

<b>Committee:</b>	Special Conference on the Consequences of Brexit
<b>Topic:</b>	The question of the status of Gibraltar
<b>Chair:</b>	Patrick Mayne
<b>School:</b>	Cheadle Hulme School

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## Summary

As a result of Brexit, there are multiple challenges for trade and the movement of people generated as a result of this. The foundations of Gibraltar's thriving service-based economy is access to the EU Single Market and the 10,000 workers who cross the border with Spain every day. Whilst it is true that their main trading partner is the British Isles, any restriction of access to the Single Market or the workers with a harder border would seriously damage the economy of Gibraltar.

Since the Brexit negotiations have begun, Spain have voiced requests for bilateral discussions with the United Kingdom about the status of Gibraltar, but those discussions would occur based on the outcome of the negotiations, which are still unclear. Spain has also proposed renewed discussions about joint sovereignty, but these talks are unlikely to succeed due to past decisions by Gibraltarians about joint sovereignty. The requests arose when the withdrawal Agreement was finalised and there was no mention of Gibraltar, raising concerns for Spain. The UN has also constantly supported the idea of bilateral discussions between the two nations since 1965.

## Definition of Key Terms

**Withdrawal Agreement** - The agreement with which the United Kingdom will leave the European Union

**Single Market** - An organization that guarantees the free movement of goods and services through the European Union

**Customs Union** - A group of nations that agree to charge the same tariffs on goods being imported into their countries

**Joint Sovereignty** - An agreement where multiple countries have agreed to share power over a political territory

**Condominium** - The joint control of a state's affairs by other states

**Territorial dispute** - A dispute over a territorial entity, usually between a nation and an occupying power

**Bilateral negotiations** - Meetings between two nations directly concerned with a certain issue or dispute

**Isthmus** - A narrow strip of land with sea on both sides, connecting two larger land masses

**British Overseas Territory (BOT)** - An area of land under the control of the United Kingdom but doesn't form a part of the UK itself, for example Bermuda and the Falkland Islands

## Background Information

Gibraltar has been known as a historic 'pressure point' due to its strategic location for trading and movement of people into Europe. The border between Gibraltar and Spain has been relatively open over the course of the 20th Century, with the notable exception of the Franco era of Spain, when the border was closed, and communications and movement was restricted.

Gibraltar was ceded to Britain under the peace treaty, the Treaty of Utrecht, and is characterised as a British Overseas Territory (BOT), and in such is under the jurisdiction and sovereignty of the United Kingdom. The EU received a high level of criticism in April 2019 after draft law was approved by the Civil Liberties, Justice and Home Affairs (LIBE) referred to Gibraltar as a "colony", of which the United Kingdom has not referred to Gibraltar as since 1981.

Referendums held in Gibraltar have been used to check whether the people of Gibraltar are happy with their sovereignty, with the answer being in favour of the UNITED KINGDOM in both instances.

Spain has appealed to the United Nations Special Committee on Decolonization (UNSPD) on several occasions over the 1960s to the 1970s about the status of Gibraltar, alongside renewing its claims on the territory. However, the UNSPD has had complications with the decolonization of Gibraltar for three reasons, which are:

## The Treaty of Utrecht

The treaty has a clause stating that should the United Kingdom relinquish its sovereignty over Gibraltar, Spain would have a claim before any other option was considered, which creates an uncertainty over whether true independence will ever be achieved.

### **The consistency of Spain staking a claim over the Rock of Gibraltar**

The lack of consistency of Spain's claim to the Rock lead to the UN classifying it as a contested territory, despite Spain disputing this for centuries

### **The matter of the isthmus**

This matter has been neglected by the Treaty of Utrecht, making it a separate issue that needs discussion between Spain and the United Kingdom.

The question of the Status of Gibraltar could be dangerous to other nations depending on the outcomes as it could cause similar questions to be raised over more contentious territories that are currently disputed such as:

- Luhansk People's Republic (LPR) - Is regarded as a part of the Ukraine, but declared independence as a result of the 2014 Ukraine revolution
- Donetsk People's Republic (DPR) - Is regarded as a part of the Ukraine but declared independence as a result of the 2014 Ukraine revolution
- West Bank and eastern Jerusalem – The International Court of Justice (ICJ) ruled in 2004 that West Bank was territory held by Israel under military occupation
- Crimea – The Crimean Peninsula was annexed by the Russian Federation in 2014, the Crimean Autonomous Republic became the 'The Republic of Crimea' and the city of Sevastopol became a Russian federal city
- Nagorno-Karabakh region – Is internationally recognised as a part of Azerbaijan and was disputed by Armenia

This debate could also raise more specific questions about the status of the Falkland Islands as, while not affected by the Brexit proceedings, is still classed as a British Overseas Territory as well but has been disputed about whether it belongs to Argentina or the United Kingdom.

