

UK-EU Agreement in respect of Gibraltar

In Focus

Published Wednesday, 14 October, 2026

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The UK and the EU have agreed a treaty that would create a new framework for Gibraltar's relationship with the EU following the end of the Brexit transition period at the end of 2020. The arrangements are aimed at creating a fluid land border between Gibraltar and Spain. The treaty has been provisionally applied by the parties since 15 July 2026.

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On 20 October 2026 the House of Lords is scheduled to debate the following motion in Grand Committee:

Lord Stirrup (Crossbench) to move that Grand Committee take note of the agreement in respect of Gibraltar between the European Union and the European Atomic Energy Community of the one part, and the United Kingdom, of the other part.

Lord Stirrup is chair of the House of Lords European Affairs Committee, which considered the treaty in its report published on 14 October 2026.^[1]

1. Key points

- The [UK-EU Gibraltar Treaty](#) was signed on 14 July 2026 and creates a new framework for the relationship between Gibraltar and the EU following the end of the Brexit transition period at the end of 2020. It has been provisionally applied by the UK and the EU since 15 July 2026.
- The treaty introduces a number of new arrangements to facilitate a fluid land border between Gibraltar and Spain. These include a new system of checks at Gibraltar airport rather than at the land border. The agreement creates a customs union between Gibraltar and the EU.
- The agreement has been welcomed by the government of Gibraltar.
- The agreement of a treaty between the UK and the EU on Gibraltar received cross party support in a debate in the House of Commons on 8 July 2026. However, the Conservative party expressed concerns about the process of parliamentary scrutiny.
- The House of Lords European Affairs Committee published its report on the agreement on 14 October 2026.^[2] The committee has drawn the agreement to the special attention of the House due to its political importance “because it settles a significant post-Brexit issue concerning Gibraltar’s relationship with the European Union”.^[3]

2. Background

Gibraltar is a British overseas territory of the UK and it left the EU when the UK withdrew on 31 January 2020. The UK-EU Trade and Cooperation Agreement (TCA) created a new trading relationship between the UK and the EU following the end of the transition period at the end of 2020.^[4] It also includes articles governing cooperation in areas outside trade such as law enforcement and social security coordination. The TCA was applied provisionally from 1 January 2021 and entered into force on 1 May 2021.^[5]

However, Gibraltar was not included within the scope of the TCA. The UK and Spain had agreed that a separate agreement between the UK and the EU would be negotiated regarding Gibraltar.^[6] As a result, the UK government has stated that there has been no formal legal framework governing Gibraltar’s relationship with the EU since January 2021 and that the agreement of the UK-EU Gibraltar Treaty “legally concludes the process for the UK, including Gibraltar, to exit the EU”.^[7]

3. What does the agreement cover?

The UK-EU Gibraltar Treaty creates a new framework for the relationship between Gibraltar and the EU. The UK government has stated that its policy objective for the agreement was to avoid a hard land border between Gibraltar and Spain and for it to operate while maintaining effective control, security, and market integrity.^[8]

The treaty delivers this by replacing routine land border checks with relocated controls at Gibraltar airport, supported by cooperation, information-sharing and targeted safeguards. On goods, the treaty substitutes frontier checks with a trading framework including goods, movements, customs, and indirect taxation. This allows trade to flow without permanent border infrastructure while ensuring that the integrity of both parties' markets is maintained. On security and policing, the treaty introduces cooperation mechanisms that enable risks to be managed effectively without reliance on land border controls.^[9]

The UK government has said that the treaty is "without prejudice to the respective legal positions of the United Kingdom and Spain with regard to sovereignty".^[10] This is set out in article 2 of the treaty. The government has said the treaty introduces a new system designed to provide the benefits of a "fluid land border" between Gibraltar and Spain. It states it does this whilst not formally integrating Gibraltar into the Schengen area, the EU single market, or the EU customs union. The treaty does make provision for the establishment of a customs union between Gibraltar and the EU and contains provisions on alignment in certain areas such as data protection rules.^[11]

The treaty consists of 336 articles arranged over seven parts along with 43 annexes, appendices and protocols. The seven parts include the following areas:

