



PRESS RELEASE

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CHIEF MINISTER'S STATEMENT TO PARLIAMENT - BREXIT NEGOTIATIONS

Mr Speaker, despite the parallel storm that is raging on Gibraltar related matters, I returned yesterday from Madrid with the Government's Brexit team where we have negotiated the final details of the package of measures that will apply to Gibraltar in the context of our withdrawal from the European Union together with the United Kingdom.

This morning, I briefed the Cabinet and the members of the Brexit Select Committee.

I expect to make a full Ministerial Statement to the nation on the nature and effect of those Gibraltar measures sometime next week. By then, we hope, the European Summit to be held on Sunday 25 November 2018 will have reached final agreement on the draft Withdrawal Agreement and the Political Declaration, which has just been published and which sets out the framework for the future relationship between the EU and the United Kingdom.

Today, I will update Parliament on the progress made in this week's negotiations in Madrid and the meeting held with the Prime Minister in Downing Street last week.

Mr Speaker, the Withdrawal Agreement contains a Protocol on Gibraltar. The Protocol refers to a series of Memoranda of Understanding and a Tax Treaty that will underpin the operation of the Protocol.

Those are the documents that we have been discussing.



And I am glad to report today that agreement on all of these documents is now virtually complete, subject to a common final political agreement.

Work has been finalised on negotiations of substance in respect of all matters.

The four MoUs concern Citizens' Rights, Tobacco Market Access, Cooperation on Environmental Matters and Cooperation on Police and Customs Matters.

The Tax Treaty sets out provisions on fiscal transparency and tax residency rules typical of what is found in a Double Taxation or Information Exchange Agreement. Those types of agreements that we have with many countries around the world and which we have long wished to have with Spain.

All of these MoUs – except for the Tax Treaty and the Citizens' Rights MoU – create obligations only until the end of December 2020.

That is to say, these agreements are only for the 21 months of the so-called transition period between March 2019 and December 2020. Unless we agree otherwise, they drop dead then.

All of these documents are the product of a long and intensive negotiation that has lasted virtually the whole year.

Nothing in these documents compromises any of our red lines.

Nothing in them alters in any way whatsoever our Constitution and constitutional competences.

There are and there will be no concessions on matters of sovereignty, jurisdiction or control.

In fact, they are expressly arrangements entered into without prejudice to all sovereignty positions.



Indeed, neither do these documents require us to do things that we have any problem in doing. I can assure all members that the terms of the MoUs are far removed from what others might have wished them to contain.

We are currently engaged in a “legal scrub” and text stabilisation of the documents and the necessary translation of them and we are confident that they will be ready for final political agreement and approval by Sunday.

This means that as long as the Special European Summit on Sunday reaches final agreement between the EU 27 and the UK, the terms on which Gibraltar will form part of the Withdrawal Agreement have been finalised and Gibraltar will benefit from the transitional period.

This is what was at stake in this stage of the complex Brexit negotiations.

And this is what we are on the verge of achieving.

Mr Speaker, our objective for the first phase of the Brexit negotiations, was to secure continued access to the UK market. We achieved that in October last year.

We are now on the verge of securing our objective for the second phase of the Brexit negotiations, that is to say, our inclusion in the Withdrawal Agreement and the Transition Period.

It is of critical importance that we bear in mind that without our inclusion in the Withdrawal Agreement, Gibraltar, alone, would have faced a cliff edge on 30 March 2019.

That is to say, EU law would have continued to apply to the United Kingdom for a transitional period running to at least December 2020, but not to Gibraltar.

Mr Speaker, this was not the result we would have wanted. It would provide no certainty to businesses and to individuals.



It is therefore with a great sense of satisfaction that I am able to inform the House today that, notwithstanding the threats that we have faced, notwithstanding the considerable challenges we have faced, notwithstanding the claims that some voices have wrongly suggested Brexit presented Spain with the best opportunity it has had in the last 300 years to acquire sovereignty, or some part of it over Gibraltar, Gibraltar will nonetheless and despite all of that, be a part of any Withdrawal Agreement and Transition Period if there is one.

This will secure a vital period of legal certainty for businesses and citizens that will last until at least 31 December 2020 and during which the future partnership between the UK, including Gibraltar, and the EU will be negotiated.

