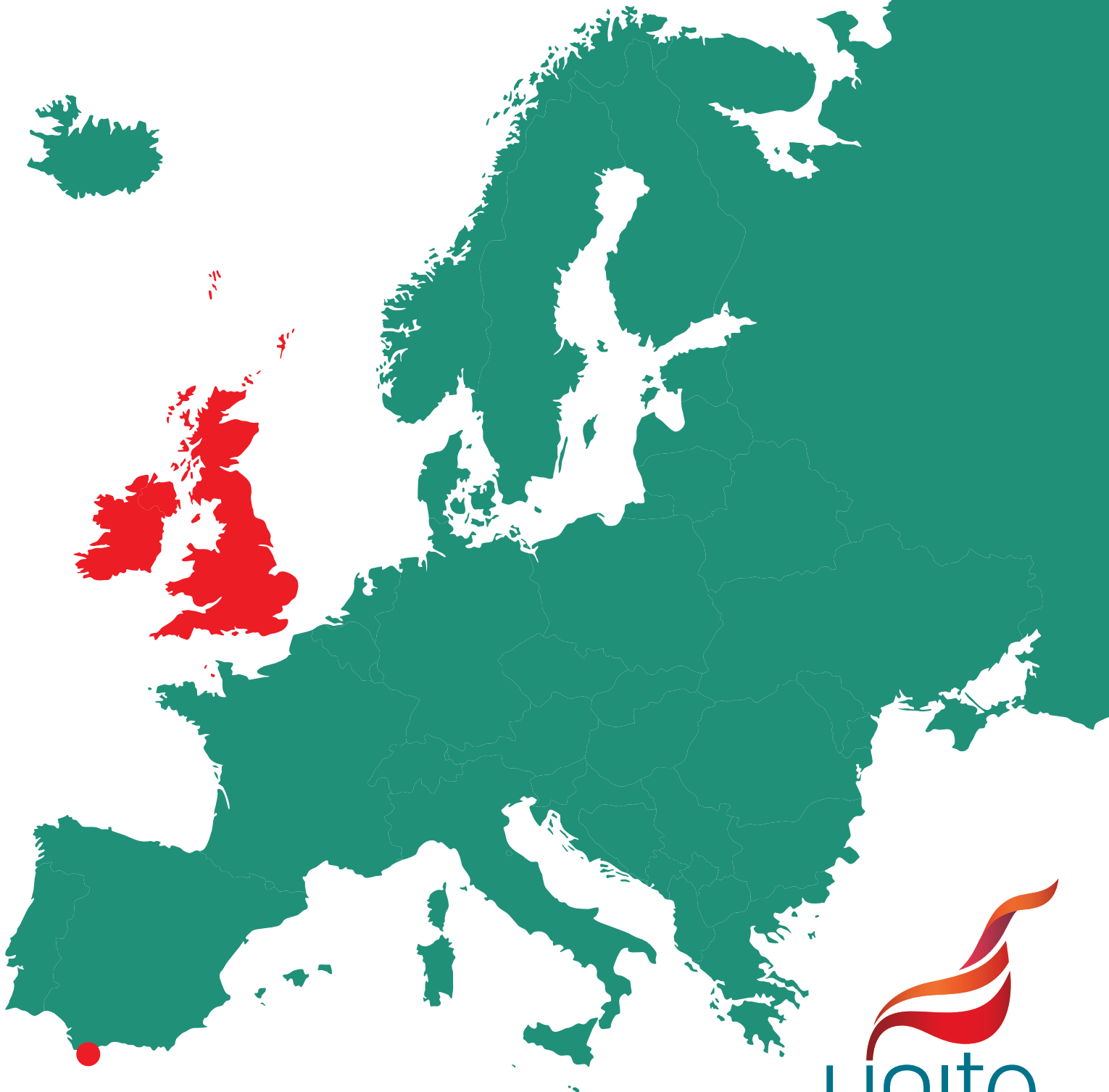


Building Solidarity Across Borders: Gibraltar & Brexit

Defending Jobs, Investment
and Workers' Rights

Unite the Union: Gibraltar 2017



www.unitetheunion.org/gibraltar





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Building Solidarity Across Borders: Gibraltar & Brexit

Defending Jobs, Investment and Workers' Rights

Foreword

The result of the 2016 referendum and the decision to leave the European Union will have a far reaching impact for Unite members. Nowhere is this clearer than in Gibraltar.

As the largest trade union on the Rock Unite has a duty to represent and fight for our 5,000 7,500 members and the 12,000 workers who cross the frontier each day.

The referendum result in Gibraltar was hardly ambiguous. 84% of voters opted to remain in the EU by an overwhelming 96%. Gibraltarians spoke with one voice and it is one which must not be ignored by London, Madrid or Brussels.

Unite stands utterly opposed to so-called 'Hard Brexit', whereby the negotiations between the UK and the EU end without a deal. The result would raise tariffs and other barriers, constituting a reckless act of economic self-harm.

Unite respects the referendum result, but we do not seek Brexit on the Tories' terms.

We accept that the relationship between the UK and the European Union will change, but we also know that we cannot live in isolation from Europe.

For Gibraltar isolation is simply not an option. The uncertainty caused by the referendum and the sabre rattling from hapless politicians in Madrid and London has reawakened painful memories of the sixteen years of hardship caused by the closing of the frontier in 1969.

Those years cast a long shadow into which nobody in Gibraltar or Andalucía wants to return.

When politicians seek to raise barriers it is our role as trade unionists to reach over them in the spirit of solidarity. I am proud of Unite's role in the Cross Frontier Group (CFG); working in partnership with our brothers and sisters from the Spanish Comisiones Obreras (CC.OO.) and Union General de Trabajadores (UGT) unions for the mutual benefit of our members.

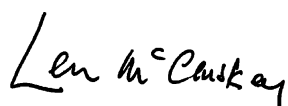
Another exciting avenue has arisen in Gibraltar and the Campo de Gibraltar Area as a consequence of the interactions in the CFG, where an Inter-regional Trade Union Council (IRTUC) will now be set up to overcome further obstacles that politicians may erect that go against the spirit of fraternity and good neighbourly relations. Internationalism is in the very DNA of our union, just as it is the people of Gibraltar.

The people of the Rock and those we neighbour do not want sabre-rattling. They want to be told, now and in clear terms, that their futures are being protected. In this document Unite examines the situation facing our members in Gibraltar and makes clear proposals for how the impact of Brexit can be mitigated.

As an alternative to full membership of the EU, Unite believes the UK government must secure tariff-free access to the Single Market. The government must make it clear from the outset that European workers, in the UK and Gibraltar, will not be used as bargaining chips. Similarly hard earned workers' rights, safety standards and environmental protections underpinned by EU law must be transitioned into UK and Gibraltarian law.

