

Exiting the European Union Committee

Oral evidence: The progress of the UK's negotiations on EU withdrawal, HC 372

Tuesday 24 July 2018

Ordered by the House of Commons to be published on 24 July 2018.

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Members present: Hilary Benn (Chair); Mr Peter Bone; Joanna Cherry; Stephen Crabb; Mr Jonathan Djanogly; Richard Graham; Peter Grant; Wera Hobhouse; Stephen Kinnock; Jeremy Lefroy; Mr Pat McFadden; Craig Mackinlay; Seema Malhotra; Mr Jacob Rees-Mogg; Stephen Timms; Mr John Whittingdale; Sammy Wilson.

Questions 2383-2536

Witnesses

I: Rt Hon. Dominic Raab MP, Secretary of State for Exiting the European Union, and Oliver Robbins, Prime Minister's Europe Advisor, Cabinet Office.

Examination of witnesses

Witnesses: Rt Hon. Dominic Raab MP and Oliver Robbins.

Q2383 Chair: May I begin by welcoming the right hon. Dominic Raab, the Secretary of State for Exiting the European Union, and Olly Robbins, who is the Prime Minister's Europe adviser? You are both very welcome. As a former member of this Select Committee, Mr Raab, it is really good to have you back in your new role. It shows that there is hope for us all.

As ever, we have a lot of ground to cover, so succinct answers, please. Can I begin, Secretary of State, by asking you to clarify something that you said on "Marr" on Sunday? You were asked about the IMF's warning that the UK would suffer a much bigger economic hit from a no deal Brexit than the rest of the EU, which mirrors the Government's own exit analysis. In reply, you referred—according to the transcript—to a Bank of England analysis that showed that "it would in a material way...be worse for the EU side." Could you just tell us which economic study were you referring to of the Bank of England?

Dominic Raab: I am very happy to send you a copy of it. It was in relation to material aspects that I think it had pointed to the disproportionate impact that it might have on the EU side. From memory, it was in relation to financial services, but I am very happy to send the Committee details of that.

Q2384 Chair: Was that study particularly about derivatives?

Dominic Raab: I would need to go and check again.

Q2385 Chair: Right. I understand there had been some clarification—I don't know whether it was by the DExEU press office—that it referred to derivatives. I am just trying to make sure that, when you said that it could be worse for the EU, that was in fact only referring to one small area. The Government's own exit analysis and the IMF report that has just come out make it very clear that the hit is much bigger for the UK than for the rest of the EU. Is that your understanding of what those two bits of work have shown?

Dominic Raab: I was making the broader point that there have been all sorts of different analyses of different aspects, and they come to different conclusions depending on the particular sector, but we are focused overwhelmingly on getting the best deal for the UK with the EU, at the same time as doing the necessary contingency planning for no deal.

Q2386 Chair: Mr Robbins, did you want to add something?

Oliver Robbins *indicated dissent.*

Q2387 Chair: Fine. Moving on, your predecessor promised us in April that he would let us have the results of the Northern Ireland north-south co-operation mapping exercise. It is a very simple question: when are we going to get it?



HOUSE OF COMMONS

Dominic Raab: I need to take a look at that. I don't think that we are in a position to give it to you straight away, but hopefully shortly.

Q2388 **Chair:** I think that is probably what he promised back in April, but we hope it is a shorter "shortly" this time than it was last time. Are there any areas of that trade and cross-border activity that would not be covered by the common rulebook on goods and agri-food?

Dominic Raab: If I have understood the question correctly, it is about whether there are any aspects of—

Q2389 **Chair:** Of cross-border activity, because this mapping has covered 130 to 140 areas.

Dominic Raab: I would need to check. I'm sorry.

Q2390 **Chair:** Right. Since then you have announced that there is going to be a common rulebook on goods and agri-food. I am just trying to understand whether that would cover all of the areas mapped, or are there some that would not be covered by that?

Dominic Raab: I think I would need to check in order to give you an accurate appraisal of that.

Q2391 **Chair:** Fine—if you could do that, that would be very helpful. The Government decided in the White Paper not to have a common rulebook on services, and we took evidence, as I am sure you are aware, this morning from the City, broadcasting, insurance and tech sectors, and they told us what they think it will mean.

My question to you is, what assessments or studies have been undertaken by the Government on the economic impact of the decision not to have a common rulebook? In reaching that decision, did you do any assessment of the economic impact of not having a common rulebook for services on banking and finance? Yes or no—that is really the question.

Dominic Raab: I would have to look at the empirical analysis. Obviously we have taken a whole lot of considerations into account, including the direct representations made, and the evidence available to us. I would need to check is the short answer, given the time I have been in place.

Q2392 **Chair:** So you are not aware that the Government have done some economic assessment of the impact on banking and finance of no common rulebook on services?

Dominic Raab: The analysis of the Department, and indeed Whitehall, is ongoing and fluid, as you can imagine, because we are constantly trying to make sure that we have the strongest evidence base, but I would need to check in relation to the bespoke and particular question that you are putting to us. You will know from what we have said in the White Paper that we are seeking to make sure that we have as much flexibility in regulatory terms as possible and as much freedom in terms of international negotiations as possible. The reason that there is a



HOUSE OF COMMONS

distinction between services and goods and agriculture relates to friction at the border, which obviously does not apply in relation to services.

Q2393 **Chair:** But you are not aware of anything that has been done in relation to banking and finance. Insurance?

Dominic Raab: It's the same thing. If you would like—

Q2394 **Chair:** Okay. I am just trying to check. Broadcasting, tech sector, legal profession, accountancy—did the Government look at the economic impact on those very important sectors before deciding that there wouldn't be a common rulebook?

Dominic Raab: I am certain that the economic impact was considered. The extent to which we commissioned research or direct analysis in each of those different sectors—forgive me, but I would want to take that away and check in order to give you an accurate answer.

Q2395 **Chair:** You have just said you are sure that it was considered. Did that take paper form and is it something that you can share with the Committee? I have to say we received a pretty downbeat assessment from the four people we took evidence from this morning about the potential impact, so if there is something you could share with us, that would be really helpful.

Dominic Raab: May I make a gentle suggestion?

Chair: Of course.

Dominic Raab: Obviously, there is a very wide brief; I have been in post a limited time. I would be very happy if you would like to write to me with all of the particular questions to make sure that I give them a proper and full answer.

Q2396 **Chair:** In fairness, because you have only been in the job a short time, the question was about whether the Government have done it. You have inherited the job, but clearly consideration was given before you were in post to taking a decision about no common rulebook, because back in March, the Prime Minister made it clear that we are going to have less access to the service sector, because that is what she said in her Mansion House speech. The question was whether the Government have been looking since then at what that will mean for the sectors that cover 80% of the British economy. That is all, but I will write to you further, if you are not able to answer that.

Dominic Raab: Please do. As I have made clear, the judgment we have made, based on the analysis done, is that the advantage of retaining regulatory control with the ability and the latitude in relation to free trade agreements, while having a different approach on agriculture and goods, is the optimum balance economically.

Q2397 **Chair:** Okay. Can I turn to the consequences of no deal? You have announced that you are stepping up preparation plans for no deal. Indeed, I think you said earlier in the House, "Failing to plan for no deal



HOUSE OF COMMONS

would be irresponsible." I think those were your words about 25 minutes ago.

Dominic Raab: Correct.

Q2398 **Chair:** Can I begin with the question of EU citizens? When I asked you whether the commitment is that EU citizens lawfully resident in the UK at the end of December 2020 will be able to stay, you said there would be no wholesale removal of rights. I wonder on reflection whether you would like to clarify what exactly you are referring to. If there is no wholesale removal, are there some rights that they might lose in the eventuality of there being no deal?

Dominic Raab: I think, Mr Chairman, if you check the transcript—in any event, I am happy to clarify—I suggested there would be no wholesale removal of EU nationals or removal of their rights.

Chair: Ah.

Dominic Raab: In relation to what we have in the White Paper we have announced today—which was of course the subject of the statement—it sets out the substantive terms, the mechanism for enforcement and the independent monitoring authority. I appreciate that you are asking me what happens if there is no deal. I am making it clear that we want to move swiftly to provide legal assurance and clarify the legal position. That will be done through Home Office legislation and that is probably one for the Home Secretary, but we will make sure that there is legislative time for that eventuality.

Q2399 **Chair:** I understand absolutely what the plan is in the event of there being a deal and the withdrawal agreement terms in relation to citizens being honoured. The question is about what happens if there is no deal. You have clarified that you were referring to no wholesale removal. Wouldn't you accept that that would create some anxiety on the part of EU citizens in the UK? As the new Secretary of State, you are saying, "We have got to step our preparations for no deal," and you are saying, "There will be no wholesale removal of citizens in the event of there being no deal." That isn't really providing any reassurance to them about their status, is it?

Dominic Raab: With respect, Mr Chairman, I think what does give EU nationals here and UK expats abroad reassurance is the fact that, according to the EU side, 80% of the withdrawal agreement is done. It includes the substantive protection of rights in relation to nationals. It includes the mechanism for enforcement of those rights in the withdrawal agreement—direct reliance on the withdrawal agreement in UK courts. There is also the independent monitoring authority and, as I set out in the House today, I have given the reassurance in relation to UK expats abroad.

I appreciate you want to push me on what happens if there is no deal. The Prime Minister's position has always been that we will not make unilateral statements or commitments in relation to this subject until we have got

the agreement made at the international level. The reassurance that I am hopefully giving is that we would be prepared for that, and the Home Secretary would move swiftly to provide the right legal reassurance and security through relevant legislation.

Q2400 Chair: Right, okay. Can I turn to one or two other aspects of no deal? About 90% of UK dairy exports by volume go to the EU. The EU MFN tariff on dairy is 35.4%. Does your preparation for a no deal outcome involve any help to the British dairy industry with trying to deal with the consequences of that kind of tariff, which it could face?

Dominic Raab: First of all, what you have highlighted is the folly of any return to the EU external tariff on the UK border. I would entirely agree with that, which is precisely why we should come to a sensible agreement with our European friends and partners.

Q2401 Chair: I get that. The question was whether you have done any planning to help the industry if the deal does not come about.

Dominic Raab: In relation to the planning we are doing, what I am not going to do is, specific instance by specific instance, drip-feed out the nature of the planning we are doing. What I can tell you and your Committee is that from the legislative side through to the international treaty arrangements—which will of course include the tariff arrangements—through to the infrastructure that we may need in relation to planning for border impacts, right the way through to operational matters, including hiring of border staff, we have a steady stream of work looking at all that. We have the extra money that was allocated in the Budget and we will be issuing a series of technical notices, which—forgive me—will, in a responsible and reassuring way, explain what we are doing to mitigate the risks while giving the full picture so that people, whether they are farmers, citizens or other businesses, understand what their position is and what support we will provide.

Q2402 Chair: Let's take an example of that. The Society of Motor Manufacturers and Traders says that no deal would add £4.5 billion to the industry's overheads. Will one of your technical papers cover the impact on the motor industry and what help you might give them to mitigate that cost?

Dominic Raab: Our technical notices will cover a range of different sectors.

Q2403 Chair: Will it cover the motor industry?

Dominic Raab: It will certainly in some respects. Whether it will be specific and restricted to the motor sector—but again, Chair, what you have done is highlighted what would be a protectionist and regressive step, which would be a return to the EU external tariff. Of course, you will know, in relation to cars, that the EU has a major surplus with us, so—turning back to your first question—that is a good example of something that would have a disproportionately bad effect on our European friends. We don't want it for them, and we certainly don't want it for UK manufacturers. I hope you do not mind if I headline all the things I am saying by saying that this is all the more reason why I am going out to

Brussels on Thursday and striving very hard with our team to get the very best deal.

Q2404 Chair: Have you assessed what the cost to consumers—British travellers—would be of having to take out travel insurance because the EHIC card would come to an end in that eventuality?

Dominic Raab: What kind of assessment are you looking for?

Q2405 Chair: If you no longer have an EHIC card, you will not be eligible for emergency medical treatment if you fall ill on holiday in Spain, Germany or wherever, and therefore if you want to cover the cost of that you will have to take out additional travel insurance. The question was whether you have done any assessment of what that will add to the cost to British holidaymakers.

Dominic Raab: We have certainly, as part of our White Paper and the proposals we are making for continuing sensible mutual arrangements with the EU side, looked at the value of it. Whether we have done it explicitly for no deal planning already or whether that is a work in progress, I would need to check. But again, I say to you, Chair, that if you pick me up on any one of these different sectors, what I am not going to do is drip-feed into the public domain little titbits, even among your august Committee. What I want to do is set out the technical notices and the planning in a responsible way that informs the public, so they can see fully the measures we are taking, what they need to do and the support they will be getting.

Chair: I wasn't, Secretary of State, asking for titbits.

Dominic Raab: Heaven forfend.

Q2406 Chair: I am trying to explore the state of the Government's preparedness for the no deal outcome. You will never hear me saying, "No deal is better than a bad deal," but plenty of Government Ministers have made that argument. If you genuinely think that no deal is better than a bad deal, presumably preparations are being made. Is the Government considering stockpiling food?

Dominic Raab: Again, we will set this out in the technical notices, but it would be wrong to describe it as the Government doing the stockpiling. Of course, the idea that we only get food imports into this country from one continent is not appropriate, but we will look at this issue in the round and make sure that there is adequate food supply as well as all these other things. Again, I am not going to give more detail until I can set it out in a responsible and full fashion.

Q2407 Chair: That is very helpful. Very quickly before I bring other members in, Mr Robbins, can you tell us who you meet on the other side of the table and how often when you are taking part in negotiations? Who is your interlocutor?

Oliver Robbins: Right at the start of this process, we established a system with the EU side, whereby each side has a principal and a co-



HOUSE OF COMMONS

ordinator. The analogy on our side is that the principal is a political figure—now, of course, the Secretary of State—and the co-coordinator is the official lead for the organisation of the talks and carrying them out. My normal opposite number is Sabine Weyand, who is the deputy chief negotiator in the Commission.

Q2408 Chair: Fine. There has been a prime ministerial statement, which colleagues will come on to, saying that the Prime Minister is the lead negotiator and the Secretary of State is deputising. Has there been a change? Does that mean that the Prime Minister may be negotiating directly with Michel Barnier?

Oliver Robbins: I doubt it. She has met Mr Barnier in the past a couple of times, and I don't rule it out in the future, but the Secretary of State is the key interlocutor for Mr Barnier, as was his predecessor. What the Prime Minister means, I think, is what she has meant all along, which is that she regards the overall strategy for and conduct of these negotiations as her personal responsibility, now with the Secretary of State very close at hand.

Dominic Raab: Would it be helpful if I gave a slight supplement to that, because there has been a lot of speculation about this?

Chair: Of course.

Dominic Raab: We are very keen—Olly and I have been working very closely together from day one—to ensure that there is one team and one chain of command, that we get the very best from our brilliant civil servants, and that we have full assertion of ministerial accountability. The written statement that the Prime Minister issued today makes that very clear, so there can be no doubt about it. There are some changes and some shifting of the Whitehall deckchairs, but the ministerial chain of command and the crucial importance of us working very closely together and having one track is vitally important.

Q2409 Chair: Finally, have any draft texts on the political declaration been discussed yet by you, Mr Robbins, and your opposite number?

Oliver Robbins: No.

Chair: Very helpful.

Q2410 Mr Whittingdale: Mr Robbins, the proposals that form the basis of the Chequers agreement are a significant departure from the strategy set out by the Prime Minister in her Mansion House speech. When did you start working on those proposals?

Oliver Robbins: If I may, Mr Whittingdale, the Prime Minister says that they are not a departure from the principles she set out at Mansion House. The Cabinet agreed at Chequers—this is reflected in the statement issued that evening—that this is an evolution of the position she set out at Mansion House and Munich, but consistent with it. She and her senior ministerial colleagues have been thinking continuously since Mansion House and Munich about how to land those fundamentals in the



HOUSE OF COMMONS

negotiations that the Secretary of State and I are going to be conducting. What was agreed at Chequers was a series of further ways we could make that case compellingly.

Q2411 Mr Whittingdale: Whether it is an evolution or a change, you say that the Prime Minister has been working with her senior Ministers on these proposals, but I put to you the report that said, "Most Ministers knew nothing of it until" the Monday before Chequers. "Even Brexit department ministers did not see the detail until Thursday. The details were kept from them". Is that correct?

Oliver Robbins: I don't think so, Mr Whittingdale. The Prime Minister met a number of her colleagues over the days and weeks in the run-up to that crucial Cabinet meeting. The propositions contained in the White Paper that was published a few days after Chequers drew in many respects on those conversations, including on collective agreements reached long before the Chequers meeting. I don't think it is a secret to say that probably the largest number of meetings she had on the full range of issues was with the Secretary of State's predecessor. Her engagement with colleagues was constant and deep.

Q2412 Mr Whittingdale: So you are saying that the then Secretary of State for Exiting the European Union was fully familiar with the proposals that were them put to the Cabinet at Chequers.

Oliver Robbins: The Prime Minister and the Secretary of State's meetings must remain between them. What I am saying is that they saw the issues absolutely in common and they were working together well on how to try to resolve the.

Q2413 Mr Whittingdale: The chief of staff of the Secretary of State at the time has said that there was a decision in the Europe unit at No. 10, which you run—at the highest level—to circumvent the Department. He said that "the imperative they had was to stop us holding the pen and producing the White Paper". You don't accept that?

Oliver Robbins: I don't.

Q2414 Mr Whittingdale: So complaints from the DExEU Secretary of State and Ministers that this was sprung upon them without any opportunity to influence the proposals that were put to Chequers are just completely wrong? Is that correct?

Oliver Robbins: It's certainly not a picture of the days and weeks leading up to Chequers that I think I or, more importantly, the Prime Minister would recognise.

Q2415 Mr Whittingdale: The Secretary of State himself has suggested that that is the case.

I turn to the statement that the Prime Minister has issued today, which says: "The Europe Unit will have overall responsibility for the preparation and conduct of the negotiations, drawing upon support from DExEU and other Departments". Does that not rather suggest that the two of you



HOUSE OF COMMONS

should swap places, because in actual fact you are the Secretary of State and you are being supported by your official sitting next to you?

Dominic Raab: Mr Whittingdale, if I may, what we have done is to try to make clear—given some of the tensions that you understandably refer to, and given the mixed functions that both the Cabinet Office Europe team and DExEU were performing—that, as a matter of the official level advice we get, there is one team; that in terms of the ministerial chain of command, there is one team; and that the advice runs coherently and functions as effectively as possible through the ministerial chain of command. As the statement that the Prime Minister has put out today makes crystal clear, she is in charge of the negotiations. I deputise for her and we very much welcome the excellent advice that we get. These arrangements, as we move into the final phase of the negotiations up until October, are meant to make sure that we have got the most effective team—but, as I said, one team, one chain of command. That is the way that we will get the best deal.

Q2416 Mr Whittingdale: But the Prime Minister's statement refers to this as "machinery of government change". She makes clear that overall responsibility now rests with the Europe Unit in the Cabinet Office. Is it not extraordinary that you run the Department for Exiting the European Union and yet you do not have overall responsibility for the negotiations?

Dominic Raab: The Prime Minister has the overall ministerial responsibility and I deputise for her, so I am the No. 2. I think, if you look back previously, the Cabinet Office has been performing a range of functions; but, then again, so have a range of other Whitehall functions, not least the Treasury. What this does is make it very clear that the different bits of DExEU and the Cabinet Office that were informing and supporting the negotiation cohere as one team and that the chain of ministerial command, through me to the Prime Minister, is very clear.

Q2417 Mr Whittingdale: The chain of command is through you via Mr Robbins to the Prime Minister, because he has overall responsibility, not you.

Dominic Raab: We have been very clear—there is no tension between us; I think that is clear—that all the advice and all the meetings will be attended by me, with the Prime Minister, and that all the advice will come to me. That is something which, on all sides, we agreed very swiftly. This is the Whitehall machinery of government change, to give effect to that.

Q2418 Mr Whittingdale: So both of you would entirely reject the statement by the chief of staff of the former Secretary of State that this "gives rise...to some very serious questions about the constitutional propriety of having an unelected unit, almost Nixonian unit in Downing Street, making policy, making without prejudice undertakings to Brussels, without real scrutiny and oversight by the Cabinet or the Strategy and Negotiations Sub-Committee". All of that, in your view, is simply incorrect?

Dominic Raab: I wasn't there at the time of Mr Jackson, whom I know very well and hold in very high esteem. What I am doing, looking forward, and conscious of the tensions expressed previously, is making sure, with



HOUSE OF COMMONS

the Prime Minister, with Olly, that we have the most effective and coherent team going forward at this vital moment. I can't comment about when I wasn't here, in relation to that.

Q2419 Mr Bone: I think that, while the Secretary of State clearly can't comment on what happened before, Mr Robbins can. Chair, it is now widely accepted that there were two texts for the White Paper—one that was drawn in the DExEU Department, which has gone round and been circulated to other Departments to comment, and a secret one, being drawn up by Mr Robbins in the Cabinet Office. Then we went to Chequers, and lo and behold, it was Mr Robbins's version that was discussed and agreed to. Is that correct? Did that happen? Mr Robbins, on whose authority did you do that?

Oliver Robbins: I am very glad to be able to comment on that, Mr Bone. There was never a second secret White Paper.

Q2420 Mr Bone: I said a text, not a separate White Paper; a separate text that became the White Paper.

Oliver Robbins: No, there was not. There was a series of papers produced for the Cabinet in the run-up to Chequers, which was the subject of earlier questioning about the extent to which the Prime Minister had sought to bring colleagues into her view of the situation and the analysis in the run-up. I will not go into the detail of the papers for Cabinet itself, but they set out the key policy choices, which were exactly the ones that the previous Secretary of State and other senior Ministers saw as the key choices. In the days after the Cabinet reached an agreement on the way forward, the White Paper was brought up to date with the agreement reached at Chequers. If I may say so, it was a rather standard and classic performance of Cabinet assessing and understanding the evidence, reaching a set of agreements and then the collective public presentation of that document being taken forward by officials and then cleared by Ministers in the usual way.

Q2421 Mr Bone: That sounds very plausible but does not tie up with what the former Secretary of State has said. He said that there were well drawn-up plans—texts if you like—for the White Paper. He made it quite clear that people would be pleased when they saw that White Paper, because it would give them certainty. But that was not the White Paper that emerged after Chequers. Are you seriously telling me that you were not separately drafting a text that was presented at Chequers, but that just happened to emerge after they all got together and discussed it? Is that feasible? You wrote a text for the White Paper, didn't you? That became the White Paper.

Oliver Robbins: What my team and I did in concert with a lot of officials across Whitehall, but more than anywhere else from DExEU, was to prepare papers for the Cabinet to consider at Chequers. Those papers covered the range of issues and set out options and recommendations in the usual way. DExEU had been preparing a draft White Paper, most of which was not debated implicitly at Chequers, because it related to other areas of policy where the Government's position was well settled. In the

aftermath of Chequers, that drafting was updated in line with the Cabinet's agreement. That is the position and there is not much more to be said than that, Mr Bone.

Q2422 **Mr Bone:** I gather from that, Chair, that there was no separate text that Mr Robbins did, that he had no authority to do so and that basically it just emerged from the DExEU draft.

Oliver Robbins: The White Paper that was published was prepared by and published by the Department for Exiting the European Union.

Q2423 **Mr Bone:** And you did not have a separate text that you presented at any time at Chequers.

Oliver Robbins: No. There were papers prepared for Chequers.

Q2424 **Mr Bone:** What is the difference between papers and text?

Oliver Robbins: The distinction I am making is that the Ministers had before them at Chequers a series of papers that allowed them to debate and explore the issues. Those were not intended as the public presentation of the Government's view and position. Once an agreement had been reached on the basis of those papers, a job needed to be done to translate those into the way in which the Government wanted to present their policy.

Q2425 **Chair:** Presumably, Mr Robbins, the person who decides what papers are presented to Cabinet is the Prime Minister.

Oliver Robbins: Absolutely.

Q2426 **Stephen Crabb:** Mr Robbins, how do you view the Chequers agreement? How do you want it to be received by the people you meet when you go across to Brussels? Should it be seen as an opening pitch that broadly gets us on to the right path to begin some sort of sensible negotiation with the Commission, or should it be seen as a final offer?

Oliver Robbins: I don't know whether Mr Raab wants to comment on that.

Dominic Raab: In fairness, Mr Crabb, that is a political question rather than a technical one. We are very clear that we have come a long way with a principled and pragmatic approach. It would be too crude to say that it meets the EU half way, but certainly it is mindful of its considerations. It gives effect to our commitment to leave the customs union, but maintains frictionless trade with the EU through the facilitated customs arrangement. It also avoids any return to the hard border. The point I have made to our opposite numbers, respectfully and with good will and friendship, and that I have said publicly, is that we need to see the same kind of energy and substantive engagement in the weeks ahead. If we get that energy, flexibility and pragmatism, we will get a deal in October.

This is not a point of departure; we are far too late down the track for that. This is a serious, substantive offer, and we would expect it to be



HOUSE OF COMMONS

taken that way. Of course, if you look at the way it was received in the EU, there were questions but it was certainly not dismissed out of hand. That is why Olly and I will go back out to Brussels, and I will have an extended conversation/negotiation with Michel Barnier. That will be, as we effectively enter the last three months of these negotiations, what we will be working to. Obviously, it is a negotiation. It takes two sides and we need to work with our European partners, but this is not the point of departure.

Q2427 Stephen Crabb: Let's be a bit clearer. My interpretation of Michel Barnier's response to the Chequers agreement was that it opened the gateway to begin a discussion. You are saying that is not how it should be received, that, as far as you are concerned, there are not going to be large substantive changes now to the overall package that Chequers agreed.

Dominic Raab: Oh no, I don't think we can fetter what the other side does in negotiation. What I am saying is that we have been looking at various different models all the way along. I've come into this relatively late, as you will have noticed. This is, as we have engaged in that dialogue, towards the end date of October, a real effort to get us across the line. Obviously, there is detail.

Most interesting were the questions that were asked about how it would work in practice. That is a good place to be: to be answering questions on the substance and how it will work in practice, rather than going round in circles on theological principles. I think that is good news for us and that is what we are going to be taking up this week.

Q2428 Stephen Crabb: I am interested to hear what persuaded you personally to come out in support of the Chequers agreement. Was it, for example, the economic arguments, because you genuinely believe that what was agreed at Chequers minimises potential negative impacts from leaving the EU? Or was it because it really is the only plan in town that stands a chance of getting close to satisfying all of the objectives for Brexit that the leave campaign made during the referendum, and that the Government has made since, around frictionless borders, leaving the customs union, maintaining an open border in Northern Ireland and so forth?

Dominic Raab: Dare I say, Mr Crabb, I didn't, when I viewed it, think it was all about me. What I did think is that it was a principled and pragmatic way to give effect to the referendum, leave the customs union, which I have always argued is crucially important, but bridge the gap with the other side in relation to frictionless trade and, crucially, Northern Ireland, in terms of where we get to with the end state.

I suppose, beyond that instinctive sense, we have got three months to go in these negotiations, and I think we should be fighting every minute of every hour of every day of every month for the best deal we can get. That is why I came out in support.

Q2429 Stephen Crabb: You have spoken a lot about pragmatism in the days



HOUSE OF COMMONS

since taking the job. That would lead some of us to believe that you will show some flexibility in the negotiations to help get the right deal. Are you able to give us any sense of where you would be willing to see some compromises? For example, would you be willing to see a preferential migration scheme for EEA workers, if that helps land broadly the Chequers package that you have signed up to?

Dominic Raab: The first thing to say is that, whenever I have mentioned pragmatism, it has followed the word “principled”. We have got a principled and pragmatic plan, and I think it is the balance between the two.

