

**CONCORDAT CONCERNING THE IMPLEMENTATION OF THE GIBRALTAR
PROTOCOL TO THE WITHDRAWAL AGREEMENT AND RELATED
MEMORANDA OF UNDERSTANDING**

BETWEEN

**HER MAJESTY'S GOVERNMENT OF
GREAT BRITAIN & NORTHERN IRELAND**

AND

**HER MAJESTY'S GOVERNMENT OF
GIBRALTAR**

These arrangements concern the obligations and commitments of the United Kingdom, in respect of Gibraltar, in the Protocol on Gibraltar included in the Agreement on the Withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (the “Protocol”), and in the Memoranda of Understanding with the Kingdom of Spain referred to in the Protocol (the “MoUs”).

Article 3 of the Withdrawal Agreement (of which the Protocol is an integral part) makes it clear that references in the Agreement to the United Kingdom are, when the context so requires, understood as referring to Gibraltar. This is clearly the case in the Protocol and, in turn, the MoUs.

As such, the commitments entered into by the United Kingdom in the Protocol and the MoUs have been entered into with the consent of Her Majesty’s Government of Gibraltar and following its participation in the negotiations. It is on this basis that the MoUs have been signed by the Rt Hon David Lidington, Minister for the Cabinet Office and Chancellor of the Duchy of Lancaster.

The Protocol.

The implementation of the Protocol will fully respect the constitutional arrangements in place in respect of Gibraltar and in particular the Constitution of Gibraltar of 2006 (the “Constitution”). As a consequence, the rights and obligations in the Protocol will be enjoyed by and performed by the Government of Gibraltar, and in particular the Gibraltar Government Ministers and other relevant Gibraltar competent authorities.

Under the Constitution, and Gibraltar law, they are the authorities who have responsibility, and who are vested with the powers of implementation relevant to the areas covered by the Protocol. The application of section 47(3) of the Constitution clarifies that matters which are the responsibility of Gibraltar Government Ministers under the Constitution do not cease to be so even though they arise in the context of the European Union.

The United Kingdom is ultimately responsible in international law for compliance with the Protocol, in the same way as the United Kingdom has always been ultimately responsible for Gibraltar’s compliance with European Union law.

The Memoranda of Understanding.

As with the Protocol, the commitments entered into and received in the MoUs will be enjoyed by and performed by the Government of Gibraltar, and in particular the Gibraltar Government Ministers and other relevant Gibraltar authorities.

The MoUs are primarily designed to facilitate working-level collaboration between competent authorities in Gibraltar and Spain, including through the use of joint committees. In Gibraltar such activities fall to the appropriately empowered Gibraltar authorities. It will be for the Government of Gibraltar to determine the appropriate authorities for particular committee meetings.

The memoranda provide that the United Kingdom Government will also appoint a representative to attend the committee meetings. The presence of the UK Government does not alter the status, and primary role, of the Gibraltar authorities within the areas for which they are constitutionally competent, in the committees.

Cooperation.

Where relevant for the purposes of the implementation of the Protocol and the MoUs, the United Kingdom Government and the Government of Gibraltar will seek to develop shared understandings and positions, without prejudice to the existing constitutional arrangements and responsibilities.

Future relations.

It is the shared aim and objective of the Government of Gibraltar and the United Kingdom Government, within the context of the wider negotiations on future relations with the European Union, and taking into account Gibraltar's deep existing relationship with the EU provided for by Article 355(3) of the Treaty on the Functioning of the European Union, to secure a future relationship for Gibraltar which appropriately reflects its particular geographic, socio-economic and constitutional characteristics and needs.

Given this specific situation, particular regard will be had to the need to take into account Gibraltar's specific interests with regard to the mobility of persons and in the services economy.

Alongside that future relationship with the EU, the United Kingdom Government and the Government of Gibraltar also reaffirm their intention to ensure that the valued and historic links between the UK and Gibraltar grow, deepen and endure.

This Concordat was approved by the Prime Minister of the United Kingdom of Great Britain and Northern Ireland, The Rt Hon Theresa May MP, and the Chief Minister of Her Majesty's Government of Gibraltar, The Hon Fabian Picardo QC MP, at a meeting held at No10, Downing Street, London on Thursday, 15th November 2018.

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Rt Hon David Lidington MP
Chancellor of the Duchy of Lancaster
Her Majesty's Government
of Great Britain & Northern Ireland
Date:

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Hon Fabian Picardo QC MP
Chief Minister
Her Majesty's Government
of Gibraltar
Date: