



PRESS RELEASE

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Motion on Support for the UK-EU Treaty on Gibraltar Chief Minister's Parliamentary Speech (Transcript)

Madam Speaker, I have the honour to move the motion standing in my name which reads as follows:

This house calls upon His Majesty's government of Great Britain and 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, for and on behalf of Gibraltar, and which His Majesty's Government of Gibraltar has tabled in this House on the 26th of February 2026.

Madam Speaker, the House has now had the benefit of having had the text of the draft treaty between the United Kingdom and the European Union in relation to Gibraltar since last Thursday. Honourable Members opposite had the advantage of having been provided with the text a week earlier to enable the elected members of the opposition to make their own assessment of the text. Needless to say, the technical text of the treaty is what I would generously describe as a dense document. One can pick out more attractive clauses, and indeed one can pick out less attractive clauses or articles of the text. Because in these 336 articles, in these 1,018 pages, there are bits we will each like there, and bits which we will each like less. That's in the nature of what any treaty represents, Madam Speaker. Like all treaties in history, this treaty, as we call it, the EU calls it an agreement, this Treaty is the fruit of compromise. There is no treaty that sets out exactly what one side wants or what the other side wants. Such documents that do provide what one side wants or what just another side wants. Those aren't called treaties, Madam Speaker, those are called letters of surrender. There are no circumstances, there are no realistic circumstances in which anyone in this house, anyone in the community could expect to have a treaty between the United Kingdom and the European Union in relation to Gibraltar, which would be a surrender of the European Union to us. It's important that I put it in that way, Madam Speaker, because of course in doing the analysis from what one might call a cold start, in other words from not having seen any of the treaty text to seeing it all at once, any individual might think well there are things here I really don't like I don't know how I don't understand how these things have crept into the text, how has this been accepted? Well that balance has to be done Madam Speaker, understanding that it is not going to be a document that is dictated by Gibraltar through the United Kingdom or indeed dictated BY the United Kingdom to the European Union that we could ever bring back to this place as the agreed position. Indeed, Madam speaker, it's important to remember that the United Kingdom, The United Kingdom, the fifth largest military power on earth, one of the five permanent members of the security, one only two nuclear powers on the European continent, did not achieve or indeed many of its objectives in the negotiation of the Trade and Cooperation Agreement of 2020 with the European Union.

But Madam Speaker, before we go into the merits and demerits of the treaty, I think it's very important for the reasons I've just set out that we should assess the context in which we find ourselves debating this motion and negotiating this treaty. The fact is, Madam speaker, that it was a secret ballot, but I dare say nobody in this chamber, none of the honourable members of this house, chose in the 2016 referendum to



leave the European Union. Well, we certainly know one who didn't, Madam Speaker, who's the leader of the Stronger In campaign in Gibraltar, which is the then Gemma Arias-Vasquez, now the Minister for Business and Health. None of us chose to have a five-year negotiation with the EU over this treaty, a ten-year period of negotiation if we include the process of negotiation of the withdrawal agreement leading then to the negotiation of this treaty. So as we start the process ratification of these new treaty arrangements, it's important to remember in some detail what brought us to this pass. We voted in the ill-fated referendum of 2016, and that already was remarkable. Because Gibraltar didn't vote in the referenda in the 1970s on whether the United Kingdom should stay in the European Economic Community or not. We were as much a part of it then, but we didn't get the vote. Of course, the thing that happened in between, the Novus Actus, was that Gibraltar achieved the European vote in the Matthews case. Madam Speaker, I recognise that the Attorney General who led on that case, Michael Llamas, is in the House today supporting the government in the debate on the motion.

So we got the vote in the referendum. 83.6% of us turned out to vote in that referendum. Why does that matter, Madam Speaker? Because that is the highest turnout of all the constituencies that voted in the referendum in the whole of the United Kingdom. That's why it matters. And when some are writing and saying nonsense about this treaty outside of Gibraltar, they need to remember that. And they need to remember that that massive turnout of near 84%, the highest in any constituency in the United Kingdom, led to the highest vote for remaining in the European Union in any constituency in the UK by a wide margin. 96% of people in Gibraltar voted to remain in the EU. The nearest constituency to us voted in the region of 75% to remain in the EU. And those were some of the North London constituencies like Lambeth, et cetera. Here, remain won by a huge margin. So more people here than anywhere else in the United Kingdom wanted to remain in the EU. That tells us, Madam Speaker, that we were all, all as near as dammit, all those who voted as near as dammit, comfortable with the European Union legal order and at least then, with the United Kingdom at the top table of the European Union, happy with the arrangements that prevailed in our membership of the EU. You may say, Madam Speaker, that's a bit old hat, you're going back ten years, Chief Minister. But that is the context in which we come here today. That is the endeavour on which we have been embarked for the past ten years, to give effect to that referendum result. And that is why we're even having to consider the matters that are set out in this treaty. Not because we want to do these things. Not because we choose to do these things, Madam Speaker, and not because even choose to go out and negotiate these things.

Because this treaty, this agreement, as the EU calls it, is not the Cordoba agreement. Those, Madam Speaker, were a set of political agreements made by the choice of the participants who felt that there was a propitious moment that they could take advantage of to resolve historic issues after the other referendum on sovereignty. And we all know also, Madam speaker, that although they were negotiated in good faith, those arrangements quickly floundered. This treaty is different. It is the fruit of necessity, not of choice. I know, Madam Speaker, that there are many people in Gibraltar who do not like to set this negotiation and this treaty in its genuine context. Because Madam speaker like many Gibraltarians, and I associate with this, none of us would ever want to have to see Gibraltar on the back foot. But let's be clear, on the back foot we have been since the 23rd of June 2016, since Brexit. Brexit put us on the Back Foot. To such an extent, Madam Speaker, that no sooner was the result of the Brexit referendum announced that we have the then Spanish foreign minister, Señor Margallo, saying that he wouldn't just put his hands on Gibraltar. He was happily going around saying that he would put the Spanish flag on Gibraltar within four years. Good luck with that, Madam Speaker. Those were the circumstances that have brought us to this pass. That is the filter through which every one of the uncomfortable clauses in this treaty has to be seen. And it's in that context that this House will have to consider whether or not to seek ratification of this treaty. Not in the context of us sitting comfortably in the European Union and choosing instead of just staying as we were in the European Union, choosing to negotiate this treaty and do this treaty as we chose to do as a community in 2006 in relation to Cordoba. Something which in 2007 the electorate supported because the government that had done Cordoba was returned to office. That is not the context. It is in the context of knowing that the alternative to this treaty is being entirely outside of the European Union for the purposes



of citizens' rights to access or leave our territory from the European Union. Knowing how logistically hard it would be for us to have to comply with the European entry-exit system and the Schengen border code requirements. How hard it would become to move goods through Europe to Gibraltar and a slow hardening even further of all the EU rules that have continued to apply to us as Spain and we have wanted to continue to avoid the worst aspects of Brexit to date. Because we have to understand that the frontier operates today with what one might call relative fluidity, indeed there are times when it has operated with better relative fluidity than it used to when we were members of the European Union, because of Spain's forbearance to apply the Schengen border code.

Therefore, it is in that context that we, the Gibraltarians, have to make an assessment now. Having seen the voluminous text, putting the terms in their proper context, understanding that exclusive British sovereignty over Gibraltar is entirely unaffected by the terms of this treaty, and considering the alternative. The hard Gibraltar Brexit that beckons. And in making that assessment, all of us have to think about one thing above all else. We have to think about our families. We have think about our children. We have about what is best for our nation. I have no doubt, Madam Speaker, that in this context, in this reality, the right answer will be for the House to unanimously support the motion before it today. Because Madam speaker, this is a moment of reckoning for our people and at such times we must come together. We may spend time here dancing on the pinhead of disagreement because that is party politics. But this is too important for party politics. This is about building our nation to withstand a shock that will be catastrophic if we allow it to hit us. And those who are thinking about rejecting this imperfect treaty in our community need to understand the perfect storm that they will be subjecting our people to if they were to prevail. So it is in that spirit that I will set out the government's position today.

Today, Madam Speaker, I don't propose to repeat the things I've already said about the structure of the Treaty. I went through the parts of the treaty in my statement to the House as recently as last Thursday. Honourable Members on both sides have now had the chance to further familiarise themselves with the text. Honourable Ministers have been working with different parts of the text during the period of negotiation as we have come and gone from Brussels, from London and from Madrid with different iterations of language. Honourable Members opposite have had since last week to take a flying tooth comb to the text. Although the Deputy Chief Minister, the Attorney General and I gave Honourable Members opposite, or three of them, a detailed briefing on the text, I'm sure they will have done this work for themselves in the time available. And in doing so, Madam Speaker, all of us will have a clear understanding of what this treaty does, and perhaps more importantly, what this treaty does not do. The key thing, Madam Speaker, is that the treaty does NOT transgress any of our red lines. There are no concessions on sovereignty. If a former Spanish foreign minister thought Brexit was going to let him put his hands and his flag on Gibraltar, Señor Margallo will be bitterly disappointed by this treaty. It does neither. Neither does it lead to Spanish boots on the ground. I will address this latter point in detail to ensure that our people understand that the parts of the text which might suggest that should not be interpreted in that way, because there will not be Spanish boots on the ground.

What there will be is a lot of cooperation, a lot of information sharing, a lot of what is actually taken for granted now between modern European states and which we have always said we would like to see. That is to say, a normal relationship between us and our neighbours. Gibraltar has never been the aggressor, Madam Speaker. Gibraltar has always been the party saying We should be getting on, we should be having a normal neighbourly relationship. This is an opportunity to do exactly that.