I am not going to drip-feed our negotiating strategy, and I want to protect the integrity of the negotiating room. I think free movement will end and we will take back control over our immigration policy. The White Paper sets out sensible mobility arrangements, in relation to businesses wanting to bring their top talent over here, but also other things such as tourism and the ability to come to this country and for us to go across to the continent with ease, and the ability of students and youngsters on both sides to take advantage of the educational opportunities and the cultural opportunities on both sides. All of that stuff is important.

I think it has been made clear that in our approach—and this is a matter of global, international policy, not just the EU—we will say to our close trading partners that there is a sensible conversation to be had about preferential status in relation to visas or reciprocal immigration arrangements. That is the strategic ballpark we are in. We also need to make sure that we are not touching on the principled side of things, which is that we have control over our borders and in particular over the number of people coming here, and also the ability to assert stronger checks—for example, preventive checks at the border.

Q2430 **Wera Hobhouse:** I want to come back to EU citizens’ rights and UK citizens’ rights in the EU. You said about 20 minutes ago that we will get a deal and therefore EU citizens should not worry too much about their future lives in this country. I am just skimming through this new White Paper. Forgive me if I have not read the whole thing, but it is new. The foreword is by you, so I am sure you know what is in it. It says here that EU citizens living in the UK will be able to “broadly” continue living their lives “as they do now”. “Broadly” does not mean as they are living them now; it means broadly. Could you point out what you believe the difference is? What is going to change for them?

Dominic Raab: For example, EU free movement will end, but what we have done is secured their rights substantively in terms of UK law. That is the proposal. We would then set up the mechanism for those rights to be enforced through the UK courts. We would also set up a separate independent monitoring authority, which would be able to take up concerns that they have, take up complaints and even take legal action on their behalf. Obviously, in relation to the mechanisms by which we are giving effect to those rights, that is a different set of legal arrangements, but I would expect that, for EU citizens here going about their daily



HOUSE OF COMMONS

business, the position would be a smooth transition and they would see no change. But the legal mechanisms and the framework that we are putting in place to provide those is obviously different. I think we need to be honest about that.

Q2431 Wera Hobhouse: Can I ask a further question about UK citizens, then? What are you doing to ensure that member states confirm the status of UK nationals living on their territory? Have you talked to individual countries? It seems that the EU wants to leave quite a lot of these arrangements to bilateral agreement. Have you talked individually to member states?

Dominic Raab: The withdrawal agreement will set out very clearly the legal obligations on all the EU member states. In relation to the independent monitoring authority, the Commission will provide that surveillance role, but you are right to say that there will be a role for each and every member state, so one of the things that we will be doing over the summer—in the coming months—as we engage not just with the Commission and with Mnsr Barnier and his team but with capitals, is making sure that those preparations and those rights are in place and properly protected. That is part of the bilateral engagement that we will do with the 27.

Q2432 Wera Hobhouse: One more thing. We often hear that negotiation should not be commented on bit by bit, but will you publish some details that you have negotiated in terms of assurances for UK citizens living in EU member states? We had evidence from quite a lot of them a few months ago, and they felt very unsure about their future status. Will you, over the summer, publish outcomes that you have negotiated bilaterally?

Dominic Raab: I will certainly want to make sure we keep the House and this Committee updated on the progress, but the first thing to say is that the White Paper itself—there is a lot of detail in there—will hopefully provide some of that reassurance. But you are absolutely right to say that, as we make progress, we will want to make sure we update the House, and indeed this Committee, as a matter of course.

Q2433 Peter Grant: Good afternoon, gentlemen. My first question is probably for you, Mr Robbins. Going back to the Chequers document, did you seek or obtain any kind of informal assurances from the European Union that that document was likely to be acceptable before it was adopted by the Cabinet?

Oliver Robbins: No, Mr Grant, not in those terms. Over months now, Ministers, the Prime Minister and of course the official team supporting them have been sounding European partners out on all the issues that the White Paper touches upon, but even if we were to try to say, "Does this package work for you?", I doubt we would get a straight answer. What we have been trying to do is to work out what is in the best interests of the United Kingdom and to advise Ministers on putting that position forward.

Q2434 Peter Grant: This one is probably better taken by you, Secretary of State. Your ministerial colleague, the Leader of the House of Commons,



HOUSE OF COMMONS

has described the Chequers document as a “take it or leave it” package. Is that how the Government sees it? Are we going to invite the EU to take it or leave it?

Dominic Raab: Yes, look—and I think it is similar to the point made by Mr Crabb—

Q2435 **Peter Grant:** You said yes. I take it you weren’t saying yes it is—

Dominic Raab: No, I’m saying yes to acknowledge the importance of the question before I go on to swerve it as best I can. Look, the fact is that we are at a mature stage of these negotiations. This is not our opening pitch. Of course, it is a negotiation; there is no point in saying otherwise. If you look at the EU’s default position, that has stayed relatively consistent, but of course we are talking about all of these issues in the round. What I would say is that it is a far advanced, well thought out, principled and pragmatic document, and we expect to negotiate on the basis of it.

Obviously, we will consider what Mnsr Barnier and the EU27 come up with. This is an ambitious approach that takes into account some of the concerns that the EU has expressed to us, while ensuring that we retain the key equities, in terms of being faithful to the referendum, ensuring that we have frictionless trade with the continent and also freeing us up to do more of that global international trade we have talked about. I hope it reconciles those ambitions, but it also takes into account our experience of the negotiations to date, so it is a far advanced offer, if I can put it like that.

Q2436 **Peter Grant:** The joint report that the UK and the EU published in December 2017, which is the basis and foundation for ongoing negotiations, included a clear statement that the UK and the EU recognised the position of the Republic of Ireland as a full member state of the EU, the single market and the customs union. Is that something that the UK Government still absolutely accepts—that nothing will be asked that would compromise the position of the Republic of Ireland as a member state of the EU?

Dominic Raab: There is nothing that we are doing, have done or will do that would compromise the position of the Republic. They are a close, bilateral ally. We respect their membership of the EU. The crucial thing, mindful of all the interests and sensitivities of our European partners, is to be very clear on one categorical position, and that is that we will not allow, for whatever reason, through this negotiation, the integrity of the United Kingdom to be put at risk. That is why we cannot accept a customs border down the Irish sea.

That is obviously still a sensitive issue, in terms of the end state. We have, I hope, through the White Paper, set out a very clear set of detailed proposals that resolve those issues, not just in relation to frictionless trade with our continental partners, but the border with the Republic. We will continue to talk about the backstop; that is something that we agreed to do. This ought to be—the position that we have set out in the future framework White Paper—a good model on which to work forwards.



Q2437 Peter Grant: The December 2017 report also confirmed that, if it was not going to be possible for a deal on Northern Ireland and the Republic of Ireland to become part of the overall ongoing relationship, the United Kingdom would, “propose specific solutions to address the unique circumstances of the island of Ireland”. At the moment, all that the United Kingdom has put forward has been a partial solution that is time limited. At what point should we expect to see the UK’s permanent proposal for the ongoing relationship between Northern Ireland, the Republic, the rest of the UK and the rest of the European Union?

Dominic Raab: I think you have got the blueprint for it in the White Paper on the future relationship. The issue has been in relation to the time-limited backstop. I understand why you are interested in it as a Committee and individually, but the discussions on that are ongoing and I need to protect the integrity of the negotiating room in relation to that.

Q2438 Peter Grant: Finally, I want to look at the possible preparations or contingency planning for no deal. When will we know if there is not going to be a deal? Will we know two minutes to midnight on 29 March, or will we know sometime in October or November next year? When will the public institutions, businesses and so on know that we are no longer contingency planning but planning for something that is going to happen? How much warning are we likely to get?

Dominic Raab: It is difficult to judge, not least because on both sides, we are committed— I saw Michel Barnier last week and we both spoke very frankly about this. And, while I am mindful of not drip-feeding out titbits from the negotiating room, we are both very committed to the deal. I am confident that we can avoid it with ambition, pragmatism and energy on all sides. For that very reason, because our overriding focus is on getting the best deal, I think it is difficult to say when or how we would get to that point. What I would say is that we will be striving throughout the period up until October to make sure that we deliver it, so let’s hope that this is not an issue that will need to worry us. I cannot give you a precise moment at which it will be clear that there is no deal.

Q2439 Peter Grant: A final question. This Committee has on two occasions—not unanimously but by majority—expressed the view that we found it difficult to imagine any negotiator coming back to offer a deal that was worse than no deal. Given that you are now hit, as they say in Scotland, are we justified in placing confidence in your negotiating ability to say that in no circumstances you will come back with a deal that is so bad that no deal is better than it?

Dominic Raab: I would be very careful, given my past membership of this Committee, to say that unanimous reports are always stronger than split ones, but I can hopefully give reassurance to both sides of the debate within the Committee, the House and the country at large that I think it is only responsible to prepare for all eventualities. We are doing that detailed contingency planning—we discussed that in response to the Chair’s initial question—but our overriding focus and energy is about making sure that

we are doing everything we can to secure the deal with our EU partners in three months' time.

Q2440 **Stephen Timms:** Does the Government intend that UK tariffs and trade policy should be applied at the EU border for goods that are transiting through the EU to the UK?

Dominic Raab: Mr Timms, you speak in such hushed tones that I am not sure I caught the whole question.

Q2441 **Stephen Timms:** I will speak up. Is it the Government's intention now that UK tariffs and trade policy should be applied at the EU border for goods that are intended to be transited through the EU to the UK?

Dominic Raab: If your question relates to the future relationship and the facilitated customs arrangement, the proposals we set out there are not in relation to the levying of tariffs at the border, but the remittance formula and mechanism that would take place subsequently.

Q2442 **Stephen Timms:** Yes, but the earlier White Paper—not the one published today—says that it is not intended that UK tariffs should be imposed at the EU border. New clause 36, which the Government accepted last week, appears to imply that if the arrangement set out in the White Paper is put into effect, it could only be done if other countries were applying UK tariffs at their borders. It is not quite clear to me what the Government's intention is now.

Dominic Raab: First of all, we do not believe that the amendments that were passed recently in relation to the customs legislation are inconsistent with the White Paper. The White Paper itself—we can pore over the text and I am very happy to do so—envisages the reciprocity that I mentioned in relation to not levying of tariffs at the border. That is not what this about; this is about the remittance formula and mechanism after the event.

As you will have seen set out in the White Paper, we envisage that, under the new framework with the common rulebook, the FCA and the other arrangements that are put in place, up to 96% of goods coming into the UK will pay no tariff or the right tariff at the border. Therefore, to put it in layperson's terms, this is about the settling-up exercise afterwards and the reciprocal arrangements that we would have with the EU to give effect to that.

Q2443 **Stephen Timms:** Can I just read to you what the White Paper says at paragraph 17(a)? It says: "the UK is not proposing that the EU applies the UK's tariffs and trade policy at its border for goods intended for the UK." That is on page 17. New clause 36 says: "it shall be unlawful for HMRC to account for any duty of customs...of a country or territory outside the United Kingdom", unless "that government will account to HMRC for those duties...collected in that country on a reciprocal basis." On the face of it, that appears to contradict what the White Paper said.

Dominic Raab: I don't think so. I think the key is in the word "accounting". I know your expertise in this area and your background. I



HOUSE OF COMMONS

would be very happy to write to the Committee outlining precisely that point and reconciling it, because a number of colleagues have asked this and we have looked very carefully at it. We do not see any conflict between the amendment that we accepted and the thrust of these proposals. I hope that gives some reassurance.

Stephen Timms: The Committee will be very interested to see your letter.

Q2444 **Chair:** And a diagram with it—I am being serious—to explain how this is going to work would be jolly helpful.

Dominic Raab: A diagram?

Q2445 **Chair:** A diagram, because we are talking about physical things—goods—and how it works and who pays what money when. It is just a helpful suggestion.

Dominic Raab: Very good. I will see whether we have someone with the artistic licence.

Chair: I'm sure you do.

Q2446 **Stephen Timms:** Can I pick up on a point made during our exchange in the Chamber a few moments ago? The new White Paper, which I have now had a chance to have a quick look at, makes the point that the financial settlement is linked to "the framework for our future relationship, which will be finalised and published at the same time as the Withdrawal Agreement."

The point I was making in the Chamber is that that is just a framework—it will just be a framework at that point. It is interesting to see the confirmation that it will be published at the same time as the withdrawal agreement. As the Committee understands it, it will not then be legally binding on either party; it will be a political declaration. In your answer to me earlier, you kindly invited me to make any suggestions I might have for what we might do about this.

I just want to pass on to you the suggestion that Mr Verhofstadt made to this Committee. If that political declaration was made an annex to the withdrawal agreement, he told us it would then be legally binding. I think there might be some difference of view with others about whether that is the case, but at least it would increase the strength that was perceived of that political declaration and the degree of commitment to it on both parts. I wonder whether that is something the Government is considering.

Dominic Raab: It is a very interesting suggestion. There are, of course, different ways that can give effect to the principle of conditionality. One could be incorporating the declaration in the way you have described and, therefore, it would have a degree or measure of legal force. Another would be to make explicit reference in the withdrawal agreement to the political declaration. Although that is not going to transmute it into something that it is not, it would mean that within the withdrawal agreement some of that

conditionality is expressed. I will take any suggestions from you, Mr Timms, or the Committee in relation to that. I think I can also give you the reassurance that we are looking at the whole spectrum of options for making sure that we give effect to that principle.

Q2447 **Stephen Timms:** Could I just ask one more question, if I may? This is going back to a different point in the earlier White Paper on page 92, which states that “if there was a challenge to a decision made by an agency that affected the UK, this could be resolved by the CJEU, noting that this would not involve giving the CJEU jurisdiction over the UK.”

It is not quite clear to me what is the distinction that is being drawn there. It is a point that the Prime Minister has made as well—that we want to be members of a number of EU agencies, which are subject to the jurisdiction of the CJEU. But it is not clear to me: why does the jurisdiction of the Court of Justice over an agency, of which we are a member, not amount to jurisdiction over the UK? What is the distinction that is being drawn?

