occasions since December 2020 is a deal that has a maximum period of four years because none of us are willing to accept a Spanish presence in Gibraltar as the price of a deal. Spain has agreed to request from the EU that Spain's Schengen obligations under any deal would be carried out on Spain's behalf by Frontex for an implementation period of four years, at the end of which Frontex would be replaced by Spanish officials or the deal would be terminated.

So, the deal will be terminated.

End of quote.

650 In fact, the deal being recommended today in this aspect is the deal they said would be terminated after four years as unacceptable.

655 So, what happened? When the Chief Minister was asked in January 2021 by Daniel Feetham whether the Government would have a referendum on the question after four years, he said with equal robustness quote:

Why is he asking me whether there will be a referendum? Surely, he should say with Joe Bossano in Government, with Joseph Garcia in Government, with a whole of the GSLP liberals in Government I do not want a referendum on this issue.

660 I know that they will stand firm. They have already said it.

End quote.

665 Well now we know that with Joe Bossano in Government and Joseph Garcia in Government, with a whole of the GSLP Liberals in Government, they have not stood firm on this crucial issue. Of course, the position had softened somewhat by the General Election because by then they had promised a referendum at the end of the four-year period so that people could decide whether or not the Treaty should be terminated. Presumably if the option was that Spanish officers were going to do the checks.

670 However, given that the presence of Spanish officers during the checks is precisely what is happening in this agreement from day one. Do they intend, as they said in their manifesto, to put this to a referendum? In a question-and-answer session in the Spanish Senate in 2024 the Spanish Government were asked about its position on whether Spanish police would be assisted by Frontex and whether the Spanish police would be uniformed and bear arms.

675 The Spanish Government's answer on the 22nd of May 2024 was that the Schengen checks had to be undertaken by Spanish police as they had exclusive competence to do so and that if Frontex were present their role would be to support and complement Spanish police with Frontex exercising an ancillary function to Spanish police as the latter had responsibility for Frontier checks. They added that the Spanish police would be uniformed and armed. On the 29th of May 680 2024 on GBC TV responding to those comments the Chief Minister said quote:

We have been very clear since Dominic Raab was Foreign Secretary that we would not accept Spanish boots on the ground.

685 We have been extraordinarily clear about that. We've been clear about that in the way we set out the mandate for negotiation with the European Union and in the way we negotiated the New Year's Eve agreement

End quote.

Referring to what he called Spanish positioning he added quote:

690

That does not change the position of the Government of Gibraltar which will never change on those issues.

End quote.

695 On the 3rd of June 2024 interviewed by the Chronicle and asked about what his position was and that of the Government he said quote:

In the shorthand no boots on the ground

700 end quote. He added quote:

What you have seen referred to in the Spanish Senate is not acceptable in Gibraltar. Not just me but I would say to almost every Gibraltarian.

705 End quote.

710 However, what the Spanish Senate answer stated is in practise what will happen under the Treaty that the Government had brought back from the negotiations. The Chief Minister added then in 2024 that this would be to cross a red line which he thought was unacceptable. He very clearly said quote:

I think the key issue is that you've got to understand the psychological reality of Gibraltar politics and how that comes about.

715 I think Spain needs to be understanding of why the Gibraltarian rejects Spanish presence in Gibraltar in today's day and age. We've seen the Spanish law enforcement agencies in Gibraltar as the instrument of the Spanish attempt not to recognise our waters and our territory. Therefore, we have what I might call an understandable allergic reaction to the presence of Spanish law enforcement discharging executive functions in Gibraltar because it would make it feel as if we had succumbed to the issue of somehow accepting that our territory does not start and end where we have proposed.

720 That is an issue that Spain need to carefully understand. Spain has to accept that she cannot be in Gibraltar with this Treaty. Spain needs to ask itself, what have we done here?

How do we fix it? Not how do we use this moment to win it in the end.

End quote.

725 We agree. However, that is not the deal the Government have brought back and are commending to this House. Because this agreement provides that border checks on entry are carried out by Gibraltar and then by Spain.

730 On exit, they are done in reverse, by Spain first and then by Gibraltar. Yes, there will be electronic gates through which identity documents will be processed and make the engagement with Spanish officers less for some people, but they will have to process the documentation of some passengers and be visibly present to all passengers exercising jurisdiction in our airport. That is not reserved to the area which is the shared facility building.

735 They will be in the main terminal as well. They will be in Schengen immigration booths in uniform and presumably also armed. These are things they said were red lines and would not happen.

This is after all not an analogy with St Pancras where there may be French officers. In St Pancras, there is no sovereignty claim and that matters. So, while the position may be ameliorated by the establishment of e-gates, entry and exit checks by Spanish officers will still be done in respect of some passengers.

740 There will also be plain clothed Spanish officers at the airport and assisting in the transportation of passengers between the port and the airport so that checks can be conducted there. That it is now being done with the consent of the Gibraltar Government cannot now be the saving grace when for years they told us they would never consent to it. Simply because of the historical and as the Chief Minister described, the understandable allergic reaction to the presence of Spanish officers exercising powers and jurisdiction on Gibraltar soil.

750 An allergic reaction that we share. So, we cannot see that there is any justifiable or principled basis why the Government has made that U-turn and certainly they have not really explained it. We've heard what they said in 2025 when this abandonment of the red line surfaced but nothing, they said then or since then on this issue has stood up to any scrutiny to properly explain the acceptance now of things they said were unacceptable and with which we agreed.

755 So, in the context of realism and honesty it would be much more palatable for them to accept they made an obvious concession and tell us the reason why they reached that juncture rather than sell the unsellable. Asked the straight question of whether there would be boots on the ground in a GBC programme in June 2025 after the political declaration was announced the Hon. Sir Joe Bossano said quote:

This boots on the ground business is nonsense we are not going to have any non-Gibraltarian person being able to exercise authority in Gibraltar over anybody whether he comes in with boots or with slippers or barefoot.

760 End quote.

Plainly that is completely untrue and obvious for anyone to see from the agreement and will be made even clearer when the arrangements are put into effect via those immigration boots. So when I said earlier that what Gibraltar needs is an honest debate it starts by accepting that things

765 are contained in this agreement that we were told would not happen but are now being
recommended by the Government that that is the price of the deal and when the Chief Minister
stood up this morning to say again that neither does it lead to Spanish boots on the ground and it
is all about cooperation in another context I am going to turn to now. That cooperation with
Spanish officers will be Spanish officers who will have boots on the ground and weapons in their
770 holster, so it is important to have an honest debate.

So ultimately Madam Speaker in this particular respect we had shared their views on red lines
and boots on the ground. Agreeing with a position that they had taken for so long can hardly be a
partisan view that we are taking today because we agreed with them all the way up to last year
when they announced the U-turn when they were saying it then so it is impossible Madam Speaker
775 to support these aspects and the abandonment of promises by the Government to adhere to these
red lines.

Madam Speaker while for a long time the debate on boots on the ground at the airport and
port was the focus of possible Spanish police presence what was not spoken of in any significant
way were the mechanisms that were being conceived to allow cross-border activity.

780 Under articles 55 and 56 of the Treaty a regime of surveillance or hot pursuit is established.
Under those arrangements Spanish law enforcement authorities be they Policía Nacional or
presumably Guardia Civil can enter Gibraltar armed with their service weapons to conduct
surveillance or undertake a hot pursuit. As the name indicates hot pursuits would be conducted
in cases where there is an ongoing alleged crime happening.

785 Surveillance is however a colder activity and would be conducted in cases of ongoing
monitoring of a person. It is evident that in both cases weapons can be carried and that the
intended administrative arrangements envisage that they could be used only in cases of legitimate
self-defence that still allows the use of weapons on our soil when we have a tradition of unarmed
policing as the standard. The use of weapons by Spanish officers in self-defence will be a
790 notoriously difficult thing to assess or enforce, especially when we have previous experiences to
go by.

Most recently the alleged firing of shots by Spanish officers at Eastern Beach in February 2023
when they were in pursuit of suspects. As far as we are aware it has not been asserted that those
shots were fired in self-defence but in pursuit and we know how difficult it is to get to the bottom
795 of those issues because three years after that incident we now know that the Gibraltar
investigation has been closed by the RGP and from previous questions in this House we are not
aware that the Spanish authorities have volunteered to ours the names of those persons who fired
bullets in Gibraltar. It will be obvious that the lines for all that, namely the use of weapons, can be
easily blurred in hot pursuit or cold surveillance of suspects.

800 In any event it creates a precedent of Gibraltar accepting the presence of armed Spanish
officers on Gibraltar soil. Presumably it may be necessary to set some of this out in domestic
legislation as there is some reference to this in the administrative arrangements. In any event it
would be done under the authority of the Treaty and with the consent of the Gibraltar
Government, which is new.

805 However, again, the fact that this is being done with the Government's consent under the
Treaty arrangements is difficult to stomach for most people given the historic and understandable
mistrust of Spain. There may be safeguards of notification on entry to Gibraltar and that Spanish
police officers would need to desist from either activity if requested by our authorities. However,
the principle of presence, i.e. boots on the ground, is established and clear. It is true that
810 provisions in respect of surveillance and hot pursuit are part of the Schengen Aquis and that there
have been bilateral agreements entered into by other states to bring those provisions into effect.
Indeed, most recently, the European Union opened discussions with Andorra in 2024 to establish
common Spain-Andorra and Andorra-France arrangements on cross-border policing, including
surveillance and hot pursuit. However, of course, what is missing in other situations, be it Spain-
815 Portugal or Spain-France or Italy-Austria, is that there is no sovereignty claim to the territory
within which those powers will be exercised.

820 There are no non-self-governing peoples with the right to self-determination who are seeking international recognition of that right before the United Nations, caught in the middle of those situations and who will feel that their rights are being trampled on by armed officers symbolic of the state that claims that they have no rights of self-determination.

When Spain acceded to the Schengen Aquis, they did so by agreement of the 25th of June 1991. In doing so, they designated that the officers of the *Cuerpo Nacional de Policía* and of *Cuerpo de la Guardia Civil* were designated under the Schengen Convention as having powers under it for the purposes of Articles 40 and 41 of the Schengen Convention.

825 Those Articles of the Schengen Convention envisage regimes of cross-border surveillance, Article 40, or hot pursuit, Article 41. Quite apart from the crossing of sovereignty claim red lines of boots on the ground significance, or historic, uncomfortable issues of allergic reaction that the Chief Minister has spoken about before, it seems that the administrative arrangements envisaged under this agreement do not contain some of the protections in the Schengen Convention. For
830 example, Article 41 of the Schengen Convention envisages that cross-border surveillance can be carried out where the Competent Authorities of Gibraltar have authorised cross-border surveillance in response to a request for assistance made in advance, conditions may be attached to the authorisation. It is only if for particularly urgent reasons it is impossible to request prior authorisation that officers may cross the border and then inform and request authority to do so
835 at that moment. In those circumstances where authorisation had not been obtained, surveillance ends as soon as the competent authorities of the territory so request or five hours after the border is crossed. That is Article 40 (2).

The carrying of weapons by officers of another state is permitted unless specifically otherwise decided by the requested party. Article 40(3)(d). In the draft administrative arrangements we have
840 seen, Spanish law enforcement authorities who want to conduct cold surveillance are required to notify the Gibraltar authorities before and at the latest on entry into Gibraltar. There does not seem to be a regime of prior request. Not a formal one. Equally, there does not seem to be a time-based outer limit of surveillance or importantly not a decision which could seem to have been taken to restrict the carrying of weapons at all.

845 Additionally, it is possible under Article 41 of the Schengen Agreement to demarcate the limits of operation on hot pursuits. The territorial extent of the Spain-Portugal arrangements, 50km, are different to the Spain-France ones, 10km. However, of course in those countries you might drive for miles without encountering cities or large towns.

Here, within a 5-minute drive, armed officers would be in heavily residential areas and there
850 seems to have been no attempt in the administrative arrangements we have seen to territorially limit the scope of activity of hot pursuit. Rather, the entirety of Gibraltar is captured within the hot pursuit zone and that in itself brings massive challenges. When the UK started applying the Article 40 cross-border surveillance aspects of the Schengen Aquis in 2004, it required that foreign officers could not carry firearms beyond the confines of the port or rail stations at which they
855 arrived and could not do so at all if arriving by air.

Each foreign officer required specific authorisation by the Home Secretary under the Firearms Act. Additionally, before an authorisation was given, the operation had to be risk assessed by a UK officer of at least Assistant Chief Constable rank. Under UK statute, there are also specific time and authorisation protections built in. However, where are those protections here?

860 Hot pursuit under Article 41(5)(b) of the Schengen Convention is restricted to land borders. Are there assurances therefore that this will not be attempted under the agreement within our waters? We appreciate however, of course, that there are rights of hot pursuit in waters under other international conventions or applicable legal principles. However, to the extent of this article and how this will work under this agreement, given that the use of unmarked vehicles is
865 prohibited under Article 41(5) of the hot pursuit provisions in the Schengen Convention, it would mean that under the Treaty, hot pursuit could lead to Spanish Police or Guardia Civil cars blaring into Gibraltar with flashing lights.

When Spain acceded into the Schengen Convention, as I say, it entered into bilateral agreements with Portugal and France. These are not identical, although they are similar. As stated, 870 the territorial extent of application into France, for example, was more limited, much more limited than in the case of Portugal.

The extent of criminal activity for which hot pursuit could be undertaken was also limited to certain offences and not others listed in Article 41(4) of the Schengen Convention and in the case of Portugal, subjected to a period of two hours. The latter was embodied in an agreement 875 between Spain and Portugal on the 30th of November 1998. Such regimes under the Schengen Convention carried over into the Treaty do, however, require an implicit and indeed explicit recognition of our laws under which Spanish officers would be operating.

However, they do mean that the price of this deal is boots on the ground in a number of geysers, not just at the airports, but the exercise of powers within Gibraltar by Police or Guardia 880 Civil. We understand the argument that this is only happening because as a matter of law it is being authorised by the UK and Gibraltar, and that this in itself is an exercise of consent and authority conferred on by the Government. However, for the same reasons that they themselves articulated not that long ago in 2024, we draw little comfort from that.

Additionally, we draw little comfort from the fact that those powers are mutual. Because I am 885 confident, Madam Speaker, that most Gibraltarians would rather abandon the prospect of sending our officers to La Línea in hot pursuit in exchange for the Guardia Civil and Policía Nacional not coming here. We note from the proposed Council decision that accompanies the publication of the agreement that it reaffirms that although Schengen rules will be applied at the external borders, Gibraltar will not become part of the Schengen area.