As Unite sets out in this document, Gibraltar already has a unique status within the European Union. It is a status that must be maintained irrespective of Brexit. This must include continued freedom of movement for all people be they workers or otherwise across the frontier and access to the Single Market.

Unite members are the backbone of the Rock. They keep the streets clean, services running and goods flowing. When they are standing up for decent treatment and a fair future, they are standing up for the people of Gibraltar. Have no doubt that their union will stand with them all the way.



Len McCluskey, General Secretary



Len McCluskey

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Building Solidarity Across Borders: Gibraltar & Brexit

Defending Jobs, Investment and Workers' Rights

Introduction: Building Solidarity Across the Frontier

Brexit poses the greatest challenge the people of Gibraltar have faced in a generation. It falls to Unite, as the largest trade union on The Rock, to propose a clear strategy to defend the long-term interests of our members.

Central to that is the need to build solidarity across the frontier and to this end Unite is proud of the new framework agreement which we have launched with our sister trade unions in Spain, the UGT, CC.OO and the Gibraltar Teachers Association / National Association of School Masters and Union of Women Teachers (GTA/NASUWT). Together we have launched the Southern Inter-regional Trade Union Council, a huge step forward for building solidarity and promoting trade unionism across our region.

This new agreement builds on the vitally important work of our unions in the newly formed Cross Frontier Group, which is campaigning to keep the border between Spain and Gibraltar 'fluid and free of unnecessary restrictions' irrespective of Brexit.

We need workers, tourists, Gibraltarians and Gibraltar Residents to be able to move across the border with as little hindrance as possible; to shield and continue to grow the economy in order to enjoy the fruits of Gibraltar's social protections.

This IRTUC's first goal will be to ensure that the Gibraltar frontier is not used as a political tool of leverage that stifles workers and citizens on either side of the border.

As is outlined in this strategy, the Group aims to achieve this by demonstrating that Gibraltar's special status and inter-dependency with the Spanish regions of Andalucía must be defended.

This is a very concrete issue for Unite members. While Unite organises thousands of workers, from the commercial port to public services and the finance sector, over 20% of our members reside in Spain. This is a substantial part of the 12,000 'frontier workers' who cross the border from Spain each day to work, many of whom are also members of the UGT and CC.OO. Frontier workers are not only vital to the economy of Gibraltar, their livelihoods are vital to the surrounding regions of the Campo de Gibraltar.

It is clear that the settlement which emerges from the Brexit negotiations must safeguard the future of all workers who are reliant on Gibraltar and make it prosper. In this strategy Unite outlines the unique place of Gibraltar within the European Union, the economic links which have been developed across the frontier and how this cannot be put at risk by so-called 'Hard Brexit'.

Instead the special status of Gibraltar must be acknowledged and this must include both tariff-free access to the Single Market and continued freedom for workers to cross the frontier. To achieve this Cross Frontier Group has made the concrete proposal, endorsed by the Government of Gibraltar, to construct a 'European Grouping of Territorial Cooperation.'

The 2016 referendum result in Gibraltar was a landslide for 'Remain', a result which gives the Tories no mandate to impose Hard Brexit on Gibraltar. It is clear that we reject Brexit on the Tories' terms, yet alongside a version of Brexit which protects Gibraltar's status, workers on The Rock need to be part of a new strategy of investment and job creation to make sure our prosperity is more evenly shared.

Peter Hughes
Regional Secretary with responsibility for Gibraltar



Building Solidarity Across Borders: Gibraltar & Brexit

Defending Jobs, Investment and Workers' Rights

Gibraltar's Special Status in Europe

Gibraltar has a unique relationship with the European Union, first enshrined in 1973 and reaffirmed in subsequent European treaties.

When Britain joined the European Economic Community (EEC) in 1973 Gibraltar was included as a *"European territory whose external relations a member state (United Kingdom) is responsible."* To this day Gibraltar is the only territory enjoying this status in the European Union¹.

This means that while the connection between the United Kingdom and Gibraltar is acknowledged, it is understood that the UK only has responsibility for The Rock's 'external relations' and defence. The economy of Gibraltar is managed and controlled by the elected government of Gibraltar, which also has a separate legal order from the UK and can raise its own taxes.

This makes Gibraltar very different to full Member States, Crown Dependencies such as the Channel Islands or the recognised Overseas Territories of Member States, such as the Faroe Islands.

Unlike full member states Gibraltar is:

- Outside of the customs union and is considered an 'external country' for goods.
- Excluded from the Common Agricultural Policy (CAP) and the Common Fisheries Policy
- Excluded from VAT harmonization.
- Outside the Eurozone and does not use the Euro as its currency.²

The Four Freedoms and the Single Market

Like the United Kingdom Gibraltar currently enjoys Freedom of Movement for people across the EU; however, it is not part of the Schengen area for borderless travel. This means that a 'hard border' already exists along the Gibraltar-Spanish frontier with active controls. This makes Gibraltar different to Northern Ireland, the only UK territory with a frictionless land border to the EU.

As a member of the Single Market Gibraltar is also signed up to the Freedom of Movement for services and capital, both of which are vital to an economy based on financial services, tourism, IT and online business.

Uniquely however, Gibraltar does not have the fourth freedom, Freedom of Movement for Goods and does not participate in the common commercial policy. An exemption of the supposedly indivisible four freedoms shows that Gibraltar is a unique case and should be granted special status during the Brexit negotiations.

Membership of the Single Market does mean that Gibraltar is subject to EU laws and directives, over four thousand of which have been incorporated into Gibraltar's domestic law.³ It is estimated that at least 70% of all laws enacted in Gibraltar are connected to EU membership.⁴

This access to both the Single Market and the political structures of the EU is why European Union regulations and directives apply to Gibraltar and also why residents were able to vote in the Brexit referendum.

1: Brexit: Gibraltar, House of Lords, 2017, URL

2: Legislating for the United Kingdom's withdrawal from the European Union, Department for Exiting the EU, 2017, URL

3: Gibraltar voted 96% Remain – but now Brexit makes it vulnerable to Spanish aggression, Politics.co.uk, 2016, URL

4: Supplementary written evidence – Government of Gibraltar (GLT0001), House of Lords Inquiry, 2016, URL

Building Solidarity Across Borders: Gibraltar & Brexit

Defending Jobs, Investment and Workers' Rights

'Brexit' Doesn't Simply Mean 'Brexit'

"What sort of country do we want to live in? An American-style, deregulated economy, or an economy based on highly skilled jobs, high productivity, and high levels of investment."