Dominic Raab: I think the distinction that applies more generally in relation to the White Paper on the future relationship is that the jurisdiction of the CJEU over the UK will be ended. That means that the UK courts will no longer be in a position of referring to the CJEU cases involving individuals and businesses. But, whether it is on the common rulebook or on specific aspects of regulatory engagement where we stay in a participatory role—whatever form that may be, depending on the agency—it is common sense that we would need to adhere to the common rulebook or to the rules in relation to that agency.

What we are talking about in relation to the agencies and the common rulebook is the ability to get an interpretation of the rule, rather than the jurisdiction that the Court would have over a dispute, which means not just understanding what the law is but applying it and deciding who wins the case.

More broadly, in relation to the role of the CJEU, we have been clear, for example, that the Joint Committee that will oversee the arrangements for the future relationship would have the ability to refer discrete points for a ruling from the ECJ on a point of law, but that could only be done if both sides agree, so we would have control of that. It would be not quite like an advisory opinion from the International Court of Justice, because those are not binding when they come back, but effectively it’s a reference for a point of interpretation, rather than exercising jurisdiction over the dispute itself.

The other point, I suppose, if you look at the White Paper more generally, is the role of international arbitration. The key difference between that and adjudication is that we have—both sides have—control over the arbitrators. The law and the process applied is spelt out in the withdrawal agreement, or it could be the future framework relationship agreement. And any reference would come from the arbitral panel, which would presumably have to agree it and would work out the terms of that. But



HOUSE OF COMMONS

that means for the UK that it is a discrete point of law that is being requested for interpretation. It would be binding when it came back, but the resolution of the dispute would then be through the UK jurisdiction—the UK courts, in the normal way—or the arbitration panel.

I think that gives us the right balance in terms of making sure, as between our co-operation we have a common set of understandings. There may well be moments where we want to hold our European partners to principles and rules that they have signed up to and actually that is important to us, but it allows us to get clarity of common rules, for the sake of certainty and the effective functioning of the arrangements we agree with the EU, while retaining jurisdiction in the way I have described, both because the UK courts will decide UK disputes in this country and because the arbitration panels will decide disputes at international level. We'll have control over both of those in the way that we have set out in the White Paper.

Chair: Joanna Cherry wants to come in with a short question on this very point.

Q2448 **Joanna Cherry:** I am just a bit puzzled, Secretary of State, by what you said there. You said that after we leave the interpretation of the rule will be for the Court of Justice but applying it and deciding who wins the case will be for the UK court or what I would call the domestic court. But isn't that exactly what happens at the moment? When a domestic court refers a question to the Court of Justice at present, they refer the question to the Court of Justice for interpretation of the rule. The Court of Justice interprets the rule and gives its ruling, and then the court in England or Scotland still applies it and decides who wins the case. That's what happens at present. The Court of Justice, in a reference, does not decide who wins the case; it makes a ruling on the interpretation. The domestic court decides who wins the case. What is going to change about that?

Dominic Raab: The crucial distinction is that it will no longer be courts in the UK referring cases to the CJEU. It will be done by the Joint Committee, which means that we will have control over that happening. In relation to arbitration, the arbitral panel will decide the dispute and will also decide whether they wish to refer matters for interpretation to the Court of Justice. So it is a fundamentally different relationship. But we can, I am sure, discuss this further over the weeks to come.

Q2449 **Sammy Wilson:** Mr Robbins, in one of the first meetings that the Committee had with your Department I raised the issue of the Irish border, and you indicated to us at that stage that although article 51 had not been signed and there was an imprimatur from the EU that there would be no discussions about future arrangements, the Irish Government was co-operating and, indeed, discussing, as far it could, with the Department as to how arrangements could be put in place to ensure that there were no problems along the Irish border. The Irish border has now assumed a role that nobody ever envisaged it would have. When did the attitude of the Irish Government on this issue change?



HOUSE OF COMMONS

Oliver Robbins: Mr Wilson, the Irish Government's position, I think—to be fair to them—has been consistent, in terms of what they want and their objectives for avoiding a hard border, as has the British Government's position. In those very early days, some of the positions as to how it was best to try to do that had not hardened, but, I suppose, over the course of 2016 the Irish Government got firmer in their view about the different ways of resolving the border, as indeed the British Government firmed up its own view of what was at stake.

Sammy Wilson: So they did harden their view on it, though there seems to be a softening now. Only this week, *The Irish Times* carried a front-page article in which the Irish Taoiseach indicated that the EU had reassured the Government that “no physical checks will be needed on the Border even if the UK crashes out” of the EU without a deal. Does that not call into question the argument that unless we have a common regulatory area with no internal borders between Northern Ireland and the Irish Republic, there would need to be a hard infrastructure, which is the current EU position and on which the whole issue of the backstop is predicated?

Oliver Robbins: I think when the Prime Minister tried to address some of this at the Liaison Committee, what she was saying was that, in a situation in which we will have unfortunately not been able to achieve a deal, both sides will of course have to reflect on their responsibilities and make the appropriate measures and preparations. That is indeed what the Secretary of State has been talking about, in the round, about no deal preparations. The Irish Government may have a view about what they think they will be able to do or want to do at their border. I am sure the European Commission will have a view. You wouldn't expect me to necessarily know how that will pan out in the future. All I can say is what Ministers have said consistently, which is that it is our view that we should avoid a hard border. The Prime Minister said at Mansion House that she was clear that the UK had a role to play in making sure that that came about. As the Secretary of State said earlier, we remain committed to finding a way through, both—in the overall architecture of the future relationship—to making this debate ultimately unnecessary, and also to keeping to our commitments to find a legally operative backstop in the withdrawal agreement.

Q2450 **Sammy Wilson:** Yes, but the British Government's view at present, and the White Paper and the compromises in the White Paper, are predicated on the EU and the Irish Government's insistence that without those kinds of arrangements, there would be a hard border between Northern Ireland and the Irish Republic. Now we have got the Irish Government stating publicly that they have been given an assurance by Michel Barnier and Jean-Claude Juncker that in the event of no deal—no arrangements at all—there would not have to be a physical infrastructure along the border between Northern Ireland and the Irish Republic. That being the case, why have we had to make the kinds of compromises that are in the White Paper to facilitate something that the EU says is never going to happen?



HOUSE OF COMMONS

Oliver Robbins: If I may continue, Secretary of State, I think Ministers are very clear that, for all the reasons the Secretary of State gave earlier, the package of proposals outlined in the White Paper are about a lot more than trying to resolve the border between Northern Ireland and Ireland. As the Secretary of State said, this is a package that is in the overall interests of the UK and the UK economy and is driven as much by Ministers' concern for maintaining our EU trade in the round as by being able to develop the rest-of-world trade that we hope for in the future.

If I may say so, Mr Wilson, I don't think it is fair to characterise the White Paper as all being about solving the Northern Irish-Irish border. What the Prime Minister has said is that she remains committed to finding a legally operative way of doing so in the withdrawal agreement. Whatever the Irish Government may have said about where the European Union may or may not be on that question in the future, if we ever came to it, there would be a strong debate between the two sides as to what was necessary there. The Government's objective is to avoid that coming about.

Q2451 **Sammy Wilson:** Has that view been tested with the EU—it is in the public domain—that in the event of no deal, the EU don't believe that there is any need for any physical infrastructure along the Northern Ireland border?

Oliver Robbins: It has indeed. We can furnish the Committee with the references, but I think the European Commission spokesperson has been tackled on this issue many times and given the European Commission's view on behalf of the European Council that in the absence of appropriate arrangements, checks and controls would somehow be necessary.

Q2452 **Sammy Wilson:** So the EU are telling the UK Government one thing while assuring the Irish Government something totally different.

Oliver Robbins: All I am able to tell you, Mr Wilson, is what I know the European Commission has said publicly on the issue.

Dominic Raab: Mr Wilson, can I give you the reassurance that, as we go through these negotiations, and as we hear different things that are not perhaps entirely consistent with one another from different sides—without wanting to go and brandish them publicly because we have a negotiation to protect—we will make the arguments and the points across the board?

Q2453 **Sammy Wilson:** Maybe we could have an assurance, then, because Michel Barnier has been quoted as saying that unless there is a backstop arrangement—I don't know if that is a backstop arrangement as determined by the EU—there can be no withdrawal agreement. Can we have an assurance that if it is the case that the EU are insisting on a backstop arrangement that they do not ever intend to impose themselves if there is no deal, that the UK Government will not be signing up, regardless of what threat there is, to a backstop arrangement that impinges on the integrity of the United Kingdom?

Dominic Raab: We have made it clear, and I made it clear in the House again earlier, that we will do nothing that would draw a customs border

down the Red sea.

Chair: I think it's the Irish sea.

Dominic Raab: The Irish sea.

Chair: You're thinking about your old job.

Sammy Wilson: You can draw as many borders down the Red sea as you want.

Dominic Raab: Can I also reassure you that we have no plans for drawing a border down any other sea either? I want to protect the integrity of the negotiating room. One thing that Michel Barnier and I have agreed is the de-dramatisation of these talks as a result of one thing being said on one side. We are focused on negotiation, not drama.

Q2454 **Sammy Wilson:** You have given us an assurance of no customs border down the Irish sea. Can you also give an assurance that there will be no regulatory border down the Irish sea?

Dominic Raab: We will do everything we can to protect the integrity of the UK. As ever, Mr Wilson, your point is powerfully made.

Q2455 **Seema Malhotra:** Secretary of State, were you aware that the statement that the Prime Minister put out today was coming, and had you seen it before?

Dominic Raab: Yes, but more importantly than that, on taking up appointment we had a very sensible conversation about the crossroads of the negotiations we are in, some of the tensions that were widely reported, and what we do to make sure that we have the optimum arrangements: one team, one negotiation and a clear chain of command. That would put us in the very best professional position to get the best deal.

The work that our civil servants do, whether in the Cabinet Office or in DExEU, is crucially important. Given the wide range of subjects that are involved in the negotiations—from the withdrawal agreement, to the future relationship and the IP—of course we are drawing on expertise from across the board. What we wanted to make sure in relation to these negotiations over the next three months is that we have a single consolidated team in the right place, and the right level of ministerial accountability. I think that, frankly, the statement codifies what we quickly came to agree on. To be absolutely clear, the Prime Minister suggested it to me.

Q2456 **Seema Malhotra:** Does it seem a little odd to you, though, that a statement is put out downgrading your Department five minutes before you give evidence to our Committee?

Dominic Raab: It's not downgrading the Department. Frankly, that is, if I may say, a caricature.

Seema Malhotra: It is how it is being widely reported at the moment.



HOUSE OF COMMONS

Dominic Raab: Well, it only came out an hour ago, so it can't be that widely reported.

Mr Bone: Oh, it is!

Seema Malhotra: You might be surprised.

Dominic Raab: On what went before, I can't comment. The Cabinet Office and DExEU have always had staff and expertise that have been informing the negotiations. They will now be in one place. They will be supporting the Prime Minister, with me deputising for her in the negotiation. I am already doing it. I was out last week; I'll be out this week. I have offered, and intend, to go out right across the summer as regularly as possible. What we have is the officials who have been hitherto informing and supporting the negotiation in one place, with the ministerial chain of command very clearly set out.

Q2457 **Seema Malhotra:** That is extremely helpful, thank you. May I ask a question about the technical notes that the Government are producing that will set out the consequences and necessary preparations in the event of no deal? First, just to clarify, are these being produced by the 330-plus work streams that are DExEU-led, dealing with the preparation for no deal?

Dominic Raab: It is a co-ordination exercise. Of course, the stuff that a specific Department will do, and a lot of the planning and preparation, will rely on their expertise, but they are co-ordinating very carefully with my Department. Chris Heaton-Harris is the junior Minister working on that with me. We are very plugged in to those Departments to make sure not just that the preparations in relation to the specific sectoral work that they are doing are as far forward as possible, but that in the round we have a coherent picture of the planning and preparation that we are doing.

Q2458 **Seema Malhotra:** You have about 70 technical notices that you are expecting to produce. Is that correct?

Dominic Raab: I think it is around that level.

Q2459 **Seema Malhotra:** Around 70. Over what time period? Can you clarify when they will all be out?

Dominic Raab: We said over the coming months.

Q2460 **Seema Malhotra:** Over the coming months—so is that August, September, October?

Dominic Raab: You'll start to see them coming out shortly, but the most important thing is that they are done properly and carefully, given the amount of detail that is going in and the balance between making sure that people are getting ready while having the reassurance that there is no need to be unduly concerned.

Q2461 **Seema Malhotra:** How many of those 70 notices would you say have been completed to date?



HOUSE OF COMMONS

Dominic Raab: I would not be able to put a figure on that, but they are all far advanced.

Q2462 **Seema Malhotra:** So they are far advanced in understanding the impact of no deal and the consequences. At what point do you expect individuals and businesses to start preparing for no deal? How long do you think that will take?

Dominic Raab: By the way, I should say that I think a large proportion of them are far advanced; others may be a little bit further behind. I want to be clear about that, because you asked about the whole 70.

Seema Malhotra: I did indeed.

Dominic Raab: The initial tranche that I am looking at are far advanced, so some are more far advanced than others. I think that comes back to the question I was asked about earlier, which was—

Q2463 **Seema Malhotra:** Approximately how many would you be looking at—10, five?

Dominic Raab: I wouldn't want to put a figure on it without checking very carefully. We are in a position, I think, to move reasonably swiftly to publishing them in a series, so that will come over the coming months, as I said.

Q2464 **Seema Malhotra:** Over the coming months—so we could have some of the technical notices setting out the consequences and the necessary preparations in the event of no deal after October or November?

Dominic Raab: Inevitably, if we get to October and we don't have a deal, and it's clear that there will be no deal, further planning and preparation will take place at that point. That is inevitable. But what you will see from now on, including during the remaining summer months, is a series of those technical notices starting to be published.

Q2465 **Seema Malhotra:** That would suggest that you think that companies, businesses and individuals might need to start planning from December?