That being so, and as we did not form part in any way of the negotiations, it is difficult to understand why it was not possible to seek some form of flexibility or opt-out of ensuring that 890 intrusive cross-border police powers that could be perceived as further incarnations of boots on the ground did not form part of the overall arrangements. The history of engagement with Spain has shown us that they use incursions as the language of communicating and asserting old sovereignty, so we are simply not confident about those features, nor willing to endorse them. 895 Much more time and effort needs to be invested by Spain to build up trust and confidence in Gibraltar before any of that could be deemed remotely palatable. That is no more to say than what the Chief Minister has told this House before.

Madam Speaker, the removal of the land Frontier as a supervised entry point, as we have 900 known it for many years, will no doubt bring security concerns and indeed the need to revamp the approach to it. That will require greater investment in resources, meaning more Police Officers, possibly more Customs and BCA Officers, and an investment in technology to increase digital surveillance of the Frontier and our coasts and public areas as well as equipment, vessels and vehicles.

Last week I asked the Chief Minister about this issue at question time, and he indicated that 905 recommendations had been made by the Commissioner of Police. He also indicated that Customs and BCA may also want more resources. From this side of the House, I indicate that we recognise that with this agreement there will be a need for greater investment in security and that to that extent he does have our support.

We agree that a permanent heavy armed Gibraltar Police rapid deployment presence in the 910 area of the Frontier is absolutely necessary to keep a handle on all the challenges I have indicated. Additionally, and to enhance the ability to combat crime, we welcome the more general and less intrusive measures on police and law enforcement, cooperation in the agreement, on Exchange of Information, Europol or Eurojust. The price of greater mobility at the Frontier and now I want 915 to move on to residence controls and intrusive mechanisms.

The price for greater mobility at the Frontier and across the EU is several intrusive decision making and informational controls that not just affect our jurisdictional powers but have the potential to be of economic harm. For example, on issues such as: Rights of Residence, Article 45; Short Stay Visas for Visits to Gibraltar, Article 47; or even Residence Permits to Reside in Gibraltar,

920 Article 50, the Treaty creates arrangements that subject the exercise of powers that we have
always had to now consultation with Spain, provision of information to Spain or indeed exercise
of power by Spain. If, for example, under Article 45 we want to make changes to laws governing
residence within the scope of this article, the Government must first consult the cooperation
925 council set up under the Treaty; under Article 47, certain short stay visas for entry and stay in
Gibraltar will be issued by Spain; under Article 50, before issuing or renewing a residence permit,
Gibraltar will need to notify Spain and will not be allowed to issue or renew such a permit if Spain
objects under certain grounds. The fact that Spain would now have the deciding power on short
term visas may have an effect on inward investment should visas be requested to allow third
country trade delegations or investors to visit Gibraltar.

930 Here also, the Government has, despite protestations to the contrary, seemed to have
succumbed to longstanding EU demands. Because in July 2021, the EU published its negotiating
mandate for the purposes of the negotiations leading to this Treaty. In it, they published a list of
so-called safeguards which they would seek in the negotiations. These included rules on
competence by Spain for visas and residence permits to third country nationals, rules providing
935 for intensive flow of information to the EU and Spain, rules on cross-border operational police
cooperation, rules that would impact on residence in Gibraltar as well as Spanish competences for
Schengen checks including powers of arrest.

At that time, both UK and Gibraltar Governments rejected the mandate as conflicting in part
with the New Year's Eve agreement and this was reflected in a letter by the then Minister for
940 Europe, Wendy Morton, to the Chair of the Commons European Scrutiny Committee in November
2021. Despite those objections, then, it seems that many of the articles in the Treaty presented
to this House have reflections in pillars set out in the EU negotiating mandate of 2021.

In shorthand, that these things have been accepted as concessions along the way, however
hard to swallow. There are wide powers of information handed to Spain outside of the field of law
945 enforcement cooperation including air or port passenger information, the rights on residence
permits already mentioned, exchange of information on Customs and indirect taxation, real time
and continuous access to any relevant IT systems used by Gibraltar for indirect taxation and
Customs or market surveillance information. Some of these powers have economic implications.
How those powers will be exercised or used and the danger of these being abused as well as the
950 general handover of information sensitive to our economy to Spain requires a leap of faith by
everyone in Gibraltar.

That those powers reside with Spain is in no doubt in the agreement. Indeed, the explanatory
memorandum to the proposed council decision published in Brussels last week condenses some
of the points in this way.

955 Rules for the issuance of residence permits in Gibraltar with a veto for Spain. Rules for visas with Spain entrusted
with the issuance of short stay visas for stays with main purpose Gibraltar with the first entries in Gibraltar and with
a special rule in the issuance of exceptional external borders visas. Special rules on the minimum conditions under
which legislation may allow for a right of residence in Gibraltar as well as for risk assessment and the imposition of
960 travel restrictions on residents in Gibraltar in justified cases.

Madam Speaker, the Treaty will create a Customs Union between the EU and Gibraltar under
Article 240. A Customs Union with the EU Customs Union, but not at least initially our entry into
the Customs Union. On the 15th of January 2021 the Chief Minister said in this House.

965 There is no question of us entering the Customs Union and I have explained that until I am blue in the face. We are
talking about a bespoke arrangement with the Customs Union, so a common travel area for goods with fewer
restrictions between Gibraltar and the EU. In other words, you do for goods that which you have done for people
so that you can create that fluidity and that unrestricted movement if you can. That is why the framework talks
970 about bespoke.

While that may still be their position, in practise the effect of article 247(1) seems to create a
much deeper contingent accession into the Customs Union on a simple decision of the

975 cooperation council and the application of union law defined in the union customs code as set out in Annex 20 of the Treaty. Again, that emphasises the importance of us Gibraltar having the trigger and control mechanism on the UK side on the cooperation council under our own embedded bilateral constitutional arrangements with the UK.

980 Until such time as that happens, a decision under 247(1), the Treaty provides that the provisions of Annexes 19 and 21 to 24 will apply. These variously govern regimes on the importation and exportation of goods from Gibraltar, the transport of pets, personal allowances of travellers and the applications of indirect tax. Transaction Tax and excise duty is liable under Article 248 of the Treaty. The Treaty establishes transitional arrangements for the sale of certain goods in Gibraltar as set out under Article 270.

985 Madam Speaker, the business community has expressed significant concern already about the lack of information of the details of the trade and business aspects of the Treaty. We were surprised on this side of this House that they have not been better informed or consulted by the Government after all, these arrangements have been long in the gestation and to the extent that they have been subject to lengthy discussions and conception, the business community should have been better informed. The Government cannot have it both ways. They cannot say that they 990 have stuck to the principles of the New Year's Eve agreement of over five years ago now and equally say they could not consult better on arrangements because they did not know how things would work. They either did know and failed appallingly in consulting business or did not know how the nuts and bolts would work when they announced in June 2025 that they did.

995 However, Madam Speaker, without taking the criticisms deeper in time than that, by June 2025, nine months ago when the political agreement was announced that everything had been agreed except for the detail which was subject to legal negotiations, when the political agreement was announced they felt able to comment publicly, not least at a Chamber of Commerce event on how this would work in detail. So why do the business community feel so frustrated about lack of information and consultation when at the very least, they have had nine months if we are 1000 generous with that view?

Probably much longer. At the very least, the Government has not done a very good job on that. Madam Speaker, my colleagues, the Hon. Roy Clinton, the Hon. Craig Sacarello will deal with the economic, trade and business implications of the Treaty in greater detail.

1005 However, I will say this, the business community have had infrequent but apparently unsatisfactory discussions with Government on the proposed workings of the scheme that they were putting together under the Treaty. We in the Opposition have had no real information except that made public. We are therefore unable to assess whether this part of the Treaty is beneficial for Gibraltar in any significant way.

1010 The EU mandate of 2021 reflected a statement of hope that an agreement establishing a new relationship between the Union and Gibraltar would be beneficial in view of Gibraltar's geographical proximity and interdependence with the Union and that it would aim at removing physical barriers to the circulation of persons and goods to contribute to the shared prosperity within the region. That sentiment is repeated in the agreement. We hope that that aspiration is met without Gibraltar suffering.

1015 That regional prosperity does not mean that local prosperity will be diminished. that is our hope. Indeed, there should be a recognition that for many years, Gibraltar has delivered huge prosperity to the hinterland in terms of spending, wealth creation and property in Spain as well as job creation for thousands of Spanish workers and families.

1020 However, in terms of judging the raw economics, the father of the House, Sir Joe Bossano, said in July 2023 this:

1025 There is no way of knowing scientifically whether it, the deal, will result in greater economic activity or higher Government revenues because we have no way of projecting or predicting how businesses and individuals will respond on either side of the Frontier to the new situation. The most probable result of a free-flowing Frontier with no controls is that sections of our economy would gain customers and others would lose them as a result of Frontier competition.

That seems to us a fair and sensible observation. There will be winners and losers. It may be that since then the Government has done further work to come to a different view.

1030 However, we have not seen such work or results. So, we understand how exploring some form of goods arrangement made sense from the point of view ensuring that it led to the removal of Customs checks at the land Frontier. After all, doing a deal that delivers a removal of police checks but not goods checks would not necessarily deliver a free-flowing border for persons.

1035 However, the fact that the Government has been unwilling to share its own commissioned economic analysis with us means it is impossible for us to say whether this part will be beneficial in any economic sense. Beyond that, it is plain that there will be much work that needs to be done to improve information flows with the business community and fine-tune schemes on the ground if at all possible, because there is an apparent disconnect between aspects of this scheme and the players that need to use it, given their comments. It is evident that a trade scheme such as this may benefit some businesses but will put other businesses under extreme pressure and on the edge of viability.

1040 We are not satisfied that there has been enough thinking or analysis on this dimension and nor has that been shared with us. That means we are simply unable to come to any conclusions on whether the radical and potentially seismic change in the economic model is financially beneficial for Gibraltar.

1045 Madam Speaker, I want to turn to other miscellaneous provisions. We consider that the aviation provisions in Articles 271 to 275 are workable and neutral in effect, subject only to the caveats I have mentioned which should be considered a general point as to the importance of ensuring that we, Gibraltar, control the UK side of participation in the relevant forum, for example the Specialised Committee on Aviation under Article 275 and indeed the decision-making on exercise of powers under Article 274. Otherwise, unless changes can be effectively vetoed by Gibraltar or blocked, they could be a Trojan horse of Spanish control which could be unacceptable, which would be unacceptable. We welcome the provisions in the agreement that will unblock transport arrangements for ambulances and indeed my colleague Joelle Ladislaus will address health aspects of the agreement more closely.

1050 We consider having the opportunity of deploying some form of economic funding for cohesion under Article 299 makes sense although this is light on any detail. We note in the provisions on environment and climate that the parties affirm the right of each party to set its policies and priorities in the areas covered by that chapter, Article 219. We assume none of that will impact detrimentally our ability to develop Gibraltar urbanistically, at least nothing there in those letters appear to be that risk.

1055 Again, all about the operation. The Treaty contains provisions on Frontier workers and the rights of these under the article, under the agreement that is Articles 291, 297. Under previously agreed arrangements, Frontier workers who were working in Gibraltar 31st December 2020 obtained certain enduring protections. These provisions now generalise, define the benefits set out in Article 292.

1060 Article 298 seeks to secure the social security rights of certain persons via the densely worded Annex 31 Protocol on Social Security Coordination which gives us little visibility of the brass tacks financial impact of these measures. It is impossible, Madam Speaker, to do a clause-by-clause assessment of the agreement as a whole today in this House but rather what we have tried to do is assess the overall impact against our tests of whether it is safe and beneficial.

1070 However, before I make that assessment, can I talk about the absence of certainty? Because, as I indicated in my opening remarks, the provisions of the Treaty do not provide the much-wanted certainty. This would have been uppermost as a concern for the business sector in its own hopes to plan in a new and stable business environment.

1075 In fact, given the clauses that allow termination either for non-compliance or without cause, there is no real certainty or stability going forward. The most that can be said about these provisions is that at least they provide an escape clause if the agreement does not work well for Gibraltar, but that of course depends on whether the mechanisms are in our hands. People need

1080 to be clear that by virtue of the termination provisions, we can be put on the cliff edge of suspension on non-compliant termination at a few months' notice, or simple termination without cause on 12 months break clause by the EU, and for the EU, read Spain in practise.

The GBC programme of June 2025 that I already mentioned, the Father of the House said, in answer to a question on why this Treaty was better than under the New Year's Eve agreement, which envisaged a four-year termination clause, he said that:

1085

The Treaty is now indefinite.

1090 While theoretically that is so, unless terminated, the provisions on termination provide much shorter periods of notice and are therefore precarious. This would prove not just disruptive to individuals, but to business, and could prove to be inherently precarious if abused politically.

1095 Madam Speaker, the intended Council decision published last Thursday by the EU makes clear that if the agreement is ratified, the EU intends to approve a scheme that places a lot of the evaluative powers leading to suspension or termination in the hands of Spain. Some of this was already clear from the text of the agreement itself, as I have indicated, but the intention has been made clearer still in the draft European Council decision. This says:

1100 The Kingdom of Spain, as the neighbouring Schengen state in charge of performing external border control at Gibraltar Port and Airport, may, after an evaluation of the implementation of a part of the agreement on circulation of persons, request the Union to terminate the agreement.

Additionally, it says:

1105 The Commission should be empowered to take, in consultation with Spain, remedial measures such as the suspension of the agreement, or any supplementing agreement in cases of breaches of certain provisions of the agreement, or non-fulfilment of certain conditions, notably in the areas of circulation of persons, state aid, indirect taxation, and trade in goods, as well as to take appropriate, remedial, and rebalancing measures.

1110 It is also plain in proposed Article 4 of the EU Council decision that the EU would take far-reaching decisions on suspension of obligations, rebalancing, or suspension of the agreement in consultation with Spain. I have already referred to the power under Article 66 of the agreement for the EU to have to comply with a termination request by Spain after the four-year review if so made.

1115 It does not require too much imagination to understand the political mischief to which these clauses can be put in future by any future Spanish Government. We could be at the mercy of future political winds. Before receipt of these documents, we had assumed we had the comfort of termination arrangements that would only be triggered by the EU.

So, to have Spain as the watchdog gives us little comfort. So, in this respect, Madam Speaker, and the failure to deliver stability, the jury is out on whether this aspect of the framework is sufficiently safe.