But let me start, Madam Speaker, with the key and fundamental issue of sovereignty. As the government announced in the past 48 hours, we have obtained three very high-level opinions which deal with the question of British sovereignty. And not because we have left it to now to take a view on whether sovereignty is compromised. We've been considering this at every stage of the negotiation. Throughout this process, we have meticulously stress tested, that none of the paragraphs or articles of the treaty we were negotiating contained any session of sovereignty. That has been a constant process with the attorney



general, with our lawyers, with the UK FCDO legal team. Every aspect of what we discussed, every aspect of what we considered and every aspect of what we agreed was reviewed through a sovereignty filter to ensure that it was safe from that perspective. Now, once we have finished the full text, we have sought to have independent verification of that via three legal opinions, which we will obtain from three eminent lawyers.

The opinions are first from Lord David Pannick, cross-bench member of the House of Lords and of Blackstone Chambers. He is, Madam Speaker, one of the UK's most highly regarded advocates practising in a broad range of areas with particular emphasis on public law, human rights, and constitutional law and specialising in appellate advocacy in most areas of law. He's acted, Madam Speaker, in 100 cases in the House of Lords, which is now the Supreme Court, and another 25 cases in the new Supreme Court. More than 25 cases in the European Court of Justice in Luxembourg, and over 30 cases in the European court of human rights in Strasbourg. He famously, Madam Speaker, acted for Gina Miller in the Supreme Court in September 2019, when the Court held by 11 to 0 that the then Prime Minister, Boris Johnson, had unlawfully prorogued Parliament and that so Parliament was recalled the next day. He has advised Prime Ministers and Home Secretaries of the United Kingdom, probably the best CV any lawyer in practise at the moment has, if not certainly among the top five.

The second opinion is from Sir Peter Caruana KCMG KC, who needs no introduction in this place as a former Leader of the Opposition, Chief Minister and Leader of The House, whose reputation is well known. And the third is from Jamie Trinidad KC, who is also a Gibraltarian and locally very well known. It's worth just reminding those listening Madam Speaker, the House and setting out in Hansard that Jamie is a fellow of Wilson College Cambridge and a fellow of the Lauterpacht Centre for International Law also at the University of Cambridge. He represents and advises governments, corporations and NGOs around the world and he has been the Gibraltar government's principal advisor on international law now for over a decade. He holds a PhD from the University of Cambridge and is the author or editor of four books and many articles on the key important questions of decolonisation, self-determination, territorial disputes and the practise of international courts and other similar issues.

All three opinions, Madam Speaker, confirm that the treaty makes no concessions of legal sovereignty to Spain or any other entity over Gibraltar. Madam Speaker, without prejudice to the Convention that the Government is not obliged to publish legal advice, given the importance of this matter, the Government will this week be publishing these opinions in their entirety. Today, I think it is important for the House to be aware of the conclusions reached by each of these legal practitioners. The conclusion of Lord Pannick, starting at paragraph 58 of his opinion, is as follows. And I quote. In my opinion, nothing in the treaty provides a basis to question or undermine or qualify the sovereignty and jurisdiction of the United Kingdom in respect of Gibraltar. The treaty recognises and accepts that the United kingdom and Spain have different views of sovereignty and jurisdiction, but it wisely, indeed inevitably, if any agreement was to be reached, focuses on practical measures to address the relationship between the EU and the United Kingdom in respect to Gibraltar.

These practical measures certainly confer powers on the EU and, in some respects, Spain as the relevant member state and involve the application of EU law to be applied in the event of a dispute by the Court of Justice. But in the judgement of the United Kingdom and in the judgement of the government of Gibraltar, those treaty provisions greatly benefit the people of Gibraltar, having regard to the practical problems and economic challenges they face. Especially after the United Kingdom decided to leave the EU. Free movement of persons and free movement of goods between Gibraltar and the EU, and in particular Spain as the closest member state, are considered vital to the economy of Gibraltar. There is no doubt that the people of Gibraltar wish, while remaining an Overseas Territory of the United kingdom, to maintain close relations with the EU for economic free movement and other reasons. In the EU referendum in 2016, 95.9% of Gibraltar residents voted to remain in the EU on a turnout of 83.5%. Any international treaty, with rare exceptions, involves the state conferring powers or rights on other persons. That is true whether the



state reaches an agreement with regard to the role of an international body, such as the Council of Europe or the International Criminal Court, or commits itself to follow rules relating to trade, for example the World Trade Agreement. The Trade and Corporation Agreement with the EU has been implemented in the United Kingdom by the European Union Future Relationship Act 2020. To enter into such treaties is an exercise of sovereignty and jurisdiction. By this treaty, the United Kingdom in respect of Gibraltar has chosen to exercise its sovereignty and its jurisdiction in the manner described above, because it believes after lengthy and hard fought negotiations that it has secured a deal which will result in considerable benefits to the people of Gibraltar. That is a political judgement which is for the government of the United Kingdom in respect of Gibraltar to make. Even, if contrary to my view, any provision of the treaty might otherwise provide a basis to question or qualify the sovereignty and jurisdiction of the UK in respect of Gibraltar, Article 334 of the Treaty retains for the UK in respect of Gibraltar the power to terminate the agreement. That further confirms that the sovereignty and jurisdiction of the United Kingdom in respect of Gibraltar is retained.

Sir Peter Caruana concludes as follows, starting at paragraph 10 of his opinion. I have carefully read and considered the treaty from the perspective of whether it makes any concessions on sovereignty, including jurisdiction, over Gibraltar to Spain or anyone else. In my opinion, and in accordance with the principles described above, and subject to what I say in paragraph 8 above, it does not, for the following reasons, operating individually or cumulatively. The treaty will be entered into by the United Kingdom in respect of Gibraltar, the exercise of the UK's sovereign rights and competences in accordance with our own legal order, that is to say the Gibraltar Constitution. The treaty would be entered into, as described in subparagraph one above, with the express freely given agreement and at the request of the Gibraltar government, which has fully participated in the negotiation of it. The United Kingdom has agreed that its processes and procedures for the signature and subsequent ratification of the treaty by it is to be commenced only following a vote in the Gibraltar Parliament requesting the UK to do so. The necessary legislation to give effect to Gibraltar's obligations under this treaty will be enacted by the Gibraltar parliament and other Gibraltar secondary legislation. I am instructed that Gibraltar obligations under the treaty will be administered by Gibraltar's own competent constitutional authorities and enforced by its own authorities. Although Gibraltar has freely agreed not to legislate to certain effects and to take and not to take certain administrative, executive and other actions in the context of the benefits it is obtaining under the Treaty, no political, administrative, executive, legislative or judicial competence as to what should be Gibraltar's laws or its enforcement is conceded to Spain or to any other individual state in its own national sovereign right and its own behalf, nor is Spain the arbiter Gibraltar's compliance with its obligations under the treaty. While Spain is granted certain powers, functions and competences, this is in the context of its status as the neighbouring EU member state and on the EU's behalf, given that they relate to the granting of access to goods and people to the entire territory to which the treaty relates, that is to say the entire European Union territory and Gibraltar. Spain is exercising those powers in that context and not on behalf of the UK or Gibraltar or its government. Gibraltar's agreement to conduct certain aspects of its affairs in accordance with criteria and processes agreed in the treaty does not, in my opinion, constitute a legal concession on its sovereignty. Importantly, and reflecting the voluntary nature of the obligations assumed and curtailments accepted, the United Kingdom, in whom legal sovereignty rests, can terminate the treaty and thus extricate itself and Gibraltar from obligations under it on giving 12 months written notice to the counterparty, the European Commission. To the extent that Spain is given a role in relation to the affairs of Gibraltar in the context of the Treaty, it does so on behalf of the counterparty, that is to say the whole EU, in the context of and pursuant to the Treaty and not in the contexts of the exercise by Spain of any rights, powers or competences appertaining to it in its own right. Spain's role ends with the Treaty if it is terminated by the UK. Finally, but not least, because the counterparty, the EU, with Spain's agreement and its full participation in the negotiation and the treaty itself so recognises and acknowledges in the treaty itself, namely and generally in Article 2 and specifically in relation to the Isthmus and airport in footnote 38 to Article 271, this both in relation the terms of the treaty and to conduct both acts and omissions pursuant to it. That is the end of Sir Peter's opinion and his conclusions.