Professor David Bailey

Despite Prime Minister Theresa May's claim that "Brexit means Brexit", the UK's withdrawal from full membership of the EU can take many forms, each with differing consequences for Gibraltar and Unite members' jobs.

As Professor David Bailey, Professor of Industry at Aston University stated, *"The least costly option is the closest deal we can get to the current arrangement, which means retaining access to the Single Market."*⁵

It is Unite's position that retaining tariff-free access to the Single Market, replicating EU-based workers' rights into UK and Gibraltar law, and protecting the movement of people across the Spanish frontier must be the government's priorities as negotiations unfold.

The suggestion that the UK could walk away from the negotiations with no deal, resulting in so-called 'Hard Brexit,' would prove devastating for workers in both Gibraltar and *Campo de Gibraltar*.

Liam Fox, the Secretary of State for International Trade is a known advocate for 'Hard Brexit', believing Britain should leave the EU entirely and negotiate a series of bilateral deals with other trading blocs, such as North America.

What is 'Hard Brexit'?

If the UK government does not succeed in negotiating a new trading relationship with the EU within two-years, it is expected that the rules of the World Trade Organisation (WTO) will become the default rules regulating cross channel trade⁶. This is known as 'Hard Brexit'.

What would happen?

Under WTO rules trading tariffs could be imposed between the EU and UK.

For example, for cars this could mean a 10% charge on exports to the EU and a 4% charge on imports to the UK. Other products, such as lamb and other foodstuffs, face tariffs as high as 12%.⁷

Unite's View: The UK government must prepare a negotiating position in consultation with trade unions, industry and the government of Gibraltar. This must include continuing unrestricted access to the Single Market with zero tariffs and commitments to retaining and extending employment rights.

The UK government must successfully conclude a deal that avoids any new trading barriers, such as costly tariffs, which threaten jobs.

For both Gibraltar and the UK it is crucial that 'Hard Brexit' is avoided. Unite utterly rejects Theresa May's mantra that "a bad deal is worse than no deal."

5: Professor David Bailey, Addressing Unite Manufacturing Combine, July 2016

6: Swati Dhingra and Thomas Sampson, Life after Brexit: What are the UK's options outside the European Union? London School of Economics, February 2016, URL

7: Gavin Thompson, Daniel Harari, The economic impact of EU membership on the UK, House of Commons Library, 17 September 2013, URL

Building Solidarity Across Borders: Gibraltar & Brexit

Defending Jobs, Investment and Workers' Rights

Economic Impact: Putting the Rock in a Hard Place

There is no doubt that the economy of Gibraltar has been transformed since joining the European Union in 1973. Historically 80% of Gibraltar's economy was dependent on the UK; 60% on the Royal Naval dockyard and 20% from UK tourism, mostly from family visits.

Yet, since the 1980's Gibraltar has built a modern, prosperous economy based on financial services, tourism, and the commercial port. Today Gibraltar has a gross domestic product of over £1.91 billion, making the Rock one of the most affluent places in the world in terms of GDP per capita.⁸

While Unite is continuing to campaign for a greater share of this prosperity for working people, there is no doubt that this economic success is due to the Rock's access to the Single Market and a supply of skilled workers from across the frontier. Hard Brexit would put this success at risk.

Imports across the Frontier: Gibraltar's Lifeline

As an economy reliant on services, Gibraltar is not a signatory to the Freedom of Movement for Goods. However, as the Gibraltar Chamber of Commerce reports, businesses bring over £174 million worth of goods and services from Spain each year; importing everything from cement to cat food.⁹ The United Kingdom remains Gibraltar's most important trading partner. Each day 18 heavy goods vehicles from major supermarkets travel from the UK to Gibraltar, bringing food and goods 1,300 miles from UK depots.

Gibraltar is outside of the Customs Union; however, if the UK were to also leave as a result of Hard Brexit the result would be additional border checks and barriers (including tariffs) for road haulage drivers crossing the English Channel, potentially jeopardising these imports.

Similarly any food stuffs or animal produce entering the EU must enter via an Approved Border Inspection Posts (BIP).¹⁰ Currently the only BIP between the UK and France is Dunkirk, which would be placed severely over capacity if it had to receive all such imports from the UK. If Gibraltar were to find itself outside of the EU entirely, or without agreed dispensation, such an inspection post would also have to be established on the frontier if it became an external border of the EU.

Passporting: Financial Services

Financial Services and Online Gaming are two of the most important sectors of the Gibraltar economy. Together, they contribute approximately 40% to GDP, employing over 6,000 jobs.

Gibraltar's financial services sector is reliant on 'passporting' of services into the EU. Through EU directives Gibraltar's licensed or authorised financial institutions can provide services throughout the EU and European Economic Area without having to seek separate licences or authorisation in the host Member State.¹¹ This arrangement would end in the event of Hard Brexit.

EU Funding

Gibraltar has also been a recipient of vital European funding, receiving over £60 million over 16 years.¹² This funding has supported infrastructure projects, environmental protections, and investment and support for local businesses. It is vital that such funding is either retained or replicated.

8: Brexit and Gibraltar, Financial Times, 2016, URL

9: Gibraltar: The history of an import-led marketplace, New Statesmen, 2015, URL

10: EU Approved Border Inspection Posts (BIP), URL

11: Gibraltar and the EEA, Financial Services Commission, URL

12: Supplementary written evidence – Government of Gibraltar (GLT0001), House of Lords Inquiry, 2016, URL

Building Solidarity Across Borders: Gibraltar & Brexit

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Case Study: The Port of Gibraltar

Alongside tourism and financial services the commercial port is Gibraltar's third economic pillar. Atop one of the world's busiest shipping lanes, Gibraltar is one of the largest ports of supply in the Mediterranean Sea.



Bunkering is the port's main activity. Bunkering is the internationally regulated practice of the provision of fuel to shipping fleets.

Gibraltar is the largest bunkering port in the Western Mediterranean, delivering approximately four million tonnes of fuel in 2016, a 500% increase since 1990.¹³

The Rock's bunkering facilities are a major pull of attraction for Mediterranean shipping, but the Port is not working in isolation. Over 30% of the bunker fuel supplied in Gibraltar is stored between San Roque and Algeciras, Spain, making the industry a prime example of cross-frontier collaboration.

The ability to continue servicing commercial fleets could be endangered by 'Hard Brexit' if the free access of port workers, access to stores, spares, provisions, crew members, and material across the frontier is impeded.

The port employs many Cross Frontier workers who sustain the large operational requirements of the companies servicing ships. Loss of this resource will reduce the attraction of Gibraltar to visiting ships.¹⁴

Uncertainty over restrictions to movement across the land border places this industry at risk and may drive investment to alternative ports.