Dominic Raab: It will depend on the sector and the nature. We are already having conversations with businesses about the negotiations and some of those risks, but it will depend on which sector they are in and what the specific nature of their business is, because, in fairness, agriculture will be different from car manufacturers and services.

Q2466 **Seema Malhotra:** Forgive me, Secretary of State, but it almost sounds like you could be publishing the technical notices too late for individuals and businesses to actually start preparing for no deal, if no deal is around the corner.

Dominic Raab: No, we will be very mindful of the lead time in relation to the technical notices. We are starting to do it relatively soon. They will be done in a series. Some are further advanced than others. What we have made clear is that those technical notices will start coming. They are not the point of departure; a lot of work has already been done on the no deal



HOUSE OF COMMONS

planning and preparation, but we are entering a different phase of the negotiations and the planning where more of it will need to be public facing. That is partly because of the nature of the operational and logistical changes that we have made, and partly because, for example, in continuity of our treaty relations, we will be talking to other Governments, so people will become aware of it. We want to do it in a responsible, coherent way, but we will be very mindful of the lead time that businesses and individuals will need in relation to the preparations. Of course, we won't leave the EU until the end of March.

Q2467 Seema Malhotra: Would that suggest that you will be publishing papers in the order of how much longer it might take, and how much more risk there might be, in preparation for no deal?

Dominic Raab: That will be part of the consideration, but not the sole one.

Q2468 Seema Malhotra: A final question. You previously said that the UK would thrive, in your view, if we left the EU without a deal. Is that still your view?

Dominic Raab: Yes. I have always made it clear that I think this country has a huge amount going for it in terms of its economic potential and its cultural soft power. The democratic institutions that we prize are one of the big reasons that people voted to leave the EU. I am absolutely focused, and it goes back to the question that I was originally asked by Mr Crabb, on getting a deal. That is my overriding prerogative. I accept that there are risks that need to be mitigated in relation to no deal, but I think this country's best days lie ahead and I think Brexit over the long term will ensure that is the case. What I want to make sure is that we continue to pursue this dual strategy of doing everything we can to get the best deal, but being confident enough in ourselves as a country to make sure that we can weather any squall, or any of the uncertainty that would accompany no deal.

Q2469 Seema Malhotra: Do you think we will be thriving in April next year?

Dominic Raab: I think as we have learned with the forecasts that were made about the state of the UK economy before the referendum, they are rather difficult, and too often proved wrong. There is no doubt that there will be some risks of leaving the EU that we will need to mitigate. What I am saying is that in the medium to long term I am confident in this country.

Q2470 Seema Malhotra: Could I ask just one final question? DExEU's own internal figures from earlier this year estimated a loss of over 10% of GDP in the event of no deal. Have you been presented with those figures by DExEU officials and has there been any further update on any of that analysis?

Dominic Raab: We are constantly evaluating and updating our analysis; also, of course, that will be partly influenced by the ongoing economic data that gets fed through to us, but also the extent to which, as we mitigate the risk of no deal, precisely because we are doing that contingency

planning, we are able to reduce that risk. So the analysis is fluid and ongoing.

Q2471 **Seema Malhotra:** And you have asked the specific questions on the economic impact, of your team. You have asked to be kept informed of—

Dominic Raab: I sit on all the relevant committees in relation to the no deal planning, so we get a whole range of data and wider empirical evidence fed up to us that way. I spend a large amount of my time looking at the papers in relation to all the impacts of no deal, as well as focusing, as I said, on the negotiations, which are our overriding priority.

Q2472 **Chair:** Just on that, your cheerfulness about our future is commendable, Secretary of State, but why do you think it is that just about every bit of economic analysis that has been done about the impact of a no deal Brexit shows it would be highly damaging to the British economy?

Dominic Raab: First of all, I could ask the same question about the forecasts that were made about the UK before the referendum vote and what proved right afterwards. I think Kristin Forbes gave an excellent speech when she stepped down from the Bank of England about the frailties of UK economic forecasting. I think there is a bit more humility about some of those forecasts. There is no doubt in my mind that we should be striving for the best deal.

In relation to the no deal scenario I am not quite as pessimistic, I think, as perhaps you may be, or some others—not necessarily when I look to the medium and long term. I don't doubt that we would have to look at the uncertainty that we would face in the short term, but I think, long term, actually we would still be able to thrive. Of course, as with all risks and opportunities, it depends how you mitigate the risks and grasp the opportunities. What I am not going to do is wallow in pessimism about the state of this country in relation to Brexit. We are going to go into these negotiations with economic confidence and political ambition, and I am going to bring to Mnsr Barnier and to the whole enterprise as much energy as I can. What I am not going to do is allow us to cower in a corner, afraid of our own shadow, about the potential that that energy and that ambition and that principle and that pragmatism is not reciprocated on the other side. I think we will be braced for all the eventualities.

Chair: I hear that. Can I just make a suggestion that you read the transcript of the evidence that we took as a Committee this morning from four parts of a great British success story—the City, broadcasting, the tech sector and the insurance sector—and see what those witnesses had to say about what they think the consequences of no deal would be?

Q2473 **Mr Djanogly:** Secretary of State, the idea is that at the same time as the withdrawal agreement is signed we enter into an agreement on our future relationship with the EU—hopefully all happening in October. Would that political agreement be legally binding?

Dominic Raab: I think one way or another, as I have said before, there would need to be a legal requirement in good faith to proceed to negotiate



HOUSE OF COMMONS

the text of it and to conclude it. So while almost by definition the political declaration would provide the framework rather than the full-blown detail of the free trade arrangements and security co-operations, I think what there would need to be is a clear requirement on the other side to proceed expeditiously to conclude it. The whole premise of these negotiations, and the whole premise of "There's no deal until we do the whole deal", is based on that.

Q2474 **Mr Djanogly:** Just to put that into context, are we talking about the political agreement being, say, 10 pages long and the full agreement several hundred pages long? Would that be fair?

Dominic Raab: I am not sure. If you look at our White Paper, it was 100 pages long. Obviously, it is a discursive document, but I would expect that the political declaration would be a substantive document, outlining all the different issues that need to be addressed, backed up, as I said, by the commitment to do that within an expeditious timeframe.

Q2475 **Mr Djanogly:** You will appreciate that there is some concern that we do not really know how detailed that political agreement will be at the current time, as we are getting so close. You may wish to say I'm wrong on this, but my understanding is that the payments that we are going to make are not going to be conditional on the full deal being signed. In other words, at the time that we sign the withdrawal agreement and the political agreement, we will in effect be going firm on the £35 billion to £50 billion—however much it's going to be—and therefore you will understand that people are concerned that we will be giving away all of that money without having a firm future deal. Would that be a fair way of describing it?

Dominic Raab: It is a fair way of describing the concern. The way I have described the answer is that there's no deal until you've got the whole deal, and the whole deal needs to be given effect to. On your point about the political declaration and what legal casing is put on it and others, I think Mr Timms had an interesting suggestion about that, which was well made. I have been clear that there will need to be a requirement, whether it's in the withdrawal agreement or a legal requirement, that we proceed expeditiously to this. And of course, once you've got that, you've got an obligation on both sides.

To the extent that you're talking about the money, the financial payments and the settlement are sequenced, so it is very clear—I think in my mind—that we would need to agree a deal that makes clear that both sides need to comply with both sets of obligations. If not, depending on the nature of the failure to comply with those obligations, proportionate countermeasures will be taken.

Q2476 **Mr Djanogly:** Can I just say, I think that's the first time we've ever heard some degree of conditionality being introduced into the deal. Is that what you're suggesting?

Dominic Raab: I am absolutely suggesting that there needs to be conditionality, but I don't think this is going any way further than what the



HOUSE OF COMMONS

Prime Minister has said, nor indeed Mr Davis before. But we need to be clear as we proceed that this is a linked package between the withdrawal agreement and the progress through the political declaration to the future framework, and that needs to be meaningfully set out.

Q2477 **Mr Djanogly:** Your predecessor said that it would be possible to negotiate the full trade agreement with the EU before the end of March 2019. Would you agree with that?

Dominic Raab: By March 2019?

Mr Djanogly: Yes, the full deal.

Dominic Raab: I think that would be a challenge, but one that I'm up for.

Q2478 **Mr Djanogly:** Because I have to say that the EU has been repeatedly saying that they think that that is optimistic in the extreme.

Dominic Raab: I am always optimistic.

Q2479 **Mr Djanogly:** In the extreme?

Dominic Raab: I am extreme in my moderation.

Q2480 **Mr Djanogly:** If we were to get to the end of the implementation period and no final deal had been signed off by that time—so, December 2020—what would the situation be?

Dominic Raab: Sorry, can you be specific about the question—?

Mr Djanogly: We get to the end of the implementation period and the final deal has not been agreed.

Dominic Raab: I think we need to be very clear that we want to be moving as expeditiously as possible, once we've got the withdrawal agreement in place and once that's kicked in, in order to make sure—I mean, the implementation period is there as a bridge. It's a bridge to the end state and the future relationship will provide that. So I think we need to be absolutely clear that that is the goal.

Q2481 **Mr Djanogly:** The goal? Okay. But we've had several witnesses—in fact, arguably the majority—come here who have said that it's highly optimistic that we would have a final deal by the end of the implementation period, the average period for a trade deal being seven years. That being the case, and I appreciate that you will go to get that deal, what would the position be? What would we do if we did not have a deal by the end of the implementation period? What are our options?

Dominic Raab: First, I think your first question was whether it was overly optimistic to think we would get the contours of a deal settled by March. I think that expecting that within a two-year period is much more reasonable. There are all sorts of ratification procedures for the 27—I appreciate that—but I think it is a reasonable timeframe that we should be striving every sinew to stick to.

Q2482 **Mr Djanogly:** But what are our options if we don't?



HOUSE OF COMMONS

Dominic Raab: That is a very good question. We need to be very clear that the future relationship and the details of it are tied down and nailed down within that period. That would be my view.

Q2483 **Mr Djanogly:** The previous Secretary of State said that he would be sending hundreds of civil servants to Brussels to negotiate 40 or 50 strands of work. Could you give us an update on how that is going?

Dominic Raab: Sorry, he would be doing that in the event—?

Q2484 **Mr Djanogly:** I think he was saying that he was sort of getting on with it now, that there were 40 or 50 strands of work and that hundreds of civil servants would be going to Brussels to negotiate. Could you just tell us what is going on?

Dominic Raab: I was there last week. I am going there this week. One of the things we discussed last week—and in fact Michel Barnier mentioned it in his press conference—was the importance of the parallel track that we pursue from now on in: the future relationship provisions, side by side with the outstanding issues on the withdrawal agreement, as well as the Northern Ireland issue. With Olly and the team, and the broader effort across Government, and of course through the White Paper, we have been injecting extra energy into that, and I will be raising it and discussing it with Mnsr Barnier on Thursday.

Mr Djanogly: Thank you.

Q2485 **Mr McFadden:** I would like to pursue with you, Secretary of State, this question about money and conditionality. You said in *The Sunday Telegraph* at the weekend that paying the bill would be dependent on the EU fulfilling its side of the bargain and that “certainly it needs to go into the arrangements we have at international level with our EU partners.” Am I right in saying that, at the moment, there is not a conditionality clause in the draft agreement that you referred to in your statement in the Commons a couple of hours ago?

Dominic Raab: Yes, and as I have mentioned, on the EU’s own assessment about 80% of it is done. The form for that has not yet been agreed.

Q2486 **Mr McFadden:** So it is now UK policy to insert into that document a conditionality clause, which is not there at the moment, on the financial settlement.

Dominic Raab: You read out the quote from *The Sunday Telegraph*, which was, if I may say, rather carefully calibrated. The point I have made is that we need to go into the arrangements we have at the international level with our EU partners, with a clear link between the two. It can be done in different ways. Stephen Timms gave me one suggestion; there are other ways of doing it. Certainly one option would be to insert a clause in the withdrawal agreement, but that could be done in different ways. One thing we need to ensure, given the comments that have been made, is that there is a clear obligation to move expeditiously to fulfil the terms of the political declaration and get the future partnership deal agreed.



HOUSE OF COMMONS

Q2487 **Mr McFadden:** But paragraph 5 of the December joint agreement—which is not an EU document; it is an EU-UK document—says that the phase 1 agreement is “without prejudice to discussions on the framework of the future relationship.” You appear to be saying something different now, that the phase 1 agreement is conditional.

Dominic Raab: Well, we have always said that there is no deal until you do the whole deal. Again, in relation to the White Paper that we have put out today on conditionality, when he gets a chance to look, paragraphs 110 and 139 reflect the position I am setting out, so I don’t think it is new or novel.

Q2488 **Mr McFadden:** Olly Robbins, on this idea of conditionality on the financial settlement, will you be raising it at your next meeting with Sabine Weyand or your counterparts?

Oliver Robbins: We have been talking about this issue for some time, Mr McFadden. On the paragraph in the joint report that you refer to, there is also a paragraph at the end of the joint report that makes clear the Government’s view: that we are, as the Secretary of State has said, negotiating these two documents in parallel. Like the European Council, we believe that, at the bare minimum, they need to refer to one another. As the White Paper said, in the few days after Chequers, the Government’s view is that in the withdrawal agreement there should be a commitment to deliver on the future framework. What the Secretary of State is saying is that that will be a commitment in the withdrawal agreement and there will be other commitments in the withdrawal agreement, and if one of those commitments is breached, then dispute resolution will need to be put into place to allow us to resolve that dispute.

This is not a new feature of policy; it is something that we have discussed with the Commission on many occasions and, dare I say it, in the way in which the European Council has referred to linkage between these two documents, there is some basis there for every conversation.

Q2489 **Mr McFadden:** So we should expect to see by the end of this process an agreement between the UK and the EU that the financial settlement that was agreed in principle in the joint December agreement is now conditional on things in the future relationship agreement—and we should expect both sides to agree on that.