The conclusions of Jamie Trinidad KC are as follows, and I now quote. My advice and conclusions can be summarised as follows. A, the core question I am asked to advise on whether any provisions of the draft EU-UK agreement in respect of Gibraltar undermine the UK sovereignty or jurisdiction over Gibraltar. I assess the concepts of sovereignty and jurisdiction primarily through a territorial lens, focusing on sovereign title to territory and the territorial jurisdiction that flows from it because that is what the agreement's key without prejudice language is directed toward with its references to the respective legal positions of the UK and Spain on sovereignty and jurisdiction. B. Using EU membership as a helpful comparator. Gibraltar's prior participation in the EU entails significant constraints on its domestic lawmaking authority and autonomy. Yet it was not the official position of successive UK or Gibraltar governments that EU membership undermined UK sovereignty or jurisdiction over Gibraltar. Gibraltar's EU participation therefore provides a useful benchmark when evaluating the relative intrusiveness of the new regime. C. Structurally, the EU-UK agreement is less constitutionally intrusive than EU membership. Notably, subsequent EU acts do not apply automatically. They require notification and acceptance and implementation by the UK with termination as the default consequence of non-acceptance. D, relevant principles of treaty interpretation. The agreement expressly adopts standard customary international rules of interpretation as codified by the Vienna Convention on the Law of Treaties. These rules require us to consider the ordinary meaning of the terms of the agreement in context and in the light of their object and purpose. Only when the results of this exercise is ambiguous or absurd should we have recourse to supplementary means of interpretation. E. The need for caution when assessing whether an agreement undermines sovereignty and jurisdiction. The well-established presumption in international law against implying restrictions on state independence, famously articulated in the 1927 Lotus case, demands a cautious approach when interpreting the agreement. Restrictions on sovereignty or jurisdiction should not be inferred lightly, and ambiguity should not be resolved in favour of a diminution of sovereignty or jurisdiction. F, without Gibraltar consent, the UK could not validly make any treaty concessions on sovereignty or jurisdiction, even if it wanted to. Under Article 53 of the Vienna Convention on the Law of Treaties, such an agreement would be null and void ab initio, because it would breach the right of the Gibraltarian people of self-determination. G, the object and purpose of the EU-UK agreement are not related to sovereignty or jurisdiction. The agreement's object and purpose centre on practical cross-border cooperation, notably the removal of physical barriers to circulation of persons while safeguarding the integrity of the Schengen area, not to reallocating sovereignty or jurisdiction. H. The sovereignty and jurisdiction firewall in Article 2 is unusually robust. Article 2 and the isthmus-specific footnote in Article 271D operate as a Belt and Braces interpretative instruction with a controlling effect on how the rest of the provisions of the agreement should be read. They create a very strong presumption that the provisions in the agreement should have no impact on sovereignty or jurisdiction. I, the dispute settlement provisions, reinforce the Sovereignty and Jurisdiction file. Disputes with regard to sovereignty and jurisdiction are outside the scope of Part 6 Dispute Settlement Mechanism, reinforcing the intention of the parties that the agreement should not impact on sovereignty or jurisdiction. J. The Third State Considerations. Spain is a third state vis-à-vis the EU-UK Agreement. As a matter of international legal principle, which in Latin is *Pacta tertiis*, the agreement cannot alter Spain's legal position on sovereignty or jurisdiction without its consent, and there is in any event no evidence that the party is intended to accord Spain any right of sovereignty or of jurisdiction. K, contextual instruments confirm that Spain and Gibraltar, as well as the parties, were keen to ensure that the agreement was to have no impact on sovereignty or jurisdiction. Instruments connected with the agreement's conclusion, namely the 2020 proposed framework and the June 2025 political joint statement, emphasise that the future agreement will be without prejudice to sovereignty or jurisdiction. This strengthens the basis for reading provisions of the agreement consistently with Article 2. L. The most operationally intrusive provisions in the agreement relate to border control, but even those provisions do not undermine the UK's sovereignty or jurisdiction over Gibraltar. In the course of their border control functions under the agreement, Spanish authorities will conduct checks and surveillance in Gibraltar, and in defined circumstances they may take forms of coercive action, there, namely arrest, detention, interview, search and seizure in accordance with Spanish, EU and international law. These are at best characterised as treaty-based, limited functional delegations confined to safeguarding the integrity of the Schengen area. They are contingent on UK consent and expressly subject



to Article 2. M. The analogy with juxtaposed controls supports the conclusions that the border control provisions have no impact on sovereignty or jurisdiction. Comparable cross-border cooperation regimes exist, such as the system of juxtaposed controls established under the Channel-Tunnel Agreement, where foreign officers exercise border control functions in host territory without undermining the host state's sovereignty or jurisdiction. While not perfectly analogous, this example supports the proposition that such treaty-based functional arrangements do not, without more, entail the transfer of sovereignty or jurisdiction. N, There is some residual risk, but this is practical and political rather than legal. There is a practical risk that operational realities, for instance concerning the manner of exercise of coercive powers, could be perceived as prejudicial over time. However, Article 2 is drafted to extend the without prejudice protection to conduct undertaken in application or as a result of or pursuant to the agreement, making it extremely difficult for operational practise to crystallise into legal prejudice. O, In the final analysis, no provision of the agreement can be said to undermine the UK's territorial sovereignty or jurisdiction over Gibraltar. Applying the relevant principles of treaty interpretation, I conclude with a high degree of confidence that there is nothing in the agreement that undermines the UK sovereignty or jurisdiction of Gibraltar in a legal sense. This would remain true even absent the without prejudice clauses in articles 2 and 271d footnote 1 although those clauses make the conclusions even clearer. I end there the quote of Jamie Trinidad KC's opinion.

Madam Speaker, given how much exclusive British sovereignty matters to us, to everyone in this House and to everyone of this community, I make no apology for having set out extensively the conclusive terms of those opinions so that they are set out in hands up for posterity. As I have already said, Madam Speaker, the Government will publish and lay those opinions in Parliament so that the public can have the comfort of understanding that there are no cessions of sovereignty in this treaty. That really is the crux of the matter. And the conclusion is clear. Sovereignty is secured. Apart, however, from the legal opinions I've referred to, there are relevant political opinions to record in this House also, Madam Speaker. The father of the House has already told Parliament his view at the time that I made the statement on laying the text last week. He is also a former chief minister and leader of this House. He will no doubt be giving the House his views during the course of the debate. This morning, Madam Speaker, I have had the chance of talking with a former leader of the Opposition, Speaker and Chief Minister and Leader of the House, Adolfo Canepa. Mr Canepa has asked me to convey to the House that he, too, can live with this deal. He judges it against the present situation being unsustainable, especially given that we are relying today on the Spanish Government's forbearance in application of the full effect of the Schengen Border Code. Additionally, and wisely, as ever, Mr. Canepa judges the deal also against the background of the alternative no deal and its consequences for Gibraltar. He reminds me that he was in government for 12 years of a closed frontier And that he does not ever wish that for Gibraltar again. Like the government, Madam Speaker, Mr. Canepa acknowledges that the treaty is not perfect, but it is an agreement He tells me I can inform the House that is one that he can live with and that we can all support. He also added that he now understands why it has taken so long to negotiate, given how long it is and the many implications of its adoption. Indeed Mr. Canepa described the treaty to me as an ingenious deal. He ended with a phrase I shall quote. So Fabian, being the political animal that I am, I am very supportive of what you have done. And I would not dare misquote him, Madam Speaker, as I know he is listening assiduously to what I am saying today, especially to matters relating to the Concordat.

In yesterday's edition of the Gibraltar Chronicle, my direct predecessor also signalled his support for the Treaty. Indeed, Sir Peter did not just say that he supported the Treaty, he added this. "I have no reason to doubt that the treaty which I have read and considered, is the best that Gibraltar could negotiate from the position of weakness in which Brexit put us contrary to our wishes." That is a setting in context, which Sir Peter does, which is not dissimilar to what I provided to the House in my introduction of earlier this morning. I'm grateful in particular for his recognition, given our previous political rivalry, that the text before the House today is, and I quote, the best that Gibraltar could negotiate in the circumstances of Brexit. Now in reaching that conclusion, sir Peter also raises a number of issues which I think are a useful enumeration of the points that some want the government to address, and I will do so. First of all, I want to



address head-on the issue of the Concordat. To do that, I have to refer the House to the present security situation in the Middle East. It's fair to say that the current security situation in the Middle East has not helped us to be in the position we would have wanted to have been in by today. The House has before it all the relevant documentation except for the document that will regulate the relationship between the constituent British side of the equation, that is to say the UK and Gibraltar. That is what the colloquially known as Concordat document does. We expected to have been able to finalise the concordat between the United Kingdom and Gibraltar by today. If not have it signed, certainly have it agreed. We have nonetheless made considerable progress in its negotiation.

Let me explain to the public so that everyone can properly understand what we're dealing with here. A concordat is an agreement between two governments about how they will give effect to obligations and understanding in another agreement. We entered into such a concordat with the UK in 2018 already. Honourable members may recall the concordat between the UK and Gibraltar in relation to the rights and obligations applicable under the withdrawal agreement. That document was widely publicised and it's on our and the UK government's website. I signed that agreement for Gibraltar and for the United Kingdom it was signed by then Deputy Prime Minister David Lidington. It should be remembered, Madam Speaker, that the withdrawal agreement was about our coming out of the EU and in that context there was no way to terminate the withdrawal agreement. The withdrawal agreement was the termination instrument under the Article 50 notification that had been given by Mrs May, Prime Minister May, for us to leave the EU. This now is a different type of treaty. A Withdrawal agreement is an exit treaty. This treaty is a treaty regulating our relationship with the EU going forward on an open-ended basis. Because this is an agreement for an indefinite future and therefore I'll go into the different types of termination provisions that it contains. But the key thing is what happens to the right to terminate by choice and in particular If that choice were to come from the British side of the agreement, because this has caused many to be concerned that a trigger for termination is in Spain's hand, but there is no similar trigger in our hands. We need to understand the logic behind that being in the treaty, that Spanish trigger being in that treaty, and ours not needing to be in the Treaty.

