



House of Commons
Exiting the European Union
Committee

**The progress of the
UK's negotiations on
EU withdrawal (June to
September 2018)**

Ninth Report of Session 2017–19

*Report, together with formal minutes relating
to the report*

*Ordered by the House of Commons
to be printed 12 September 2018*

Exiting the European Union Committee

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Conclusions and recommendations

Introduction

1. We welcome the fact that the Government has published a White Paper that sets out a more detailed vision of the future EU-UK relationship. However, we note that this came 26 months after the EU Referendum and 17 months after the Government triggered Article 50, and we regret that the White Paper was not published sooner. We have heard from all sides that the Political Declaration on the Framework for the Future Relationship, which will be informed by the Government's White Paper, should be detailed, but there are not many weeks remaining for negotiators to address the detail of the Government's proposals. We note that Michel Barnier said he was ready to negotiate the Political Declaration. (Paragraph 8)
2. The White Paper includes the Government's objectives for the future EU-UK internal and external security relationships. These include the UK's participation in cross-border data sharing agreements, continued cooperation with the EU's law enforcement and criminal justice agencies, and the UK's place in Europe's foreign policy and defence architecture. We were encouraged to hear from Michel Barnier that there is a great deal of convergence and agreement between the two sides on the White Paper's chapters on security. These matters are of paramount importance to the safety and security of the people of the UK and the European Union. We note that in recent months, the Home Affairs Select Committee and the House of Lords' EU Select Committee have considered these issues in wide ranging reports. (Paragraph 9)

Withdrawal Agreement and remaining issues

3. Negotiators have agreed that there must be a backstop option in the Withdrawal Agreement to protect an open trade border on the island of Ireland, otherwise there can be no deal. We welcome the fact that the European Commission has said that it has no objection to a UK-wide backstop "in principle". This is the only approach that will prevent an economic border from being drawn in the Irish Sea which would not be acceptable. However, time is running out and therefore the European Commission must show more flexibility and a willingness to work with the Government to find a practical solution. (Paragraph 23)
4. In the Joint Report of December 2017, the Government accepted responsibility for proposing specific solutions to address the unique circumstances of the island of Ireland, and while we welcome the Government's publication of its own backstop proposal it is becoming a matter of serious concern to us that it is not complete. It does not explain how regulatory checks—which are more onerous than those that relate to VAT, excise or tariffs—would be eliminated, and it does not explain fully how a backstop, which must meet the objectives in the December 2017 Joint Report, can be "time limited". Without a workable backstop proposal to solve the Irish border question there will be no Withdrawal Agreement. As a matter of urgency, the Government must set out clearly how it intends to eliminate regulatory checks at the border and how the backstop might be time limited when, by definition, it would need to remain in place until such time as an alternative arrangement that would achieve the same outcome could be implemented. (Paragraph 24)

5. The Government has not set out the full extent of the rules that are necessary to maintain North-South cooperation on the island of Ireland, which have been scoped in a joint mapping exercise between the Government and the European Commission. We note that the exercise is subject to ongoing negotiations, but we were told in April that the Government was hopeful that these would be concluded “soon”. We call on both sides to conclude these negotiations and to provide the results of the mapping exercise to us as soon as possible. (Paragraph 25)
6. We think it is essential that the joint commitment to avoid a hard border in the Withdrawal Agreement is reflected in the Political Declaration and ensured in the future relationship. (Paragraph 26)
7. Since our last report on the progress of the negotiations in May 2018, we have not seen any progress between the two sides on agreeing how disputes over the provisions in the Withdrawal Agreement should be settled. We acknowledge that the European Union will wish to preserve the autonomy of the CJEU to interpret EU law, but it should recognise that the Withdrawal Agreement is a deal between two sides. In August 2017, the Government set out a range of possible dispute settlement mechanisms and models of arbitration that are common in international agreements, but it did not declare which one it preferred. We repeat our recommendation from our May 2018 report that the Government set out its preferred arrangement for dispute resolution. (Paragraph 33)
8. There has been renewed debate in the UK on the prospect of the UK leaving the European Union without a Withdrawal Agreement. It is in the interests of both sides to successfully conclude negotiations on the Withdrawal Agreement, so that the 21-month transition/implementation period is secured, and that certainty is provided for citizens and businesses in the European Union and the UK. It is clear that there would be significant consequences for the UK and the European Union from a no deal outcome. We remain of the view that this would be chaotic and damaging for the UK economy and would leave many businesses facing huge uncertainty. (Paragraph 44)
9. In many areas, the Government’s no deal contingency planning rests on the European Union taking reciprocal action to minimise harm. This assumes that, if no deal is reached, there would be sufficient goodwill between the two sides that specific sectoral agreements could still be reached to minimise damage to the UK and EU economies. When we met Michel Barnier, he ruled this out and we would ask the Government to respond to his statement. Furthermore, even if both sides wanted to work together to find ways to mitigate the worst effects, it is far from clear that there would be enough time to negotiate, agree and implement any sectoral deals before the UK leaves the European Union at the end of March 2019. The Government has said that further technical notices will be published throughout September. We will take further evidence on these and the effects of a potential no deal exit from the European Union. We think it particularly important that there should be a notice covering the Irish border issue. We also call upon the Government to publish the country by country assessments on EU member states’ economic interests that the Department has undertaken. (Paragraph 45)