Dominic Raab: In fairness, Mr McFadden, that is not what I have said. I was very clear in the language that I have used in the Chamber and with *The Sunday Telegraph* that—

Mr McFadden: Explain that again, in case I missed something.

Dominic Raab: No, I can appreciate that. I was clear that the two are viewed as one package and that failure to fulfil obligations on one or other sides of the bargain would have consequences for the wider deal. That would be through the dispute resolution process or through proportionate countermeasures, which is the same with any treaty that is signed and concluded under general international law.



HOUSE OF COMMONS

Q2490 Mr McFadden: Explain how this would work. Based on the White Paper you have produced, we will be legislating for a withdrawal and implementation Bill, part of which is the financial settlement. But then, sometime down the line, what you appear to be saying is that we will exert—or have—a right to suspend or withdraw payments, or claw them back. Will you explain a little bit how that will work, given that we will have legislated for the financial settlement as part of the phase 1 agreement and the withdrawal Bill? How will it work sometime down the line, maybe when half of it has been paid, for example, in the continuing payments through the transition period up until 2020? Are we looking for some kind of clawback mechanism, where we might withdraw some of that?

Dominic Raab: You make a good point about the sequencing of payments, which will be one aspect of the relationship of discharging our obligations under the agreement. The White Paper sets out very clearly the mechanism for payment, including the scrutiny, but the truth is that the point you are making is not a new one to this treaty or any other: that you have a dispute resolution mechanism and the general supporting principles of customary international law—reflected within the convention on the law of treaties—about how you respond to poor performance, on both sides, of the obligations contained in the treaty. A treaty isn't like a contract, but of course it sets the framework for the relationship. So that is true of almost every treaty that I have ever been involved in negotiating, whether bilateral or multilateral.

Q2491 Mr McFadden: But it is new, because a few weeks ago we had a Minister from your Department here who said to us that this wasn't conditional, other than in a good faith way in the future, and that there was no conditionality clause, or any plan for one. It seems like a new departure to insert legal text into the agreement that there will be conditionality on the divorce settlement that was agreed in principle last December.

Dominic Raab: Yes, but in relation to good faith, good faith is crucial. It is an explicit part, in the White Paper, of what will go into the agreement. Of course, I should say at the outset, we are catering for every eventuality, but I have every reason to believe that our EU partners will go into this with good faith and, once we get a sensible deal that works for both sides, we want them to implement their side of the bargain in the same way as we will be true to ours. But of course you will need to have a mechanism for managing the potential creases in the relationship along the way. In the same way as any business would go into negotiating a contract, the UK Government go into negotiating any treaty, making sure that performance can be properly monitored and that there is proper redress in relation to a bargain that is kept by only one side. That is the normal performance of treaty law.

Q2492 Mr McFadden: When you have the legal text of this conditionality clause, will you share with it the Committee?

Dominic Raab: There will be plenty of time for scrutiny of all of this.

Mr McFadden: Thank you.



HOUSE OF COMMONS

Q2493 Chair: On that point about good faith, how does invoking good faith work if the EU says, "Well, we think what we're offering you is a good trade deal", but the UK Government think, "Well, it isn't a good trade deal"? I do not see how it can operate if you are trying to apply the kind of conditionality that your interview suggested.

Dominic Raab: I think that that touches on the point raised by Mr Djanogly earlier, which is that we will need to have a clear enough blueprint in the political declaration that, actually, what we are really talking about is the technical work of giving effect to something that at the political level is mutually agreed.

Q2494 Chair: So sufficient detail in the political declaration? That is what you are saying?

Dominic Raab: I think a sufficient sense of direction, the areas that need to be covered and how that will be pursued.

Q2495 Richard Graham: Secretary of State, you said, and I paraphrase, that the Chequers White Paper respects the result of the referendum, preserves the integrity of the UK, and delivers practical reassurance for businesses and citizens. Why is it, do you think, that many former leave voters have called it a betrayal of the referendum? What would your message to them be?

Dominic Raab: Forgive me if I do not try to second-guess why there are different reactions to it. I appreciate the passions and tensions on all sides. Of course, given the nature of the controversy in this place and among the political class, I think it is inevitable that there is a knock-on effect, but it is also worth saying that we are at, not quite the mid-point, but probably the most sensitive point of the negotiations. We are at the point at which we push forward, get the deal or—and I think it is far less likely than getting the deal—we find ourselves in the worst-case scenario of no deal, which we will manage. I understand that there are sensitivities and pressure around that, but what I think people will judge is the package in the round and whether, once we get the detail and the fully fledged withdrawal agreement—the political declaration—it gives a sense of the sunlit uplands to the end state that respects the outcome of the referendum. I am confident that with the White Paper we have the road map to that, but I think I understand why, at this point in the negotiations, it is tense. Of course, there are strong views on all sides of the debate on the customs union, whether people voted remain or were on the leave side. I think that is natural.

Q2496 Richard Graham: I wonder if part of the issue isn't the complicated Northern Ireland backstop to keep a frictionless land border in the event of no deal. Mr Robbins, I am looking at the joint statement by the UK and EU that identified eight sectors that would need to be tackled. How effective do you think the White Paper is in producing effective solutions to them that the EU can accept?

Oliver Robbins: The areas of cross-border co-operation referred to in the joint report from back in December and that have been referred to since,



HOUSE OF COMMONS

as members of the Committee will know, I am sure, cover a range of issues from medical co-operation, through agricultural co-operation through energy—no, not energy, I don't think—and the way that that co-operation will continue is something that we have been exploring in the meetings with the Commission, Northern Ireland Executive officials and others with an interest in this. I think I am confident that in almost all the areas identified in that mapping exercise we will be able to continue north-south co-operation as it stands today.

The particular issue of the backstop, which Mr Wilson was questioning me on earlier, comes into play on the free movement of goods and people across the border between Northern Ireland and Ireland. There, as the Secretary of State said earlier, the White Paper made a series of propositions that we think are precise and credible for solving that problem in the round for the UK as a whole, rather than specifically needing to solve it only in Northern Ireland and Ireland.

Q2497 Richard Graham: But of course one of the challenges, Secretary of State, is that when the Government produced a partial backstop proposal in June, they did say that it could be given effect through the UK being part of the EU's customs territory. That was one of the options. To some people, that might look like reverse engineering of the UK into a customs union. What would you say to that?

Dominic Raab: I think we are looking to avoid that, but of course it is a backstop arrangement. Negotiations are ongoing on this and I am mindful of its sensitivity. I think that the most important thing is that there is confidence when we come to the arrangement on it, and that there is finality to it. That is one of the key things.

Q2498 Richard Graham: The White Paper also says, of course, that the Northern Ireland backstop, and I quote, "will not" be needed. Is that because of the Government's confidence in reaching a deal?

Dominic Raab: I think in the normal course of events, we would be confident in the way we describe that we would have the future relationship and that the proposals we have made, as Olly has described, would deal with not just the frictionless trade issue, but also specifically the Northern Ireland issue. Therefore if that kicks into effect, we would not need it. We agreed in December to come up with a backstop option, and the key thing is that we have come up with an innovative approach that ensures we deal with the problems, but also that is time-limited.

Q2499 Richard Graham: Yes, but it would be ironic, wouldn't it, for those who find the idea of no deal attractive, if no deal resulted in us having to stay in the customs union through the Northern Ireland backstop.

Dominic Raab: I'm not sure how that would happen, because no deal presumes that we do not sign up to the withdrawal agreement, in which case the backstop would not come into effect.

Q2500 Richard Graham: Right. What about the future of your Department? Some people might argue that once we have left the European Union at



HOUSE OF COMMONS

the end of March next year, the negotiations that will then happen on the detail of the political declaration and so on could very well be conducted by the team that you already have in the Cabinet Office, with a Minister based in the Cabinet Office. You would then not need a separate Department, which in turn would probably save you some of the interrogations here at the Select Committee.

Dominic Raab: I wouldn't want to avoid the interrogations of the Select Committee. I think the most important thing is that we have the right configuration of Whitehall now for these negotiations. Obviously there is discussion about that. I think there will be a need for the co-ordinating function that DExEU does, but frankly I am much less interested in the Whitehall deckchairs than I am in the substance of our negotiating objectives. If I end up putting myself out of a job, that will be success.

Q2501 **Richard Graham:** Lastly, what impact do you think more preparation for no deal will have on investment confidence in the UK? Will it be positive, because investors may relish the prospect of preparations for no deal, or will it be negative, because investors will see the likelihood of no deal increasing?

Dominic Raab: I think that is a very good question, and the answer is that it is probably a balance. All I can tell you, Mr Graham, is that in the Chequers meeting we had with a whole range of businesses, going from manufacturers to financial services and from small businesses to large businesses, the feedback to me directly—the snippets in the newspapers—overwhelmingly was, “We appreciate the challenges of this stage of the negotiations. We welcome the ambition and pragmatism in your plan. What can we do to help?” Hopefully, there was a sense of can-do and a team ethic around that. I can only speak to the business representatives that were there, but there were some pretty senior representatives from business and from all sectors, and that is important. It certainly was the first time that I have had people saying in large numbers, “What can we do to help? We want to get behind your plan.”

Q2502 **Richard Graham:** Chair, may I have one very quick, very small supplementary? There has been some speculation in the media that the Chequers White Paper proposals will not allow for free trade agreements that we ourselves negotiate having brought back trade policy internally. What reassurance can you give to people that we will have control of our future trade policy under the Chequers White Paper?

Dominic Raab: The key, crucial aspect will be that under the White Paper proposals, we will have the full ability to reduce tariffs across the board on goods including agricultural goods. That is a major incentive in the negotiations with our non-EU partners and indeed in any free trade negotiations. I understand the concerns that have been expressed around that, but if you look at some of the comments made by Australia, for example, in relation to the Pacific trade deal and various other things—I had a conversation with Liam Fox about this, and we are constantly in touch about it. Obviously what many international interlocutors want you to have is the maximum flexibility. We need to be mindful about some of



HOUSE OF COMMONS

the regulatory changes we would make, whether we were in or outside of the EU. The key thing that we will have under this model is the ability to have control over tariffs. That is a major negotiating incentive. We are going to go and talk to some of the growth markets of the future, whether that is Latin American or Asia.

Q2503 Stephen Kinnock: Thank you, Chair, and thank you, gentlemen. You have been very generous with your time. Secretary of State, you have given your full backing to the Chequers agreement, a cornerstone of which is that we will uphold the rights and protections we currently enjoy as an EU member state. You are also on the record as having said, "I don't support the Human Rights Act and I don't believe in economic and social rights". You have said, "It is too difficult to hire and fire in this country. This is a major obstacle to growth." In your 2011 report, "Escaping the strait jacket", you said that you want to abolish the agency workers regulations and the working time regulations. You are also on the record as having said, "Feminists are now amongst the most obnoxious of bigots." Is it accurate, then, to say that you support the piece in the Chequers agreement that says we want to uphold the rights and protections we currently enjoy as a member state of the European Union?

Dominic Raab: Thank you for the full, detailed study you have done of my past greatest hits.

Stephen Kinnock: My pleasure.

Dominic Raab: On economic and social rights, my point—I wrote a book about this in 2009—is that, in relation to civil liberties and human rights, the liberal tradition of human rights in this country, along the lines of John Stuart Mill, Locke and Isaiah Berlin, has tended to be to protect civil liberties as human rights, which is a constitutionally superior brand of right that has trump status in the courts. In fairness—I have been critical of the Human Rights Act in the past, as you rightly say—the Human Rights Act's approach is to protect civil and political liberties. It has not tended to include some of the economic and social rights contained in UN conventions. Actually, I am making a straightforward point about human rights. I have never argued that economic and social rights shouldn't be protected in law. It was about the trump card status given to human rights under the Human Rights Act or any Bill of Rights.

On the working time directive, the Government has been consistent that we are not going to encourage a race to the bottom and diminish workers' rights as a result of Brexit. I fully support that. The point I have made about employment and social legislation is that if you are mindful of the pressure that puts on employers and at the same time strike the right balance with workers' protections—both of those things are crucially important—why on earth would you want to abdicate that to the EU and abdicate your democratic control? One of the crucial things we will have when we leave the EU is strong, bespoke standards that suit the economic and social conditions of this country. People like you and I, albeit we are from different parts of the political spectrum, will be accountable to our voters for it. That ought to be something we agree on.



HOUSE OF COMMONS

On the feminism debate, the simple argument I always make is that the value of equality is too important for us to engage in double standards. I am fully supportive of all of our equalities legislation. I am a meritocrat to my core; I do not believe in positive discrimination. Fortunately, we have not gone down that path. It is important for you and I, as we share the value of equality and want to see it applied consistently, to call out double standards wherever they apply.

Q2504 Stephen Kinnock: Thank you very much. I want to move now to the issue of the Vote Leave campaign. Obviously, given that you are now batting for Britain, it is very important that we have full confidence in the authority and integrity of that process. That relates to the fact that you were a member of the campaign committee for the Vote Leave campaign. I have got here a copy of the campaign committee's terms of reference. It states clearly that one of the roles of the campaign committee will be "How Vote Leave will interact with other organisations promoting a Leave vote" and "The way in which fundraising is to be conducted and donations maximised." As a member of that committee, which had clear responsibilities, as defined in the terms of reference, can you say what you knew about the relationship with BeLeave, which is of course the subject of the illegal donation from Vote Leave?

Dominic Raab: I was on the political campaign board, as you rightly say, and I am proud to have been so. We had no role in relation to the allegation or the disbursement of campaign donations, so I had no direct personal contact with BeLeave. I understand the point you are trying to make, and obviously the Electoral Commission should pursue it in the ordinary course according to the rule of law. I gently say to you that if what you are really trying to do is discredit the referendum wholesale and push back on it, I think that would create a far greater breach of public trust. What we all ought to be trying to do—I think your Select Committee has a crucial role—is trying to rally together, forge some consensus and unity of purpose and try and get the best deal.

Q2505 Stephen Kinnock: Secretary of State, I gently say to you that I think this issue is far bigger than Brexit. I really don't connect it to the referendum; I think it is an issue about the soul of our democracy and whether or not we can restore people's trust in it.