1120 So, I turn to the exercise of future powers, given the absence of certainty and the broader picture, because this is intrinsically linked with the broad point I had flagged in my opening remarks about the need to have control and guaranteed influence within the Cooperation Council and Specialised Committees created in disagreement.

1125 The Council and Specialised committees have far ranging influence on review, progress and further binding measures which would affect us and which we would need to implement. If matters go wrong, these structures are key, given the review processes, in being able to improve any identified flaws in the agreement and its underlying processes. Those mechanisms are clear in so many places within the agreement.

1130 It creates an ongoing umbrella of constant evaluation and referral, where the committees and Council will hold key influence. So, this only works for Gibraltar if we hold that power and

influence. This needs to be catered for, not only in a clear Concordat, in my view, with the UK, but also in probably better constitutional mechanisms by amendments to our Constitution.

1135 Otherwise, we are in danger of losing control of measures and mechanisms that will affect us deeply. As I indicated earlier on Sunday afternoon, we saw a version of the Concordat for the first time. It is clear, it is still in draft, how advanced those discussions are, I do not know.

1140 However, clearly, for the reasons I have mentioned, it is crucial that Gibraltar has the comfort of a signed Concordat before this agreement is entered into by the UK, and certainly prior to ratification or provisional application. We are deeply exposed without one, and that would be unacceptable whatever one thinks of this agreement, good or bad. It would be unacceptable for powers or decisions that nominally reside in the United Kingdom party to this agreement, to be exercised or taken by anyone other than by the Government of Gibraltar, or with its consent on behalf of the people of Gibraltar.

1145 The importance of this is obvious, not just because of the centrality of these structures, but because the EU intends to perform its functions in these structures together with Spain. The draft council decision of Thursday makes clear that:

The authorities of the Kingdom of Spain should provide the assessment of the functioning of the relevant bilateral administrative arrangements, which will be part of the evaluation by the Cooperation Council of the implementation of Part 2 of the agreement after a four-year period,

1150 Additionally, that insofar as the meetings of the Cooperation Council or specialised committees:

1155 The Kingdom of Spain may request that the Commission representative be accompanied by a representative of the Kingdom of Spain in all relevant meetings under this agreement.

1160 It emphasises that the position to be taken on behalf of the Union as regards decisions of the specialised committee, established by the agreement in view of the application of Union Legal Acts to the United Kingdom in respect of Gibraltar, subject to any technical adjustments needed, shall be adopted by the Commission in consultation with Spain. So, Spain gets to be, according to the EU Council, under the new scheme, accompanying the Commission representative at all relevant meetings.

1165 I was quite struck this morning by the quote that the Chief Minister gave of Prime Minister Carney of Canada, that if you are not at the table, you are the menu. Hence why it is important that Gibraltar is at the table and is not the menu. So, the bottom line, Madam Speaker, is that if the potential for disruption or mischief is going to be neutralised, it is necessary for Gibraltar to hold the triggers at the Cooperation Council or Specialised Committees, structures, or at least hold a binding, blocking veto arrangement with the UK by virtue of our own constitutional arrangements. Anything less exposes Gibraltar to things it does not want.

1170 Madam Speaker, I turn to the evaluation under the Safe and Beneficial Test. The Hungarian Prime Minister said on his country's accession to the EU – I cannot pronounce his name – we used to be the gates to Europe and will continue to be so. However, there is a crucial difference. We are now inside the gates. Being inside the southwestern gate might on one view be what has been achieved in this deal or what is being attempted by this arrangement with the Schengen area. However, we cannot pause there. We need to understand whether the agreement protects us and is lasting, whether it is safe and beneficial because this is not accession to the EU where we would at least have enduring Treaty certainty and our own seat at the table where we would be equal as members of a club, the right to exercise our powers within our land as part of a united Europe delivering the common project. This is not a package that delivers that. Far from it.

1180 So, I read this draft agreement with mixed emotions from beginning to end. Knowing that I want a safe and beneficial agreement with the EU and that I still believe in a future in Europe with Europe.

I read it with mixed emotions because the list of prices and uncertainties grew high for the benefits we were securing. However, yes, knowing that benefits have also been achieved along the way. However, in overall terms, Madam Speaker, we are unable to say that this agreement is the safe and beneficial deal that we had hoped for.

While it contains benefits, there are high prices and the consequences of some of those provisions are negative, mixed or unknown. So, residents of Gibraltar obtain benefits of greater personal freedom to travel visa and stamp free in Europe. Additionally, mobility at the border will allow certain economic pillars the ability to develop and hopefully prosper, given the promised free flow at the border.

Those are real benefits. Conversely, this is achieved in exchange for a series of controls, powers and information that can compromise our safety, economic viability and future with uncertain results. The agreement will radically, and with uncertain effects, change our economic model on trade in goods.

The benefits obtained in personal mobility, or the potential opportunities that may speculatively stem from freer trade, have to be balanced against an evaluation of the intrusive mechanisms of political and economic control given to Spain, which has traditionally exerted influence in a hostile manner. These mechanisms can expose Gibraltar in future, leaving us politically and economically vulnerable.

Spanish law enforcement agents will exercise powers and control within Gibraltar in a variety of ways. This is an abandonment by the Government of a clear negotiating red line it repeatedly referred to. It is clear from the agreement that Spanish law enforcement agents will have boots on the ground in a number of guises. At the time of the New Year's Eve agreement and beyond, the people of Gibraltar were assured repeatedly that such powers would be exercised by Frontex, the European Border and Coast Guard Agency, and that the Government would never permit Spanish boots on the ground. In fact, it has.

We have no analytical or forensic means of assessing the potentially seismic impact of the economic and trade changes in the agreement or of some of the annexes. The Government has not shared any economic analysis with us and therefore it is impossible to say whether having a Customs Union with the EU and changing the economic model in this way will be beneficial. There is, in essence, a massive question mark over the economics in respect of the trade in goods.

It is clear that there will be businesses adversely affected, and the consultative or informational processes with the business sector so far have been poor. Conversely, the ongoing administrative and compliance burden on Gibraltar will be significant. As stated, the agreement does not deliver certainty because of the wording of the termination clauses and the EU intention to place a lot of the influence on termination in Spanish hands.

That will mean that this and future Governments will forever have to plan on the basis that, at any time and on short notice, the Treaty could be terminated and we are left suddenly having to run Gibraltar on a radically different basis when, by then, we may have become overly reliant on external services and processes. In future it would be difficult to easily restore current or similar economic structures or reposition the economy at short notice. This is impossible to predict.

The agreement also creates mechanisms that can result in further legislative or policy changes, with the possibility of these measures being introduced dynamically and increasing the burden on Gibraltar across a wide span of administrative, political, economic or fiscal controls. That possibility would be achieved via recommendations in a series of committees and structures created by the agreement. We are not satisfied, on the basis of current information, that Gibraltar has enough legal, political or constitutional control of those mechanisms to ensure that they do not work adversely.

That depends on the strength of our binding parallel arrangements with the UK, and these are still in draft.

That this is the case is regrettable, as is the fact that Gibraltar did not face it together and try to get the best deal united, because the Government decided to go at this alone. This is

1235 compounded by the simple lack of information and real meaningful engagement by Government before it was way too late. Way too late.

The fact that we only saw the first words of this agreement sixteen days before publication, when it had been under gestation for years, is deeply regrettable given the seminal importance of this for Gibraltar. However, it leaves us in this predicament, Madam Speaker. It leaves us in this predicament, with this sole deal on the table, which has more flaws than we would have wanted, and the prospect of no deal as the alternative, and instinctively assuming that no deal would be bad for Gibraltar, although without access to the Government's own internal economic analyses either.

1240 So, it leaves us staring at an abyss. However, we also recognise on this side of the House that if there is to be a leap of faith, that leap of faith should not be in the direction of no deal. It should be to try to make the best of this agreement that evidently has Government support and will therefore mean that this motion will be carried whatever we do, and it will be ratified by the UK. It will be legally binding by the time of the next Election and will have seen some process of implementation and provisional application.

1245 It will also be binding on future Governments. As such, I make clear today that in Government we would make the best of an agreement which we consider has current flaws and is one that we would have preferred not to enter in this form. I say that as a clear signal for the future and to provide certainty of our stance were we to become the next Government.

1250 This is not our deal. It is not the deal we wanted. It is not the deal we would have wanted to enter. However, in Government we will make the best of the deal that would be inherited, because that would be our duty for the sake of our people and a responsible Government.

In that context, and as we have said before, we continue to remain willing to work with the present Government to ensure that Gibraltar moves forward making the best of our departure from the EU, which the vast majority of the people in Gibraltar did not want.

1260 Madam Speaker, yesterday I gave notice of amendments that I would seek to move to the motion. I beg to move these now in slightly altered form following my discussions with the Chief Minister over the morning recess and his own indications as to the Government's attitude to our proposed amendments.

1265 I leave it to him to formally signal his Government's position after my tabling of the amendments, although I understand that in this form it will enjoy the Government's support. I have for that purpose sent a letter to the Clerk updating the form of the amendments I would intend to put forward, which I understand he has graciously circulated.

Madam Speaker, the amendments to the motion are the insertion, after the words "26th of February 2026", of the following:

1270 *"[The agreement] on the basis that:*

1. *A United Kingdom Gibraltar Concordat is first entered into in terms satisfactory to the Chief Minister after consultation with the Leader of the Opposition, which Concordat ensures that, in keeping with the provisions of the Gibraltar Constitution and the principle of consent in the double lock, the relevant UK powers in the agreement can only be exercised in accordance with the wishes and consent of the Government of Gibraltar; and*
2. *The people of Gibraltar should have the right to determine in referendum whether the agreement should be terminated in future."*

1280 Accordingly, Madam Speaker, the effect of the amendments would be that the motion as amended would read as follows:

1285 *"This House calls upon His Majesty's Government of the United Kingdom of Great Britain and Northern Ireland to ratify, for the benefit of Gibraltar and its people, the agreement in respect of Gibraltar between the United Kingdom and the European Union following negotiations conducted*

by the Government of Gibraltar alongside the United Kingdom on behalf of Gibraltar, and which His Majesty's Government of Gibraltar has tabled in this House on the 26th of February 2026, on the basis that:

- 1290 1. *A United Kingdom Gibraltar Concordat is first entered into in terms satisfactory to the Chief Minister, after consultation with the Leader of the Opposition, which Concordat ensures that, in keeping with the provisions of the Gibraltar Constitution and the principle of consent in the double lock, the relevant UK powers in the agreement can only be exercised in accordance with the wishes and consent of the Government of Gibraltar; and*
- 1295 2. *The people of Gibraltar should have the right to determine in referendum whether the agreement should be terminated in future."*

Madam Speaker, these amendments are part of our attempt to make the most of a deal we think is far from perfect. We are glad to have been able to coalesce around a form of wording that works for both sides of the House. We cannot change the content of the deal, but we can seek to have guarantees on its workings and its future termination.

For the reasons already explained, we view the political and constitutional arrangements as key, whatever anyone thinks of this agreement, whether you are in favour or against it. If the agreement will be signed, provisionally applied, ratified and fully applied, it is clear that it is essential that there should be clear binding arrangements between the UK and Gibraltar as to the manner in which decisions will be taken, or powers exercised, under the agreement by the UK party. In our view, this should clearly rest with Gibraltar, its Government and its people.

That should affect and bring within its scope all relevant powers under the agreement that affect competences of the Gibraltar Government, however they arise. As stated, the agreement envisages numerous ongoing powers of review, recommendations and actions by the structures created under the agreement. These can create real back doors of policy, legislative or financial burden to Gibraltar. How those decisions are taken should therefore be for Gibraltar.

We need those protections ourselves so we can make decisions about our future. Far too often we have been disappointed by the UK, and we are not willing to accept a framework that divests real decision-making power as to our future without real control or without the final remedy being in our hands.

Madam Speaker, I was there in 2002 at the joint sovereignty crisis, shoulder to shoulder with Peter Caruana. I do not want to have to do that again. Those arrangements must be in place before provisional application of the agreement.

Given that we only saw a draft of this on Sunday, it has been impossible to do an exhaustive trawl of the various provisions in the agreement invoked by this issue and that need reflection in binding UK Gibraltar arrangements. I have already started canvassing some issues with the Chief Minister and will provide further views on this in the coming days. I would be happy to be consulted on further drafts produced. Indeed, the amendment that we seek, and that the Government, I think, accept, is that a consultation mechanism is recognised given the importance of the issue.

Madam Speaker, there are plenty of views in respect of this agreement and its positive or negative features. Whatever view one takes of it, it is essential that the power of termination be in our hands because we do not know what is around the next corner. That means, for good or for bad, whether we want to terminate, or whether a future UK Government indicates it wants to terminate and we do not.

As such, the second limb of the amendments is intended to ensure that, beyond any power that the Government may have to seek a termination, we all collectively acknowledge that the people of Gibraltar have the right to terminate the agreement should they signify it is their wish in a referendum in future. That is about basic democratic legitimacy and again secures the ability of a Gibraltar centric exercise of our most fundamental power in the agreement, and that the people should have the power to pull out.

1340 Finally, Madam Speaker, I come to how we intend to vote on the motion. It will be obvious by now that we have profound misgivings about the agreement as a whole. While we see the benefits, we also see high prices in exchange: red lines crossed, basic economic uncertainties that can go badly wrong, powers conferred on Spain that can be abused, or simple instability that can be created to our economy, our way of life or political viability. Those matters are serious.

1345 It is unrealistic to suppose that this deal can be reopened when it has been concluded, and it must necessarily be compared with no deal. If the amendments we have proposed, in the form now formulated, are carried, we would be willing to support the motion as amended, because at least it puts the future direction of the performance of this deal, its review, and whether it endures, clearly in the hands of the Government and people of Gibraltar. If anything goes wrong, we should be the ones to press the eject button, and we should ensure that no one else takes decisions to which we do not consent.

1350 Madam Speaker, I cannot emphasise enough how agonising this process has been for Members on this side of the House. We hoped for a good, clearly safe and beneficial deal. Instead, we have this deal or no deal. Opposition MPs have considered these questions at length over recent days. The alternatives have not been easy. That has been reflective also of the wider feelings in this community. It was reflected in the five-hour meeting of the Party Executive we held on Sunday night.

1355 We have come to this final position, sending the clear message that we are unhappy with aspects of this agreement, that we will tell the people of Gibraltar the truth about the flaws of this agreement, but that we will bank on making this work as much as we can in the future. People should not underestimate how difficult this has been for us. We nearly could not bring ourselves to do even this.