- **Part one: Common and institutional provisions.** This sets out the framework and principles of the treaty, including article 2's provisions on sovereignty. It also contains provisions on data protection to allow personal data to flow between Gibraltar and the EU to allow the treaty to operate. A cooperation council would also be established as part of the treaty's governance structures. On the issue of alignment, the government of Gibraltar's overview of the treaty states that there is no direct application of EU law to Gibraltar through the treaty and the Court of Justice of the European Union would not have an enforcement role in Gibraltar. The overview states that part one "contains provisions confirming how Gibraltar's domestic legal system will incorporate EU law where alignment is required and confirms it will be enforced by Gibraltar's own authorities and courts".^[12]
- **Part two: Circulation of persons.** Part two of the treaty establishes a new model for the movement of persons between Gibraltar and the EU. The government of Gibraltar has summarised this as follows:

The agreement establishes a new system for the movement of persons, designed to remove all routine immigration checks and physical barriers at the land border while maintaining stability and security across Gibraltar and the Schengen area. Gibraltar will remain outside both Schengen and the EU, but

Schengen border rules will apply at its external border under a tailored arrangement between the UK and EU. The agreement provides that all necessary immigration checks will take place at Gibraltar's airport—and if needed, the port—rather than at the land border. This will ensure that people cleared at the airport will be able to travel freely between Gibraltar, Spain and the wider Schengen area [...]^[13]

Separate provisions exempt relevant military personnel from Schengen border checks.

- **Part three: Economy and trade.** Part three establishes a framework for economic and trade cooperation and includes the establishment of a customs union between Gibraltar and the EU. The government of Gibraltar states that “to achieve fluid movement across the border operationally, the majority of goods destined for Gibraltar will be cleared by EU customs offices in Spain so they can enter Gibraltar without further checks”.^[14] The government states that the treaty delivers “enhancements” to Gibraltar’s current indirect taxation system which would move certain rates closer to the EU’s, but it does not adopt VAT or “any form of sales tax”.^[15] The UK government has said that part three also includes level playing field provisions that are similar to those in the TCA between the UK and the EU.^[16]
- **Part four: Frontier workers.** Part four creates a framework for frontier workers who reside in Gibraltar and work in Spain and vice versa. The UK government states that this provides for “non-discrimination, rights to seek employment and equal treatment in employment in Gibraltar and Spain for frontier workers”.^[17]
- **Part five: Financial provisions.** Article 299 is the sole article in part five. It states that “the cooperation council shall establish a financial mechanism to promote cohesion between Gibraltar and the contiguous frontier zone, including on matters of training and employment”.
- **Part six: Dispute settlement.** Part six creates a mechanism for resolving any disputes that may arise between the UK and the EU on the interpretation or application of the treaty.
- **Part seven: Final provisions.** Part seven’s provisions include setting out the territorial application of the treaty, rules on procedures for review, entry into force and termination. It also includes the treaty’s provisions on provisional application.

The UK government’s explanatory memorandum on the treaty provides further detail on its provisions:

- Foreign, Commonwealth and Development Office, ‘[Explanatory memorandum on the Agreement in respect of Gibraltar between the European Union and the European Atomic Energy Community, of the One Part, and the United Kingdom of Great Britain and Northern Ireland, of the Other Part](#)’, 14 July 2026, CP 1645

The government of Gibraltar has also published a detailed ‘frequently asked questions’ document which provides information on a range of questions about the treaty. This includes border controls, travel rights, visa and entry conditions, residency, import and export procedures, customs operations and taxation:

- HM Government of Gibraltar, '[A treaty for Gibraltar's future: FAQs](#)', accessed 7 October 2026

4. Application of the agreement

4.1 Provisional application

The treaty has been provisionally applied by the UK and the EU since 15 July 2026. The UK and Gibraltar governments have said that it was a priority to gain the “benefits and stability” of the treaty as soon as possible.^[18] The UK government also said that there was an operational need to put the border arrangements in place due to the introduction of the EU’s new entry and exit system (EES). This is the EU’s new system for registering non-EU nationals entering the Schengen area for short stays.^[19]

Provisional application is provided for under article 336(2) of the treaty.

4.2 UK parliamentary scrutiny: Constitutional Reform and Governance Act 2010

Treaties are international agreements concluded in writing between nation states which create rights and obligations in international law. In the UK, treaty-making is a function of the government under the royal prerogative.^[20] However, Parliament does have a role in the process of ratification. Since 1924 there has been a convention (known as the Ponsonby rule) that, once signed, treaties are laid before Parliament for 21 days before they can be ratified.^[21] In 2010, this convention was placed on a statutory footing in part 2 of the [Constitutional Reform and Governance Act 2010](#) (CRAG Act 2010).