Future EU-UK economic relationship

10. The Government's proposal for a Facilitated Customs Arrangement, and its associated common rulebook for goods, is integral to its vision for the future EU-UK economic relationship. However, the European Commission has made it clear that they regard the proposal as unworkable, saying that it would create legal problems, involve unacceptable cost and bureaucracy and call into question the integrity of the Single Market. (Paragraph 54)
11. The European Commission has now indicated that the Chequers proposals for a Facilitated Customs Arrangement and a common rulebook are not viable and if this remains the position then the Government will need to adapt its approach to the future EU-UK economic relationship. The Commission is proposing a CETA-style Free Trade Agreement, but we note that this would not, on its own, ensure the type of friction-free trade that many companies with just-in-time supply chains need. Moreover, the Government has not yet set out how it would maintain an open border between the Republic of Ireland and Northern Ireland in this scenario without imposing customs and regulatory checks. (Paragraph 63)
12. Achieving the Government's stated objectives of maintaining friction free trade in goods and keeping an open border on the island of Ireland will require a much greater degree of customs and regulatory co-operation than that which is contained in CETA. We note that Michel Barnier has said that customs and regulatory cooperation would be possible in the context of a 'CETA-like' arrangement, but work to show whether this could in fact achieve frictionless trade would need to begin immediately rather than continuing with the Chequers proposals. The alternative ways for the UK to retain friction free trade with the European Union and to solve issues relating to the Northern Ireland/Republic of Ireland border would be either in an EU-UK Customs Union, combined with continued alignment on relevant EU rules, or through EEA membership together with a customs union. We note that neither of these options are Government policy. (Paragraph 64)
13. The Government has said that there will be significant opportunities for the UK's service sector from the UK securing trade deals with non-EU countries. However, any increase in trade that is gained outside the European Union will need to compensate for any reduction in trade caused by the new barriers to Single Market access for UK businesses. We note that the effect of diverging from EU regulations and standards will have different effects on different sectors, and that it will be up to a future Parliament to decide on whether to deviate. Witnesses from some of the UK's most successful service sectors, for example broadcasting, told us that they were sceptical that opportunities to trade elsewhere would make up for the significant loss that they believed the Government's proposals would entail. (Paragraph 65)
14. Reaching a Withdrawal Agreement must be linked to obtaining a satisfactory Political Declaration on the framework for future EU-UK relations. The Secretary of State has indicated that the financial settlement should depend on achieving this outcome. He said that there are different ways "to give effect to the principle of conditionality", including by making "explicit reference in the withdrawal agreement to the political declaration." We note that Michel Barnier has also said that "there

might be a link between the Withdrawal Agreement and the Political Declaration” and call on the Government to include any such link, if agreed, in the Withdrawal Agreement and Implementation Bill. (Paragraph 66)

15. The White Paper sets out a model for the future EU-UK financial services relationship that is based on an enhanced version of the EU's third country equivalency regime. Michel Barnier has said that there are already improvements underway to the European Union's equivalency regime. The UK Government's use of the term enhanced equivalence may not be too distant from the European Union's suggestion of improved equivalence. However the existing equivalence regime clearly has its limitations, as it does not cover all parts of the financial services sector, would require the UK to be a rule taker, and can be withdrawn unilaterally by the European Union at any time. While we note that enhanced equivalence is an ambitious goal, we agree with the Government that it is a pragmatic negotiating objective, given the contribution that the financial services sector makes to the UK economy and its importance to the economies of our trading partners in the European Union. (Paragraph 73)

Conclusion

16. While the European Union has stressed that the Government's White Paper contained a number of areas of convergence between the UK and the European Union, it has stated that the main components of the Government's vision for the future EU-UK economic relationship are not acceptable. We do not see how the Government's proposals on the common rulebook for goods and the Facilitated Customs Arrangements can remain as currently proposed given the European Union's fundamental objections. Nevertheless, the Secretary of State has said that discussions on these will continue. If, however, agreement cannot be reached on the basis of the current proposals, the Government will have to find an alternative approach to the future EU-UK economic relationship. (Paragraph 74)
17. The differences between the two sides on the future economic relationship are significant but formal negotiations on the future EU-UK relationship will not start until after the UK has withdrawn from the European Union on 29 March 2019. While Parliament will want to see a detailed Political Declaration, with clarity on the shape of the future economic relationship including customs, trade and services, the Government's urgent priority must be to secure a Withdrawal Agreement. This would provide much needed certainty to citizens and businesses in the UK and the European Union, including the transition/implementation period up to the end of December 2020. We welcome commitments from both sides to negotiate “continuously” to meet this objective. Agreeing the terms of the “backstop” to prevent a hard border in Ireland remains the biggest obstacle to securing a Withdrawal Agreement. (Paragraph 75)