1360 This agreement is happening whatever we say because it has Government backing. Ultimately, if we in Gibraltar have control of making it work, we are prepared to take that leap of faith as long as we have those further assurances and protections.

1365 It is a leap of faith because of the imponderables, and a leap of faith because the deal they have brought back to Gibraltar after so many years is the one, in one particular part, that they promised they would not, and in that basic sense they have failed the people. Our task now is to salvage the future with new hope for a brighter future.

1370 **Madam Speaker:** Before we proceed, on a matter of procedure very briefly, I did not want to interrupt the Hon. Leader of the Opposition once he had begun to speak, but I realised at some point during the speech that I had not proposed the question after the Hon. Chief Minister finished speaking and before the Hon. Leader of the Opposition spoke.

1375 I do not think that is cause for concern because this House decides questions and not speeches, but for the avoidance of doubt I think it is best if I put the question now and then invite the Hon. Leader of the Opposition to adopt the speech he has just made, rather than repeat it (laughter) so that we can proceed in the usual way. So, I now propose the question in terms of the motion moved by the Hon. Chief Minister and I would ask the Hon. Leader of the Opposition to confirm that he adopts the speech he has just made.

1380 **Hon. Dr K Azopardi:** One never resists an encore, and I am sure the Hon. Chief Minister did not mean what he just said. Yes, Madam Speaker. Yes. (laughter)

Madam Speaker: In that case I now propose the question in terms of the amendment moved by the Hon. Chief Minister.

1385 Oh, sorry, I was waiting for the Hon. Leader of the Opposition. (laughter).

I now propose the question in terms of the amendment moved by the Hon. Leader of the Opposition.

1390 **Hon. Chief Minister (Hon. F R Picardo):** Thank you, Madam Speaker. I of course will take issue with a lot of what the Hon. Leader of the Opposition has said, a lot of which relates to the main motion that we are debating. I am going to limit myself now only to the key issues that relate to the amendment that he has moved, although I have to say that if he thinks that they have agonised because they had a meeting for five hours, given that we have been at it for five years, the Hon. Leader of the Opposition needs to put everything that he has said in its proper context.

1395 A context, Madam Speaker, that starts when he was not here, because in 2016, when the United Kingdom voted to leave the European Union, he was not here. He was not Leader of the Opposition. He was not even a Member of the Party opposite. He arrived here in 2019 and in that process heard much of what I have said in relation to the negotiation.

1400 Now, Madam Speaker, when I speak in full response to the Hon. Leader of the Opposition, I will make clear that a lot of what he has said in relation to boots on the ground is not true. At least I will say that he is not correct in his analysis, because I am not suggesting that the Hon. Leader of the Opposition is in any way trying to mislead people, although he has not understood the text, perhaps because he has agonised over it for five days or five hours and we have worked on it for five years and we know how it works.

1405 There is one point in particular that I do want to clarify now.

Madam Speaker: Can I just make sure we are speaking now on the amendment, so I do not want to have a debate on the main motion. I know it is all related and ultimately it is all coming back into the same point, but it is on the amendment.

1410

Hon. Chief Minister: The amendment is about having to have control because of what the Hon. Leader of the Opposition says are the terrible things that we have done which have given control to Spain, and therefore we have to have the detonative trigger in our hand. One of the things that he says that we have done is to allow boots on the ground in the airport terminal.

1415 I just want to clarify one thing for the purposes of other speakers and for the Leader of the Opposition, in case he wants to say something now, because I will make this point much more fully at the end. The presence of a uniformed Spanish police officer will only be inside the second line check facility, inside the Schengen shack, because the passport control booth is inside that equidistant facility. The Hon. Leader of the Opposition, I think, saw that in the plan that I showed him, and I just want to make sure that he understands that.

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I will go through the rest of what he said in detail. He has the opportunity to reply too. I am happy to give way now if it is helpful. I am happy to give way.

1425 **Hon. Dr K Azopardi:** I was just going to say, the Hon. Chief Minister says that we did have a presentation, and I agree. However, it was the document that we were not allowed to take, so I cannot recall the diagram. I was relying on my memory. I saw a booth. I was not quite sure I saw it there. That was the point. I do not have a copy of it. I do not have a copy of the diagram.

1430 **Hon. Chief Minister:** Madam Speaker, the hon. Gentleman does not have a copy of the diagram, but I must say that the national broadcaster has understood the text in a different way, because the national broadcaster has been clear, having also been shown the diagram but not given it, that the uniformed Spanish guards doing the passport checks are inside the equidistant new facility.

1435 I think it is important that I clarify that for all other speakers too, because if we are going to have a debate, let us not have a debate which leads anybody in this House, on any side, to vote in favour of a Treaty which puts in anybody's mind Spanish boots on the ground and puts, as the Hon. Leader of the Opposition has said, the potential for armed Spanish police to be in Gibraltar, and yet that someone should vote for it. The signal that would send, when we have spent five years saying that this is not acceptable, the signal it would send to Spain is that there are people in this Parliament who are prepared to at least hold their noses and vote yes to that.

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We are not permitting that. We would not permit that. That is not permitted under these arrangements. Let us be clear about that and let every other speaker after the Leader of the Opposition and let the Hon. Leader of the Opposition in his reply, have the benefit of that explanation so that it is clear.

1445 Madam Speaker, I told the Hon. Leader of the Opposition that I did not believe that those plans would be published, but I am very happy to let him have a copy if it helps his analysis going forward. I have no difficulty with that, as long as it is not published unless we make the decision that it must be published.

1450 That is a fundamental, Madam Speaker. It is a fundamental. It has been a fundamental for all of us. That is why, Madam Speaker, we would take serious issue with his suggestion, and I will take serious issue with his suggestion when we speak, that we have somehow resiled from those positions. We have not resiled from those positions. That is what we showed them in the diagram.

1455 Madam Speaker, for all of the reasons that I gave this morning, our analysis is like their analysis in relation to what the Concordat must do. It is why I was going to move the amendment, as I said this morning. It is not because we have put any powers in the hands of Spain in the way that the Hon. Leader of the Opposition has suggested.

1460 Again, I will go through what he has said when I do my substantive reply, and I hope, Madam Speaker, that despite the nature of these exchanges perhaps appearing combative, what I am doing in effect is giving the Hon. Leader of the Opposition further comfort. He has already said that they are going to vote in favour of the motion if we accept the amendment that they have put today. However uncomfortable they may have been, in effect they are saying that they have to, for all the reasons he said, hold their noses and vote for the motion and support the Treaty.

1465 I hope that what I say in response to him, not now but more fully, takes him further towards comfort and away from discomfort, maintaining that of course the Treaty is imperfect, which is the position that we have taken. When he said at the end that the Treaty is imperfect, I heard almost what I was saying too. There are things that he said about boots on the ground and powers to Spain which are not the case, and I hope that I will be able to clarify that in less party political terms than he has used, trying not to score party political points but simply to clarify the operation in a way that will ensure that neither he nor any of the other speakers we can expect to hear next

1470 fall into the trap of suggesting that we have permitted boots on the ground. That is not the case.

Finally, Madam Speaker, the Hon. Leader of the Opposition and I spoke this morning after my first speech on the motion. We agreed that he would include new words in the amendment that he is moving. Those new words, Madam Speaker, which I am grateful he has now reflected in the amendment, are the words

1475 *“in keeping with the provisions of the Gibraltar Constitution and the principle of consent in the double lock”.*

1480 I am grateful to the Opposition for agreeing to include those words in his amendment, so I did not have to make the proposal myself when I speak again at the end. First, because a reference to the Gibraltar Constitution is important for the reasons I discussed this morning, in particular section 47(3), although not just section 47(3). Second, because of the principle of the double lock which was mentioned in the overnight letter from Minister Doughty, and I think it is important that that be reflected in the amendment we are now going to make.

1485 Madam Speaker, because the Hon. Leader of the Opposition has agreed to amend his amendment in that way, it can now count with the support of the Government.

1490 The only thing I would say, Madam Speaker, is that given that we have all said that this is a seminal moment, I think we owe it to history, when we vote on the amendment, to take a division, as we will also take a division at the end when we vote on the motion as a whole. I therefore call for that division when the time comes to vote on it.

Madam Speaker: Alright, so does any other hon. Member wish to speak on the amendment. If not, I will ask on the amendment, just the amendment. If not, I will ask the Leader of the Opposition whether he wants to reply on the amendment.

1495 But does anyone want to speak on the amendment.

Yes, the Hon. Mr. Bossano.

Minister for Inward Investment and the Gibraltar Savings Bank (Hon. Sir J J Bossano): Madam Speaker, yes, because in the preliminary to the amendment the hon. Member opposite emphasised the number of times I have said what would not happen, on which he thinks has happened. I have to tell him that if I thought he was right, I would vote against this even if everybody else voted in favour. If I had been sitting there, when I spent sixteen years, and I thought we were having Spaniards armed in uniform inside the terminal, I would not vote for this and vote for the collapse of the economy that would happen instead. Better to have a collapse of the economy than a Spaniard with a gun inside our terminal.

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1510 As to the element of the referendum that we are voting and supporting, I would like to make clear that as far as I am concerned, his often references throughout his contribution have been about our right to our land and about the Gibraltarian. I think that would not be consistent with the last time he suggested a referendum, when he said that anybody who had been living here for a period of years, irrespective of their nationality, should be able to vote. If we are voting for the future of our land, it is the land of the Gibraltarians, not the land of the residents.

Madam Speaker: Anybody else wants to speak on the amendments? The Hon. Leader of the Opposition wishes to reply.

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Hon. Dr K Azopardi: Madam Speaker, yes, but with the same latitude if I may. First of all, yes, I would welcome a copy of the map. The Chief Minister knows that we asked for a copy of it, the diagram, and we were not provided with it. Certainly, we would welcome it so that we do not have to rely on our memory.

1520 Secondly, this is a repackaging of the point. Now it is about the booth, whether the person in the uniform is in the booth or not in the booth, or whether the armed Spaniard is in the booth or not in the booth. That is a repackaging of the point because the point that they have always made consistently, as I have set out at length using their own words, was never about whether they were in the booth or not in the booth, or whether they were wearing the uniform in the booth.

1525 What they said was that what they were against was sheer presence in Gibraltar, on our land, doing checks. When he said, (interjections) the hon. Member from a sedentary position tried to re heckle me, but if he goes to the quotes that I cited he will see that it is about the mere presence of, in January 2021, Spanish law enforcement officials at the airport at all.

1530 He said that if the choice was to do this, but only with Spanish guards from day one, they would have said no. This was the checks from day one, which this agreement is doing. What they said later is again the presence issue. When the Hon. Father of the House in 2022 said that under no circumstances would they be willing to do a deal in which control of entry into Gibraltar was carried out by Spanish officials. That was nothing about the wearing of the uniform or whether they had a gun. It was about the principle of the presence and whether they were doing the Spanish checks, which indeed they are.

1535 He then carried on saying that none of them were willing to accept a Spanish presence in Gibraltar. The key, when they defined boots on the ground, was presence. It was not which location they were present in, or whether they were wearing the uniform or not wearing the uniform.

1540 They went on. There are other quotes. When the Chief Minister talks about the understandable allergic reaction, when he looks at his quote it is this exactly:

An understandable allergic reaction to the presence of Spanish law enforcement discharging executive functions in Gibraltar.

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That is precisely what is happening. It does not matter whether they are in the booth or not in the booth. They are doing the checks in Gibraltar.

Then finally, Madam Speaker, in terms of the quotes

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Hon. Chief Minister: Will you give way?

Hon. Dr K Azopardi: You are going to have a reply on this issue.

Hon Chief Minister: You will have the reply.

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Hon. Dr K Azopardi: Yes.

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Hon. Chief Minister: Madam Speaker. Can I ask the hon. Gentleman to reflect for a moment on what executive function a Spanish police officer would be carrying out if what he is doing for Gibraltar is giving Schengen clearance to someone inside the facility which is equidistantly built into Gibraltar and Spain. The function the person is discharging, that the Spanish officer is discharging, is exactly the same function they discharge today and that we cannot discharge.

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If the Spanish officer was discharging Gibraltar immigration determinations, because we had agreed that they would do the entry check into Gibraltar and the entry check into Schengen, I would understand the point. We have not done that. The BCA will continue to do entry into Gibraltar. The Spanish police officer, inside the equidistant facility, will be doing only Schengen functions. No executive function of Gibraltar will be carried out by these individuals.

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I hope that helps him to become more comfortable with it, because sometimes people say, how is it that Señor Albares can say that the Spanish police will be doing the Schengen clearance and the Chief Minister of Gibraltar is saying only the Gibraltar authorities will be doing the Gibraltar clearance. They are two different things. That is why you have the dual control. That is why it is called the cumulative control, because you have a Gibraltar control and a Schengen control, and they are doing the executive function of the Schengen control in the equidistant facility, nothing else. No Gibraltar executive function. They do not decide who comes into Gibraltar. If they decide a person cannot go into Schengen, the person can still come into Gibraltar under the provisions for the specific Gibraltar entry provision.

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I hope that helps him, Madam Speaker.

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Hon. Dr K Azopardi: Madam Speaker, it does not help because, quite frankly, all he is doing is dancing on a pinhead. He is now trying to repackage the point. The objection that they always had was to the sheer presence of Spanish officials doing the Schengen checks in Gibraltar. Those checks, by the way, that he has just talked about at length in an attempt to confuse the point, were going to be done by Frontex for four years. They said that after those four years it was unacceptable for Spanish officers to be doing exactly the same checks he has defined.

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It was not about where they were in the immigration booth or whether they were wearing a uniform. It was about the principle that they were Spaniards doing the check in Gibraltar. As the Father of the House said in 2025, they said that they were not going to allow any non-Gibraltarian person to be able to exercise executive authority in Gibraltar. It was the Schengen checks that they objected to being carried out by Spanish officials in Gibraltar.

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Look, the Hon. Chief Minister has highlighted this issue. This all started because I thought we were not going to have this debate now, but this all started when he gave the example of the immigration booth in an attempt to give me reassurance. I have said to him that the reality is that this was always a much wider point because, if you trace the precise things that they said, it was always about the presence in Gibraltar of Spanish officials, full stop. (interjections).

