



Our Place in Europe

words | Ian Le Breton

I concluded last month's piece by promising something a little more seasonal. By that I meant that thoughts are now turning to the summer and any plans we may have for the warmer, longer days ahead.

Slightly jumping the gun I have already taken my own break — well five days of it anyway — and it was on the plane home to Gibraltar that I overheard an interesting conversation. Now please don't get the idea I go around deliberately eavesdropping, but when two City types in suits talk loudly about our Rock, what is one to do?

"So," said the first chap, "is this your first time to the Rock?" "No," responded his colleague. "Apart from everything else it's the best duty free in the world and I always get cheap fags and a bottle. But it is confusing. Last time I could only take 200 ciggies back with me and I thought Gib was meant to be in the EU?" "Well yes," came the reply. "Sort of."

Sort of? I know that if I responded to a straightforward question from my superiors with "sort of", I'd sort of probably be out of

the door before too long. But I forgave them after I had conducted a swift straw poll back at the office and discovered that there is indeed some confusion as to our position in the EU — and that's among people who live and

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work on the Rock. No better subject then, I thought, than our relationship with Brussels for my next article.

So let's start with a clear answer. Yes, Gibraltar is part of the EU — and has been since 1973. So why is there all the confusion? Time for a short history lesson.

The EU as we know it today began life back in the 1950s as an initiative from the European Coal and Steel Community. The 1957 Treaty of Rome, signed by the original six member states, established the European Economic Community (EEC) — more colloquially known as the Common Market. The UK wasn't party to the original agreement and throughout the 1960s any question of her joining was vetoed by then French President General Charles de Gaulle. *Plus ça change*. Eventually the UK was admitted to the expanded bloc in 1973 and,

significantly for us, Gibraltar was included. The Channel Islands and the Isle of Man were not and this situation pertains to this day. From our standpoint, this leads to enormous advantages. A little more history follows, but just *un soupçon* — I promise.

In the 40 years since we joined up, a series of treaties has seen the 1973 group of nine countries expand. For example, Spain and Portugal joined in 1986 — i.e. 13 years after Gibraltar. The most significant enlargement occurred in 2004 when 10 countries including Cyprus and Malta together with several states that had spent decades under the Soviet yoke joined. Still more expansion has been seen since, the latest entrant being Croatia in July 2013 so that fully 28 separate states today form what has become known as the European Union — or EU. The EU's statistical office, Eurostat, estimated the population in January 2013 to be 505.7 million and the land area in excess of 4.3m km².

Enough of the history. Let's turn to Gibraltar's membership and examine our special status. Whilst there are those who would like the present union to morph into a "United States of Europe", for most that is still a step too far; indeed some countries, including the UK, are questioning their own future within the bloc. This article would run to several pages if I started down that road so let us focus on our position as EU members today.

The EU's single market provides for the free movement of goods, services, people and capital. In order to achieve such lofty goals, an extensive harmonisation of law and economic integration has been necessary and this continues to develop. Of course the accompanying loss of political sovereignty is often cited by opponents to the ever increasing ties within the Union.

To appreciate the special status that Gibraltar enjoys, one need only compare it to the other 13 British Overseas Territories — a list that includes competing international finance centres such as the BVI, Cayman Islands, Bermuda and Turks & Caicos. Excluding Britain's sovereign bases in Cyprus, all were granted full British citizenship by the British Overseas Territories Act 2002 and are therefore citizens of the European Union, but they are not part of the EU and EU law does not apply.

A special article in the EU Treaty applies to Gibraltar — for the lawyers among you, it's number 355(3), which replaced Article 299(4) in the original Treaty of Rome. It defines and then applies treaty provisions to "the European territories for whose external relations a Member State is responsible". In practice this applies only to Gibraltar. Gibraltarians are considered for the purposes of Community law to be British nationals and, since 2004, have been entitled to vote in elections to the European Parliament. Last month, we went to the polls again as part of the UK's South West England constituency.

The Gibraltar government and parliament is responsible for the transposition of EU law into local law but international relations remain the responsibility of the UK government. Any disputes (perhaps with our closest neighbour) can end up in court at EU level where our interests are defended by our MEP and those UK government ministers and officials responsible for EU co-operation.

Gibraltar benefits enormously from this



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special form of membership; which leads us back to the besuited City chap on my airplane. Although an EU member, Gibraltar is outside the customs union — meaning goods must be declared and where applicable, duty paid — whether entering or leaving Spain using the land frontier or of course when travelling to or from Gibraltar by air or sea. Neither is Gibraltar part of the VAT area — meaning a lot less paperwork and cost for local businesses compared to their counterparts in other EU states — nor does Gibraltar form part of the Schengen

Area. Finally, the Common Agricultural Policy does not apply to Gibraltar — after all there's not much scope for farming on the Rock.

Interestingly, it was announced on Europe Day 2014 (9th May for those of you unfamiliar with the celebration) that a consultation process is to be initiated that will consider potential membership of both the Customs Union and Schengen. Both would bring tangible economic benefits but there would be a cost, both financially and politically, so watch this space. It is another example of the ongoing development of the EU and this trend is unlikely to change any time soon.

As to the specific advantages enjoyed by Gibraltar businesses as result of our membership, access is available to European markets in the same way as in all 28 member states. Given a robust regulatory framework that I have discussed in recent columns, financial services providers are able to "passport" their services across the EU. As regular readers will know, Gibraltar is seeing growth in a wide range of financial service areas including insurance/re-insurance, captives, fund administration/management and other investment services. EU recognised structures such as Experienced Investor Funds (EIFs) and Protected Cell Companies (PCC) enhance our appeal to the international finance community.

"Passporting" of financial services simply means that locally authorised firms can provide their services in other EU states without the need for separate authorisation in those other countries. Firms regulated here by the Financial Services Commission in the banking, investment and insurance industries are able to do this by way of a straightforward notification process. This is hugely beneficial to Gibraltar-based firms because it expands their potential customer base from 30,000 Gibraltarians to over 500 million EU inhabitants, or 7.3% of the world population.

I have to avoid straying into politics in these columns but I can say this: to all those who doubt the value of the EU and would have the UK leave the bloc, do come and visit Gibraltar and consider the advantages membership affords our financial sector in particular. Many hundreds, perhaps thousands, of local jobs depend on our special status within the EU and long may that continue.

I mentioned above the consultation announced in early May relating to Schengen and the Customs Union. It is good to have those debates but we should weigh up the advantages against the costs very carefully. Personally speaking, I am proud to be a British citizen of the EU for I see its benefits here. In fact I might describe myself as being most "communauteaire". ■



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