

*Fabio De Masi, Member of European Parliament
DIE LINKE – Gauche Unitaire Européenne/Nordic Green Left (GUE/NGL)*

Committee on Economic and Monetary Affairs (Member) | Committee on Transport and Tourism (Substitute)
EU-South Africa Interparliamentary Delegation (Member) | EU-India Interparliamentary Delegation (Substitute)

Fabio De Masi - European Parliament - Rue Wiertz 60 - WIB 03M031 - 1047 Brussels

Sir Graham Watson
H.M. Government of Gibraltar
Representation to the European Union
Gibraltar House
17 Square Ambiorix
1000-Brussels
Belgium

Brussels 14 September 2015

Dear Honourable Mr Watson,

I thank you for your letter dated 09 September 2015 concerning my remarks in the European Parliament's special committee on tax rulings and other measures similar in nature or effect as well as your detailed explanations of the Government of Gibraltar's position hereon.

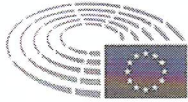
I appreciate the cooperation and initiative that the Gibraltar authorities exhibited with regard to our special committee. Given your background as a former Member of European Parliament, you are certainly aware of the importance of Member States' and jurisdictions' full cooperation with the TAXE committee.

If I understand correctly, you are active with the public affairs company Bagehot Ltd. and you were hired as an external consultant to "lead and direct the lobbying activities of the Government in the EU capital which includes advising and guiding the Government in connection with the implementation of strategies for the promotion of Gibraltar's interests within the European Union"¹.

Hence, you possess the necessary background to understand the sensitivity of the public when it comes to lobbying efforts towards elected representatives of the European Parliament. I am member of the Parliament's Intergroup on integrity, transparency, corruption and organised crime working for high standards and accountability of the public domain.

Responding the specific complaints expressed in your letter, I trust you understand that the remarks I made in TAXE did not imply that there was no formal cooperation between your officials and the European Parliament, like in the case of numerous Member States and multinational corporations, as you rightly say in your letter. I am however not entirely in line with your view of full and exemplary cooperation either.

¹ <http://corporateeurope.org/revolvingdoorwatch/cases/graham-watson>



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You state that Gibraltar has complied with all the information requests from TAXE. We note however that Gibraltar has not shared any information regarding the names of companies that have received tax rulings, based on the justification that this information is confidential and that TAXE is not obligated to keep information received confidential according to its mandate. While we naturally respect Gibraltar's laws, we do not share your assessment as to the Government's compliance to our information request, given that this information could have helped our investigation, and seeing that TAXE would have taken measures to ensure the confidentiality of this information, should you have chosen to share it with the committee.

In the comments you quote, I did refer, in any case, mostly to the invitation extended by Gibraltar's Government to the assistants of TAXE MEPs in June, which in my view has a similar connotation as the invitation by IKEA that I mentioned, too. While I understand Gibraltar's wish and right to raise interest among the public for Gibraltar's unique position as well as its policy priorities, I and several colleagues in TAXE felt, after receiving the invitation email that this form of lobbying was beyond the acceptable.

It is certainly important that our hard working assistants get to enjoy the beauty of nature outside our Parliament's premises and it is an expression of hospitality to offer guests the opportunity to learn about the cultural heritage of Europe's regions. Nevertheless, I found the format of the invitation to our assistants, offering "to visit the Rocks and unique tourist attractions of Gibraltar", was inappropriate given the duties of the European Parliament to shed light on the systematic tax dodging practices within the EU. We may agree to disagree.

As regards tax policy, I was indeed part of the meeting with the Chief Minister in May, which unfortunately could not take the form of a full committee session. Despite the availability of the Chief Minister to answer our questions promptly, I was, admittedly and like in fact several fellow MEPs, not entirely convinced of his arguments concerning the entirely unproblematic nature of Gibraltar's tax policies. I am glad to be able to take up the opportunity to restate some elements of that conversation which I had not the feeling of having found an entirely satisfying answer to yet.

In the Government's response (annex 1 HMGoG Finance Centre Briefing Note), you highlight that "by every reasonable measures, Gibraltar has long been at the forefront of anti-money laundering practices" (p.2). Yet, as discussed in the TAXE hearings through my and other MEP's questions, a key concern is that other tax administrations have complained of the negative role that shell companies incorporated in Gibraltar play in money laundering cases and the extensive scale of such cases being involved in dodgy or outright illegal activities abroad. At the TAXE hearing we heard that Gibraltar intends to "be at the forefront" of the transposition of the fourth AML Directive (AMLD IV) and that "a central register of beneficial of the ultimate beneficial owners will be made available to the relevant authorities". Asked directly if Gibraltar intended to make the register fully public the response was that the government intended to follow the minimum requirements of AMLD IV and grant access only to those members of the public who can demonstrate a legitimate interest. In our opinion such a stance is difficult to reconcile with a government that claims to be at the forefront of money-laundering. Other member states such as the UK, Denmark and Slovenia all have plans to go beyond the AMLD IV and adopt fully public registers, which was also the recommendation from the European Parliament. In relation to that we would like to ask why the government of Gibraltar has decided against making their register

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fully public. And relatedly, as AMLD IV does not define who will be granted access based on the legitimate interest criteria, we would be interested to know how the government of Gibraltar intends to define this, and particularly which categories of individuals or organisations the government wishes to deny access to the register.

Lastly, let me say that I find it concerning that whenever someone dares to even hint at the possibility that Gibraltar has tax practices to be considered as aggressive or harmful, this is not only promptly denied, but at times even met with legal actions for those who bring up such criticism, as is the case of a Spanish newspaper that we have been informed is being sued for defamation by the Government of Gibraltar. We would like to stress that we have to be able to have an open and frank debate about the tax practices of member states, and that when we see a jurisdiction that offers the lowest corporate income tax in the EU (together with Bulgaria), does not tax capital gains, does not apply withholding tax, that seeks to attract high-net worth individuals through favourable tax treatment, and at the same time allows for extremely favourable regulation of both limited liability companies and trusts that allow non-residents to get away with hardly paying any taxes through these corporate vehicles - then we reserve the right to be critical.

Yours sincerely,

Fabio De Masi

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