First of all, it's important to remember that the European Union is not a nation. The European Union is a legal construct. As a result, it has literally only the powers that the member states have accorded to each other in the foundational treaties. Local lawyers will understand that concept with the magistrate's court being a creature of statute that only has the powers set out in the statute whilst the Supreme Court has inherent powers in jurisdiction and goes beyond the Supreme Court Act. The EU is not a nation with inherent powers, the EU is a creature of international legal treaties without inherent powers. That is the reason, Madam Speaker, why the EU only calls its foundational treaties, treaties, and it calls everything else agreements. As a result, all Member States, Madam Speaker, are in the same position as each other legally in relation to agreements between the EU and third countries. So to put it in context, all of the 27 Member States are in the same position in respect of termination of this agreement by the EU, whether termination is because the EU chooses to terminate. It's for that reason that for the purposes of the EU's internal legal order, Spain understandably should wish to have for its purposes an established primacy amongst the EU 27 in relation to this treaty. We need to be reasonable in understanding this. This treaty is happening because of Spain, because Spain has asked the EU to negotiate this treaty, and because of matters that touch and concern Spain, not least the post-Brexit plight of its 15,000 resident cross-frontier workers, not all of whom are Spanish, but all of them are, of course, residents of Spain. If this primacy of Spain over the other 27 member states were not in the treaty, then Spain would be in the same position as Hungary or Denmark when it came to a decision about whether or not the EU should terminate this agreement. Hungary and Denmark are two, three thousand miles away from us. Putting yourself in the shoes of your negotiating opponent, it is understandable that Spain has sought to have its position protected in the treaty in that way. Because otherwise, Spain's voice is exactly the same as the voice of any other EU member state, however far away they may be from the implications of the implementation of the treaty. And if Spain doesn't do that in the treaty, it doesn't get into the legal order of the EU. So this is, because this treaty when



it is done and ratified if it is done and ratified, becomes EU law this, is the EU legal instrument in which Spain has to have that primacy. Otherwise Spain is in the same position any of the other member states.

We too must have protection and primacy on termination. But we need to have it on the British side of the constitutional legal order. And that is how we regulate the relationship between us and the UK in relation to these issues in the Concordat in relation the matter of termination and many other matters. So that we too, Madam Speaker, will have that order of primacy in respect of the views of other British persons or institutions. Of course, in the same way as Spain has to have some primacy over Hungary or Denmark, We must have some primacy over Shetland Islands, or John O'Groats, or the municipality of Birmingham writing to Downing Street and asking them to undo this treaty. That is what we need to achieve in terms of symmetry. Because this treaty and its application matters more to the British people of Gibraltar than to the equally and not more and not less British people of the rest of the United Kingdom. But we do find ourselves here, Madam speaker, as we were reflecting on at the beginning of my address, because the majority of the rest of the British people of the United Kingdom decided to leave the EU. We can't be in that position in the future. We cannot have a number of situations appertaining and not have a recourse through an exit trigger or other mechanisms. But they're not just the reasons that have been referred to in the public debate, if I may say so in the last 24 hours. Actually, this requires much more mature reflection. Let me take the house through the two main eventualities that require us to have that Gibraltarian primacy in relation to these issues.

The first is the one that everyone has talked about, which is where Spain or the EU are overreaching on the application of the treaty, or the treaty somehow is against our economic interests. We detect abuse in the processes being applied by our counterparties on the treaty. Those are, you know, rolls off the tongue, those are the easiest circumstances we can imagine. And to put it in lay terms Madam speaker, *España se esta pasando, tenemos que salir de esta*. That's the first thing that comes to our head because of all of the psychological issues of the past. When that happens, in that first scenario in which we might want to get out, there are a number of routes that we pursue or that we have available to us. The first is that we go to the Cooperation Council and we seek to persuade our treaty counterparts that they have to find a different way of operating which is not abusive in the way that we see that current way potentially of operating. That's the first step. If that doesn't work, we can go to the dispute resolution mechanism. So not raising it as a matter of let's change the way we work in cooperation, in the Cooperation Council, but in saying hang on a minute, I now want to make a formal complaint about what you're doing, I'm going to the dispute resolution mechanism. We may be able to resolve the dispute or we may not be able to resolve to dispute, but in the cooperation council, in the committees and in the dispute resolution mechanism, We must have also the ability to appoint ourselves and our nominees. If we cannot resolve in dispute resolution, then, Madam Speaker, we would have to ask the UK to terminate. I mean, our view, Madam Speaker, is that the Gibraltarian equities in respect of such termination should be the paramount consideration. Gibraltar, its parliament and its people should be the entities that determine whether to terminate the treaty in such circumstances. I am sure that that is a matter of agreement across the floor of the House, and I have no doubt it is the position that a UK government would take. Indeed, Madam Speaker, in practise it is politically inconceivable that we would continue to apply a treaty that the people of Gibraltar had clearly signalled is no longer acceptable to them. And the same Madam speaker should apply in respect of the opposite. That is to say, the same should apply, in respect of termination of the treaty by the United Kingdom, against the wishes of the people of Gibraltar. And this is something that we also have to keep in mind. That is the type of reassurance that we have no doubt will be contained in an adequately structured constitutional language in the Concordat, which we would have had today had it not been for the security situation in the Middle East. There are these other circumstances which we might not immediately think about when we're thinking about these things, but we have to guard against because the challenge could be from an unexpected quarter to all of these things. But I ask the House to consider this possibility, which I've just alighted to. What if a political party were to be elected into government in the United Kingdom that had such an ideologically contrarian approach to the EU that it decided that the treaty was contrary to its principles, even though it didn't apply to the United kingdom of Great Britain and Northern Ireland?



These days, it's no longer so far-fetched to imagine such circumstances. It's not as bananas a proposition as one might have thought some years ago. So what I'm saying to the House is this, what happens, Madam Speaker, if a UK government decides to terminate the treaty for its own purposes, even if we are happy with the way that the treaty is operating? That is to say, *si España no se esta pasando, si estamos todos bien*. Gibraltar is benefiting from the operation of the treaty, but a UK government decides this is contrary to the spirit of Brexit and we're going to terminate this treaty. In those circumstances, Madam Speaker, we could be plunged into a hard Brexit scenario against our wishes. For that reason, we have also to protect not just against an EU or a Spain or a Hungary or a Denmark overreaching, but also a UK government acting to take us out of these arrangements without our consent. So as a result, Madam Speaker, we must have provisions in the Concordat that give us similar rights to hold what we might call the trigger on termination on the British side of the equation. As I've said, Madam speaker, this is not an area of huge controversy between us and the United Kingdom. This is something where we have a broad measure of agreement, and if it were not for the war in the Middle East, I would expect to have concluded the negotiation already with the United Kingdom, but we have not been able to. It's not in our interest to delay the passing of this motion as we want to see signature in order to be able to proceed with provisional application. Neither does it make sense to deal today just with signature and come back to the House for a further seminal motion of the same treaty on ratification and have this debate again.

For that reason, Madam Speaker, The Cabinet agreed yesterday morning that we should make the motion today conditional on satisfactory conclusion of the Concordat. The Leader of the Opposition has late yesterday evening shared with me that he has proposed an amendment to the motion which is in keeping with the type of amendment that the Cabinet agreed yesterday I would move today during the course of my address. Subject to agreeing the detail of it, Instead of moving my amendment Madam Speaker, I will be proposing that the House should unanimously support the Leader of the Opposition's amendment if we can agree it. I've indicated to him there may be a few additional words that we may wish to include and perhaps during the course of a short recess we might be able to work on the detail of that. On the aspect of termination Madam Speaker, We will want to see wording that reflects that the United Kingdom would, in any effect, use its powers on the termination or suspension of obligations under the agreement, following full consultation with the Government of Gibraltar, and in all normal circumstances, following our wishes and views. We have to remember, Madam Speaker, however, and this is an important point, that we are not a state and that there is a constitutional order and that the most forward leaning expression of support for Gibraltar and giving the trigger to Gibraltar will not read like and I give the trigger to Gibraltar to do what it likes at any time. There will be language which has to be understood to be in keeping with the hierarchy in which Gibraltar and other overseas territories fit and which we will have to get comfortable with on the basis of precedent.

But in that respect, Madam Speaker, the House will no doubt derive comfort from a letter I have received overnight from the Minister for Europe, Stephen Doughty. In his letter, Mr. Doughty refers to the statement he made in the Commons last week when the treaty text was first published. I quote from the letter as follows. Stephen says this, During that statement, I was asked how, given the constitutional position, the wishes of the people of Gibraltar would be respected in the event of a dispute that could lead to suspension or termination of the treaty. The issue will, I understand, also be critical for you tomorrow when you debate your motion in the Gibraltarian Parliament. I am happy for us to discuss the modalities of this as part of the Concordat discussions. But ahead of tomorrow, I would like to reassure you that the principle we have adhered to throughout these negotiations is nothing about Gibraltar without Gibraltar. And that remains our firm intention moving forward. I continue the quote. The government of Gibraltar has been an integral part of our negotiation team throughout. Your team have been at the table for every negotiating session, part of every decision. We were never willing to enter into any agreement that the Gibraltarian people were not content with. That is the principle of the double lock. It is therefore politically inconceivable that in any normal circumstances should a democratically elected government in Gibraltar, or indeed the Gibraltarian people, determine that this agreement does not serve their interests, His Majesty's



Government of Gibraltar would not take action. This agreement has been negotiated to ensure the long-term continued security and prosperity of Gibraltar and its people who are British citizens. Our commitment to them remains absolute. This Agreement can never be a trap from which they cannot escape if it can no longer enjoy their support." Madam Speaker, these are very clear commitments from Minister Doughty, which I know will already provide a lot of comfort to the people of Gibraltar. These words are in keeping with the long-standing attitude of Minister Doughty to Gibraltar and its people. I am grateful that despite the ongoing issues in the Middle East, the Minister has provided this clear statement of principle for the House at this time, at the time of this debate. Madam Speaker I think that addresses very fully indeed the question of the type of trigger on termination that we can expect to see in the concordat. The Honourable Leader of the Opposition knows I've shared with him an advanced draft of it.