1595 Now, there are Spanish officials outside of the equidistant facility. It is obvious. There are plain
 clothed policemen who may facilitate. There is the plain clothed policeman who is going to
 accompany our officers to do the transit in a car or a coach, whatever it may be, from the port to
 the airport. Those officers are here. There are joint patrols. There is the border surveillance and
 hot pursuit issue, where there are weapons. All of that in its entirety means that there are boots
 1600 on the ground in different guises.

That is all I said. It is clear and stands up to scrutiny from anyone who picks up and compares
 the agreement, the New Year's Eve agreement, and then traces the history of the statements that
 they have made both in this House and to the media since 2020.

1605 Madam Speaker, I do not believe that, with all due respect to hon. Members, they have said
 anything about the amendment. That is all I am going to say.

Madam Speaker: I did say something about the amendment but you both said things beyond
 the amendment, but look I am taking a relaxed view on debate because the more that is said on
 this topic by everybody who wants to say it the better. I now put the question in terms of the
 1610 amendment moved by the Hon. Leader of the Opposition.

Hon. Chief Minister: Division.

Madam Speaker: Division.

1615

Clerk: Division.

A division was called for and voting resulted as follows:

FOR	AGAINST	ABSENT
Hon. G Arias Vasquez		None
Hon. Dr. K Azopardi		
Hon. Sir J J Bossano		
Hon. D J Bossino		
Hon. L M Bruzon		
Hon. R M Clinton		
Hon. Prof. J E Cortes		
Hon. N Feetham		
Hon. Dr. J J Garcia		
Hon. J Ladislaus		
Hon. P A Orfila		
Hon. G Origo		
Hon. F R Picardo		
Hon. E J Reyes		
Hon. C A Sacarello		
Hon. A Sanchez		
Hon. C P Santos		

1620 **Madam Speaker:** Alright, that is a unanimous yes by the House the amendment is carried. I
 now propose the question in terms of the original motion as amended would any hon. Member
 like to speak? Yes Hon. Deputy Chief Minister.

1625 **Deputy Chief Minister (Hon. Dr J J Garcia):** Madam Speaker, speaking now on the motion as
 amended, I had intended to say a few words in response to the Leader of the Opposition, although
 my hon. Friend the Chief Minister has already covered that and will no doubt do so again in the
 summing up at the close of the motion.

Madam Speaker, yes, the motion is historic. It is historic in process, historic in substance and
 historic for the future of Gibraltar because it will mark the start of a new era. It becomes relevant
 to look at both how we have arrived here and what it is that this House is being asked to approve.

1630 It is significant too that the motion as amended will count on the unanimous support of this House. I think that unity, despite the later contribution of the hon. Member, sends a powerful message.

I propose to deal first with the process before turning to the substance. The objective of the motion before this Parliament is effectively to grant or withhold our consent to the ratification of the Treaty. There is a two-step procedure for this, as we have heard. First, Gibraltar approval and then UK ratification. This should deliver a clear expression of the constitutional role of this House. 1635 It reflects just how far Gibraltar has come since the 2006 Constitution and it certainly is an indication of how things should be done because a final say on any matter which impacts on Gibraltar must rest with this House.

Madam Speaker, the new Treaty does not impact on the sovereignty of Gibraltar. Gibraltar is and will remain an Overseas Territory of the United Kingdom. However, the fact that the United Kingdom will not ratify the agreement without the consent of this House is certainly worth reflecting upon. 1640

Hon. Members know well that there are two parties to the Treaty. These are the United Kingdom on the one hand and the European Union on the other. This is not a Treaty with Spain. The agreement with the European Union, if approved here today, will be entered into by the United Kingdom. The UK will formally sign, ratify and adopt it. However, the legal position does not reflect the practical reality. The United Kingdom has negotiated the Treaty with our full involvement, on our behalf and with our consent. As my hon. Friend the Chief Minister has explained, that working relationship will be further reflected in a Concordat between London and Gibraltar. The terms of that document will serve to provide further reassurance. Also, the Chief Minister has said, such a Concordat will form part of the architecture of the withdrawal agreement some six years ago. 1645 1650

Madam Speaker, the close involvement of the Government of Gibraltar was an important feature of this lengthy negotiation. It is significant that successive Conservative and Labour Governments have adopted the same position in relation to this matter, which is to negotiate a Treaty within the priorities set by Gibraltar. This in part explains the differences between the UK's trade deal with the EU and this, our own trade and mobility deal. 1655

The House will know that at the start of this journey the UK had a well-known ideological position on the European Union. This was not a position that we shared. Their ideology-built walls whereas our reality demanded bridges. Brexiteers wanted friction and barriers. Gibraltar needed fluidity and access. Therefore, this Treaty is a triumph of geography over ideology. 1660

It is worth reminding ourselves that Gibraltar voted to remain in the European Union while the UK as a whole voted to leave. It was already a considerable achievement to bring UK Brexiteer Governments round to better understand our position, even though Brexit had been designed around ideology rather than practical consequence. 1665

All this means that the Treaty which the UK will be asked to ratify, upon the consent of this House, will reflect the interests and input of Gibraltar. This stands as evidence of the key role Gibraltar has played throughout the negotiating process.

Madam Speaker, that process was triggered in June 2016 with the referendum. The withdrawal agreement to leave the European Union was given practical approval in October 2019 and signed in January 2020, and Gibraltar formally left the EU together with the UK after the transitional period had come to an end on 31 January 2021. 1670

The negotiations for this future relationship Treaty started nine months later in October 2021. Gibraltar Ministers and officials have been present at every level of the negotiations. The Chief Minister and I have had political oversight and the Attorney General, Michael Yamas, has led the technical and official talks in a highly professional and competent manner. Indeed, Gibraltar has been extremely lucky to have been able to count on someone of his knowledge, ability and standing at this crucial juncture in our history. He was ably and efficiently assisted by Daniel D'Amato, the Director of Gibraltar House in Brussels, also in a key role. 1675

Many Ministers and officials past and present have played their parts too, given the cross-cutting nature of EU membership. The legal and political web which needed to be untangled as a 1680

consequence of our departure from the European Union should not be underestimated. Brexit was once compared to removing the egg from a cake after baking it, which is messy, artificial and deeply disruptive. That is exactly how it felt.

1685 Madam Speaker, I would propose to go over the background very briefly, but we all know that the Treaty which we are being asked to endorse today is the product of many years of solid hard work, and we cannot fully understand where we have arrived without taking into account how we got here.

1690 This Treaty marks the next step on a journey for Gibraltar. That journey commenced in 1973 when we joined the European Economic Community at the same time as the United Kingdom. It continued after 1986 when Spain joined the Community and that phase endured until midnight on 31 January 2021 when the UK and Gibraltar both left the European Union.

1695 So, the situation in relation to Spain has now been reversed. In 1973 we were in the club and they were outside it. From 1986 until 2020 we were both inside the club. Now Spain is in and Gibraltar is out, and the Treaty sets out the rules for Gibraltar to be able to enjoy access to the club which we once belonged to. Considering the actual text of the Treaty, this is an important factor to bear in mind. It is what Brexit has required the Government to do.

1700 That period of withdrawal from the EU was a turbulent process for all concerned. It started with the Partido Popular Government in Madrid and, on top of that, as the Chief Minister rightly pointed out, with the most difficult Spanish Foreign Minister in living memory in post. I mean of course José Manuel García Margallo. He adopted an openly hostile and confrontational approach to Gibraltar. He delivered two key threats at the time of the Brexit Referendum. The first was that after the UK had left the EU all options were open to Spain, including closing the border completely. The second was that Gibraltar would not enjoy a future relationship with the EU unless we agreed to share sovereignty with Spain first.

1705 Those threats may be a fading memory now, but at the time they posed a very real challenge. Against such metrics, the draft Treaty before us demonstrates just how much Gibraltar has achieved. First, the Frontier did not close. Second, Gibraltar will enjoy a future relationship with the European Union with our sovereignty intact. No closure. No shared sovereignty. No veto over our future.

1715 Nonetheless, it serves as a timely reminder of the difficult position which Gibraltar consistently found itself in during these negotiations. There can be no doubt that the replacement of Mr Margallo by Mr Dastis in November 2016 facilitated matters considerably. The latter immediately signalled a more constructive approach, even though the Partido Popular remained in power. He authorised direct contact between the Government of Gibraltar and the Government of Spain for the first time during this process. The first of those meetings took place in a hotel near Madrid, near Marbella, in February 2018. The Chief Minister, the Attorney General and I attended for Gibraltar, and three senior officials from the Spanish Foreign Ministry represented Spain.

1720 This signalled the start of a positive engagement designed to build confidence on both sides and to furnish a better understanding of each other's position. When Pedro Sánchez succeeded Mariano Rajoy as Prime Minister in June 2018, the process was already well underway. It was the first stop on a roadmap which led the UK and Gibraltar to formally exit the EU together on 31 January 2021.

1725 That exit package included Gibraltar in the withdrawal agreement. A withdrawal architecture extended to a Tax Treaty with Spain and to four Memoranda of Understanding, only one of which now remains current. All that was connected to and set the scene for the work on the future which has led to this Treaty.

1730 Madam Speaker, those negotiations benefitted from meetings with variable geometry between the different parties. That meant that Gibraltar, the United Kingdom and Spain met in different formats as and when required. On occasions Gibraltar met with Spain. Other times Gibraltar met with the UK. Frequently all three met together. Those meetings took place in different locations. We met in Gibraltar, in London, in Algeciras, in Jerez, in Madrid, in Córdoba and in Malaga.

1735 I vividly recall a meeting in Madrid at the time of the pandemic. We were faced with a city in lockdown: empty trains and deserted streets, no traffic and no people. Those who have visited the Spanish capital will appreciate the stark contrast. This is an example of the interplay between Brexit and Covid which we were forced to assimilate during the negotiations and a vivid illustration of the extraordinary circumstances in which they continued.

1740 That meeting and others like it led to the New Year's Eve Agreement at the end of 2020. That agreement was a framework presented to the European Union for the conclusion of a Treaty with the UK about Gibraltar. As I said earlier, it took ten months for the European Commission to receive the green light from EU Member States. Negotiations commenced in October 2021. Once again Gibraltar was at the table at every level. This included four ministerial meetings which helped to focus the discussion. We sat directly with the Foreign Ministers of the UK and Spain and with the European Commissioner responsible for relations with the UK.

1745 Indeed, even in the European Commission headquarters, the Berlin one, Gibraltar was accorded the same status as the other participants for example, with their own delegation room separate to that of the United Kingdom. The outcome of all this was a political agreement which was announced in Brussels on the 11th of June 2025. The actual negotiations did not conclude until December.

1750 That represented over four years of solid engagement and the finished product is a Treaty which this House is debating today. This step is therefore part of the approval process. The European Union will have to complete its own separate ratification procedures.

1755 This House will know that the Treaty requires the approval of the Council, that is the 27 Member States of the European Union. Indeed, the Council's working party is meeting today. The item on Gibraltar does not have any thematic focus as has happened on previous occasions.

1760 It appears that there will be a general revision of the documents which accompanied the publication of the legal text. The consent of the European Parliament will be required too. There is no suggestion at this stage that the approval process will be extended to all the different National Parliaments of the Member States.

However, in the European Parliament, the critics of the agreement in the Partido Popular, VOX and elsewhere, will no doubt have their say. There are 720 Members of the European Parliament. Therefore, a simple majority would be 361, if everyone is present and votes.

1765 The PP belongs to the European People's Party, the EPP, which is the largest grouping. They have 188 MEPs in total. VOX sits in the Patriots for Europe group, which is the third largest, with 84 MEPs.

So, a simple majority will be required to signify consent. So, the motion we are being asked to approve today is part of the ratification process on the UK side. As hon. Members will know, the UK Parliament will have to signify approval through what is known as a CRAG procedure.

1770 This requires the UK Government to lay the signed Treaty and an explanatory memorandum before Parliament. This has not happened yet. There is then a 21-day period in which to review or debate the document.

1775 However, that UK procedure will commence only upon a signal from this House. that signal is the approval of this motion, which includes the conclusion of a satisfactory Concordat. So, the two signatories have to ratify the Treaty.

When ratification is complete, the final phase will be its actual implementation. It is Gibraltar, its Parliament, Government, institutions and competent authorities which will give effect to the Treaty in our country. So, its provisions will only come into effect because we permit it.

1780 that is the ultimate expression of sovereignty. Madam Speaker, I will now move on now to the policy and the content of the Treaty. The policy areas have been known for a long time.

These are now set out in legal text. Over 1,000 pages, nearly 200,000 words. My hon. Friend the Chief Minister has already covered this in some detail, so I will be very brief.

1785 We know there are seven parts to the Treaty. it is made up of over 300 articles, 43 annexes, appendices and protocols. Part 1, as we have heard, covers the common and institutional arrangements.

This includes the important sovereignty safeguard clause. Part 2 covers the circulation of persons. This provides the detail of the common travel area between the Member States of the European Union and Gibraltar.

1790 Part 3 deals with the economy and trade. It covers areas like taxation, labour and social standards, the environment, climate change and state aid. This part includes customs, indirect tax and trade-related issues. Aviation, road transport and maritime transport are all dealt with in Part 3.

Part 4 addresses Frontier workers.

Part 5 are the financial provisions.

1795 Part 6, the dispute settlement and horizontal issues.

Part 7, the final provisions of the Treaty. We have heard that it will be governed by a UK-EU Cooperation Council.

1800 There will be three UK-EU Specialised Committees. The first is the Specialised Committee on the Circulation of Persons, the second on Economy and Trade and the third on Aviation. Those committees have to meet at least once a year.

The Treaty also contains its own mechanism for avoiding and settling disputes. It includes a process for consultations and for the appointment of an Arbitration Tribunal. Madam Speaker, I want to briefly reflect for a moment on the wider policy approach of the Government.

1805 The House has heard some of this already, but it is worth repeating. This Government would never ask the UK to ratify a Treaty unless satisfied that it was safe, secure and beneficial for Gibraltar. That has been a guiding principle throughout the negotiations.

1810 We have repeated on many occasions that this Treaty would have been concluded in five minutes if we had agreed to everything that the other side wanted. However, that was not going to happen. So, this was not an easy negotiation given that there were effectively four parties around the table.

The other side pushed and we had to push back as we sought to shape the outcome in line with our thinking. That give and take is how international Treaty negotiations work.

1815 Madam Speaker, the Treaty of Sovereignty is safe. The Chief Minister has gone through the advice to this effect on Lord Panic, Sir Peter Caruana and Dr Jamie Trinidad. Hon. Members will have seen the firm and comprehensive Sovereignty Statement in its opening pages. This is worth repeating.