13: Felicity Landon, 'Defending the Rock', Seatrade Maritime Review, Quarterly Issue 4, 2016, URL

14: Gibraltar Port Authority, Writing Evidence, EU Select Committee, 17 February 2017, URL

Building Solidarity Across Borders: Gibraltar & Brexit

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Campo de Gibraltar: Impact across the Border

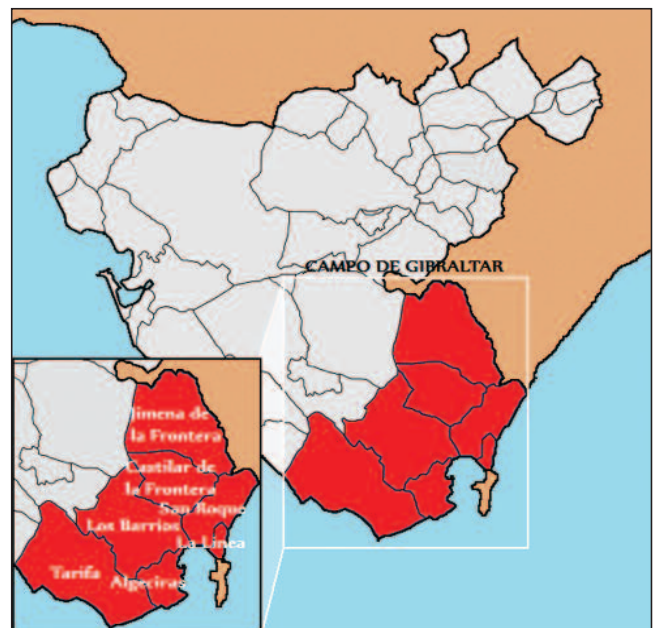
The majority of Gibraltar's imports come across the frontier. This is also true for the Rock's fuel supply which has an impact on vehicles and currently energy production, while all waste generated in Gibraltar is transported for processing in Spain.

The benefit of the frontier is far from one way. Gibraltar and the seven bordering municipalities of Spanish Andalucía, known as the *Campo de Gibraltar*, are economically intertwined. As many as 12,000 workers cross the frontier each day.¹⁵ For example, 26% of all Gibraltar's health and social care workers are frontier workers. (Similarly, over 50% of Gibraltar's health referrals go to Spanish health providers.)

The unemployment problem plaguing Andalucía makes this connection even more invaluable. La Linea, the closest city to Gibraltar, has one of the highest unemployment rates in Spain, approaching 35%.¹⁶ The Rock is a lifeline for business and workers across *Campo de Gibraltar's*, accounting for one in six jobs across the region.¹⁷ It is estimated that Gibraltar is the second largest employer for the entire *Campo de Gibraltar*, after the Junta de Andalucía, the regional Government.¹⁸

The economic lifeline these jobs provide to *Campo de Gibraltar* cannot be overestimated. The region's chamber of commerce reports that the region has an estimated GDP of 4.3 billion euros, a per capita income of about € 16,000.

The Cross Frontier Group, of which Unite, the UGT, CC.OO. and other trade unions are members, have expressed concerns that the Spanish government's continued restrictions on the border will hurt workers and businesses on both sides of the frontier. Analysis by the chamber of commerce shows:



Cross Border Relationship in Numbers:

- Gibraltar represents 11% jobs in the *Campo de Gibraltar* region
- In the average year Spaniards visiting Gibraltar spend 188.34 million euros, equivalent to 700.8 euros for each resident in the *Campo de Gibraltar*.
- Companies in Gibraltar imported 447.52 million euros in goods and services from Spain.
- Some 12,000 workers in Gibraltar reside in Spain, earning salaries worth over 243.44 million euros.
- Gibraltarians spent a combined 101.74 million euros on goods and services in the *Campo de Gibraltar* (Gibraltar residents spent 54.76 million euros and Gibraltarians with second homes in Spain pent 46.98 million euros). Equivalent to 3,179.38 euros for each Gibraltar national.¹⁹

15: Professor John Fletcher and Dr Chris Grocott., House of Lords, Select Committee on the European Union, 2017 URL

16: Ibid

17: Unions and employers from Spain and Gibraltar join forces to end border restrictions, Unite the Union, 2014 URL

18: Supplementary written evidence – Government of Gibraltar (GLT0001), House of Lords Inquiry, 2016, URL

19: An Economic impact study and analysis of the economies of Gibraltar and the Campo de Gibraltar Update, Gibraltar Chamber of Commerce, 2015 URL

Building Solidarity Across Borders: Gibraltar & Brexit

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Alternatives to EU Membership: The Status of Gibraltar

Both the British and Gibraltar economies will always be reliant on trading links with Europe. No referendum can alter geography. That said the form these links take can play a significant role in reshaping our economy and society.

Withdrawing from full membership of the European Union is taken to mean the leaving the political structures of Brussels, the legal jurisdiction of Luxembourg's courts and ending the UK's membership of the Single Market.

The priority is to identify an alternative which can allow the UK and Gibraltar to retain or replace the benefits of full membership, while mitigating any economic impact. Unite believes this can best be achieved by negotiating tariff-free access to the Single Market.

This is sometimes known as 'privileged access,' because while every nation can trade with the Single Market, those without a negotiated deal must pay tariffs on imports and exports. Achieving tariff-free access is simply a question of political will on both sides of the negotiating table.

The history of the European Union is littered with examples of unique and privileged access to the Single Market for the EU's geographic neighbours. This includes allowing the UK and Denmark to opt out of the monetary union; the unique trading relationships with Norway, Iceland, Liechtenstein, Greenland, Switzerland, Turkey and, temporarily, Croatia;²⁰ as well as the new trade deal between the European Union and the Ukraine.²¹

Gibraltar already represents such a unique arrangement, being neither a Crown Dependency like the Channel Islands, which are not members of the EU, or an Overseas Territory like Guadeloupe, which is treated as part of the Member State.²²

In contrast, when Gibraltar joined the European Union in 1973 it was as a '*European territory whose external relations a member state (the United Kingdom) is responsible.*'²³ So unique is this agreement that Gibraltar is outside of the Customs Union and is only signed up to three of the EU's supposedly indivisible 'four freedoms' – opting out of Freedom of Goods.

Clearly then, the precedents exist for a UK government with the political will and competency to achieve it to forge a new tariff-free trading relationship with the European Union which retains Gibraltar's unique arrangement.

Unite is clear that to achieve such an outcome the UK government must enter into the negotiations in the spirit of seeking a mutually beneficial deal. Instead the Tory government in London appears to treat the negotiations as a sum total game, a hostile approach which will only serves to make a good deal less likely.