Mr Speaker, if I may for a moment digress, it also confirms that we have taken Gibraltar to the very top table throughout this negotiation, with a Conservative government and with a Labour government, and that was essential. Because as Prime Minister Carney did in a fantastic speech at Davos this year:

If you are not at the table, you're on the menu, and that's where Gibraltar was for many years under the now happily defunct Brussels process. Madam Speaker, let me now, however, turn to the further principles that we are agreeing with the UK, we will want to see reflected in the concordat. Because it's important that when we talk about the concordat, of course, the issue of the termination clause is fundamental. I've gone through it in a lot of detail. But the concordat is not just about termination and indeed termination is about failure because if you've got to the stage where the treaty isn't working for you economically or there's abuse of the treaty by the other side and you haven't been able to resolve that in cooperation and you haven't be able to result that in dispute resolution, really termination because it's going to put Gibraltar we can't see all the circumstances into the future but likely in a situation of hard Brexit is failure I've given up predicting the political future we never know the circumstances in which we might want to terminate and they might be because they are more advantageous to us than continuing in the arrangement but it would be failure. It certainly would be a failure for us, having spent half a decade negotiating it, to see that the treaty had for some reason to be terminated. But the concordat, Madam Speaker, deals with many more things, Madam speaker. There are many more things in our philosophies, Madam Speaker, other than just determination, to speak to Horatio. First of all, the concordat needs to deal with the manner of interpretation and implementation of the agreement. So one of the things that the Concordat will have to provide for is that the implementation of the agreement. Will fully respect the constitutional arrangement in place in respect of Gibraltar, and in particular the Gibraltar Constitution of 2006. We say that, Madam Speaker, all of the time, and it rolls off the tongue. But there's one particular subsection of the Constitution that I want to refer the House to. My team are sick of hearing me talk about it, but it's very important that it be reflected in Hansard, that this is a key a reference in the constitution and that's section 47.3 of the constitution. Now section 47.3 of the constitution says this: without prejudice to the United Kingdom's responsibility for Gibraltar's compliance with the European Union law matters which under this constitution are the responsibility of ministers shall not cease to be so even though they arise in the context of the European Union. That clause in the Constitution was negotiated in 2005 and implemented in 2006, we were members of the European Union then. But the clause, is very cleverly worded, given that the Honourable Leader of the Opposition says that he is the person who drafted the Constitution, I'll give him the benefit of thinking that he had the foresight to see a world in which we might not have been members of the European Union. Because the clause does not talk about membership of the EU. Although I'll tell them for nothing that somebody else claims the credit for this. The clause talks about the application of European Union law, whether or not we are members of the European Union. Given that, without prejudice to the United Kingdom's responsibility for Gibraltar's compliance with the European Union law, matters which are the responsibilities of ministers shall not cease to be so, when they arise in the context of the European union, the treaty will continue to be relevant to that clause. Because the treaty, when ratified by the European Union, for all the reasons I've indicated before, and the reasons why Spain wanted to include its primacy there, becomes European Union Law. And so all those matters which flow from the treaty, just like they flowed from membership of the European Union and the foundational treaties of the EU, which we



were plugged into under the old Article 2274. I lost count of what that article became after all the reforms. All of that will be relevant to what is the responsibility of Ministers in Gibraltar and what is responsibility of the Secretary of State and the Governor in relation to external relations. Therefore, it's important to just remind ourselves that our constitution, which for that reason continues to be applicable to the discharge of all functions under the treaty if ratified, because it's European law, is in itself a concordat. It regulates between the United Kingdom and Gibraltar. Who is responsible for what in respect of European Union law? Already. And so a recital in respect of the constitution is hugely important in the concordat because it is in that framework that already all of this will be happening. In terms of responsibilities, Madam Speaker, the Concordat needs to also provide that the Government of Gibraltar will be responsible for implementing and applying the provisions of the agreement that fall within our constitutional responsibilities, exactly that point. And those responsibilities will include this Parliament legislating to give effect to and operationalising those areas that fall within those responsibilities. The Concordat will also record our commitment to cooperation with the United Kingdom as the high contracting party. Where the agreement requires the establishment of dialogue, consultation and cooperation with the European Union, like in the Cooperation Council, the United Kingdom government and the Gibraltar government should be recorded in the Concordat as wanting to seek to develop shared positions on issues that fall within the Gibraltar government's responsibilities under the Constitution. The Gibraltar government should be able to nominate persons and this should be recorded in the concordat to participate in the corporation council alongside a relevant uk minister and in each of the specialised committees established by the agreement the persons nominated by the Gibraltar government should it be recorded in the Concordat play a leading role in such committees on issues that fall within the Gibraltar government's responsibilities under the constitution of course Madam Speaker there will also have to be a provision as to the costs that arise under the agreement and which are for the uk and which are for the Government of Gibraltar. And then of course, the Concordat should provide that any significant actions taken under the agreement at the party level in areas of the Gibraltar Government's responsibilities under the constitution will only be done following full consultation between the United Kingdom government and the government, excuse me, government of Gibraltar, including amendments to be made to the agreement, entering into amending or terminating any supplementing agreements referred to in Article 4. Of the agreement and entering into amending or terminating any of the administrative arrangements referred to in the agreement. That is as important Madam Speaker as the trigger on termination because that's the running of the Agreement and if all we concentrate on is having our influence and our rights protected on terminations in my view we would be neglectful of actually what is going to be more important I hope which is the day-to-day running of The Agreement. The Concordat should also set out in terms by the Speaker that the United Kingdom Government and the Gibraltar Government will work closely together in every aspect and in every stage of the Dispute Settlement Procedure established under Part 6 of the Agreement. And whenever a dispute concerns an issue that falls within the Gibraltar government's responsibilities under the Constitution, the United kingdom government should be required under the Concordat, as it is under the constitution, to fully consult the government of Gibraltar and follow its wishes and views. Additionally, of course, the Concordat should set out that the Gibraltar Government will nominate individuals willing to serve as members of the Arbitration Tribunal pursuant to the sub-list to be established under Article 3191b of the agreement. And a Gibraltar UK Joint Implementation Committee should be established to monitor progress on implementation, resolve operational issues, and review cost-sharing agreements. I think having set out all of that and what I've said was contained in the letter from Minister Doughty. I hope that the House and the people of Gibraltar will have taken considerable comfort that these matters are being dealt with in exactly the right spirit on the part of both Gibraltar and the United Kingdom in this matter. But in the end, for all of those reasons, the Concordat will just in effect record what is already the case politically and intuitively. Madam Speaker, I also want to say something further about the timings for the implementation of this treaty. The timings are clearly likely to be affected by the events in the Middle East even more now, continuing, as those events are, to suck up political bandwidth in the United Kingdom and in Europe. And we need to be alive to that. We need to understand that. We do not live in a bubble or in a vacuum. At the same time we need to keep in view the looming date of the 10th of April as the date for implementation of the European Entry-Exit system. The whole purpose of this treaty is to avoid the



snarling up of the frontier and we should ensure that we are ready to avoid that. So there are two things to keep in mind here. The first is the potential for EES deadlines to be extended again as the European Union has done in the past. We cannot rely on that, but we have to keep a watchful eye on it. And secondly, we must be conscious that the treaty needs to be signed before it can be provisionally applied. In order to be signed, the treaty must have been translated into all of the languages of the EU. It cannot be signed until it is translated. As Honourable Members will be aware from the press, in particular in Spain, those Translations are not yet available. We are in the European Union's hands in respect of that logistical aspect. So in essence, madam Speaker, Gibraltar and with us the United Kingdom have to be ready for the 10th of April. But it is not guaranteed that we will be able to go ahead on the 10 of April, neither is it clear that we will not be able to go ahead on the 10th April. It's therefore essential that we move forwards towards that implementation date. Ready to go, if we're able, and equally ready to pause, if others are not. Of course, I fully accept that this is suboptimal. We would have preferred a longer transition period, and we were in fact working towards that. We understand that businesses affected by the short implementation period are concerned about the potential negative short-term effects of these measures. For those reasons, Madam Speaker, we've been working on a package of support that will assist such businesses and will not fall foul of regulatory hurdles. I want to thank both the Minister for Business, the Honourable Ms Arias-Vazquez, and the Minister of Taxation, the honourable Nigel Feetham, for their work on this package of measures. If I may say so, Madam speaker, they have been formidable in their conscientiousness in working together on these measures. Madam Speaker, the support measures set out now shall apply to all taxpayers, whether incorporated or unincorporated, including companies, partnerships, sole traders and other persons carrying on a trade operating in the retail and wholesale sectors. And to qualify, the taxpayer must employ fewer than 250 persons. For the purposes of incorporated entities, this threshold is consistent with the definition of a medium-sized company under paragraph 2 of Schedule 9 of the Companies Act 2014, and for unincorporated businesses the same headcount criterion will apply. A tax deduction will be available to qualifying taxpayers in respect of the financial year in which the treaty enters into force. The deduction would be intended to ameliorate the immediate impact of the transaction tax during the first 90 days following the date on which the treaty takes effect. The amount of the deduction shall be calculated by reference to the additional transaction tax cost incurred by the taxpayer during the initial period and shall be applied against the taxpayer's liability to corporation tax or income tax, as the case may be, for the financial year in which the initial year period falls. The Commissioner of Income Tax shall issue detailed guidance on methods of calculation, the evidence required to support a claim, and the procedure for applying for the deduction. To qualify for the deductions described above and for the rates relief described in a moment, the taxpayer must be fully up-to-date with all statutory obligations at the date on which the treaty enters into force, including all filings and payments in respect of corporation tax or income tax as applicable. All filings and payments in respect to PAYE, and all filings and payments in respect of social insurance contributions. Where the taxpayer is not fully compliant at the relevant date but brings its affairs up to date within 30 days thereafter, the Commissioner of Income Tax may, at his discretion, treat the taxpayer as having satisfied the requirement. Qualifying taxpayers in the retail and wholesale sectors shall be entitled to relief from business rates in respect of the six-month period immediately preceding the date on which the treaty enters into force. Where rates for that period have already been paid, the relief shall take effect by way of a credit against future liabilities or the election of the taxpayer or refund. The relief shall be calculated as an additional 25% reduction over and above the 50% reduction received for payment on time. All fees payable for the registration of a vacancy by a business operating in the retail or wholesale sectors shall be waived for a period of 36 months Commencing on the date on which the treaty enters into force This measure is intended to support employment and recruitment in sectors likely to be most directly affected by the introduction of the transaction tax A moratorium on rent increases shall apply for a Period of 24 months commencing on, the date, on which, the treaty, enters into, force The moratorium shall apply to all rents payable under leases of premises used principally as retail shops or as stores for the wholesale of goods. During the moratorium period, no landlord should be entitled to increase the rent payable, under the qualifying lease, above the level payable immediately prior to the commencement of the moratorium, whether pursuant to a rent review clause, a break and re-grant or otherwise. Where a landlord increases rent in contravention of this moratorium, the Government shall introduce a surcharge on the landlord's