Given the terms of reference of the campaign committee, of which you were active member and in whose weekly meetings I presume you were participating, had you ever heard of the BeLeave campaign during your time at Vote Leave?

Dominic Raab: I am sure I was aware of all the other different groups, but that is not what I spent my time focused on, either as a member of that board or in my wider efforts campaigning.

Q2506 Stephen Kinnock: But we know that the donation to BeLeave was by far Vote Leave's biggest donation—£680,000. It is difficult to believe that the campaign committee, given that it was responsible for making decisions about donations, was not aware of the biggest donation.



HOUSE OF COMMONS

Dominic Raab: I think that is an inaccurate description of what that committee did. There was a professional operational team that dealt with the day-to-day running of the campaign and things like the donations coming in. Obviously we had an outreach function, but what we were primarily focused on was the political campaigning.

And by the way, if you want to talk about the soul of democracy, I don't think a second referendum on Brexit would be very good for the soul of our democracy either.

Stephen Kinnock: I agree, and that's something that I've never advocated.

Q2507 **Craig Mackinlay:** This is mainly to Mr Robbins. This is the Select Committee for Exiting the European Union. We have a parliamentary function to fulfil, to inform both Parliament and the public about this process. I feel that over the last few months I've been misled; because quietly, somewhere, there was a coup d'état going on between DExEU, the proper Department, and the Europe department at the Cabinet Office. We have had the previous Secretary of State here outlining the progress he was making—the progress towards a White Paper that we expected. It soundly broadly sensible and I think it had broad approval from many of us on this Committee, and I think it would have had approval from the public at large. But somehow, quietly, that was ripped up. When was that ripped up and who authorised it, please, Mr Robbins?

Oliver Robbins: Mr Mackinlay, I honestly don't recognise the picture you are painting. The previous Secretary of State is someone with whom I enjoyed working extremely closely and with whom I spent a lot of time. We talked about these issues extensively and I served him to the best of my ability as permanent secretary and continued to work closely with him when I moved to the Cabinet Office. His Department worked hard on a White Paper, which I was very proud to support and to work with as it was published in the days after the Chequers Cabinet meeting. Most of it is traceable back to public interventions that Ministers have made over the last few months, and those in turn, of course, are based on collective agreement of the Government's objectives and the measures that the Government wants to pursue in the negotiation.

The Prime Minister approached the Cabinet meeting at Chequers, as I tried to describe earlier, as is her prerogative, by trying to think through with her colleagues, devoting an awful lot of time to it, what the right routes through to a successful deal were. Part of the format for that, as I think the acting permanent secretary told the Public Administration Committee the other day, was an opportunity for Ministers then collectively to probe, quite informally, some of the analysis and advice that officials—not just me, but others around the system—were giving and for the Prime Minister to set out her view. But in the end, the White Paper that the Government produced in the days after Chequers was one that was based on and grounded fully in that collective agreement reached by the Prime Minister with her colleagues, and it is my job only to support her in steering the Committee to the right analysis of the situation we are in and the issues



HOUSE OF COMMONS

before us in the negotiation—now working very closely with the Secretary of State here—and to make sure that Ministers have the best possible information to take those decisions. It has been my privilege to do that for years and I want to continue.

Q2508 Craig Mackinlay: Okay, well let's bounce over to the Secretary of State. Welcome to your place; it is good to see you. My mother always had a very good saying: to yourself be true. I would like to hold myself to that all the time. I have asked many people in the street what they think of what they have read so far about the Chequers agreement and the White Paper, and they say very clearly, often in quite graphic language, that it does not pass their sniff test.

I have no great problem with a common rulebook. If you're exporting to the US, you have to apply their rulebook. If you're exporting to Australia—or wherever else you want to imagine—you have to apply their rulebook. The problem I have with the common rulebook is that it is not our rulebook.

I will use my pen example. If I am making that pen in the UK for the EU, it will have to comply with EU standards, but if I am making it to sell it to Mr Graham just in the UK, it doesn't feel that I can do that because if I can't do that, and Ms Cherry, in America, has her pen that she wants to sell to me, which might be just slightly different from the EU standard but is acceptable to us, I can't do that deal any more. My worry is that the common rulebook will mean that international trade deals are off the table.

We are trying to exempt services from the common rulebook, because we feel that that's where great global trade will be good for Britain, and I perfectly appreciate that, but when you're trying to do that with a country that wants to sell us goods, and we want to sell them services, we haven't really got an awful lot to offer. Could you square that circle for me please, Secretary of State?

Dominic Raab: I'm not going to tell you that if we didn't have full regulatory autonomy, it wouldn't be an additional string to our bow in free trade negotiations. The reassurance I can give you is, first, that rulebook has remained relatively stable in recent years, and secondly, the key advantage we will have in free trade negotiations is not just the full autonomy in services but the ability to control our tariffs and, bluntly, to engage in a more liberal approach to free trade in relation to that. That, I think, in part from conversations that I have had with the Department for International Trade, would still mean that we were in a good place to trade more energetically globally with the growth markets of the future.

Obviously, on the risk mitigation side, it solves—it addresses—the issue of friction at the border. In the same breath, it also substantially deals with the Northern Ireland question long term. But it's a balanced approach; that's why I said it's a principled and pragmatic approach.

Q2509 Craig Mackinlay: Do you not think that, as part of our future as an independent Britain, we are almost saddled with a global duty here? For



HOUSE OF COMMONS

too long, the EU has bullied other countries in trade deal negotiations to accept it its way or no way. I am very worried that we are going down the same route of accepting it its way or no way.

I am thinking about the dreadful unemployment rates in places like Greece and how the EU is absolutely appalling at getting trade deals together, because it insists on its way or no way. We have a global duty to reset WTO rules and say, "We demand mutual recognition," because that will be the key to get global trade really working. I am really worried that we are losing what we could be in this world by just saying, "Yeah, we'll accept it your way and we'll just put up with it."

Dominic Raab: I certainly share your instinct that we want to be a leader when it comes to global free trade. If you look at the history of the WTO since the Doha round, it could really do with a shot in the arm from a country coming in with a bit of that ambition and vim and vigour, as I have said in the past.

What I would say again, just to repeat what I said earlier, is that we will have control over our tariffs—that is the major advantage that we would have in relation to goods and agriculture—and also over our disposition, in the way that you have described, in relation to our negotiations, whether with Mercosur or with the Asian countries. Services is obviously a growth market for us as well. But you are right to say that there has been an element of pragmatism around this, given that we have different views right across our own party, not to mention the House as a whole—and not to mention the country as a whole.

Craig Mackinlay: Can I finish with you, Mr Robbins, on the Irish backstop? We now have a multitude of people. We are not going to put a border up. Varadkar, despite his strange protestation last week about aircraft, is not going to put a border up. And Jean-Claude Juncker recently said at the Dáil that he would not be putting a border up either. In going through the negotiation about where we might end up, why have we ended up with the backstop that almost says we start back at the beginning? We are almost in a loop. You get to here and it's, "Can't have that." Then it's, "All right, we'll go to there," and it's, "Can't have that." We go back to the beginning again.

Who on earth negotiated this backstop, which is BRINO—leaving in name only? Was it your Department, at the Cabinet Office, or was it a DExEU proposal? Which one prevailed on that, because I find it hard to believe, knowing the characters who were in DExEU, that they would have accepted that backstop? The obvious backstop would be, "If we can't get there, it's WTO." Who was in the driving seat for the Irish backstop as we currently see it?

Oliver Robbins: If your question, Mr Mackinlay, is about the negotiation of that text in the joint report back in December, that was a text that the cross-Government team worked on. We talked it through with the Commission over several weeks. The Secretary of State was very closely involved in that process, and the Prime Minister of course, with the Secretary of State, came out and discussed it twice with the President of



HOUSE OF COMMONS

the European Commission and Mr Barnier in that crucial week. It was a process that we entered into on a whole-of-Government basis, with the Secretary of State and the Prime Minister very closely involved.

I should say—the Secretary of State would, I hope, agree with me—that in many ways that whole section of the joint report was as much my Ministers wanting to give expression to our commitments in respect of Northern Ireland as it was complying with pressure from anybody anywhere else. The Prime Minister and the then Secretary of State for Northern Ireland, since the referendum, have been clear about our own commitment to the border, and in those paragraphs of the joint report we were willingly signing up to ways in which we would deliver on those commitments, chief of which, as the Secretary of State said, must be achieving a good result for the UK and EU relationship in the round.

Chair: A final question from me. You have made it clear that the common rulebook will cover things that are necessary in order to prevent—*[Interruption.]* Sorry, Jacob. You said you were going to come in, but you didn't indicate.

Q2510 **Mr Rees-Mogg:** Thank you very much, Chairman, and thank you, gentlemen, for being enormously patient, and for coming in, Secretary of State, so soon after your appointment. Mr Robbins, first of all, congratulations, because you must be very pleased with written ministerial No. 20 today on changes in the mechanism of Government that move a lot of authority to your Department. Where do you see your authority as deriving from?

Oliver Robbins: Straightforwardly, Mr Rees-Mogg, I report to the Prime Minister. I work very closely with the Secretary of State, but my authority comes, as both of ours does, from the collective agreement that Ministers reached as to our mandate in the negotiations. That is what we are both working to.

Q2511 **Mr Rees-Mogg:** So the general principle that advisers advise and Ministers decide is one that it is fair to assume applies, and the criticisms of you as being the driving force behind policy are unfair, because you are carrying out a role on behalf of the people from whom the power comes, in particular the Prime Minister.

Oliver Robbins: I think that is a very fair characterisation. Thank you.

Q2512 **Mr Rees-Mogg:** Thank you. On the relationship between you and the two Secretaries of State, there were a couple of comments made during the evidence today that struck me as interesting in looking at that. One was when you said fairly early on, "Now with the Secretary of State close at hand in the negotiations—" The other was when the Secretary of State said, "Now all the advice will come to me," the implication being that the previous Secretary of State had not been close at hand and had not received all the advice. Did David Davis receive all the advice?

Oliver Robbins: I think what we are both saying is that in the past, at the time for completely natural reasons—I don't think this was a bad decision



HOUSE OF COMMONS

at the time—there were two teams of civil servants, working very closely together but one advising the Prime Minister and one advising the Secretary of State.

As I hope you would expect, those two teams were the closest working teams you will find in Whitehall, and they continue to be so, but what the Secretary of State was describing—and this is certainly our preference for how I want to support him in the job that he has to do—is that it is more efficient and more effective if there is a stream of advice coming to the Prime Minister and the Secretary of State jointly that allows them to take a view on the key issues together.

Q2513 Mr Rees-Mogg: So it will be a closer relationship than there was with the previous Secretary of State. That is fair from what you have been saying. The separations will be removed.

Oliver Robbins: Personally, I enjoyed a very close relationship with the previous Secretary of State, and we worked together very closely over some very important times. I hope that the arrangement that has been agreed between the Prime Minister and the Secretary of State for how they are supported over this phase of the negotiations will, if anything, be more effective.

Q2514 Mr Rees-Mogg: Okay. In relation to the Chequers papers, Mr Whittingdale asked you a question that you very silkily, in a very Sir Humphrey-like fashion, managed not to answer, which was when did you start working on the evolution. When did you start working on the evolution?

Oliver Robbins: We have all been concerned for some time, Mr Rees-Mogg, to deliver the policy that the Prime Minister set out at Mansion House, which was for as frictionless trade as possible between the UK and the EU and a series of other objectives for our relationship—myself, a team from the Treasury, a team from the Business Department and the International Trade Department. We have all been involved in discussions with the Commission and with our other EU partners over the last few months. Ministers, including Ministers in Departments—not just the Prime Minister—have been testing us, probing us and challenging us constantly over the last few months as to how we are going to achieve the Government's objectives. In that sense, from the day the Mansion House speech was delivered—

Mr Rees-Mogg: So 3 March.

Oliver Robbins: We have been thinking very hard about how to make sure we deliver it and how to make sure that the negotiating position we advance with the EU is sufficiently precise to achieve our objectives.

Q2515 Mr Rees-Mogg: At what point was this more formalised? If we say the evolution began on or around 3 March, as I understand it, 120 pages were presented to Cabinet Ministers and those attending Cabinet shortly before the meeting at Chequers. When did those papers begin to be written?



HOUSE OF COMMONS

Oliver Robbins: I hope you will understand if I don't get too much into the weeds of how Cabinet papers are produced. I think there is a pretty long-standing convention about what it is right for me to say about that. It is up to the Prime Minister how she sets the agenda.

Q2516 **Mr Rees-Mogg:** I'm not asking you for the details of what was in them. I am asking you for the timeline of when they were written, because this is very important in terms of seeing if Cabinet Government is going ahead as one might expect—the timeline for writing those papers.

Oliver Robbins: I think the acting Cabinet Secretary addressed some of these questions with the Public Administration and Constitutional Affairs Committee a couple of days ago. What he said then, and it is his role to give assurance on this, was that in his view sufficient time was given to Ministers to consider the analysis ahead of Chequers.

Q2517 **Mr Rees-Mogg:** I am not asking about how long they were given. I am asking about when you started writing these papers.

Oliver Robbins: These papers have their origins in other papers, and we have been producing papers about how to deliver our customs arrangements for quite some time. I am sorry, maybe I misunderstand your question.

Q2518 **Mr Rees-Mogg:** You sit down with pen in hand at some point, or possibly with a computer in front of you. I am probably more pen in hand; you are probably more computer in front of you, if you will forgive the assumption behind that—I am just accusing you of being modern, for which I apologise. When did you start preparing the papers for the Cabinet? I am looking for an indication of the timeline.

Oliver Robbins: I think the Prime Minister asked for first drafts of the papers that she was considering at that point putting to the meeting about a fortnight before.

Q2519 **Mr Rees-Mogg:** A fortnight before. The peculiar thing is that the draft White Paper that was going on in DExEU seemed to be very different from what was being produced by the Cabinet Office, prior to written ministerial statement No. 20 of today's date, changing the mechanics of Government. Doesn't that strike you as a little odd?