1820 The present agreement any supplementing agreements mentioned in Article 2, any administrative arrangements or arrangements related to this agreement, and any measures or instruments or conduct taken in application as a result thereof or pursuant thereto shall be without prejudice to and shall not otherwise affect the respective legal positions of the Kingdom of Spain or of the Kingdom of Great Britain and Northern Ireland with regard to sovereignty and jurisdiction and shall not constitute the basis for any assertion or denial of sovereignty including in legal proceedings or otherwise. In plain terms, nothing is given up. Nothing is conceded. Nothing is diluted.

1825 This Treaty does not touch Gibraltar's sovereignty. It was never intended to. It contains the toughest and most solid sovereignty safeguarding clause I have ever seen. So, no sovereignty conceded, no constitutional line crossed. This Treaty is not and cannot be a threat to the sovereignty of Gibraltar because that sovereignty is not diminished by pragmatic arrangements designed to make life function.

1830 Indeed, the very exercise of having entered into the Treaty and the ability to terminate it in the future is in itself a powerful demonstration of British sovereignty. This is a trade and mobility deal with the European Union. It is about Gibraltar's future relationship with it, and it does not conflict with our continued and enduring British sovereignty.

1835 Madam Speaker, the debate in this Parliament today is an essential component in the exercise of democratic consent. However, hon. Members must not forget that the people of Gibraltar already had a say in the 2016 Referendum. We were, in fact, the only UK Overseas Territory or Crown dependency whose people were included in the vote.

1840 The people of Gibraltar expressed an overwhelming desire for continued EU membership. We voted for a relationship with the European Union, and it was obvious once the UK had left that this relationship could no longer be one of membership. However, it would come as close to membership as was possible.

The Treaty therefore represents the closest possible relationship between Gibraltar and the European Union, short of membership. This Government have therefore responded in this way to the message of the 2016 Referendum. We have delivered that close relationship with the EU.

1845 So democratic consent began there in 2016. It was renewed through General Elections in 2019 and again in 2023. It is being exercised here today by this Parliament. The essence of our representative democracy is that we are empowered by the people to take such decisions.

1850 Madam Speaker, the Treaty is too wide and covers too many areas to do justice to all of them in this contribution. So, I do not expect to go into the detail of everything. Firstly, because the text has already been published and secondly, because my hon. Friend the Chief Minister last week already outlined its constituent parts. Those who may have the inclination to read it, all are free to do so. However, everyone has known since 2020 that the mobility arrangements for persons would be the centrepiece of the new agreement.

1855 That entails the removal of immigration controls from the land border, so no more passport or identity checks and the removal of customs controls which will follow. Residents of Gibraltar will experience genuine border fluidity for the very first time, like exists between Spain and Portugal or Spain and France. A degree of fluidity which Gibraltar did not enjoy even when we were part of the European Union.

1860 The logical consequence of the elimination of immigration and customs controls at the land border will be an end to Frontier queues. Those delays to enter or exit Spain have marked passage through the border for decades. Movement by land has been at the mercy of the political leadership in Madrid.

1865 General Franco, before the closure of the border, presided over mounting restrictions on persons, vehicles and goods. Later politicians like Abel Matutes, José Manuel García-Margallo and others continued the same policy. Who can forget the delays inspired by the infamous César Baña in 1994-1995, then a Civil Governor of Cádiz. Or the double filters. Or the occasions where motorists have been stopped and asked if they were carrying spectacles or contact lenses, blankets, torches and other paraphernalia. However, that is not all.

1870 As the House knows only too well, passage through the border has on occasion depended on the whim of individual Spanish officers on the ground. A relatively recent case led to the removal of an inspector from Frontier duty by his superiors. The common feature in all these episodes was uncertainty and arbitrariness.

1875 In removing the controls which have led to the delays this Treaty will deliver greater certainty to the lives of citizens on both sides. Some cross to work. Others for tourism. Some to holiday homes in Spain. Many for leisure activities. To practise sport. To meet friends. To gather with family. For medical appointments.

In short, everyone will enjoy far greater clarity. The Schengen immigration controls which will disappear from the land border will relocate next to the airport. The whole basis of the regime will be dual immigration checks whereby Gibraltar and Schengen controls will follow each other.

1880 As the Chief Minister said, the Treaty blends the two systems and sets out how those two systems will interact. Gibraltar shall continue to be responsible for its own immigration checks. Spain will be responsible to the European Union for the Schengen controls.

So, when we refer to Spain in this context, we are referring to Spain acting on behalf of the EU. This is important. Schengen here is a tool, not a flag.

1885 The complexity of this aspect of the Treaty should not be underestimated. It is based on the concept of a common immigration zone through a new facility adjacent to the airport. This, as we know, will be partly built in Gibraltar and partly in Spain. In this way the airport will become a gateway into the whole of the European Schengen area.

1890 Madam Speaker, the Treaty provides important benefits for Gibraltarians and Gibraltar residents. We will enjoy unfettered access to the 29 European countries which make up the European Schengen area. This includes Norway, Switzerland, Iceland and Liechtenstein, which are not in the EU but are nonetheless part of Schengen. Gibraltarians and Gibraltar residents cannot be refused entry to Gibraltar. The Schengen authorities will not be able to arrest or detain Gibraltarians or Gibraltar residents.

1895 We will be exempt from the new EU Entry-exit System, known as the EES. We will also be exempt from the upcoming EU pre-travel authorisation scheme, known as ETIAS. Gibraltarians and Gibraltar residents will not be required to justify the purpose and conditions of their intended stay or to meet the subsistence condition.

1900 Gibraltar will benefit from life without Frontier queues. We will benefit from no immigration controls on flights to and from the Schengen area. Gibraltarians and Gibraltar residents will enjoy *de facto* non-application of the 90-day in 180-day rule.

Gibraltarians' resident aboard with a Gibraltar residence card will also enjoy the same package. These are tangible gains, Madam Speaker. They represent very real and very positive outcomes.

1905 The Treaty will therefore deliver significant advantages to Gibraltar and its people. those benefits come in the context of the EU enforcing more rigid immigration controls on everybody else.

Madam Speaker, in order to secure border fluidity for persons, the Treaty also provides a framework for the fluid movement of goods. As has already been said, the two are interconnected. Customs controls on persons and vehicles obviously impacts on Frontier fluidity. It will continue to create friction even if immigration controls have been removed.

1910 It is worth recalling that the possibility of eliminating controls on goods was foreseen in the New Year's agreement of 2020 as well. So, in the area of goods and Customs too, the outcome is tailor-made. However, Gibraltar will not join the Customs Union and there will be no VAT. Instead, import duty by another name and transaction tax will be levied. As the House knows, this will be set at the lowest rates in the European Union. That should be 15% in Year 1, 16% in Year 2, reaching 17% in Year 3.

Because the 17% is currently the rate applied in Luxembourg, which is the lowest in the EU. For certain categories of goods, a reduced rate and a super-reduced rate would be applied instead. The reduced rate ranges from 5% to 14% and the super-reduced from 0 to 4%.

1920 The Government has taken the policy decision to peg both of these at the lowest possible level. That means 5% for goods in the super-reduced category and 0 for those covered by the super-reduced rates. It is important to make it clear that these lower rates apply instead of the 17% and not in addition to it.

1925 There can be little doubt that new opportunities will come away with access to millions of potential clients in the European Union. However, the Government is conscious that some sectors will need support in order to adapt and this morning my hon. Friend the Chief Minister has already set out the detail of such support. However, the House must be aware of one point. This is that commercial sectors would have had to adapt whatever the Treaty outcome. So, both in a Treaty and a no-Treaty situation would require profound changes to the way in which Gibraltar PLC has been used to operating.

1930 It is well known that the Government devoted considerable time to mitigating for a no-negotiated outcome or NNO and I will say a bit more about that later. However, I have no doubt that a no-Treaty scenario would have meant a more radical readjustment for many sectors of the economy. The plain truth is that in any case we simply cannot continue as we are.

1935 The elimination of customs and immigration controls at the border will deliver certainty and stability. It will be good for business. It will be good for citizens as well and it will lay the foundations for more visitors which will generate greater economic activity.

1940 Madam Speaker, the removal of border infrastructure has raised security concerns in some quarters, and my hon. Friend the Chief Minister has touched upon this already and I would like to briefly address them too.

1945 Let me be clear. The security of Gibraltar will be strengthened, not weakened by the new arrangements. Border infrastructure will disappear but not the border itself. The territory of Spain will end, and the territory of Gibraltar will start in exactly the same place. The Frontier line will not move one inch. Indeed, it is precisely the removal of infrastructure which will make way for the elimination of Immigration and Customs controls and that is normal as we develop a common travel area and a common customs zone with the European Union.

However, that action will not pose a threat to our security. Far from it. The security of Gibraltar will actually be enhanced in a number of ways.

1950 First, as we know, there will be a new multi-agency building at the Frontier. This will provide for a permanent presence by the Royal Gibraltar Police, Customs and the Borders and Coast Guard Agency. Secondly, the number of patrols by Gibraltar law enforcement will be stepped up. The Chief Minister has authorised the purchase of new patrol vehicles specifically for the border area. Third, facial recognition cameras will be installed in order to capture any individual of interest. Fourth, number plate recognition cameras will identify suspect vehicles. Fifth, CCTV and enhanced lighting will be provided along the entire borderline and indeed more cameras in other areas like Main Street. Sixth, a combined effect of Gibraltar and Schengen immigration controls will make it more difficult for any suspect to enter Gibraltar by air.

1955 The geography of Gibraltar itself will also assist in this matter. The runway and its fence runs from east to west in the proximity of the Frontier. So, the only way to move from the border to the rest of Gibraltar is either through a tunnel or across a runway. This will make it easier to identify, stop and detain anyone.

1960 The truth is that change always makes people apprehensive. It is normal to worry about these things. There is nothing wrong with that. However, the reality is that there is nothing to worry about. I remember the same concerns were echoed when the Frontier opened and they surfaced again when EU nationals were allowed to access Gibraltar with ID cards instead of passports. The same concerns were echoed, and nothing happened.

1965 So, the absence of Immigration and Customs checks will not lead to a free-for-all. Those controls will be replaced with an enhanced security posture. It is crucial to understand this.

1970 Madam Speaker, very briefly I want to say something on transport. Hon. Members will have seen the provisions in Part 3, Title 3 of the Treaty text. This covers aviation, road transport and maritime transport.

1975 I want to say something about road transport because in the NNO work that we did, NNO would have had a negative effect on our road transport operators. This was one of the commercial sectors for which no mitigation measures had been identified. In a period of membership our road hauliers operated in the EU on the strength of a community licence. Then we exited the EU and we lost the legal framework provided by European Union law. A series of bridging measures and informal workarounds permitted the business activity to continue in some way. The alternative legal framework for commercial carriage of goods is the ECMT regime. This stands for European Conference of Ministers for Transport. It is an international convention which enjoys wider membership than the European Union. An ECMT permit allows road haulage vehicles to operate in its member countries.

1980 The alternative legal framework for the carriage of persons is the Interbus Agreement. This too is a multilateral international Treaty which establishes common rules for the carriage of passengers by coach. After we lost the EU legal framework, the extension of ECMT and Interbus to Gibraltar was the only alternative option in law. However, this was blocked by Spain and the EU. The new Treaty will set a process in motion for the application of ECMT and Interbus to Gibraltar through the membership of the United Kingdom. That is expected to provide for the transportation of goods and persons to and from Gibraltar and the territory of the ECMT.

1985 Secondly, the Treaty will provide for the continued transportation of commercial goods between Gibraltar and the geographical territory of the Campo area. An ECMT permit will not be required for this regional movement. thirdly, the Treaty will also safeguard the vital commercial road link between Gibraltar and the United Kingdom.

1995 Madam Speaker, make no mistake, this was a sector which would have been decimated under a no-Treaty scenario. Indeed, the Government had communicated this risk to the industry as far back as December 2020. However, together with the United Kingdom, we have now negotiated legal certainty and peace of mind.

2000 Madam Speaker, I also want to say a few words about ambulances because they too, in a no-work, face restrictions after we left the EU. Gibraltar emergency ambulances were still allowed to drive patients through the border to Spanish hospitals after an administrative process. However, Gibraltar transfer ambulances were banned from crossing patients to Spain for non-emergency treatment.

The problem went beyond the registration of the vehicle. There was a further issue raised by the nationality of the staff travelling with the patient inside the ambulance. This was particularly difficult if they were not EU citizens or were visa-requiring nationals.

2005 As a result, the GHA engaged the services of Spanish ambulance providers in order to ensure that patient care was not adversely impacted. That service has come at a cost of hundreds of thousands of pounds. This continued inconvenience and cost would have been the default position in a no-Treaty scenario.

2010 However, the Treaty will permit Gibraltar emergency ambulances to transfer patients to any medical facility in the EU. It also provides for Gibraltar transfer ambulances to operate to and from designated Spanish hospitals in non-emergency situations. That arrangement will revert as close as possible to the position which existed when we were in the EU. It will make life easier for patients, and it will also represent a cost saving. Again, another important gain for Gibraltarians and Gibraltar residents.

2015 I move to civil aviation and note the comment from the Leader of the Opposition that the Treaty provision is workable and neutral. The Treaty outcome here, as in other areas, represents a considerable shift away from where the negotiation first started. It would not be proper to go over this detail in public but suffice it to say that the Government has always been very conscious of the sensitivity of this question and we have negotiated with this factor in mind. The Treaty will provide the framework for flights between Gibraltar airport and airports in the European Union, and this can only be regarded as an extremely positive development.

2020 Until now, those air links have traditionally been blocked by Spain. The Treaty eliminates that veto. It provides a legal basis under which those air connections can now materialise. That detail is set out in Part 3, Title 3, Chapter 1 of the Transport section of the Treaty. In making an analysis of this section it is essential to bear in mind the context. That is that when we were part of the European Union, we were entitled to air connectivity with it as a matter of principle and of legal rights. That right was lost when we left the European Union. So, the Treaty re-establishes the right to fly there.

2025 I will repeat what I have explained before. Air transport services to and from the UK will continue to be carried out by UK airlines or by carriers authorised by the United Kingdom. Those who are from the EU will be operated by EU airlines or carriers authorised by the European Union. A UK-EU Specialised Committee on Aviation will be established.

2030 It will have a supervisory role to ensure relevant standards are met and that the Treaty is complied with through both inspection visits and information exchanges. However, such visits and exchanges will only happen while there are air connections between Gibraltar Airport and airports in the European Union or in preparation for such flights. EU law will be applied by Gibraltar and through our own constitutional instruments in four specific aviation areas.