## Major Countries and Organizations Involved

**United Kingdom** - One of the countries claiming a right of sovereignty over Gibraltar and current sovereign nation over it

**Spain** - The second country claiming sovereignty over Gibraltar and historic rulers of Gibraltar until the Treaty of Utrecht in 1713

**European Union** - An organisation of which both the United Kingdom and Spain are both a part, and have been a mediator in discussions between the two nations over sovereignty of the island

**United Nations Special Committee of Decolonisation (UNSPD)** - A committee of the United Nations which looks at the status of contested areas such as the Western Sahara. It has been looking at the Status of Gibraltar since it was deemed a 'Non Self-Governing Territory' in 1946

## Timeline of Events

Date	Event
1713	Treaty of Utrecht is signed between Britain and Spain, giving Britain full sovereignty over Gibraltar
1830	Britain designates Gibraltar a British Crown Colony
1963	Spain opens an appeal to the United Nations Special Committee on Decolonisation about Gibraltar
1967	Referendum is held in Gibraltar over their sovereignty, the result was overwhelmingly in favour of the United Kingdom
1969	Spain closes its communications; transport links and removes its labour force in protest of Gibraltar being given a self-governing government
1973	Gibraltar joins the European Economic Community (EEC) along with the United Kingdom
1980	Signing of the Lisbon Agreement opens up gradual negotiations over the status of Gibraltar
1981	Gibraltarians granted full British citizenship
1982	Spain reopens its border with Gibraltar to pedestrians under stricter conditions

<b>1984</b>	Under the terms of the Brussels Process, the United Kingdom and Spain agree to grant equal rights to Spaniards in Gibraltar and Gibraltarians in Spain. Free border is restored
<b>2002</b>	Referendum held in Gibraltar reaffirms British sovereignty and denied the prospect of joint sovereignty with Spain
<b>September 2006</b>	Spain, the United Kingdom and Gibraltar sign an agreement in which border controls are further eased. Spain also allows flights to Gibraltar to resume after a decades long ban
<b>December 2006</b>	Flights to Gibraltar from Spain restart
<b>2009</b>	Spanish foreign minister travels to Gibraltar to meet with the local government and David Miliband, being the first Spanish minister to visit Gibraltar since 1713
<b>2013</b>	Tensions with Spain re-emerge when Gibraltar construct an artificial reef, resulting in tighter border checks being introduced by Spain
<b>2014</b>	Documents are revealed that show King Juan Carlos said that it was not in his countries interest 'to recover Gibraltar in the near future' as it had the potential to trigger Moroccan claims to other Spanish territories such as Ceuta and Melilla
<b>2014</b>	The LPR and DPR claim independence from Ukraine
<b>March 2014</b>	The province of Crimea in Ukraine is annexed by Russia
<b>2016</b>	The United Kingdom votes to leave the European Union by 51.9% to 48.1%

## Relevant UN Treaties and Events

UN Resolution 1514

UN Resolution 1541

UN Resolution 2231

UN Resolution 2253

Brussels Agreement 1984

## Previous Attempts to solve the Issue

There have been no attempts to solve an issue like this due to the unique nature of the situation Gibraltar is currently in. The closest attempt to solve a similar issue were the referendums held in 1967 and 2002, asking whether the citizens of Gibraltar wanted to stay part of the United Kingdom or become a joint condominium with Spain. Both times the result was resoundingly in favour of British rule. Bilateral discussions have been initiated in the past between the United Kingdom and Spain to discuss the future of Gibraltar, but no progress was made. In 2005, with a new, centre-left wing government in

power in Gibraltar, the United Kingdom, Spain and Gibraltar agreed to enter 'trilateral talks' outside the Brussels Agreement which came into effect in 1984. However, since 2010 Spain have claimed that they have failed and have returned to calling for bilateral discussions between Spain and the United Kingdom.

## Possible Solutions

One possible solution is for Gibraltar to gain full independence from the United Kingdom and Spain, provided that Spain relinquishes its claim over it. In 2007 the Gibraltar Constitution came into force, giving Gibraltar its own form of government and reducing British control over its governance; however, it could be difficult to advance further than that point of devolution due to Spain.

Another solution is for a special agreement to be negotiated between Britain and Spain whereby the fluid border that is currently in place is unaffected by United Kingdom independence from the EU. Spain has already called for this situation to happen after Brexit has been concluded.

It could be possible to attempt bilateral or trilateral discussions with new leadership of the United Kingdom and a neutral moderator of the debate, possibly from the United Nations Special Committee on Decolonisation, it could be possible to propose new ideas that all three parties involved could agree to and potentially setting a precedent for other countries with non-self-governing states, for example the United States of America, New Zealand and France, to implement a similar policy.

The Organisation for Security and Cooperation in Europe (OSCE) Minsk Group were instrumental in decreasing tensions between Ilham Aliyev and Serzh Sargsyan of Azerbaijan and Armenia respectively, eventually leading to both presidents agreeing to take action to reinforce the negotiation process at a summit in October 2017 in Geneva, Switzerland. If the OSCE Minsk group were involved in negotiations between the United Kingdom and Spain instead of the European Union as an independent and therefore likely unbiased mediator could help the two countries come to a settlement.

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