For the United Kingdom the issue of Freedom of Movement of persons remains the most politically contentious issue to be negotiated. Unite has called for any immigration policy seeking to replace this Freedom to include safeguards to defend all workers from wage cutting, to end the exploitation of migrants and to include sectoral collective bargaining rights.

In the case of Gibraltar Freedom of Movement of persons is not politically contentious. Unite supports new safeguards for workers on both sides of the frontier and will work with Spanish trade unions to achieve them; however, it is clear that Freedom of Movement of persons must be retained and should not be a barrier to tariff-free access to the Single Market.

20: Croatia joins the EEA, EFTA, URL

21: Ukraine hails visa-free travel to European Union, BBC News, 2017, URL

22: Article 3(1) of Council Regulation 2913/92/EEC of 12 October 1992 establishing the Community Customs Code (as amended) (OJ L 302, 19.10.1992, p. 1-50) URL

23: Treaty No.187 - Protocol No. 13, Council of Europe, URL

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Achieving Special Status: The Precedent of Northern Ireland

As this document has made clear, Gibraltar already enjoys a special status within the European Union; a status which must be reaffirmed irrespective of Brexit. Such a precedent can also be set by the example of Northern Ireland, which has become one of the most complex issues of the negotiations.

Like Gibraltar, Northern Ireland has a land border with the European Union. However, unlike the Spanish frontier, the Irish border is entirely open as both Northern Ireland and the Republic remain part of the Common Travel Area.²⁴ There is a growing consensus in Northern Ireland that the region should be granted special status to avoid any return to a hard border, which would severely undermine the Good Friday Agreement.

The case for a special status is based on the precedents set by 'Overseas Countries and Territories,' which have a privileged relationship with the EU through a link to a full Member State. This includes Greenland which left the European Economic Community in the 1980's, but has retained a privileged trading relationship with the EU through the Member State of Denmark.

Following Brexit it is clear that Northern Ireland would retain an unbreakable link to a Member State, through both the Good Friday Agreement and the Common Travel Area, joint agreements which link Belfast and Dublin.

Such a precedent could similarly be applied to Gibraltar. While the Rock is inarguably sovereign it retains an economic interdependency with the Member State Spain. To establish such a link it would be possible to cite the Cordoba Agreement of 2006, which enshrines the need for free travel access across the frontier.

As David Liddington MP made clear while Minister for Europe, the UK government continues to view the Cordoba Agreement as an ongoing commitment to improving relations between the Rock and Spain.

*"The 2006 Cordoba Agreement was a positive step forward in improving relations between the Governments of the United Kingdom, Gibraltar and Spain in respect of Gibraltar. We stand by the commitments made under the Cordoba Agreement."*²⁵

It is also imperative to recognise the EU's formal adoption of Clause 24 which states: 'After the United Kingdom leaves the Union, no agreement between the EU and the United Kingdom may apply to Gibraltar without the agreement between the Kingdom of Spain and the United Kingdom.'

"It was the Conservative's pre-electoral approach to Brexit that demanded the same broad brush application of Brexit to all UK territories.

With the outright refusal of Theresa May's approach to Brexit by the British people in the 2017 General Election, her authority and mandate to pursue Brexit on these lines lies in tatters"

*Fred Martin
Unite Gibraltar Executive Secretary*

As the agreement which settles the new relationship between the UK and the EU will need to be ratified by all Member States, including Spain, it is vital that the UK does not conclude a deal which does not also benefit Gibraltar. Gibraltar must therefore secure a differentiated exit package which acknowledges the Rock's special status and protects the freedom of movement of people and services and access to the Single Market.

24: "Common Travel Area between Ireland and the United Kingdom," Citizens Information Board, 2011, URL

25: Supplementary written evidence – Government of Gibraltar (GLT0001), House of Lords inquiry, URL

Building Solidarity Across Borders: Gibraltar & Brexit

Defending Jobs, Investment and Workers' Rights

Solidarity across Borders: The Cross Frontier Group (CFG)

In 2013 the conservative Rajoy government in Madrid unilaterally increased restrictions on the frontier, causing disruption for workers on both sides of the border. In response Unite joined forces with the Spanish UGT and CC.OO. trade unions and the business community in both Gibraltar and the *Campo de Gibraltar* to form a campaign group to increase frontier fluidity in respects to people and goods.

In light of Brexit the Cross Frontier Group is now campaigning for an open border between Spain and Gibraltar to continue the movement of workers, tourists and trade.

To achieve this the Group is calling for the creation of a European Grouping of Territorial Cooperation (EGTG). This is a specially negotiated agreement at EU level to promote cooperation across national borders.

With such an agreement in place free of movement could be retained, benefiting both Gibraltar and the *Campo de Gibraltar* without interference by Madrid or London.

A delegation from the Cross Frontier Group travelled to Brussels in September 2016 to formally request such an arrangement should Brexit occur.

On the 26th October 2016 official support for the project was announced by Gibraltar's Government and by the Regional Government of Andalusia, on behalf of the *Campo de Gibraltar*.

"Through the Cross Frontier Group (CFG) the issue of sovereignty was put aside in the spirit of solidarity and co-dependency.

The CFG focuses on fluidity at the border, equitable creation and distribution of wealth across the two regions, and building cultural, sporting, scientific and educational ties between the two communities"

*Louis Gonzalez,
Unite Gibraltar chair*

"2013 showed us that politicians in neither London nor Madrid were able to help us keep the frontier open. Instead the task of building real cross border solidarity falls to the trade union movement. Unite is proud to work with both the CCOO and the UGT to benefit workers on both sides of the frontier."

*Michael Netto,
Gibraltar Area Committee chair*



The Cross Frontier Group lobbying the European Parliament

Building Solidarity Across Borders: Gibraltar & Brexit

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What is an EGTC? (European Groupings of Territorial Cooperation)

A European Grouping of Territorial Cooperation is a EU legal mechanism of cooperation between countries and authorities.

To date, 46 EGTCs have been created across Europe, covering 18 member states.²⁶ This ranges from co-owned universities and hospitals, to transport links across regions.

In order to create an EGTC, the project must include at least one member state, while any third country must be a direct neighbour of a member state. The partner countries must also adopt appropriate legislation to support the project.²⁷

It is clear that post-Brexit Gibraltar would constitute a neighbouring 'third country' which could enter into an EGTC with Spain to keep the frontier open.