1 Introduction

Progress of the negotiations

1. Since May 2018, when we last published a report examining the state of the negotiations, there has been some progress on the draft Withdrawal Agreement. However, the Government and the European Union still need to resolve significant differences in a limited amount of time.¹ In May, Michel Barnier and the Rt Hon. David Davis MP, then Secretary of State for Exiting the European Union, said that 75% of the draft Withdrawal Agreement had been agreed in principle.² By the end of July, Michel Barnier said this had increased to “more or less 80%”.³ The principal negotiators have seen each other with much more frequency than was the case previously. Both have said their task is to get a deal and that they believe one is achievable.

2. The Government and the European Commission had a shared ambition to finalise the draft Withdrawal Agreement and the Political Declaration on the future EU-UK relationship by the October European Council.⁴ However, on 21 August 2018, Michel Barnier said, “I’m not going to say [the deal must come in] October. A few days here or there, beginning of November. But not much later than that, certainly”.⁵ On 24 August 2018, in an interview, the Rt Hon. David Lidington MP, Chancellor of the Duchy of Lancaster and Minister for the Cabinet Office, said that the European Union would accept an emergency European Council meeting to finalise the deal and that a November deadline would be “manageable”.⁶ Nevertheless, the Prime Minister has said since that, “we are all working to the October deadline”.⁷

3. The major sections of the draft Withdrawal Agreement that have not been agreed are contentious but both sides have agreed that they are necessary for an orderly UK withdrawal from the European Union. The first of these is the ‘backstop’ that is needed to maintain a frictionless border on the island of Ireland, should no other option be agreed or prove to be workable to secure that objective. Both sides agreed in the December 2017 Joint Report that it is necessary to include such a measure in the Withdrawal Agreement.⁸ The Joint Report makes it clear that it is the UK’s responsibility to propose specific solutions to address the unique circumstances of the island of Ireland, and sets out the degree of alignment with the rules of the Internal Market and Customs Union that the UK will agree to maintain if no such specific solution can be agreed as part of the negotiations on the future relationship.⁹ The second outstanding part focuses on the governance arrangements for the Withdrawal Agreement. A range of smaller separation issues also

1 Exiting the European Union Committee, [The progress of the UK’s negotiations on EU withdrawal \(March to May 2018\)](#), Fifth Report of Session 2017–19, HC 1060, 24 May 2018

2 European Commission, [Speech by Michel Barnier at the EU Institute for Security Studies conference](#), 14 May 2018

3 European Commission, [Statement by Michel Barnier at the press conference following his meeting with Dominic Raab](#), UK Secretary of State for Exiting the EU, 26 July 2018

4 The October European Council meeting will take place on 18 & 19 October

5 Reuters, [EU expects delay in Brexit deal beyond October target](#), 21 August 2018

6 Guardian, [October no longer deadline for Brexit deal, Lidington admits](#), 24 August 2018

7 Guardian, [Guardian, Theresa May says a no-deal Brexit ‘wouldn’t be the end of the world’](#), 28 August 2018

8 European Commission & Department for Exiting the European Union, [Joint report on progress during phase 1 of negotiations under Article 50 TEU on the UK’s orderly withdrawal from the EU](#), 8 December 2017, para 49

9 European Commission and HM Government, [Joint report from the negotiators of the European Union and the United Kingdom Government on progress during phase 1 of negotiations under Article 50 TEU on the United Kingdom’s orderly withdrawal from the European Union](#), 8 December 2017, para 49

remain outstanding.¹⁰ Solutions are also needed for matters affecting the UK's sovereign bases in Cyprus and the Overseas Territory of Gibraltar. These are subject to bilateral negotiations between the UK and Cyprus and the UK and Spain respectively.