The MoUs and the Tax Treaty will be accompanied by a number of other documents, letters and political declarations all of which are also being finalised as I speak.

All of these documents form a single package that must be read and understood as such.

I will explain them in some detail in my Ministerial Statement, once they have all been finalised and the EU27 and the UK have reached an agreement on the withdrawal process.

There are two additional points I would like to make.

Firstly, during the course of this week, the Spanish Government has publicly expressed its misgivings with how Gibraltar has been treated in relation to one aspect of the Withdrawal Agreement.

This concerns Article 184 of the Agreement which Spain interprets as compromising the role it wishes to play in determining how the UK's future partnership with the EU will apply to Gibraltar.

Let it be clear that this has nothing to do with what we have been negotiating which is the terms of our differentiated involvement in the Withdrawal Agreement for Gibraltar and our inclusion in the



Transition Period and not the terms of the future relationship with the EU, that is not what we are dealing with at this point.

Indeed, those who criticise the Gibraltar Government for not having obtained now a more enduring and permanent deal for Gibraltar at this stage of the negotiations continue to profoundly misunderstand how the Brexit negotiations are being conducted and how the legal texts must be interpreted.

Perhaps the events of the last 72 hours may have served to clarify this.

Secondly, the MoUs and the Tax Treaty we have been negotiating underpin the operation of the Gibraltar Protocol that forms an integral part of the Withdrawal Agreement.

They are therefore the product of requirements contained in the Withdrawal Agreement.

That Agreement is an EU Treaty which is a formally binding treaty under international law entered into by sovereign States. Gibraltar is constitutionally not, and constitutionally cannot be, a party to such an Agreement.

This said, it is important that the Protocol and the MoUs are understood in the light of Recital 2 of the Protocol which states that the Protocol is to be implemented in accordance with the respective constitutional orders of the United Kingdom and Spain.

This recognises that the rights and obligations set out in the Protocol and the MoUs are enjoyed and performed by the Gibraltar Government in accordance with the terms of our Constitution.

This much was specifically confirmed in my meeting with the Prime Minister in Downing Street last week.

Therefore, nothing has been imposed on us and nothing will be done which is not in accordance with our Constitution.



All the commitments entered into, whether under the Protocol or the MoUs concerning Gibraltar, have been negotiated by Gibraltar AND the United Kingdom together.

They are commitments entered into only as a result of the consent of the Cabinet of Her Majesty's Government of Gibraltar having been expressly given.

The Government is the guardian of the Constitution as much as this Legislature or the Judiciary may be.

We would not have countenanced agreeing to anything which might have resulted in our Constitutional Order somehow being compromised.

Mr Speaker, assuming all other hurdles to agreement are surmounted, we must now also start to consider in greater detail what our future relationship with the EU should be after withdrawal.

In great measure that is also a consideration of what we want our relationship to be with Spain, our neighbour after the departure from the EU.

We have never questioned that geographically we access Europe principally through Spain.

Our geographic gateway to Europe is Spain.

We therefore have more reasons for cooperation and discussion with Spain than we do – de facto – with any of the other remaining EU nations.

So we wish to continue, in our discussions about the future, to engage directly with Spain also in the spirit of cooperation and positive engagement we have enjoyed in this Withdrawal phase of the negotiations.



No one should think that we read any part of the Withdrawal Agreement in any way that would persuade us to avoid that genuine, human and political reality. Nobody needs a veto to bring us to the table.

Too often, Mr Speaker, Gibraltar and its people have been lost behind a fog of public international legal theory.

At this critical time in Europe's history, Gibraltar can be the strongest foundation stone for a future relationship between the UK and the EU, not a rock on the road to agreement.

That is our firm commitment and resolve.

Mr Speaker, As far as we are concerned, Brexit is a bad thing for the whole of Europe.

Brexit without an agreement for orderly agreed withdrawal would be even worse for the whole of Europe.

And for us Mr Speaker, Brexit is as bad an idea today in reality as when it was in theory at the time of the Referendum.

But so for us Mr Speaker, it is always best that we stick with Britain despite Brexit.

We have stuck with Britain in the past.

And we will stick with Britain in the future.