Examples of EGTCs:

Examples of existing projects which set a precedent for Gibraltar includes the Archimed EGTC which seeks to link all the islands of the Mediterranean, including those of non-member states.²⁸

Similarly the Port of Rotterdam participates in the Rhine Alpine Corridor EGTC which ensures an unbroken transportation link between the Dutch gateway port through Belgium and Germany to the Italian city of Genoa.²⁹

Since the 2016 referendum politicians in Britain have talked about 'taking back control' from Brussels. Similarly in Madrid citizen-led community building has been at the heart of Spanish politics since the transition to democracy in the 1970's. The creation of an EGTC to foster stronger community ties between Gibraltar and its direct neighbours can overcome the spectre of sovereignty.

- The UK must support the Cross Frontier Group in establishing an EGTC between Gibraltar and the *Campo de Gibraltar*.
- Should Gibraltar leave the EU, the UK should push for an already existing or future EGTC between Gibraltar and the *Campo de Gibraltar* to enjoy the benefits afforded by the EU as if both participants were full members of the EU, as part of the UK's exit package.
- The UK must ensure that any changes or additions to an existing EGTC or creation of a new EGTC is not hampered by Spain or the EU.

26: European Grouping of Territorial Cooperation (EGTC), European Parliament, URL

27: Permanent structures of cross-border cooperation: European Groupings of Territorial Cooperation, Committee of the Regions, 2014, URL

28: Archimed (Mediterranean Archipelagus), European Grouping of Territorial Cooperation (EGTC), URL

29: Rhine-Alpine Corridor, European Grouping of Territorial Cooperation (EGTC), URL

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Defending Jobs, Investment and Workers' Rights



Workers Uniting: The Southern Inter-Regional Trade Union

The success of the Cross Frontier Group has demonstrated the importance of working together for the mutual benefit of Gibraltar and the wider region. For trade unions this was just the start of a broader partnership, leading to the launch of the Southern Inter-Regional Trade Union (IRTUC South) in July 2017.

The IRTUC South is organised on the principles of free, independent and democratic trade unionism, bringing together sister unions which work towards the self-emancipation of all workers.

The founding member trade unions of the IRTUC are Unite the Union, the Unión General de Trabajadores (UGT), Comisiones Obreras (CC.OO), and the Gibraltar Teachers Association / National Association of School Masters and Union of Women Teachers (GTA/NASUWT).

The IRTUC aims to promote inter-regional cooperation, develop solidarity between workers in the region and analyse the economic, social and cultural problems facing our members.

The IRTUC will be led by a newly established General Assembly and an Executive Committee, chaired by a presidency and a vice-presidency who will serve for a 2-year mandate. The presidency will be taken in turn by a representative from each member organisation.

"The newly launched IRTUC is the result of hard work by dedicated representatives on both sides of the frontier. Its foundation comes with a solemn promise from all member trade unions: we will not allow Brexit to divide our movement.

No matter how difficult the problems we face, we will always find the solution by returning to the values which shaped and sustained our movements in Spain, Gibraltar and the UK, solidarity, cooperation and democracy. Unite is proud to work with our brother and sister unions to put those values into action."

Len McCluskey, Unite General Secretary

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Member Unions of the IRTUC South



Unite the Union

Unite is the largest trade union in both the UK and Gibraltar. The union's 5,000 members in Gibraltar work across all sectors of the economy, from finance to the Ministry of Defence and the Commercial Port. In the UK Unite organises 1.4 million members and is led by General Secretary Len McCluskey



Unión General de Trabajadores (UGT)

The Unión General de Trabajadores is the oldest trade union in Spain, with a history of organising workers that stretches back to 1888. One of the two largest unions in Spain, the UGT organises industrial, professional and service workers across the country and is led by General Secretary Pepe Álvarez.



Comisiones Obreras (CC.OO)

Comisiones Obreras traces its history to the fight for Spanish democracy in the 1960's. Today the CC.OO is one of the largest trade unions in Spain, with over one million members. In the Andalucía region the CC.OO organises workers across services, health care, construction teaching and heavy industry. The CC.OO is led by General Secretary Ignacio Fernández Toxo.



The Gibraltar Teachers Association / National Association of School Masters and Union of Women Teachers (GTA/NASUWT)

NASUWT is the only teaching union providing support to over 500 members in Gibraltar, protecting their pay and conditions. The NASUWT is led by General Secretary Chris Keates.

www.unitetheunion.org/gibraltar

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An Industrial Strategy for Gibraltar

Negotiating a just settlement between the UK and the European Union must be just the first part of the Brexit process. A long-term strategy of investment and job creation is needed to fully mitigate the economic impact. It is vital for Gibraltar's future that trade union values – secure jobs, decent pay and a strong collective voice for workers' – are at the heart of this strategy. In the immediate term Unite demands:

- Keeping the frontier open between Spain and Gibraltar
- Preventing any new tariff or non-tariff barriers on imports into Gibraltar
- Retaining 'passporting rights' for Gibraltar's financial services
- The retention and strengthening of all workers' rights underpinned by EU laws
- A social contract to ensure that pay deals rise to compensate workers for the inflationary spike likely to arise in 2016-2017 from the devaluation of sterling; workers should not have to pay the price for Brexit.
- For the UK government to work in partnership with the government of Gibraltar, trade unions and industry to support an industrial strategy based on investment and skilled jobs

Defending Workers' rights:

Unite is deeply concerned that the working rights, social and environmental protections underpinned by European Union law will be put at risk by Brexit. Unite calls for the 'grandfathering' of all workers' rights underpinned by EU law into UK and Gibraltar law at the point of Brexit.

Such rights must be protected by more than a simple parliamentary majority to legislate against them. In the UK Unite has recommended that the same parliamentary approach is adopted as the Coalition Government when proposing the Fixed Term Parliament Act 2011, meaning that a two-thirds majority of Parliament would be required to abolish any workers' rights legislation.

Unite sees existing EU law as the minimum standard of protections, many of which must be significantly improved. For example, Unite calls for an end to the so-called 'Swedish Derogation' which presents employers and agencies with a loophole to exploit agency workers. The loopholes caused by the Viking, Laval, Ruffert legal cases must also be addressed.

In the Viking and Laval cases, the European Court of Justice (ECJ) ruled that the right of transport workers to take industrial action constitutes a restriction of the freedom of movement by impacting cross-border services. Unite notes that this case, which involved a Baltic ferry operator, was used by Southern Rail in legal action against strike action by railway workers.³⁰

In the Laval case, the ECJ ruled that industrial action is in breach of the freedom to provide services if it is aimed at imposing terms and conditions on foreign undertakings which go beyond the minimum established by national law.

Similarly, in the Ruffert case, the ECJ ruling restricts the scope of social clauses in public procurement contracts to labour standards established by law or universally applicable collective agreements. In both the Laval and the Ruffert cases, the ECJ refers to Directive 96/71 on the posting of workers, according to Article 3, 'only terms and conditions established by law, or by universally accepted collective agreements, apply to posted workers'.