Oliver Robbins: First of all—if I may, Secretary of State—as I tried to explain earlier in response to Mr Whittingdale, the White Paper that DExEU was working on, which was then largely published a few days after Chequers, is the product of a long evolution of Government policy and development of policy in collective committees, in Cabinet and in speeches over many months. There was not some sudden twist in the road where one White Paper was done away with and a new White Paper was written. The way in which the DExEU team had approached that White Paper is that they were conscious that there were some open issues about the way in which we were going to try to get to the precise and ambitious prospectus for our future relationship that the Secretary of State was describing earlier. What the Prime Minister decided, including in



HOUSE OF COMMONS

consultation with the then Secretary of State, was that that meeting at Chequers needed to zero in on those open issues.

Q2520 **Mr Rees-Mogg:** But the authority to do that hadn't yet been given to the Cabinet Office by this written ministerial statement. This was the responsibility of DExEU. It is only today that that responsibility has been changed.

Oliver Robbins: I think the Prime Minister, when she announced the creation of the Europe Unit last autumn, was clear then that we would be an integral part of the Cabinet Secretariat. An important role of the secretariat is to properly inform Cabinet meetings and to put forward papers when the Prime Minister as chairman directs us to.

Q2521 **Mr Rees-Mogg:** Shouldn't the ExEU Department have known that this was going on and that these papers were about to be provided at the point at which it was writing something else?

Oliver Robbins: As I tried to explain earlier, and I'm sorry if I wasn't clear, the closest colleagues I've had in this job have been colleagues at the Department for Exiting the European Union, and they were throughout this process.

Q2522 **Mr Rees-Mogg:** But they've said they didn't know—the former Secretary of State just said that he didn't know. So, are you saying that he is misinforming us?

Oliver Robbins: No, I'm not saying that. I'm telling you what I can tell you about the process, which is that it was a close and collaborative one.

Mr Rees-Mogg: Thank you very much. I think that's extremely helpful, but it is worrying that the authority that changed today hadn't happened then and that things were going on that the Department meant to be in charge of it was unaware of. That should be no blame to you at all, because you were answerable to the Prime Minister. Thank you.

Q2523 **Chair:** That was very interesting. I must say that those of us around the table who have been Cabinet Ministers would say, "That sounds fairly normal to me". And just for the record, Mr Robbins, you are accountable to the Prime Minister, because you are her Europe adviser. Is that correct?

Oliver Robbins: Yes. I am. Thank you.

Q2524 **Chair:** So you take instructions from her?

Oliver Robbins: And from Ministers collectively.

Chair: Indeed. Finally—I apologise—Mr Lefroy.

Q2525 **Jeremy Lefroy:** Thank you very much, Chairman. First, I have quite a specific question. This morning, in the evidence that was given to us, concern was raised about derivatives and their position in the event of no deal. There were many other concerns raised, but I am highlighting this because the value of outstanding derivatives dwarfs all other problems in terms of quantity—tens of trillions of dollars were mentioned.



HOUSE OF COMMONS

Presumably, this is very, very high on the list of your concerns in the event of no deal. I just wondered, Secretary of State, what work you are aware is being done on the legal situation regarding derivatives across EU borders at this time, in the event of no deal?

Dominic Raab: There's a whole range of work that's being done, leveraging all the relevant bits of Whitehall, on financial services. In order to address derivatives, I'd need to go back and check specifically, because it's such a bespoke and esoteric issue. But again, I think that probably the right thing to do, Mr Benn, is at the end to make sure that my private office and your Clerks do a list—a shopping list—of the things you want further information on, and I'm happy to add it to that.

Chair: That's a very helpful suggestion.

Q2526 **Jeremy Lefroy:** Thank you. I'd be most grateful, because in terms of focusing on the things that have the potential of going most wrong, we saw 10 years ago precisely that it was derivatives that probably caused a substantial amount of the damage during the financial crisis, so it's really important that that is focused on. Thank you.

A second point that was raised was concern over an attempt perhaps in some areas to undermine the position of English law as the international gold standard around corporate law and other arrangements. This was raised specifically by our witnesses this morning. Are you aware of that and what is being done to ensure that our partners in Europe but also around the world know that we will defend absolutely to the hilt the primacy of English law in international agreements, and that is not something that we are not prepared to allow to slip in any way?

Dominic Raab: I think that's written into the withdrawal agreement White Paper and the future relationship White Paper, but I will just say this. Are you referring to the "due regard" obligation to ECJ case law?

Q2527 **Jeremy Lefroy:** No. This was a more general point that was being made—that this was being used as an opportunity by, shall we say, competitive jurisdictions to say that perhaps English law is not going to remain the gold standard.

Dominic Raab: What I would say is that, of course, the common law has been brilliant at absorbing different influences, partly from the EU but partly from Commonwealth countries, and what we will do—what we will be restoring—is the ability to do that in a much more autonomous way across the board, and obviously in relation to services there will be full autonomy.

We are interlinked into various other jurisdictions through private international law and some of the long-standing private international law regulations—Lugano and others; Brussels regulations—that we've got. There are some where we want to maintain the substance of the framework, but I think the great advantage of the approach that we're taking is that we can retain frictionless trade with the EU but maintain the autonomy of our case law for all the international transactions you describe.



HOUSE OF COMMONS

That is one of the reasons why international arbitration as the model for resolving disputes is so attractive. Of course, arbitration is different from adjudication, in that most arbitral tribunals resolve the facts of a dispute before them, rather than seeking to lay down a wider corpus of legally binding precedent, which is what happens with adjudication before the ECJ or some other international tribunals of a supranational nature.

Chair: Joanna, did you cover the point you wanted to raise earlier?

Joanna Cherry: I want to raise a point about due regard, if I may?

Jeremy Lefroy: I have a couple more questions.

Chair: I apologise.

Q2528 **Jeremy Lefroy:** Understandably, the Government are seeking an association agreement. Other countries have association agreements. Have the Government engaged in any dialogue with those countries that have association agreements with the EU, albeit very different ones, about how those agreements operate in practice and about what can be learned from the Ukrainian agreement or others that are currently in force?

Dominic Raab: The term “association agreement” is a term of art. As a matter of international law, the label does not really mean a lot, other than that you are not just normally covering economic matters. What matters most is the substance. The UK, with its track record and experience in treaty-making relations, has a huge amount of expertise, but we will look very carefully, whether a model is proposed that mirrors one that the EU already has or whether a different approach is taken, at what is in it for the UK. I would not get too preoccupied with the form, because it is a malleable legal instrument. It is the substance that matters.

Q2529 **Jeremy Lefroy:** My final question, which arises partly from some very positive comments you made earlier, is: what work are the Department and the Government doing to show young people in this country in particular that the future is, as you said, bright, and that it is not a case of certain things that they have seen themselves and that their parents have experienced over the last two or three decades being removed from them?

Dominic Raab: The overall approach is not to be blithe about some of the risks of any change of this nature, but to be optimistic and self-confident. Regardless of the demographic, that is what people looking to the future want to see. I point not just to the combination of principle and pragmatism, but to some of the specific stuff. For example, in relation to mobility, while we take back control of our borders and immigration policy, the ability to ensure that young people can travel across the continent for tourism and holidays will be important. Ensuring we have sensible arrangements for enjoying the pan-European cultural and educational opportunities that we have on both sides is crucial.



HOUSE OF COMMONS

We are leaving the EU; we are not leaving Europe. For a lot of people, as we flesh out the detail of our negotiating position and fill out more of the text of what we have agreed, that will become clear. Ultimately, this is a period of uncertainty. We need to point to the provisions such as the mobility provisions and say, "Actually, those key things that you want will remain; we will retain access to them." That is the key thing. For most people in this country, actions speak louder than words.

Q2530 Joanna Cherry: First of all, I should have said congratulations on your appointment, Secretary of State. Thank you for being so generous with your time. I want to try to understand what is left of the red line on the jurisdiction of the Court of Justice. Recently, we passed into law the European Union (Withdrawal) Act 2018, which said in section 6 that the jurisdiction of the Court of Justice would stop on exit day, which of course is defined as 29 March. Some of us pointed out at the time that that could not be right if there was going to be a transition period. Your White Paper today has finally admitted that parts of the Act will have to be repealed, because the jurisdiction of the Court of Justice will continue throughout the transition period. That is correct, isn't it?

Dominic Raab: Sorry, is that the question?

Q2531 Joanna Cherry: Yes. Could you clarify for us whether the jurisdiction of the court of justice will continue throughout the transition period?

Dominic Raab: The implementation period?

Joanna Cherry: Whatever you want to call it.

Dominic Raab: As I set out in the House earlier, yes it will. The truth is, even in the passage of the European Union (Withdrawal) Act, Ministers including myself made clear that what we were doing at the time was legislating for the snapshot of law we were taking from the EU and putting into UK law, and that it would need to be revisited subject to the terms of the negotiations, including specifically the implementation period.

Q2532 Joanna Cherry: Okay, but section 6 of the European Union (Withdrawal) Act says: "A court or tribunal (a) is not bound by any principles laid down...by the European Court, and (b) cannot refer any matter to the European Court on or after exit day", which is defined as 29 March. It is quite clear from today's White Paper that that will not be the case, and that the jurisdiction of the court will last throughout the implementation period. Is that correct?

Dominic Raab: Not only is it correct, but we foresaw that when we passed the European Union (Withdrawal) Act.

Q2533 Joanna Cherry: So why did you pass section 6 into law if you knew it was not going to apply in transition?

Dominic Raab: We did not know, because as we said at the time—if you check the *Hansard*, it is very clear—areas of the European Union (Withdrawal) Act would inevitably be subject to the negotiations that we



HOUSE OF COMMONS

did. In terms of the implementation period, it was not entirely clear what the—

Joanna Cherry: I have checked *Hansard*.

Dominic Raab: Can I just finish answering the question? Of course, we were not as progressed at that point in relation to the negotiations on the implementation period, and various different models were being bandied around. It would have been impossible then to have given a cast-iron guarantee about what the outcome would be, but it was directly flagged by Ministers that those provisions would need to be looked at again in the light of what we actually negotiated.

Q2534 **Joanna Cherry:** I have checked *Hansard*, and I myself raised this twice with the Solicitor General and once with you in your previous role, at a time when we all knew there was going to be a transition or an implementation period, at which time it was clear that this could never be correct. You didn't admit it at the time.

Dominic Raab: We did make clear in general terms that we would need to look again, subject to the negotiations. Even though it was policy to have an implementation period, the content, nature and substance of it were far from clear. I appreciate the point you are making; all I can say is that the flag was raised when we had that legislation—perhaps not to the level of specificity that you would have liked, but that was because we did not know what the substance would be on the implementation period, however foreseeable it may have been that we would need one.

Q2535 **Joanna Cherry:** Well, let's look at what happens when we finally leave, at the end of the implementation period. The Chequers White Paper refers to—

Chair: This will have to be the last question, because I know you have to go somewhere.

Joanna Cherry: The Chequers White Paper refers to paying "due regard to CJEU case law" after we leave the European Union, doesn't it? That is in paragraph 35 on page 92.

Dominic Raab: What's the question, Ms Cherry?

Joanna Cherry: The question is coming; I am just giving you a moment. I am referring you to the paragraph out of courtesy, Secretary of State.

Dominic Raab: Page 35?

Joanna Cherry: I am referring to paragraph 35 at page 92 of the Chequers White Paper, with which I am sure you are very familiar, which says, "Where the UK had agreed to retain a common rulebook with the EU, the UK would commit by treaty that its courts would pay due regard to CJEU case law". That is what it says, isn't it?

Dominic Raab: Yes.



HOUSE OF COMMONS

Q2536 Joanna Cherry: The reason I am asking you about that is we took evidence from Professor Michael Dougan about what “paying due regard” means a couple of weeks ago. He said that paying due regard means that you have to take into account the decisions of the Court of Justice. As he agreed with me, that is the wording of section 3 of the Human Rights Act, which you so greatly object to in relation to the Strasbourg jurisprudence. So whereas you have always objected to us taking account of the Strasbourg jurisprudence, you are prepared for us to pay due regard to the Luxembourg jurisprudence in perpetuity in relation to the common rulebook. My question to you is, what remains of the Prime Minister’s red line on jurisdiction, given this duty to pay due regard and given we know that we are under the jurisdiction of the Court of Justice throughout the transition period?

Dominic Raab: There is a string of assumptions, which I am afraid I do not agree with. First of all, I do not agree that “due regard” and “take into account” have precisely the same meaning. That has been pored over by lawyers and there are different views on it.

Secondly, it only applies in relation to the common rulebook in relation to manufactured goods and agriculture. The wider approach to the CJEU is very clear: in relation to disputes, there is no automatic jurisdiction of the ECJ, nor is there a direct ECJ jurisdiction over the UK courts beyond the sense that you have described, and the UK courts would no longer be referring cases to the CJEU. In relation to disputes that reached the Joint Committee, which is broadly the political level, it would determine whether they went to the ECJ as opposed to that being mandatory, and that would require agreement by both sides. There is also, in relation to international arbitration, the very narrow ability to refer points in relation to common issues, where that is necessary, for determination by the ECJ on a legal point, allowing the arbitration tribunal to decide what that means on the facts of the case.

I understand the point you are making, but I am afraid I would resist very heavily the description of that as effectively continuity or not a fundamental change involving the CJEU.

Joanna Cherry: My question was, “What remains of the Prime Minister’s red line?”

Chair: We will have to conclude at this point. Can I, on behalf of the whole Committee, thank you, Secretary of State, and you, Mr Robbins, for being very generous with your time? You have no doubt enjoyed it very much. Can I just say that we look forward to seeing you both again after the October Council? I am sure, Secretary of State, that you have read our sixth report. One of our recommendations was that, immediately after any deal is concluded, we will expect to take evidence from you both so we can advise the House before the withdrawal agreement vote. With those words, can I wish you both a happy and successful negotiating summer? We will be thinking of you, wherever we may be.