rental income from the affected premises. The surcharge shall be set at a rate sufficient to offset the full financial benefit of the increase to the landlord, such that the net additional income received by the landlord as a result of the increase is reduced to nil. The Commissioner of Income Tax shall publish the applicable surcharge rate and the mechanism for its assessment and collection. The Government has sought preliminary advice on the compatibility of these with applicable state aid rules. Any measure which is found, following the conclusion of that analysis, to be incompatible with state aid requirements shall be modified to the minimum extent necessary to achieve compliance. Subject to confirmation of full compliance, the Government reserves the right to extend the duration of any of the measures set out above for such additional period as it considers appropriate. Finally, Madam Speaker, fuel supply companies will now pay the standard corporate rate of taxation. We expect companies to be paying their fair share of tax and that includes bunkering companies, especially after this favourable change in treatment. I know Madam Speaker that Minister Feetham will assiduously pursue that they all pay their fair share. Madam Speaker, the Government will continue to work constructively with the business representative organisations in order to monitor the effect of the new transaction tax on business in Gibraltar. As the Chamber, the Federation and the Catering Association have said themselves, we all believe this is the right long-term deal for Gibraltar, despite the short-term pain it will involve, because of the break-neck speed at which we are having to move to implement it. It is also the right, long-term deal, not just for us, but for the area around us, for it to improve, for our benefit also. But, Madam Speaker, no one should be in any fear about the removal of all physical barriers between us and Spain. That is one of the key parts of this treaty. I've said before, but it bears repeating again, that as the father of children, I would not agree to do anything which would make their lives less secure. Neither would anyone in this house. To make their lives less safe, or less British. I was surprised, Madam Speaker, to see a suggestion in a newspaper by one person from Gibraltar quoted as saying that the removal of the frontier might make her feel "less British." It's not the frontier that makes me feel British, Madam Speaker. It's a not a chicken wire fence that protects my way of life and my cultural understanding of the world. My Britishness, like the Britishness of all of us here, is in every fibre of my being, in every aspect of my soul. And taking the whip hand away from those who have used the frontier to strangle us economically and socially will not make me less British. It will take a tool away from those who have wanted to use the frontier to persuade us not to be British. And incidentally, no one should fear that our three-pin, G-style British plugs are in any jeopardy Madam speaker. They are also the standard in Malta, in Ireland and Cyprus, and they're all in the single market. As was the UK, by the way. So the changes that we will bring about will not make anyone in our community less British or less secure or less safe. But we will be acting to ensure that we both comply with our obligations under the treaty and make Gibraltar even safer than it is today. We have to be clear that we are safe in Gibraltar, but technology is now moving and criminals use technology all of the time. We too have to use technology for the benefit of law enforcement. And to that end, Madam Speaker, we are going to combine the removal of all physical barriers with the opportunity to make Gibraltar safer and more secure. Because the fact is that today we have, Madam speaker, that rusting metal chicken wire and barbed wire fence which is vandalised each night. People with wire cutters come through every night and we have to repair the damage day in And day out, that is the reality. That will become a thing of the past. Motion detecting lighting is being installed in that area. A massive network of closed circuit television cameras that will cover the entry area around Four Corners is being established, all of which will be monitored from the tunnel monitoring building. And the CCTV will have live facial recognition and automatic number plate recognition that will be analysed in real time. This system will also immediately be extended to the areas of Devil's Tower Road as well as Casemates, Main Street and the wider town area. In coming months the system may be extended even further. Law-abiding citizens have nothing to fear from a system designed to ensure our common safety and security. In the United Kingdom, in a deployment in Croydon, the Metropolitan Police has identified a 12 per cent drop in crime in the Fairfield Ward, with 103 arrests in that area alone of persons who were wanted and whose presence was identified only as a result of live facial recognition. In fact, the use of technology will therefore avail our police and our law enforcement agencies with one of the best tools to assist them in identifying anyone who might come into Gibraltar who is on our or an international wanted list. It will also help to keep our shopkeepers safe and make our town centre more secure. And so the issue of safety and security. I want to ask people to remember that no one will be able to legally come into



Gibraltar that would not have been able to legally come in to Gibraltar whilst we were members of the European Union. Yet in those days, access was by presentation of IDs or passports that would be dispensed with now. But the persons who would have been to come in are the same ones who will be able to legally come in after the physical barriers are down. In other words, persons who illegally in the EU will also be illegally in Gibraltar and can be denied entry to Gibraltar. Those assurances we can also have from the structure of the treaty and the structure of Schengen. This treaty is no doubt going to create a lot of academic debate. It's groundbreaking in many ways, but it is also bespoke in many ways. Yet in many ways, it uses the template language from the Schengen agreements. It takes language from the main EU treaties and from directives on free movement of goods and persons, etcetera. It takes language from the trade and cooperation agreement between the UK and the EU. And it also contains language written specifically for the purposes of this treaty. And that, Madam Speaker, is the type of legal structure that we are dealing with here. That structure in some instances has caused for there to be comment about different aspects like for example the right of hot pursuit which comes directly from the Schengen aquis and is a direct copy of what applies between all of the Schengen member states. So I want to address those issues which have caused people some concern. I'm going to use as a template for that Madam Speaker the other issues that were raised by Sir Peter Caruana KC in his article in the Gibraltar Chronicle yesterday, because although I'm particularly grateful to note that Sir Peter concludes his analysis supporting that we should enter the treaty, he does identify a number of issues that I think it is helpful for me to go through. The first is this question of the border crossing points, which was set up by Spain at the port and airport. Let's be very clear. That will not happen at the port. We are very clear that there is a provision that whilst there are low numbers entering through the port, all of the immigration of anyone who arrives by sea, whether at the port or at the marina, will be done at the airport. That's the reason why we're not going to have a ferry directly to Morocco, although a ferry can of course go to Algeciras on the way to Morocco. That's why cruise ships are going to be coming directly from the EU or from the UK, to the EU, or to the UK but not to other third countries. And therefore, the only border crossing point will be at the airport. There will not be border crossing points to patrol between, because there will only be one. And neither, which is the language of the treaty, will there be a period when the border crossing points are closed, because the right to carry out patrols between border crossing points is when the crossing points are closed. But the border crossing point at Gibraltar Airport will be open 24 hours a day. Because there could be an arrival by sea, in a yacht, at three in the morning, or at any other time. That could be an issue at any time. Today, we have immigration at the frontier 24 hours a day! And we will continue to have immigration, Gibraltar immigration, and the facilities at the airport open 24 hours a day. So the idea that there are more than one crossing point and that you can patrol between one crossing point and the other actually does not apply. And the border crossing point at the airport where there will be Gibraltar police etc and Spanish police is in the facility that will be built equidistantly between Spain and Gibraltar and will be as much into Spain as into Gibraltar. So if the Spanish are going to be in Gibraltar, it's going to be as much as the Gibraltarians are going to be in Spain. Thereby neutralising any sovereignty aspect thereof and in any event it's a closed facility from which Spanish police will be carrying out their passport control checks in the way that I explained at the time of the 2020 New Year's Eve framework agreement. I foolishly referred to this in one moment as the Schengen Shack, no doubt because I'd been listening to Love Shack minutes before, and that has now stuck. I do hope, Madam Speaker, that it becomes a place of cooperation and not a place of confrontation and closer to a love shack than anything else, Madam Speaker. But the important thing is that this will be a closed facility and that is where Gibraltar authorities and Spanish authorities will be able to do their second-line checks. I explained that during the course of 2020 and thereafter. Just as Honourable Members in 2007 won the general election having explained the circumstances of Cordoba and we therefore respected that the people of Gibraltar had accepted Cordoba, we won the General Election in 2023 having explained all that which is what we had a mandate to deliver and what we have delivered. The provision for Spanish officers to come out of that facility is limited and it will not be, Madam Speaker, in uniform or armed unless a specific permission granted in a mutual legal assistance manner between our particular law enforcement agencies. In any event, Madam speaker, it will always be the Gibraltar officers who will hold to the executive authority in Gibraltar. And nothing will change from the position as it is now in cases of mutual legal assistance and the ability of officers to accompany our officers from other law enforcement agencies as