The CRAG Act 2010 contains requirements about what must happen before the government can ratify a treaty. The usual process, as set out in section 20(1), is that a treaty cannot be ratified unless:

- a minister has laid a copy before Parliament;
- the treaty has been published in a way that the minister thinks appropriate; and
- a period of 21 sitting days has elapsed since the day after the treaty was laid before Parliament, without either House resolving that it should not be ratified.

Should the House of Commons resolve against ratification, the minister may lay a statement indicating that the minister is of the opinion that the treaty should nevertheless be ratified and explaining why. A second period of 21 sitting days is then triggered, during which the Commons may resolve again against ratification. Similarly, the minister may then lay another statement. In such a way the Commons theoretically has the power to delay ratification indefinitely.

The House of Lords does not have this same power under the CRAG Act 2010. Should the Lords resolve against ratification and the Commons not resolve against ratification, then the treaty may be ratified through provisions under sections 20(7) and (8) if “a minister of the crown has laid before Parliament a statement indicating that the minister is of the opinion that the treaty should nevertheless be ratified and explaining why”.

4.3 Legislation: Gibraltar

The UK government's explanatory memorandum on the treaty states that implementation of the treaty in Gibraltar requires a combination of domestic legislation and administrative and operational measures. The memorandum sets out that Gibraltar has introduced domestic legislation to give effect to the treaty:

Gibraltar, operating within the United Kingdom's constitutional framework, has introduced the domestic legislation required to give effect to the treaty in areas falling within Gibraltar's domestic competence, including immigration, residence, customs, administration, market surveillance, returns cooperation and day-to-day border operations.^[22]

However, implementing the treaty does not require any legislation in the UK.^[23]

5. Consideration of the treaty in Parliament

The UK-EU Gibraltar Treaty was laid before the House of Commons and House of Lords for the purposes of the CRAG Act 2010 on 14 July 2026.^[24] Stephen Doughty, minister of state at the Foreign, Commonwealth and Development Office, had deposited a draft copy of the treaty in the library of each House on 26 February 2026.^[25] The first objection period ends on 22 October 2026. The House of Lords is scheduled to consider the treaty on 20 October 2026.

5.1 General debate in the House of Commons (8 July 2026)

The House of Commons considered the draft UK-EU Gibraltar Treaty in a general debate in Westminster Hall on 8 July 2026.^[26] The debate took place before the treaty was signed on 14 July 2026 and laid before Parliament. During the debate, Stephen Doughty, minister at the Foreign, Commonwealth and Development Office said the "the text published in February remains substantively unchanged".^[27] He said that the intervening period had been used "for legal verification, technical checks and the preparation of authentic language versions".

The draft treaty received cross-party support in the House of Commons, but the Conservatives expressed concerns about the level of scrutiny of the treaty in Parliament and raised several questions about its provisions.

Speaking for the Conservative Party, Shadow Minister at the Foreign, Commonwealth and Development Office Wendy Morton said that she wanted to make it "absolutely clear" that her party welcomed the fact an agreement had been reached. She said that the treaty would help to provide certainty through a clearer framework for businesses, residents and those that relied on the frontier. However, she argued that welcoming the treaty did not mean "dispensing with scrutiny". Ms Morton indicated that she believed that provisional application of the treaty was not in the spirit of the procedures set out under the CRAG Act 2010:

The [CRAG Act 2010] exists because Parliament recognised that international treaties should be subject to democratic scrutiny before they bind the UK. If substantial parts of the treaty are allowed to take effect before Parliament has had a meaningful opportunity to consider it, many will understandably question what practical value that scrutiny is intended to have.^[28]

Ms Morton also asked the government for clarity on a number of issues, including:

- what the rationale was behind the treaty's governance arrangements for Gibraltar airport and why the UK government believed they were in Gibraltar's best interests
- the application of any new checks, controls or administrative procedures on British armed forces and military equipment to and from the military base on Gibraltar
- the process under which British goods would enter Gibraltar under the treaty and how these differed from the arrangements that were current at the time of the debate

Dr Al Pinkerton, Liberal Democrat spokesperson on Europe, said that his party welcomed the agreement. He said that the treaty deserved support, "albeit not uncritical support", because it recognised that "the freely expressed wishes of the people of Gibraltar are paramount".^[29]