Outside the EU unions must continue to oppose these detrimental decisions and to enhance the UK and Gibraltar's employment rights framework to promote collective bargaining and stronger employment laws.

30: Southern to argue strikes go against EU free-movement rights, Financial Times, 2 December 2016, URL

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Case Study: Gibraltar and the Ministry of Defence

The Ministry of Defence remains a major employer in Gibraltar and the uncertainty of Brexit must mean that the UK government reconsiders any planned cuts to investment. The MOD must play its part in sustaining stable employment on the Rock.

"The British Government through the MOD needs to put a stop to ongoing austerity measures and invest in its workforce and capabilities in Gibraltar."

*Christian Duo,
Branch Coordinating Official
(Gibraltar)*

It's no secret that the Ministry of Defence has been using voluntary retirement schemes in Gibraltar to downsize operations. It remains an open question as to how these cuts in Gibraltar will affect the UK's capability to act in this particularly sensitive area of the world, and to what extent will Britain be able to fulfil its constitutional responsibilities for Gibraltar's defence.

The last two Strategic Defence and Security Reviews made several cuts to personnel (Military and Civil Servants) and to capabilities across all three main UK scenarios. Unite has consistently highlighted the fact that many positions currently occupied by UK Based Civilians could be instead carried out by the Locally Entered Civilians, decreasing the Ministry of Defence's financial outlay and contributing further to the Gibraltar economy. This would make a significant savings to the UK Treasury, by avoiding payments for housing, relocation services, baggage expenses, medical and dental services, overseas allowances, etc.

The UK government, via the MOD and other departments, must commit to new investment in infrastructure and job creation in Gibraltar to replace EU funding and mitigate the uncertainty caused by Brexit.



Building Solidarity Across Borders: Gibraltar & Brexit

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Brexit Check: The Impact in the Workplace

Our strength as a trade union comes from our organisation in the workplace. It is vital that we use this strength to protect our members from the possible impact of Brexit at work.

Unite is reliant on our extensive network of shop stewards and workplace reps to monitor the impact of Brexit across all of our sectors, regions and countries. This may include employers who are exploiting the uncertainty; for example by blaming Brexit when withholding holiday pay, blocking union reps from attending meetings, or when trying to justify job losses or low pay offers.

Already several large companies have made statements about future investment decisions. Unite is demanding that the UK government end the uncertainty by stating that guaranteed tariff-free access to the Single Market for the UK and Gibraltar will be a red line in the negotiations.

Similarly, Unite is demanding that all workers' rights, health and safety standards and consultation rights which are underpinned by EU law are retained in UK law when Brexit takes effect.

- If you sit on a European Works Councils or Social Dialogue project you cannot be excluded while the UK and Gibraltar remain within the EU.
- Employers cannot opt out of EU legal rulings, such as the ruling protecting holiday pay, which remain in effect.
- Employers cannot claim that legislation such as the Working Time Directive, the Agency Worker Directive or the Driving Hours Directive no longer applies to UK workers.

"Nobody knows how long the Brexit negotiations will take or what the outcome will be. One thing is certain – Unite will defend our members. Together we will campaign to protect jobs, pay, and conditions. Working people must not be forced to pay the price."

*Len McCluskey,
Unite General Secretary*

Is your employer using Brexit to attack terms and conditions?

Brexit Check

Let Unite know so we can protect working people
www.unitebrexitcheck.org/contact-us

As the UK and Gibraltar prepare to leave the European Union it is vital that we make sure our members' voices are heard.

Is your employer using Brexit to attack terms and conditions?
Contact Unite's dedicated Brexit team by visiting:
www.unitebrexitcheck.org

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Unite's Ten Point Plan for Gibraltar

It is vitally important that the unique status of Gibraltar is recognised and that a just settlement of the Brexit negotiations includes continued access to the Single Market and a border that is fluid and free of unnecessary restrictions.

1. Special Status for Gibraltar

Gibraltar must retain all current benefits that it currently needs to sustain and develop its local economy as part of its exit package.

2. Access to the Single Market

It must be a negotiating priority to avoid any new tariffs or non-tariff barriers which could restrict imports and exports for Gibraltar.

3. Keep the Frontier Open

Gibraltar relies on the thousands of workers who cross the frontier from Spain each day. This vital lifeline, which sustains Gibraltar investment in the Campo area, benefits both Gibraltar and Andalucía and must not be subject to new barriers or controls.

4. Defending Workers' Rights

Hard earned working rights, social and environmental protections underpinned by EU law must be retained in UK and Gibraltar law at the point of Brexit.

5. Solidarity across the Frontier

Unite pledges to work in solidarity with our sister trade unions in Spain, the UGT and CC.OO, to strengthen our members' collective voice on both sides of the frontier. Our voice will be heard in Madrid, London and Brussels.

6. An Investment Strategy for Gibraltar

The Government of Gibraltar must work in partnership with trade unions and industry to create a forum that helps give direction to the Gibraltar economy given the present and future Brexit circumstances.

7. No cuts at the Ministry of Defence

The UK government must stop the using voluntary retirement schemes as a stealth measure to cut back the MOD presence in Gibraltar. Unite opposes all such cuts and calls for new investment to create jobs and restore certainty.

8. Commercial Port

Jobs must be protected at the Commercial Port by ensuring that provisions, fuels and crews can continue to cross the frontier without impediment. The Port must be able to work collaboratively with other ports in neighbouring towns for the benefit of all regions.

9. Passporting Access to Europe

Gibraltar's thriving financial and online businesses must continue to have passporting rights into the UK and Single Market.

10. Retaining EU Funding

Vital European Union funding for Gibraltar's infrastructure, environmental projects and small businesses must be retained or replaced.

Appendix: Executive Council Statement: The European Union

Unite campaigned strongly for Britain to stay in the EU as being in the best interests overall of the union's membership, particularly in terms of job security and workers' rights. The union places on record its thanks to all activists and employees who worked hard for a 'remain' vote in the referendum.

We recognise the concerns felt by many Unite members and millions of other working people expressed in the referendum- over austerity, over their sense of powerlessness and over the abuse of the free movement of labour, amongst other issues. The referendum result was as much a rebuke to an out-of-touch political and economic elite as it was about the EU itself. However, those who led the "Leave" campaign clearly have no idea as to how to give effect to its result or cope with the economic consequences of the decision.

The people of Scotland, Northern Ireland and Gibraltar voted clearly to remain in the European Union, and we support efforts to address the specific issues arising from "Brexit" in those countries.