4. The UK and the European Union will also need to agree the text of a 'Political Declaration on a Framework of the Future Relationship', a document which will sit alongside the Withdrawal Agreement and will set out the parameters of the future EU-UK economic, security and foreign policy relationships. The European Council published guidelines for the European Commission on the nature of the future EU-UK relationship in March 2018. These said that the future relationship would be structured around a "balanced, ambitious and wide-ranging free trade agreement" and close cooperation in security, foreign affairs, justice and home affairs.¹¹

5. On the UK side, the Government has now set out its vision of the future EU-UK relationship, following a Cabinet meeting at Chequers.¹² On 12 July 2018, the Government published a White Paper which included its objectives for the future economic and security and foreign policy relationships. It also set out the Government's position on cross-cutting issues, such as data, fisheries and mechanisms for dispute resolution.¹³ However, on 24 July 2018, Oliver Robbins, the Prime Minister's Europe Advisor and UK coordinator for the negotiations, told us that there had been no discussions between the two sides on any draft texts of the Political Declaration.¹⁴ Michel Barnier told us on 3 September 2018 that he had found much that was positive and helpful in the White Paper and that the Political Declaration would need to be quite specific and precise.¹⁵

6. Since the publication of the White Paper, more attention has been devoted to preparations in the event of a no deal scenario. Businesses and other representative industry bodies expressed concern publicly over the impact of no deal on commerce and just-in-time supply chains. On 19 July 2018, the European Commission published a document that provided advice on how countries, companies and individuals should prepare for the possibility of no deal.¹⁶ It has also published notices on preparations in specific sectors of the economy, including health and food safety, financial services, customs, transport, and company law, among others.¹⁷ On 23 August 2018, the Government published the first tranche of its own technical notices advising businesses and individuals on what to do in the event of the UK leaving the European Union without a Withdrawal Agreement.¹⁸

10 Commission and Department for Exiting the European Union, [Update on progress of negotiations on the draft agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community](#), 19 June 2018

11 European Council, [Guidelines](#), 23 March 2018

12 The Government published a statement following the Chequers meeting which prefigured the Government's White Paper on the future EU-UK relationship. See, HM Government, [Chequers Statement](#), 6 July 2018

13 Department for Exiting the European Union, [The future relationship between the United Kingdom and the European Union](#), 12 July 2018

14 [Q2409](#)

15 [Q2542](#)

16 European Commission, [Preparing for the withdrawal of the United Kingdom from the European Union on 30 March 2019](#), 19 July 2018

17 European Commission, [Preparedness notices](#)

18 Department for Exiting the European Union, [How to prepare if the UK leaves the EU with no deal](#), 23 August 2018

7. On 24 July 2018, in preparation for the final stage of the Article 50 negotiations, the Government announced machinery of Government changes. In a statement, the Prime Minister said that she would lead the negotiations with the European Union, “with the Secretary of State for Exiting the European Union deputising on my behalf”. She said that staff would be transferred from the Department for Exiting the European Union to the Cabinet Office.¹⁹ The Rt Hon. Dominic Raab MP, who became Secretary of State for Exiting the European Union after the resignation of the Rt Hon. Davis Davis MP, has said that he intends to inject “renewed energy, vim and vigour”²⁰ into the negotiations and on 21 August 2018 the Government and the European Commission agreed that, henceforth, negotiations would be conducted “continuously”.²¹

8. We welcome the fact that the Government has published a White Paper that sets out a more detailed vision of the future EU-UK relationship. However, we note that this came 26 months after the EU Referendum and 17 months after the Government triggered Article 50, and we regret that the White Paper was not published sooner. We have heard from all sides that the Political Declaration on the Framework for the Future Relationship, which will be informed by the Government’s White Paper, should be detailed, but there are not many weeks remaining for negotiators to address the detail of the Government’s proposals. We note that Michel Barnier said he was ready to negotiate the Political Declaration.

9. The White Paper includes the Government’s objectives for the future EU-UK internal and external security relationships. These include the UK’s participation in cross-border data sharing agreements, continued cooperation with the EU’s law enforcement and criminal justice agencies, and the UK’s place in Europe’s foreign policy and defence architecture. We were encouraged to hear from Michel Barnier that there is a great deal of convergence and agreement between the two sides on the White Paper’s chapters on security. These matters are of paramount importance to the safety and security of the people of the UK and the European Union. We note that in recent months, the Home Affairs Select Committee and the House of Lords’ EU Select Committee have considered these issues in wide ranging reports.

This Report

10. Since Article 50 was triggered on 29 March 2017, we have published a series of reports on the state of the negotiations and the progress of the draft Withdrawal Agreement. In this report, we examine the outstanding issues that remain to be finalised in the draft Withdrawal Agreement as well as the Government’s White Paper on the future EU-UK economic relationship.