we've seen in the past on operations which have a mutual interest. We have not ceded on our key issue of ensuring no boots on the ground. But, if there is a hot pursuit, Madam Speaker, then... That could lead to Gibraltarian boots in Spain and Spanish boots in Gibraltar in the context of hot pursuit and that is not bespoke to this agreement that is identical to the provisions on hot pursuit in the Schengen agreement between all other Schengen states and based on a notification regime. That is to say you're coming on a hot pursuit, you have to notify the Spanish authorities if you start in Gibraltar and you're going towards Spain, if you're the RGP, or you have to know, or customs, or if you are a Spanish law enforcement agency you have to notify the Gibraltar authorities that you're coming towards Gibraltar. That's why we're going to have so many four by fours in that area, Madam Speaker. But those measures are, it's important to say reciprocal. They permit our officers also to enter Spanish territory. Additionally Madam Speaker, and this is hugely important, given that the end of a hot pursuit requires that the relevant officers surrender their weapons and their vehicles, I doubt, to the enforcement agencies of the place where they've arrived, I doubt that we will see very much political or police enthusiasm in Spain for such pursuits which would, if they ever occurred, likely end in the territory of the Isthmus. And the same is true, Madam Speaker, in relation to inspections of vessels and aircraft, which are always done today on the basis of mutual legal assistance. On visas, Madam speaker, the other reason, the issue that Sir Peter has raised, I have explained this before on GBC. The issue that Spain will be the Schengen state that will have to issue the visas for third country nationals who require a visa to come to Gibraltar if they're only coming to Gibraltar is logical, and it's related to the operation of the Schengen visa directive and not to any sovereignty right or aspect. First of all, because the treaty says very clearly that Spain is only doing that as the neighbouring state, the neighbouring Schengen state, that status is therefore then enshrined in the treaty, that they are neighbouring, and second, because of the application of existing Schengen visa rules. Under the current rules in Schengen, you have to apply for a Schengen visa, if you're a visa requiring third country national, to the Schengen country that you're going to spend most of your time in whilst in Schengen, or the country whose Schengen frontier you're going to cross on entry, if that is different. So, if somebody was flying into Paris, Charles de Gaulle, to spend four weeks in France, They have to apply to the French authorities for a visa if they're a third country national who requires a visa because they're fulfilling both of the criteria in France. But if you were flying into Paris, Charles de Gaulle to spend a week in Germany and then flying out from there, you could apply either to France because you're crossing the Schengen frontier at Charles de Gaulle, or to Germany because you're spending the time you're going to be in Schengen to the German authorities. Okay. Applying that logic Madam Speaker if you're coming only to Gibraltar why do you have to apply to Spain you're not going to spend any time in Spain and time in Gibraltar will not be considered for treaty purposes time in Spain. It's not that there's a sovereignty or jurisdictional cession there that because you're going to be in Gibraltar you fulfil the second criteria and you have to apply to Spain. It's because if you fly into Gibraltar Airport not for immigration purposes but for customs purposes in the part of the airport which will be the second line check facility in the north western corner of the Airport non-Gibraltar residents and non-Gibraltar residents only and a third country visa requiring national would perforce not be a Gibraltar resident will have to step onto the Spanish side. Over the frontier where it is today to do Spanish customs and therefore they fulfil the first criteria of the Schengen regulation for visas which is that they will be crossing the frontier into Schengen, into Spain, even if they do so momentarily and then spend the rest of their time in Gibraltar at the Rock Hotel for two weeks and then go. So there is no other reason why that visa has to be issued by Spain. If that person says, I'm going to be entering through Gibraltar, spending a week in Gibraltar and five weeks in Lisbon or in the Algarve, that person can apply under the application of the Schengen visa regulation, to Portugal. If they're going to spend five weeks in France after they've come to Gibraltar, to see the Minister for Economic Development, they can apply to France and of course, if they're going to come to Gibraltar for a week and Spain for two. Then they have to apply to Spain because they fulfil first the first trigger which is the entry trigger and second the permanence trigger because they will remain more in that Schengen state than in any other and Gibraltar is not a Schengen state because we are not becoming members of Schengen. Madam Speaker, would we have wanted to become members of Schengen? Well, the United Kingdom would never have countenanced that. And the European Union would never have countenanced making the United Kingdom a member of Schengen simply for Gibraltar purposes. Because, of course, that would have given the United Kingdom access to the



Schengen information system, with the United Kingdom not having to give access to its databases because its membership would only have been in respect of Gibraltar, the language that is throughout the treaty. So that is why the visa, logically, and in application of the visa regulation is issued by Spain if the person is coming only to Gibraltar. Madam Speaker, then on residence permits, I've been clear that the checks that Spain is carrying out are being carried out for Schengen and against the Schengen information system. They are not qua Spain, they are qua Schengen. And that is hugely important, Madam Speaker because they relate to checks on public security, public health and public policy and then on public policy where the justification for a refusal or for requiring us to refuse a residence permit, is the highest standard required in EU law taken from the Free Movement Directive, although for reasons I'll come into now, Free Movement does not apply to Gibraltar, and is the standard which would be applicable to Member States for the same purposes. That is to say, there is a world under the Schengen short-stay visa regime in Europe where one Member State can tell another Member State not to issue a short stay visa. So, in the examples we were looking at before. If somebody applies to Germany because they're going to arrive through Frankfurt Airport and they're going to spend four weeks in the Black Forest, a complete German application, Italy can require Germany not to issue the Schengen visa. That is the same standard that will apply here before a public policy refusal, proposal or request, can issue in respect of residence permits. That has been interpreted by the Court of Justice of the European Union on a number of occasions and is the very highest hurdle before somebody can be prevented from having a visa in that way, or in our context, a residence permit. But that person must be able to challenge that refusal, and they would do so, Madam Speaker, in the Member State where that has issued.

So, in that context, the person who made... The example I gave a few moments ago, the person who made the application for the German short stay visa would go to Italy and challenge in Italy. Here we've got to be very clear that the refusal on public policy grounds, on public health grounds, or on public security grounds might come through Spain, but it may not be a Spanish refusal. It may be an Italian refusal because what we're checking here is the Schengen information system through Spain. So if we are told do not issue this residence permit in respect of this person because Italy says that they are a public security risk, there's a public health issue, or there is a public policy concern, that person is not at the end of his opportunity. That person has to be able to challenge that in Italy. And we're talking about all of the member states of Schengen here. We're not talking about the member states of the European Union. So people need to stop thinking about this being Spain, because it could be Switzerland. Switzerland is in Schengen, although it's not in the EU. And so it's very important that when we consider the issue of residence permits, we see it through that filter. Madam Speaker, then the other issue that was raised by Sir Peter is the question of the airport and the arrangements that are entered into in respect of the airport. Now, here I want to be very clear whilst not being partisan at all. The reality is that in 2006 the Cordoba agreement set out a provision whereby the former administration agreed to give a Spanish company 50% of the rights to manage and run our airport, to actually manage and run the airport on the ground, to be at the terminal owning 50% of the management company and operating our airport. That has not happened in this agreement. What has happened in this agreement is that the airport will continue to be owned by the government of Gibraltar and it will continue to be operated by Gibraltar Air Terminal Management Limited. We have agreed to permit a new company to determine future tenders for the operation of the airport. That new company will be 50-50 owned by Gibraltar and Spain. Bilateralism of a new type. And that company will determine the tender of who operates Gibraltar Airport. What we will do together is not operate Gibraltar Airport 50/50 as the Cordoba arrangements envisaged, that we would operate Gibraltar Airport 50/50 with a Spanish company. The only thing we will together is decide together who should operate Gibraltar Airport and monitor that they're doing so in keeping with the tender that has been granted. It is hugely different, in my view, to the arrangements under the Cordoba agreement, and I hope that the arrangements that everybody will be able to understand are much more beneficial to Gibraltar in terms of the retention of control, because we will not be granting an administrative concession for the operation of Gibraltar Airport to a company which is 50% owned by the Spanish. We will be granting the right to determine the tender. And look, it's a 50-50 owned company. Whilst we don't agree who should get it, I assume that the company that is operating it today will continue to operate it. Although I very much hope that we'll be able to work