2035 Those are the rights of passengers with reduced mobility, airport charges, airport slots and ground handling. A JV will be set up in Ireland on a 50-50 basis between Gibraltar and Spain. The Irish company will award a tender for a separate commercial company to operate the airport.

2040 It will not have ownership of the terminal. Ownership will remain with the Government. The Treaty arrangement is a step back from Córdoba.

In 2006, it was envisaged that the Joint Venture Company would actually operate the air terminal. Under the Treaty, the new Irish JV will not do so. The Government can further confirm

2045 that its role does not go beyond ensuring compliance with EU tendering rules and Treaty obligations.

The equal shareholding effectively means that no change to the existing arrangements are possible without our consent. The Treaty will allow for the JV or the commercial company to be litigated against in Gibraltar or in the court of any States to which relevant international conventions, such as the Hague Convention Hague 19, apply. This closely mirrors the position which existed when we were in the European Union and under the Brussels and Lugano conventions.

2055 The terminal was designed for use under the aviation arrangements envisaged in the 2006 Córdoba Agreement. As the House knows, Córdoba was never implemented in full. This means that the underutilised space and empty corridors on the first floor will now be put to good use.

There will be a redesign and a redirecting of passenger flows in order to accommodate the continued Gibraltar controls and the new Schengen controls. Arrivals from third countries, like the UK, will be processed for immigration purposes through the first floor. Arrivals from Schengen countries will land from a common travel area, so there will be no immigration checks.

2060 They will arrive via the existing ground floor. Both sets of passengers will merge after collecting their baggage and proceed past Customs at a new facility which will be constructed on the Frontier Line. In addition to this, the location for a Schengen terminal has been earmarked at the Wessex Lounge.

2065 This will handle passengers departing from Gibraltar to the EU Schengen area. There is some space for future expansion to the west of the existing facility in the event that this is required. The plan is for temporary arrangements to be put in place while the permanent structures to the north of the existing air terminal are built.

2070 That work, inside the air terminal and outside it, has already commenced. So, the Treaty has laid the foundations for a new route network to the EU to complement our existing route network to the UK. It means that scheduled flights between the EU and Gibraltar will be possible for the first time.

2075 The House will recall that the Córdoba Agreement was only for routes to and from Spain. The decision to commence such flights is obviously a commercial decision for the airlines, but I am told by my colleague the Minister for Tourism that the interest is there. For its part, the Government will waste no time in making known the possibilities which Gibraltar Airport will now have to offer going forward.

Madam Speaker, those who may be against this Treaty must also explain what the realistic alternative would be. Otherwise, Opposition to this agreement is simply not credible.

2080 This is the Treaty that is on offer. There is nothing else. That means the alternative is not some kind of theoretical perfection, wonderful in an ideal world. The alternative to this Treaty is no Treaty at all. The challenge of life without a Treaty must be factored into this debate too. At the same time, it would also be unrealistic to pretend that this Treaty would not attract criticism. Some will say it goes too far. Others may think it does not go far enough. However, let me say that anti-Europeans in the UK who landed us with the problem are not well placed to lecture us on what the solution should be. It is true that some parts of the text do make uncomfortable reading.

2085 However, those parts need to be seen in the context of Spain conducting functions on behalf of the European Union and against the background of the tough Sovereignty Protection Clause which I referred to earlier. Spain is not permitted to exercise executive action in Gibraltar. All such power will be exercised by and through the Competent Authorities of Gibraltar as it is today.

2090 This Schengen Function is limited to the new shared operating space to the north of the air terminal which straddles the border. The central policy objective of the Government has been to protect Gibraltarians and to protect residents of Gibraltar. That has been achieved.

2095 However, I repeat, it is not legitimate to criticise what the Government has negotiated without providing details of the alternative course of action. What magic wand would our critics wave? Because we cannot simply remain as we are, as we keep on saying, the status quo is not an option. So, what is a realistic plan to avoid the impact of no Treaty? Nobody else has one, Madam Speaker.

2100 There is none. Madam Speaker, the stark choice, as the Government has always said, is a Treaty or no Treaty. However, in our consideration of this motion, hon. Members are duty bound to reflect on the negative consequences of the latter route, which is what the Hon. Leader of the Opposition has explained.

The most obvious single concern would lie in the application of the European Union EES system at the border. On the 10th of April, it must be and will be applied at every external land, sea and air border of the Schengen area. That remains the target date at this time. It may possibly slip, but it still remains the deadline today.

2105 The new electronic controls will require travellers first to scan their passports, then to register biometrics with the system through fingerprints and then separately a facial scan. The machine will also ask questions. Then after registration, passengers will need to interact with an e-gate. That dual approach will apply every time a non-EU national crosses an external border in or out of the European Union. It has already led to chaotic scenes at some crossing points during trials.

2110 Travellers in vehicles will need to interact with the EES as well, either by getting out of the car and going to the machines, or through the use of tablets if they have them at that particular border. Those new controls in turn will have a knock-on effect on the time people spend in a Frontier queue waiting to cross into Spain or waiting to reach their home in Gibraltar. The Treaty will save Gibraltar from this potential disruption.

2115 The Government is aware that serious industry players, who are large employers and taxpayers here, have been monitoring this particular point. We were warned that the EES would disrupt staff movements and that a hard border would make it very difficult for some to continue to operate in and from Gibraltar. The risk was company relocations, job losses, and a hit to our public finances.

2120 Madam Speaker, the lowest category of no Treaty outcome in our planning was moderate. Even so, that moderate outcome would have been deeply damaging. The other two were major and worse case.

2125 On a moderate Treaty outcome, the hit to revenue was projected at £147 million. The increase in expenditure at £152 million. So, no Treaty would have meant less money coming in and more money going out. The reason for this is because in a no Treaty world, logistical costs go up. The Government was, for example, looking at a projected annual increase in waste management costs of £21 million. This would have been the result of having to export waste by sea to other countries instead of by land to Spain. Indeed, a trial run in the export of 500 tonnes of waste to the UK, which is only a week's worth, was calculated to cost in excess of a quarter of a million pounds.

2130 That was for municipal waste only. Increased costs would also have made materialised with other waste streams in other areas.

Hon. Members will recall that I already mentioned the question of ambulances. Although the final sum is dependent on usage, it already cost £590,000 to contract Spanish ambulance providers over a one-year period. The importation of medical supplies and pharmaceuticals was estimated to result in a 15% increase of £1.7 million. A more difficult border would obviously have resulted in staff retention issues across the economy, where that staff is resident in Spain and employed in Gibraltar. In the event of no Treaty, Operation Corax was the name given to put the potential traffic management plan. The impact of EES would require additional resources to manage and control the expected delays to pedestrians and vehicles crossing the border.

2140 There is one important difference between the delays generated by the EES and those which have come about at different points in our history. The Margallo delays and others like them were time limited. The impact of EES, however, would have been permanent, forever.

2145 The increase in personnel and resources at the border had been projected to cost an additional £6.5 million a year. In addition to this, there would have been associated infrastructure costs. That included a new pedestrian holding facility to stop people waiting in the rain, which was estimated to cost some £200,000 in capital costs and a further £100,000 in recurring annual charges.

Moving on to another area, the supply chain would have had to readjust as well. A shift from road transport to maritime transport would have led to slower delivery times. The use of air

freight, which would have been faster and more direct, is also more expensive than both road and sea freight.

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A ferry service to carry non-EU goods of animal origin from Algeciras to Gibraltar was projected to cost some £1.8 million a year. In the event that EES was implemented at the border, Gibraltar would have applied its own electronic controls as well. That is in line with the principle of reciprocity. The objective would have been to increase Frontier border fluidity for residents and visitors on the way in. However, the plan was to instal a battery of e-gates in the existing pedestrian entry building. The projected cost of that was £1.2 million in capital expenditure with £124,000 in recurring annual costs. The House knows well that a number of other projects to increase the resilience of Gibraltar have been completed. I know members of the Opposition have been briefed on our NNO work on a number of occasions. However, the resilience measures which have been put in place would not have mitigated all the impact of a no-Treaty outcome.

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Quite simply because the ability to mitigate in certain areas is out of our hands. this is an important point. So, when taking a view on the content of the Treaty, it is essential to factor in this alternative world.

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We cannot compare the Treaty text to some ideal state of perfection, because perfection does not exist. The only alternative is the full brunt of a no-negotiated outcome.

I think it is relevant also to factor in reaction in Spain into this discussion. The last debate in the Spanish Parliament was very revealing. The Spanish Government was accused of not having taken advantage of Brexit to progress the sovereignty claim to Gibraltar. The Partido Popular accused Foreign Minister Albares of not having taken one step in the direction of Spanish sovereignty.

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He complained that sovereignty was not put on the agenda. he declared that Spain should have pushed for joint sovereignty in exchange for the new border regime, which was the policy of Foreign Minister Margallo in his day. The Vox was even more blunt. He protested that Gibraltar and its Chief Minister were accorded the same status as two sovereign countries during their negotiations. he made it clear that this Treaty was nothing short of a capitulation to British and Gibraltarian interests in his view. Vox claimed that the Treaty constituted a surrender for Spain.

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In that context, the spokesperson went into the clause designed to protect sovereignty positions. He said this was far from a victory or even a draw. That statement is proof that Spain has missed a historic opportunity to advance a recovery of Spanish sovereignty over the rock. He went on to describe the Treaty as a shameful abdication by the Spanish Government, a felony and outright treachery.

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The former Foreign Minister of Spain, García Margallo, took a similar position. He has described the Treaty as a total renunciation of Spain's political and economic sovereignty. We know his two preconditions, the closure of the border and shared sovereignty, none of the two have materialised. It is worth pointing out here as an aside that the Partido Popular itself also made clear when in office that the sovereignty of Gibraltar would not form part of the negotiation. However, in final analysis, when critics in Spain say that this Treaty goes too far, they inadvertently confirm that it goes nowhere near our sovereignty.

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So, Madam Speaker, today this House exercises its authority on behalf of the people of Gibraltar for the future of our country. This Treaty is not perfect. No Treaty ever is. However, it is safe. It is secure. it is beneficial for Gibraltar. It safeguards our British sovereignty. It opens new opportunities. It provides certainty after disruption. It anchors our relationship with the European Union in law. It places our dealings with Spain under the umbrella of a binding international agreement with the EU. It creates stability, security, and prosperity for our people.

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So, Madam Speaker, the Treaty will provide the best of both worlds to residents of Gibraltar and Gibraltarians. It will deliver a new relationship with the EU. It will maintain a historic bond with the United Kingdom. A Gibraltar with it which is British by choice. British by law. British without apology. So, for those reasons, and with confidence in the future, I welcome that hon. Members will be supporting the motion now as amended. Thank you.

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2200 **Hon. Chief Minister:** Madam Speaker, with sincere thanks to the Deputy Chief Minister for his presentation, can I invite the House now to recess until five past seven.

Madam Speaker: Right, we will recess until five past seven.

The House recessed at 6.48 p.m. and resumed its sitting at 7.05 p.m.

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Madam Speaker: Yes, any other hon. Member like to speak? The Hon. Mr Clinton.

2210 **Hon. R M Clinton:** Thank you, Madam Speaker. Madam Speaker, this motion states, or the motion as amended states, that the UK-EU agreement tabled in this House last week is, I quote:

for the benefit of Gibraltar and its people.

2215 Now both sides of this House in our respective 2023 electoral manifestos declared our commitment to a Treaty outcome that was both safe and beneficial.

This of course being subject to not crossing any red lines on sovereignty, jurisdiction and control. So, in considering the Treaty as tabled last week, we must read it and ask in the words of Cicero, *qui bono?* Which is my best Latin, or who benefits? Who benefits from this Treaty and its various provisions? In addition, we have to consider whether Gibraltar's red lines on sovereignty, jurisdiction and control are indeed safeguarded. I am obviously pleased that we were able to agree the amendment earlier today.

2220 Now this is not an easy analysis to undertake of this agreement or Treaty given the breadth and legal depth of the agreement. This is despite the proliferation of AI-generated opinions which we have all seen.

2225 Now of course AI can generate opinions but of course it can never understand the sum of Gibraltarian lived experiences, emotions or fears as to the intentions of Spain. Now these fears may be both rational and irrational. Spain has not abandoned its sovereignty claim. On the contrary. The messaging from this Government is at the best mixed as to Spain's attitude during the progress of the negotiation of the Treaty as I will give some examples. Let us first give ourselves the luxury of looking at the human context of this agreement before considering its content and then considering the question as to who benefits.

2230 So let us look at the human context. Madam Speaker, I belong to the Gibraltarian generation born in 1967 that lived out its childhood isolated in two and a half square miles behind a Frontier gate that was locked by Franco in 1969. My generation never knew what an open border was until it reopened.

2235 Now Spain was indeed a foreign country and as a child I often wondered what the yellow glittering lights of Algeciras across the bay were. It was pretty much staring at a full moon at night and wandering us to the surface. It was completely alien.

2240 When the Frontier opened for pedestrians in 1982 there was both curiosity and trepidation. I do recall the petition asking for the Frontier to be closed at night for our collective safety. Such was the psychological damage done to our sense of security.

2245 Now whereas the Chief Minister cautioned us against the ghosts of the past despite the harm caused to us those memories are still very real among many Gibraltarians. History cannot simply be ignored or airbrushed away for political convenience. The question of the demolition of the Frontier fence is one that has been a Spanish objective since 1966 when it was proposed by the Spanish Foreign Ministry to Britain during talks at the time.

2250 This was before the Frontier closed and this is actually laid out in a parliamentary paper published at the time which is a HMSO publication command paper 3131. On page 42 it gives a detailed account of these matters and Britain actually made the proposal to Spain that is willing

to consider the demolition of the Frontier fence in return for normalisation of Frontier relations. The Hon. Dr. Garcia, unfortunately he is not in the Chamber at the moment, in his book Gibraltar the Making of the People he gives a detailed account of these matters on page 46, 146 sorry and the British proposals that included and I quote from his book cooperation with Spain to prevent smuggling and joint use of Gibraltar's airport, port and territorial waters. The suggestions made were totally unacceptable to Gibraltar and one can only speculate on what would have occurred had Spain not rejected them outright. Now that was in 1966 those are the Hon. Dr. Garcia's words.

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This of course was 60 years ago but it does sound somewhat similar to the current proposed arrangements. I also think it is significant that the removal of the Frontier fence was not only a Spanish political objective under Franco but that Britain at the time was willing to agree to it.