11. We draw upon evidence from the Rt Hon. Dominic Raab MP, Secretary of State for Exiting the European Union, and Oliver Robbins, the Prime Minister’s Europe Advisor. We also took evidence on the Chequers statement, which predated the Government’s White Paper by a matter of days, from Allie Renison, the Head of Europe and Trade Policy at the Institute of Directors, Henry Newman, the Director of Open Europe and Michael Dougan, Professor of European Law and Jean Monnet Chair in EU Law at the University of Liverpool. Furthermore, we took evidence on the Government’s proposals

19 [HCWS924](#)

20 [Financial Times, Raab promises to ‘heat up’ Brexit talks in Brussels](#), 19 July 2018

21 [Guardian, UK and EU to enter ‘continuous’ talks to resolve Brexit deadlock](#), 21 August 2018

for the future EU-UK economic relationship from Catherine McGuinness, the Policy and Resources Committee Chairman at the City of London Corporation, Adam Minns, the Executive Director of the Commercial Broadcasters Association, Huw Evans, the Director General of the Association of British Insurers and Giles Derrington, the Head of Policy: Exiting the European Union for techUK. On 3 September 2018, we visited Brussels and met Declan Kelleher, the Irish Permanent Representative to the European Union, Sir Tim Barrow, the UK's Permanent Representative to the European Union, and Michel Barnier, the European Commission's principal negotiator. We are grateful to everyone who has contributed to our inquiry so far.

2 Withdrawal Agreement and remaining issues

Introduction

12. Chapters in the draft Withdrawal Agreement on citizens' rights, the financial settlement, and a 21-month transition/implementation period have all been agreed in principle.²² The parts that have not been agreed include the European Commission's mechanism for maintaining a frictionless border on the island of Ireland, the governance arrangements for the Withdrawal Agreement, and a range of other separation issues, including data protection, geographical indications²³ and ongoing police and judicial cooperation in criminal matters, amongst other matters.²⁴ If negotiators fail to finalise the Withdrawal Agreement, the chapters that have been agreed will fall and the UK will withdraw from the European Union without an overarching deal. The Government has started to publish technical notices in tranches that advise businesses, individuals and public institutions on what to do if the UK leaves the European Union without a Withdrawal Agreement.²⁵

The backstop

13. The Government and the European Union have agreed that a 'backstop' option is necessary to guarantee the continuation of an open border for trade on the island of Ireland. It would enter into force if no other solution is found that would avoid a "hard border, including any physical infrastructure or related checks and controls",²⁶ or if a solution is not ready to be implemented by the end of the transition/implementation period in December 2020.²⁷ The need for a backstop was agreed by both sides in the December 2017 Joint Report and is therefore fundamental to any Withdrawal Agreement.²⁸ On 30 April 2018, Michel Barnier said, "To be clear: without a backstop, there can be no Withdrawal Agreement. This is an EU issue, not only an Irish issue."²⁹ However, the two sides have different and not easily reconcilable views on the scope of the backstop.

22 Both sides of the negotiations have said that "nothing is agreed, until everything is agreed."

23 According to Michel Barnier, there are about 3,000 geographical indications. See House of Lords, [Oral evidence: Scrutiny of Brexit Negotiations](#), 17 July 2018, Q1

24 Commission and Department for Exiting the European Union, [Update on progress of negotiations on the draft agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community](#), 19 June 2018

25 Department for Exiting the European Union, [How to prepare if the UK leaves the EU with no deal](#), 23 August 2018

26 European Commission and HM Government, [Joint report from the negotiators of the European Union and the United Kingdom Government on progress during phase 1 of negotiations under Article 50 TEU on the United Kingdom's orderly withdrawal from the European Union](#), 8 December 2017

27 The transition/implementation period is scheduled to end on 31 December 2020

28 European Commission & Department for Exiting the European Union, [Joint report on progress during phase 1 of negotiations under Article 50 TEU on the UK's orderly withdrawal from the EU](#), 8 December 2017, para 49, and Commission, [draft Withdrawal Agreement](#), 19 March 2018

29 European Commission, [Speech by Michel Barnier at the All-Island Civic Dialogue](#), 30 April 2018

14. The European Commission has proposed a backstop that would apply to Northern Ireland only. However, this would entail checks on goods moving between Great Britain and Northern Ireland if Great Britain was part of a separate customs regime from Northern Ireland; an outcome that the Government and this Committee has rejected explicitly and consistently. On 28 February 2018, the European Commission published its backstop proposal as a Protocol in the draft Withdrawal Agreement.³⁰ It described a “common regulatory area”, which constitutes “an area without internal borders in which the free movement of goods is ensured and North-South cooperation protected”. Under this proposal, Northern Ireland would be considered “part of the customs territory” of the European Union and would be required to follow European Union law across a range of regulatory areas, including goods, agriculture and fisheries, the Single Electricity Market, certain environmental standards and state aid.