On the arrangements at Gibraltar airport, Stephen Doughty, minister at the Foreign, Commonwealth and Development Office, said that the effect of checks taking place at the airport would not be dissimilar to the "juxtaposed controls" at the Eurostar terminal at St Pancras railway station. Mr Doughty said:

We tried to come up with a practical solution to the new arrangement, and it is one that has the full agreement of the government of Gibraltar. Everyone arriving at the airport will undergo Gibraltar immigration controls carried out by Gibraltar officials, followed by Schengen entry checks carried out by Spanish officials on behalf of the EU. On completion of those checks, individuals will be able to enter both Gibraltar and the Schengen area.^[30]

Mr Doughty said that this "dual immigration" system was needed to "unlock the benefits of a fluid border", which would allow visitors to cross into Spain without checks.^[31] He explained that non-resident British nationals were already limited to visiting Gibraltar for up to 90 days but "as visitors will be free to enter Spain without checks, time spent in Gibraltar will count towards the 90-in-180-day requirement of the EU".^[32] The minister said that immigration into Gibraltar would remain the responsibility of the government of Gibraltar. He said the agreement provided a unique solution "and puts different procedures and processes in place". He said that the government of Gibraltar had assessed that the "significant impact of an open border" outweighed "any challenges that might result from it".^[33] Mr Doughty also stated that the arrangement did not affect residents of Gibraltar themselves.

On the operation of the UK's military base Stephen Doughty said:

Safeguarding the operational autonomy of the UK's military facilities has been a red line for the UK government throughout our discussions. The agreement protects that autonomy and allows our facilities to continue their vital contribution to regional security and prosperity. The Ministry of Defence has been closely involved in the negotiations at every stage. We have the full backing of the defence secretary and defence teams on this agreement. I am glad that that was confirmed by colleagues' experiences of engaging with the commander British forces in Gibraltar.^[34]

Specifically on the application of Schengen checks to UK military personnel Mr Doughty said:

[...] I want to be clear that UK military personnel entering Gibraltar will not be subject to Schengen checks under the proposed arrangements. That will enable our facilities to continue their vital operations without interference or interruption. The posting of UK military personnel serving in Gibraltar and their families will not depend on Schengen border checks; as is the case now, the UK will decide who will serve in Gibraltar. We also have important agreements on goods entering the base. As colleagues will understand, we do not disclose sensitive operational details, but we have agreed special arrangements to ensure the functioning of the new arrangements.^[35]

On questions raised about customs checks in general terms, the minister said:

On customs checks for businesses, to allow for free flow across the Gibraltar-Spain border, goods in Gibraltar must meet EU standards. Over half of all goods in Gibraltar arrive from the EU and already meet those standards, as do many others that arrive from outside the EU. They are going to be pre-cleared away from the land border by relevant customs officials. The government of Gibraltar fully support that new model, which brings in the benefits of an open border and protects Gibraltar's economy.^[36]

5.2 Committee scrutiny

The House of Lords European Affairs Committee published its report on the agreement on 14 October 2026.^[37] The committee has drawn the agreement to the special attention of the House due to its political importance "because it settles a significant post-Brexit issue concerning Gibraltar's relationship with the European Union".^[38] International agreements would typically be scrutinised by the House of Lords International Agreements Committee, but due to the subject matter, and following consultation with the International Agreements Committee, the agreement was considered by the European Affairs Committee.^[39]

The House of Commons Foreign Affairs Committee and the House of Lords European Affairs Committee have both held oral evidence sessions on the treaty. UK government ministers spoke at these sessions as well as the Chief Minister of the Government of Gibraltar Fabian Picardo:

- House of Lords European Affairs Committee, '[UK-EU agreement on Gibraltar: Oral evidence](#)', 15 September 2026
- House of Commons Foreign Affairs Committee, '[UK/EU treaty on Gibraltar: Oral evidence](#)', 20 April 2026

6. Read more

- HM Government of Gibraltar, '[A treaty for Gibraltar's future: Frequently asked questions](#)', accessed 1 October 2026
- House of Commons Library, '[UK-EU agreement in respect of Gibraltar](#)', 5 August 2026
- European Parliamentary Research Service, '[EU-UK agreement on Gibraltar](#)', July 2026

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