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Now I have to wonder to what extent this was again a major Spanish objective in these negotiations. Namely I would have thought to achieve notional, physical, territorial reintegration of Gibraltar with Spain. Now as Sir Joe explained in his statement last week, the European Union has not always been our friend. Even when we were members of the EU with the UK. There is plenty of evidence of that. The Brexit referendum in which all political parties in this House, I hasten to add, supported the in-campaign delivered a result that as the Chief Minister stated left us, I quote as sitting ducks.

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Now Spain successfully carved us out of the UK withdrawal agreement using its veto powers and the EU gave Spain the final say on any future agreement in respect of the UK, Gibraltar and the EU. So, the circumstances that led to the agreement tabled in the House last week have to be seen in the context of a deliberate diplomatic move by Spain to isolate Gibraltar from the UK and I would assume have some sort of say in our future.

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Now Madam Speaker that the negotiations have been tough I do not doubt. Nor do I doubt Madam Speaker that Gibraltar's negotiating team has done all it can in the circumstances. I believe that both the Chief Minister and the Deputy Chief Minister have stated that the agreement is not perfect. However, then again Madam Speaker neither of them have actually set out why they are not perfect or in what respects the agreement is not perfect.

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Now the people of Gibraltar read the agreement it is a complex document, AI can only go so far. I think the people of Gibraltar deserve some political honesty and be told the unfurnished truth. Now Sir Peter has laid out some of that in his opinion piece yesterday.

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Madam Speaker on the 27th of February 2025 in answers to questions the Chief Minister referred to choices in the negotiation as being I quote:

between one manure show or another manure show.

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I suppose it could also be used as the English expression that you cannot really polish a turd, but you can roll it in glitter. Such is the glittering agreement we have been presented with Madam Speaker.

Now the Chief Minister's statement last week noted that Gibraltar was in a position of weakness in this negotiation. The position of the other three parties might be summarised this is just my own thinking the UK to protect its military and other interests the EU to protect its single market in Schengen, Spain perhaps ungenerously to obtain a pound of flesh as well as removing the Frontier fence and we to negotiate as best as we could. So, Madam Speaker let us now perhaps brush off some of the glitter and delve into the agreements in areas that might not be perfect.

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The Chief Minister's statement last week read out the summary of the agreement that the UK published. This summary sets out and I am not going to go into great depth that the agreement consisted of 7 parts 43 annexes and is quite a weighty document. I am not going to go into great detail on all of them but focus on those that impact on our economy and public finances and the EU's understanding of the various processes. However, before I do that Madam Speaker, I'd like to show the House a rather back of the envelope quick analysis of the various articles in the agreement.

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2305 The agreement consists of 336 articles split across 7 parts. The first one is entitled Common Institutional Provisions 27 articles Circulation of Persons Annex 174, Economy and Trade 92, Frontiers Workers 8, Financial Provisions 1, Dispute Resolution 28 and Final Provisions 9 respectively. That 7.1%, 51.8%, 27.4%, 2.4%, 8.3% and 2.7% of the 336 articles. Forgive me Madam Speaker as an accountant I could not resist doing that exercise. However, Madam Speaker, I thought it would just give a rough indication of the focus of the agreement although of course it does not really reflect the number of associated annexes irrespective of each part. However, I did find it somewhat surprising that 126 articles a total of 37.5% of the agreement within Part 2 on 2310 Circulation of Persons was focused on law enforcement and judicial corporation. I thought that a surprising weight for an agreement essentially about trade and mobility and as a non-lawyer it kind of suggests potential mission creep into unrelated areas.

2315 However, Madam Speaker, I will leave that to my colleagues with legal training to discuss because that kind of weighting on something which is really about trade and mobility does seem kind of odd. Madam Speaker coming back to the economy and public finances I have to say that His Majesty's Opposition have had no access to any impact studies on the economy or public finances nor stress tests nor scenario planning. Now the Deputy Chief Minister this afternoon has given us some numbers but frankly it is too little too late.

2320 We could have had that weeks, months, years ago but he gives it to us today. Utterly pointless to give us his information so late but so be it. So, we are entirely in the dark Madam Speaker as is the public as to the financial choices that we faced or the financial outcomes we may now encounter.

2325 The EU published its own expiratory memorandum and draft council decision on the proposed agreement which sheds light on areas in which I have to say the Gibraltar Government and the UK have remained silent. The draft council decision as I think the Leader of the Opposition has referred to makes it clear that Spain will have a seat on the Cooperation Council and Specialised Committees and that it will be consulted on various measures.

2330 Now Madam Speaker I start with this Madam Speaker because it was not that long ago when Sir Joe appeared on GBC saying that as far as he was concerned the agreement would only have a four-year life and that it would be terminated after Frontex because he would not accept Spanish boots on the ground. In those four years Sir Joe boasted that he would use that time to reposition the economy and I do not recall exactly what he said but something along the lines, well if they are willing to give me four years I will take them. There was some concern expressed in the business community as to the lack of economic certainty that such political positions suggested.

2335 How could businesses be expected to plan if within four years the agreement would be undone? However, Madam Speaker in this agreement that was tabled last week Frontex has disappeared and so some might assume the suggested four-year termination clause that this agreement will go on indefinitely or have some kind of certainty built into it. Now whether boots on the ground have reappeared in other guise is another question which I am not going to deal 2340 with.

2345 However, the agreement in Article 66 has a termination clause following the undertaking of a four-year review which is under Article 65 and furthermore Article 66(2) gives Spain the right to request the EU to terminate the agreement at that point in time. It should also be borne in mind Madam Speaker that Article 334 allows either party, the UK or the EU to terminate the agreement with 12 months' notice without cause. Without cause.

2350 So, the lifespan of the proposed agreement is uncertain and very much dependent on Spain's views as to the implementation of the agreement after four years. Madam Speaker, as an aside, I have seen 19th century trade agreements that give more certainty. I do not know if this is now the standard and the norm in Europe that all agreements have just a one-year termination clause.

I have not had time to consider that. However, this agreement, the life of this agreement is very much dependent on the ability of parties on both sides to live with it because if we cannot live with it, we will terminate it. If Spain cannot live with it, they will terminate it. So, we will have to, as the Opposition refer to, take some kind of leap of faith.

2355 Madam Speaker, on the matter of attracting people to take up residence in Gibraltar to expand
their economy, it has already been noted that information on residency permits has to be notified
to Spain, whether on issue or renewal. Now the Chief Minister described this and was reported in
the Chronicle, the Chief Minister described this as an extra layer of vetting protection which we
2360 should welcome. However, in his recent GBC Viewpoint interview, the Chief Minister disclosed
that the original proposal was that Spain would issue the residency permits for Gibraltar,
something that I am happy to say the Chief Minister is quite right to refuse to accept. However, it
does show, Madam Speaker, that obviously we in the Opposition have no insight into the various
decisions and the negotiation process over the last five years and this is the end result. Some
might say, and I guess subconsciously, they will know what the starting position was and may say,
2365 well look, we have ended up with this, and you should be pleased because you do not know what
the starting point was.

Unfortunately, we do not know what the starting point was. It is very hard, not just for us, but
for the general public to understand what this end result is compared to what the starting drafts
were. Now the EU's memorandum on page five makes it quite clear, talking about residency
permits, that it is in its view Spain has a veto on the issue of residency permits in Gibraltar. It
2370 actually says so. So, no matter how we look at it, Madam Speaker, this is an important economic
lever that will no longer be within our sole control. Now Madam Speaker, the most important area
of concern to our public finances is the subject of the transaction tax which is set to replace import
duties.

The estimates for 2025-26 anticipate £100 million of revenue from import duties which is about
2375 13% of our total Consolidated Fund revenue. Now Madam Speaker, this income currently goes
towards meeting the general expenses of a Consolidated Fund. So too, Madam Speaker, will its
replacement, the transaction tax.

To suggest that this income would in its entirety be diverted to assisting business on main
streets is of course unrealistic. Now, the Government has announced some measures today which
2380 my hon. Friend Mr Sacarello will talk about. However, the transaction tax revenue cannot be ring-
fenced for Main Street because we would have a £100 million deficit at the minimum.

So now, it is also unknown what the expected impact on public revenues will be when the
import duties increase from the current levels to 15% and thereafter 17%. I mean I know, I think
2385 jewellers pay 3% at the moment, electronics at about 6%. I do not know what the impact on their
business models will be.

Now, if business has become uncompetitive and imports drop so too, logically will Government
revenues despite the increase of taxation. However, the Government will not be able to
economically adjust it because at that point we no longer have control over the level of transaction
tax. We will have to adopt the levels as set out in the agreement over three years.

2390 So again, that will be an important economic lever that we will have given up control over. Now
the Chief Minister has made it clear several times, and indeed today, that Gibraltar will not have
VAT but only the transaction tax as set out in the agreement. However, the EU seems to have a
bit of a different view as to the customs arrangements under what it describes, and I quote:

2395 an open-ended transition period.

This is what is written in its memorandum as regards customs and related issues on page 7.
This is the European Union writing as about Customs and related issues. It says accompanied by
tax and Customs cooperation and entire alignment of the indirect taxation system of Gibraltar
2400 with Union legislation after a transition period.

During the transition period, the competent authorities within the Union will perform all
Customs related formalities on behalf of Gibraltar while Gibraltar would levy its own transaction
tax and excise-like taxes on import and production and excise duties both in principle aligned to
EU rates after a transitory period of three years. With some exceptions, Gibraltar Port and Airport
2405 will be closed for commercial traffic until the definitive period in which Gibraltar will also become

part of the Union in fiscal territory and would apply directly Union legislation on indirect taxation and on import and export. Madam Speaker, I read the bit after a transition period.

2410 Now, I do not think I have heard maybe I have missed it, the Chief Minister or the Deputy Chief Minister speak about any transition period in respect of transaction tax. What the European Union say in their summary reflects the language of Article 2471 and Article 248, which I think the Leader of the Opposition has referred to, with a Cooperation Council making the decision as to when the full application of Union law is to occur and if it did occur, it would invariably include VAT, etc. and Annex 20.

2415 Now, whereas there is no set date for this to happen, it is clear in the EU's Memorandum that the transaction tax replacing our current import duty system is meant to be a transition measure towards the full application of VAT and the full application of Union law in respect of taxation for goods. Now, the implications of this to our public finances or our business community have not been spelt out by Government. Again, the Government needs to be honest as to the direction of travel expected by the EU under this agreement.

2420 Now, it may be that the Government has managed to somehow negotiate what even the European Union have called an open-ended transition period, which may be indefinite, provided that the Cooperation Council does not make a decision to apply it, which of course makes the Concordat even more important that Gibraltar has a seat in the Council to ensure that such a thing does not happen. However, again, let us have some honesty. Madam Speaker, Gibraltar was never
2425 part of a Customs Union when we were in the EU, and so in Brexit language, and there is a lot of UK Brexit language being used, our border with Spain was always hard in respect to goods.

It was always hard. Madam Speaker, what is being proposed under the agreement is in fact something completely new for Gibraltar, and of course the requirements for the physical removal of the Frontier, in respect of which it will allow the mobility of persons. So, Madam Speaker, *qui bono*, who benefits?
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Who are the clear beneficiaries under this agreement? it is very hard again to get into the depth of it, but perhaps we can identify who benefits. Now, at a micro level, a micro-social level, Frontier workers have acquired safeguarded rights.

2435 Gibraltar residency permits holders and Gibraltarians will have free mobility into the Schengen area, but again subject to the 90-180 day rule. At a macro-national level, the UK has obviously safeguarded its defence and other interests. The EU has preserved the single market and Schengen principles.

Spain has achieved its objective since 1966 of removing the Frontier fence, and to a degree gained some control. I am not talking about sovereignty, I am talking about control – and or
2440 influence over elements of Gib's economy and elements of policing. So, Madam Speaker, what is it that Gibraltar at a national level has gained or lost? it is very hard to define as Sir Peter puts it, what is the prize versus the price?

Now both sides of this House wanted a safe and beneficial agreement that did not cross lines of sovereignty, jurisdiction or control. Now, as to sovereignty and jurisdiction, the lawyers in this
2445 House, and in fact we have had legal opinions read out this morning, are in a better position to debate than myself. As to control in an economic sense, well look, we have certainly been surrendering some control over an important source of income to the Government, namely the switch from import duty to transaction tax.

2450 However, can we really say this agreement is, as the motion is worded, for the benefits of Gibraltar and its people, when the EU itself talks about the objective of shared prosperity for the region as a whole and safeguarding Schengen, the Customs Union and the single market? Now, the implications of the alternative of no agreement are, as the Leader of the Opposition has said, unknown to us, and the public, and is really unexplored territory, other than by the Deputy Chief Minister. The Government are the only ones in a position to assess whether what has been
2455 delivered, however imperfect, is beneficial and better than the alternative of no deal.

We cannot make that judgement. However, what we can do is to ensure that the agreement is at least safe and future-proof against any political eventualities. This we can by obtaining the

2460 Concordat with the UK that sets out clearly our rights and representation within the European Cooperation Council and the specialised committees and also ensures and enshrines the right to determination by the people of Gibraltar.

I am glad to say that we were able to achieve agreement and a unanimous position on that. So, Madam Speaker, on that basis that there is at least some safety, we can have the luxury of tasting this cake, but we do not have to eat a whole lot of it if we do not like it. So, on that basis, I am willing to give this agreement a chance to prosper with the safety of Gibraltar retaining control in key areas including termination.

2465 As a good friend of mine wisely observed, Madam Speaker, and I quote:

we cannot live in the nostalgia of the past.

2470 Madam Speaker, we must look with optimism and self-confidence to the future.
Thank you, Madam Speaker.

Madam Speaker: The hon. Member wishes to speak.

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Adjournment

Chief Minister (Hon. F R Picardo): Excuse me, Madam Speaker. I am not emotional. (laughter)
2480 The hon. Member raises many feelings in me but never makes me emotional. I am just a little snotty at this time of the year. May I move now, Madam Speaker, that the House should adjourn to tomorrow morning at 9.30am when we shall take the contribution of the Father of the House.

Madam Speaker: I propose the question that this House now adjourn to tomorrow morning at 9.30am. I now put the question, which is that this House do now adjourn to tomorrow at 9.30 a.m.
2485 Those in favour? (**Members:** Aye) Those against? Passed. This House will now adjourn to tomorrow at 9.30 a.m.

The House adjourned at 7.36 p.m.