15. The Prime Minister rejected the European Commission’s proposal because it would “undermine the UK common market and threaten the constitutional integrity of the UK by creating a customs and regulatory border down the Irish Sea”. She told the House of Commons that “no UK Prime Minister could ever agree to it”.³¹ On 20 July 2018, the Prime Minister described the European Commission’s proposals as “unworkable” and called for it to “evolve” its position to break the impasse.³² In our May 2018 report on the progress of the negotiations, we agreed with the Government that the European Commission’s proposal would undermine the constitutional integrity of the United Kingdom “by effectively drawing an economic border in the Irish Sea”. We supported the Government’s rejection of this because “whatever solution is reached to resolve issues around the Northern Ireland/Republic of Ireland land border it must involve the whole of the UK.”³³

16. The Government believes that the backstop should apply to the whole of the UK. On 7 June 2018, the Government published its proposal for the backstop option.³⁴ It described a Temporary Customs Arrangement, under which the whole of the UK would remain part of the EU’s customs territory for “a time limited period”. It also stated that an alternative option would be to create a new joint customs territory comprising the customs territories of the UK and the European Union, but it did not set out what this would entail. The Government’s proposal explained how it could eliminate checks that relate to VAT, excise and tariffs, and it also set out the extent to which the UK could exercise an independent trade policy under its backstop proposal. While the European Commission has said that it has “no objection in principle” to a UK-wide backstop, it has “doubts that this can be done without putting at risk the integrity of our Customs Union, our Common Commercial Policy, our regulatory policy, and our fiscal revenue.”³⁵ Michel Barnier gave a press

30 European Commission, [Draft Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community](#), 19 March 2018

31 HC Deb 28 February 2018, Vol. 636, Col. 823

32 Guardian, [Theresa May: I will never accept EU’s ideas on Irish Brexit border](#), 20 July 2018

33 Exiting the European Union Committee, [The progress of the UK’s negotiations on EU withdrawal \(March to May 2018\)](#), Fifth Report of Session 2017–19, HC 1060, 24 May 2018, para 27

34 Cabinet Office, [Technical Note: Temporary Customs Arrangement](#), 7 June 2018

35 European Commission, [Statement by Michel Barnier at the press conference following his meeting with Dominic Raab, UK Secretary of State for Exiting the EU](#), 26 July 2018

conference shortly after the UK's document was published. While he cautiously welcomed the document's publication, he raised three questions about the UK's backstop proposal:

- i) Is it a workable solution to avoid a hard border?
- ii) Does it respect the integrity of the Single Market and Customs Union?
- iii) Is it an all-weather backstop (i.e. will it last as long as is necessary, unless and until a viable alternative solution is in place)?³⁶

17. It is not clear how the Government's proposal could serve as a credible backstop if it were time-limited, as it is unclear what would happen if alternative solutions were not found by any deadline that was imposed. The Government's technical notice stated, "There are a range of options for how a time limit could be delivered, which the UK will propose and discuss with the EU". Furthermore, it suggested that the Government would agree to the inclusion of a backstop in the Withdrawal Agreement on the condition that a "permanent end state settlement"—including permanent end state customs arrangements—were included in the Political Declaration that will be agreed alongside the Withdrawal Agreement:

Such a temporary arrangement could only be provided for in law if a Withdrawal Agreement is agreed between the UK and the EU. This Withdrawal Agreement will be accompanied by, and refer to, an agreed future partnership framework, which would set out the new customs end state arrangement.³⁷