together and hopefully even persuade our Spanish colleagues that Gibraltar Air Terminal Management do an excellent job and no doubt Gibraltar Air Terminal Management will be tendering for the operation of Gibraltar Airport. Madam Speaker, Sir Peter also raised in his article an issue in relation to the banking industry, which refers to articles 165 and 167 of the treaty. I have to tell you, this is not a bespoke part of the Treaty. This is identical, identical to the standard provisions which the EU has in the agreement with the UK on the TCA. They are also not just a requirement for Gibraltar banks. These are reciprocal arrangements and they are as set out in the TCA. Sir Peter has been doing for some time now this balance of price versus prize and he has said something in his article with which I will gently take issue which is this. I do not believe that the prize here is Schengen access. And the benefits that that brings to our services industry, to our economy and our socio-economic development. Of course, that's a benefit. I also don't think that the prize here is the free movement of goods and the opportunities for our businessmen to sell into the market of 480 million people. That's a benefit. That's not, however, the prize. If you've stood where I've stood, if you've seen the unredacted heat maps, if you've looked at the analysis, the prize, actually, is that we have a deal that avoids the worst effects of a hard Brexit, which would be very, very catastrophic indeed. Schengen is the cream, Madam speaker. That's the reality. And so, Madam Speaker, although... We will hear more from the Honourable Sir Joe Bossano during the course of this debate and we may hear more from the other surviving Chief Ministers, what we have heard so far, from all surviving Chief Ministers of Gibraltar is support for the ratification of the treaty. And I hope I've dealt with all the issues that Sir Peter has raised in his article because he has gone on to talk about supporting the treaty despite the price, and this is a remarkable show of unity around the principle of ratification for the treaty, subject to obtaining the necessary ancillary concordat with the United Kingdom, of which I have already told the House that I am very confident and on which I've already read the words from Minister Doughty. I want to say two more things about the detail of the treaty, which I detected has concerned members of the public, but is not analysed in any of the work I've done so far. The first relates to the transaction tax. And this is a point that has been raised with me Ironically not by traders, who I think understood this from the first moment, but by lay people who want to understand how the Gibraltar economy is likely to prosper in the future. And I think it's very likely to prosper greatly, although I take the view of the father of the house who says with an economy, careful not to predict, try and put things in there and see performance rather than just predict performance. But I want to remind the public that the transaction tax, first at 15%, then at 16%, and then 17%, or whatever is the lowest in the Union at any one time, will only ever be levied on the value of the importation of goods into Gibraltar by a wholesaler or an importer. That means that this indirect tax, which will never be lower than the lowest in the European Union but never has to be higher, will be levied on import value, not sales value. This is hugely important, Madam Speaker. It's hugely beneficial to our retailers and to our wholesalers. And it marks a very good reason, another very good reason, for us to congratulate ourselves on having avoided a sales tax like VAT. Because VAT is levied on the ultimate sales price on goods. In a direct comparison with Spain, for example, where the standard rate of VAT is 21%, the rate levied on the sales price is at that rate to the individual. Our rate will be lower and levied of the lower figure, which is the declared value of the goods on importation. Let me give you an example, Madam Speaker. If you go and buy a pair of trousers for 100 euros in Spain, you will pay 121 euros for the trousers. 100 euros for the trousers, 21 euros in respect of the 21% VAT you will pay. Those trousers may have entered Spain, declared by the wholesaler, as having a value of 10 euros. And then down the chain, increasing cost until they're sold for 100 euros to you. In Gibraltar, the same trousers will attract the transaction tax based on the value that the importer declares to customs is the price at which he has bought them. If in Spain the importer imports them at 10 euros and sells them for 100 euros, the total sale price is 121 euros. In Gibraltar, if the value is 10 pounds, the transaction tax is paid on that amount, on that amount. So the transaction tax goes from being 21 euros to being £1.70. That is the big difference between a sales tax and a transaction tax, which is an import duty by another name. Therefore, I know, Madam Speaker, that our traders are very alive to that, and our people should have the comfort that that is what we have agreed, and that's why we believe that although margins in Gibraltar are smaller, rents are higher, the cost of doing business in Gibraltar is higher than the cost to doing business in Spain, we really do believe that we're giving our retail trade a huge opportunity to prosper. The second and final issue of detail, Madam Speaker, that I want to deal with is the period of time that residents of Gibraltar can be in Schengen under



these arrangements. We will still, legally and formally, be subject to the rule that you cannot be in the Schengen area for more than 90 days in 180. I know that some people have said to us that they thought that we were negotiating our way round that, that we could be 180 days in the Schengen area, but that was not achievable, it's not what we set out to do, but we will be able to have a mechanism where we have access fluidity into the Schengen area and that fluidity will not be checked, that is to say, in the same way as when you go to the Schengen area now, from outside the Schengen area. You are stamped and therefore the stamp makes the clock tick or in future the passport going on the EES system will make the clock tick, because Gibraltar residents will be exempted from that, the clock on the 90 to 180 will never start to tick. So there is a de facto issue there, but not de jure. And it's very important that it should not be de jure. Very important. Because what we did not set out to do was to agree a freedom of movement agreement with the EU. This is not a treaty on freedom of movements. It's a treaty of fluidity. Because freedom of movement means the right of establishment. The right to turn up in another member state and say, I'm going to live here because I want to, because I have a European passport. And therefore I can live in Madrid or I can live in Rome or I live in Frankfurt or I can live in Berlin. Under this agreement, none of those can come and live in Gibraltar. They can be frontier workers into Gibraltar, but they cannot say that they stay to live in Gibraltar, because this is not a freedom of movement agreement. And a freedom of movement agreement brings a freedom of establishment right, which was in effect mean that you can be 180 days in the Schengen zone. Because that's what establishment means. If you're there for 180 days, in any 180 days and then the next 180 days you're also there for 180 day, what are you? Resident. That's why this agreement is not about 180 in 180 but that's why also this agreement will not make the clock start ticking on your 90 in a hundred and eighty days and that is what we wanted and that's what we have achieved. I'm sorry to say it Madam Speaker but on this we certainly do have the best of both worlds because we have the fluidity we want but we have prevented a deal that would have given the right to 480 million people to come and live here, which was the case when we members of the European Union, but is not the case now. So, Madam Speaker, those who have expressed concern about that need have no such concerns. Although it is true, Madam speaker, that if you go and book yourself into a hotel in Rome for 92 days, that will make the clock start ticking, obviously. I don't mean it in any particular sense, Madam speak. Madam Speaker, I have said earlier that I was going to move an amendment to the motion having agreed to do so with Cabinet colleagues yesterday. That amendment would have read as follows and I think it's important that I share it with the House. I had shared it in fact with the Leader of the Opposition and the amendment was this; at the end of the motion as it reads today, I would have removed the full stop and added this and that this motion should be effective from the moment that the government lays an agreed concordat between His Majesty's government of Gibraltar, sorry, His Majesty government of the United Kingdom on the one part and Gibraltar of the other part, in this House, having consulted the Leader of the Opposition on the terms of the said concordat. So Madam Speaker, I did not give notice of that amendment because I was going to do it on my feet today as I spoke, and I think the reason, given everything I've said, for the amendment is clear. Because the Honourable Leader of the Opposition has now moved a not dissimilar, if not in a substance identical, amendment to the motion, I look forward to be able to agree it so that the House might be able work through these seminal issues by mature consensus if possible. Madam speaker, the House needs to reflect on how this treaty has been received in this community as a whole. The unions have welcomed the treaty, both Unite the Union and the GGCA. The gaming industry has welcomed this deal. The financial services industry has welcome this deal The Chamber of Commerce has welcomed this deal. The Federation of Small Businesses has welcomed this deal. The Gibraltar Catering Association has welcomed this deal. The Fair Trade Organisation has welcomed this deal. The Retailers' Organisation has welcomed this deal, the Jewellers' Association has welcome this deal, the Logistics Operators' Representatives has welcomed this deal and their members and their employees have welcomed this deal. Madam Speaker, it's not often that unions and businesses, representative organisations actually agree. And in respect of this matter, they do. We've heard from the former leader of the opposition, Chief Minister and Father of the House, Sit Joe Bossano. We've had from the Former Chief Minister, Sir Peter Caruana. And today I've told you the views of the former minister, chief minister and leader of opposition and Speaker, Adolfo Canepa. All living Chief Ministers agree that this treaty must be supported. What does it boil down to then, Madam Speaker? Simply this. However imperfect the treaty, it is safe, secure, and beneficial. It makes no session on



sovereignty. And it is better than the alternative. For all of those reasons I have already referred to the House Madam Speaker. This treaty is safe. It is not a trap from which we will not be able to extricate ourselves in the future if it were to be twisted against us. It is secure in representing no cession in any measure or regard in respect of our exclusive British sovereignty. And it is beneficial in that the benefits it will bring, both in the field of frontier fluidity and in the freedom movement of goods will secure our socio-economic development as we have long wished. It takes us back, Madam Speaker, finally, to a certainty of rights of personal fluidity and fluidity of goods that our economy needs. The test by which we set out we would collectively judge the treaty is met. And for all of those reasons, Madam Speaker, the Cabinet decided that it would accept the terms of this treaty and that we would consequently move this motion in this House. In conclusion, Madam speaker, in commending the motion to the House, I can think of no better way to round up my initial contribution than to quote the former leader of the house Sir Peter Caruana. His assessment, given it is objective and therefore an independent assessment of the Treaty, which is the subject of this motion, may be worth reflecting on. In supporting the Treaty, Sir Peter said this, yesterday, in print, in our newspaper of record and they are words I have referred to already. I quote, "I have no reason to doubt that the Treaty which I have read and considered, is the best that Gibraltar could negotiate from the position of weakness in which Brexit put us contrary to our wishes." End quote. Madam Speaker, if that is how our, my, former most vehement political adversary judges our work, then I am even more confident in commending this historic motion for ratification of the UK-EU treaty in relation to Gibraltar to the House. And in order to enable me Madam speaker to try to resolve the issue of the amendment in a way that is agreeable with the leader of the opposition, I propose that the House should now adjourn until 3pm this afternoon so that we can consider that amendment and then hear the views of other members of the House. I commend the motion to that.