We believe that it is vital that there is no rush to trigger Article 50, and that the terms of "Brexit" reflect trade union input and trade union values. Working people must not pay the price for "Brexit".

We would oppose a "Brexit" that reduces trade union rights, excludes Britain from the EU Single Market and fails to deal fairly with the difficult issue of the free movement of labour, which requires further debate in the trade union movement. We further need to ensure that the British and Irish governments do not launch a race-to-the-bottom in terms of social protection, workers' rights, and corporate tax - and do not allow multi-national capital to play one government off against the other.

Unite will focus on three over-riding priorities in the immediate situation:

1. The defence of Unite members' jobs, which might be threatened by the UK's exit from the European Union and its single market. This represents a particular threat in our manufacturing and finance sectors and across the public services. We must be ready to work constructively with employers and government to confront any job losses arising.
2. The protection of those employment rights which depended on legislation or initiatives at the European Union level. It would be a betrayal of working people; however they voted, for any rights to be stripped from them by the Conservative government. We will work alongside the TUC and others to ensure that 'Brexit' is not carried through at the expense of workers' rights.
3. Opposing the racist backlash unleashed by the 'leave' vote and standing in solidarity with all peoples and communities threatened by abuse and violence from the far right. The upsurge in such racism is the responsibility of those Tory and UKIP politicians who conducted the "Leave" campaign in such disgraceful terms. We must highlight that the real responsibility for poor housing and a lack of decent jobs rests with the government, and not with migrant workers. We support the right of all EU nationals living and working in the U.K. to remain here.

Unite will also work to strengthen its links with trade unions across Europe and with the ETUC in the fight against austerity and for social rights. We will never turn our back on our brothers and sisters abroad and remain fully committed to the international trade union movement. As a first step towards uniting working people of all nationalities, Unite will campaign for the Labour party to organise a Europe-wide conference of trade union supported workers' political parties, trade unions and left social movements with the aim of constructing a programme for a Europe fit for working people.

Working people must be given the chance to choose their path out of the crisis. This will demand new policy responses, not least to the deprivation and alienation caused by six years of austerity and thirty years of deindustrialisation, and we look to Labour to give a lead on meeting those challenges in the interests of working people.

Appendix II: Unite Gibraltar's Skill and Training Proposal

To implement an Apprenticeship programme precisely as per UK regulated and controlled model for new fully compliant, employer designed. This works on the premise that Employers fund a minimal amount of training cost and the Government adds funds to a pre-ordained maximum set by UK funding body the SFA appropriate for the level of the qualification with the training provider charging a competitive fee to win the business, the market therefore setting the price of training to ensure built in value.

To fund UK travel and accommodation for block release teaching of technical skills for predominantly but not necessarily exclusively level 3 Advanced Apprenticeships from the "Employer incentive" elements of the UK funding model for any type of training where a real requirement for work exists or a skills gap is identified or key local skills need to be retained prior to retirements. This all takes place within a short distance from current serviced UK airports; Gatwick, Birmingham, Manchester or Bristol.

To embed funded training into a requirement for tendering for public procurement works for example a quota of 2 trainees and 1 apprentice per £1,000,000 of work tendered to be considered

To form with a single guidance point at both ends, a consortium of eligible providers covering the range of identified courses who can deliver assessment in Gibraltar based on the following criteria;

- 1) Ability to run block release programmes where in fill can be planned in advance.
- 2) Ofsted grade (1 or 2 ideally).
- 3) Quality success rate data for a particular provision above the national average for a particular programme to ensure a high quality experience and value for money.
- 4) Run an electronic portfolio and virtual learning environment to make distance learning an easy and pleasant experience in line with forward looking requirements for using technology in the learning environment in line with Further Education Learning Technology Action Group recommendations.

To create a single on line initial assessment to ensure learners for all Training providers have a common known start point and diagnostic for learning styles, colour vision if required and CV for checking experience and motivation.

To embed a Traineeship pre apprenticeship programme locally based on the UK Traineeship programme to ensure work readiness, commitment and suitability for employability and entering a high value/high commitment programme, delivered from Gibraltar to ensure employers are getting candidates with the ability to complete and supporting the local College to develop this.

All Maths and English functional skills to be delivered by a single provider to all frameworks where both Maths and English qualification may be below a GCSE C or above equivalent ensuring required productivity and common approach using technology and local staff is embedded into programmes.

An employer/Learner /Government/training provider portal is created ensuring total visibility of tracking progress and key documentation for administration.

The Learner Journey process should follow a path as near as follows wherever possible;

1. Learners identified Pre School leaving at yr 10-11 or 12-13 wishing to enter the world of work whilst gaining skills and with an appetite to continue learning through apprenticeship levels potentially progressing to University whilst working if the correct commitment and ability is shown.
2. Single On line Initial assessment for learners to ensure ability to complete a programme and give a consistent approach to recruitment on to all programmes.
3. Vetting of Employers by Training Providers to ensure all insurances and full compliance takes place

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by IOSH trained Staff when face to face and visiting sites etc., all non-compliance corrected before learners are introduced to employers. This also ensures employers have the ability to meet the exacting range requirement of the full qualification and not just a small part of it for a complete learning experience.

4. Post leaving School, learners are identified by employers as showing potential after suitable work trail and pre placement vetting for Health and Safety.
5. Traineeship or extended work trail to ensure good employer/learner fit.
6. Training providers contacted to reserve space on UK block programmes to ensure learners have a place on programme once identified and confirmed as appropriate for funding.
7. Learners are reviewed when in UK and employers contacted during reviews via on line communication to ensure compliance with target setting and correctly acquired professional behaviours etc.
8. Assessors visit Gibraltar to assess work submitted via E-portfolio or electronic platform to check compliance and assess competence at the point competence is claimed by learners every 12 weeks or 6 months depending on competences being claimed. Employer relations and expectations as well as mentoring are managed along the way by providers.
9. Progress, exams, attendance, College reports, reviews and schemes of work/attendance schedules are posted on a common portal for all concerned to monitor and manage progress including flight booking and progress against aims is on track at all times.
10. Full framework claimed and certificated on completion by providers.

This is by no means exhaustive list.

Gillian Birkett

Unite would like to thank:

UGT Andalucía

Confederación Sindical de Comisiones Obreras: CCOO: Gibraltar Teachers Association / National Association of School Masters and Union of Women Teachers (GTA/NASUWT)

Unite International Department

Unite Research Department

For more news, analysis and sectoral information about Brexit visit:

www.UniteBrexitcheck.org

The following strategy documents are available online:

Brexit on our Terms: Unite Strategy to Defend Manufacturing

Unite the Union, Ireland Region: Unite Strategy to Defend Jobs, Investment & Employment Rights

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