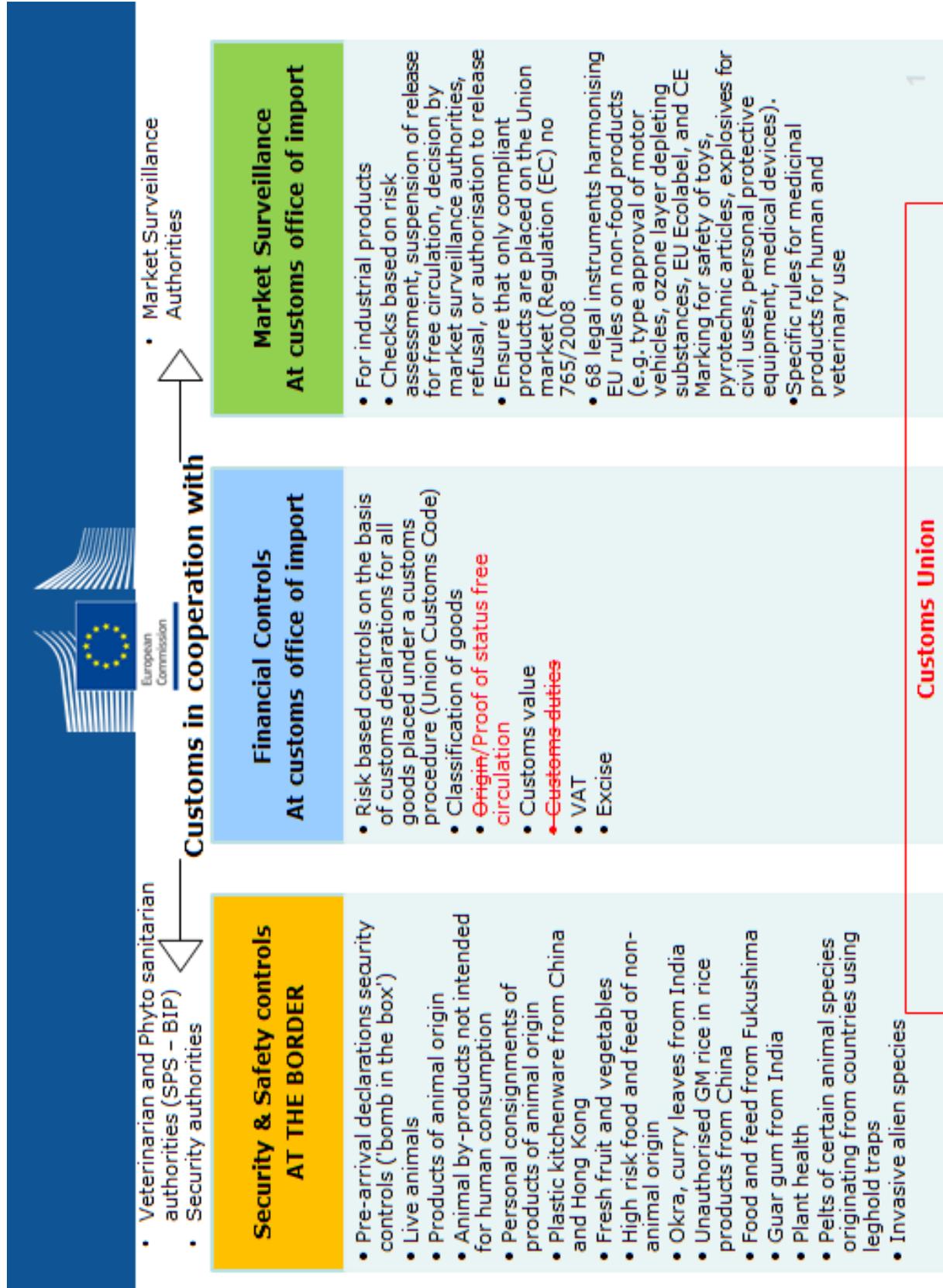
18. The Government's technical notice acknowledged that it was an incomplete backstop proposal, as it did not cover how checks that relate to regulations would be eliminated. A recent Institute for Government report on the Northern Ireland/Republic of Ireland border said that "customs checks account for less than half of the border formalities" and that regulatory checks are "more onerous".³⁸ The table below, published by the European Commission, sets out the range of checks that apply at the EU's external border.³⁹

36 European Commission, [Press statement by Michel Barnier following this week's round of negotiations](#), 8 June 2018. On 11 June 2018, the European Commission also published slides expressing further concerns about the Government's backstop proposal. See, European Commission, [Slides on UK technical note on temporary customs arrangements](#)

37 Cabinet Office, [Technical Note: Temporary Customs Arrangement](#), 7 June 2018

38 Institute for Government, [The Irish Border after Brexit](#), June 2018

39 European Commission, [Slides on customs controls](#), 22 May 2018. The red text highlights the few checks which would be eliminated by continued membership of the customs union, without continued alignment with EU regulations and standards



19. On 18 July 2018, the Prime Minister said in evidence to the Liaison Committee that the Government would not publish details on the extent to which the UK would align with EU regulations under the backstop, before the Withdrawal Agreement was complete. She said, “People will see what the final details of those are when the final Withdrawal Agreement is able to be put to Parliament.”⁴⁰

20. The White Paper on the future EU-UK relationship did not expand on the Government’s backstop proposal, except to say that it “will never have to be used”.⁴¹ However, Professor Michael Dougan, Professor of European Law and Jean Monnet Chair in EU Law at the University of Liverpool, suggested that this was not possible to guarantee as, even if workable customs arrangements are agreed in the context of the future EU-UK relationship, it could still be necessary to implement the agreed backstop option if the preferred customs arrangements were found to be insufficient in the long-term. He said:

if UK trade policy so diverges from EU trade policy that the [customs] system simply is no longer sustainable, if the UK Parliament decides to diverge from the common rulebook in a way that causes serious friction in trade, the backstop solution might well come into play.⁴²

21. The December 2017 Joint Report said that the areas of EU-UK alignment under the backstop must include “those rules of the Internal Market and the Customs Union which, now or in the future, support North-South cooperation, the all island economy and the protection of the 1998 Agreement.” Negotiators have conducted a joint mapping exercise of these areas of North-South cooperation. The results of this mapping exercise have not been published and therefore the exact scope of the ‘full alignment’ commitment remains unclear. When the Committee visited Dublin in January 2018, we heard that 142 areas of north-south cooperation had been identified. In our previous two reports on the progress of the negotiations, we have called for the results of the mapping exercise to be published.⁴³ In a letter to us dated 24 April 2018, the then Secretary of State for Exiting the European Union said that he was committed to publishing the results as soon as they are available. However, he said that the joint mapping exercise “remains part of ongoing negotiations with the European Commission and further work has been agreed to finalise it.” He also said that as the mapping exercise was a joint UK-EU endeavour, it would be necessary to coordinate any release of information with the European Commission and the Irish Government.⁴⁴ On 24 July 2018, the Rt Hon Dominic Raab MP, the Secretary of State for Exiting the European Union, repeated this commitment by telling us that we could expect to receive the results soon. However, he did not provide an indicative timetable.⁴⁵ On 23 August 2018, the Secretary of State told us in a letter that he was “happy to share the

40 Liaison Committee, [Oral evidence: The Prime Minister](#), HC 1393, 18 July 2018, Q9

41 HM Government, [The Future Relationship between the United Kingdom and the European Union](#), 12 July 2018

42 [Q2198](#)

43 Exiting the European Union Committee, [The progress of the UK’s negotiations on EU withdrawal \(March to May 2018\)](#), Fifth Report of Session 2017–19, HC 1060, 24 May 2018, para 23. See also, Exiting the European Union Committee, [The progress of the UK’s negotiations on EU withdrawal: December 2017 to March 2018](#), Third Report of Session 2017–19, HC 884, 18 March 2018, para 50

44 Exiting the European Union Committee, [Letter to the Chair from the Secretary of State](#), 24 April 2018

45 [Q2387](#). The Secretary of State confirmed this position on the publication of the joint mapping exercise in a letter to the Committee sent after 24 July 2018 evidence session. See, [insert link to letter once Committee has agreed to publish]

final list with the Committee, once negotiations on this are concluded, and ahead of any publication. As previously set out, as this is a joint exercise any publication will need to be coordinated with the Commission and Irish Government.”⁴⁶

22. While the Government and the European Commission disagree on the viability and territorial scope of one another's proposals, both sides now agree on the issues that the backstop must cover. On 19 June 2018, they published a Joint Statement that said that both sides agreed that “the scope of the [European Commission's] draft Protocol reflects the issues that require legally operative agreed text in the Withdrawal Agreement.”⁴⁷ On 3 September 2018, Michel Barnier told us that the European Commission was happy to consider further proposals from the Government on the backstop. He said:

it is not necessarily our backstop, as covered in this document. We are open to discussing other backstops, so we can discuss this text, we can make changes to it. We are open, but whatever happens, there has to be a backstop. We need that. It has to be an operational backstop in legal terms.⁴⁸

23. Negotiators have agreed that there must be a backstop option in the Withdrawal Agreement to protect an open trade border on the island of Ireland, otherwise there can be no deal. We welcome the fact that the European Commission has said that it has no objection to a UK-wide backstop “in principle”. This is the only approach that will prevent an economic border from being drawn in the Irish Sea which would not be acceptable. However, time is running out and therefore the European Commission must show more flexibility and a willingness to work with the Government to find a practical solution.

24. In the Joint Report of December 2017, the Government accepted responsibility for proposing specific solutions to address the unique circumstances of the island of Ireland, and while we welcome the Government's publication of its own backstop proposal it is becoming a matter of serious concern to us that it is not complete. It does not explain how regulatory checks—which are more onerous than those that relate to VAT, excise or tariffs—would be eliminated, and it does not explain fully how a backstop, which must meet the objectives in the December 2017 Joint Report, can be “time limited”. Without a workable backstop proposal to solve the Irish border question there will be no Withdrawal Agreement. As a matter of urgency, the Government must set out clearly how it intends to eliminate regulatory checks at the border and how the backstop might be time limited when, by definition, it would need to remain in place until such time as an alternative arrangement that would achieve the same outcome could be implemented.

25. The Government has not set out the full extent of the rules that are necessary to maintain North-South cooperation on the island of Ireland, which have been scoped in a joint mapping exercise between the Government and the European Commission. We note that the exercise is subject to ongoing negotiations, but we were told in April that the Government was hopeful that these would be concluded “soon”. We call on both sides to conclude these negotiations and to provide the results of the mapping exercise to us as soon as possible.

46 [Insert link to letter once Committee has agreed to publish]

47 Commission and Department for Exiting the European Union, [Update on progress of negotiations on the draft agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community](#), 19 June 2018

48 [Q2537](#)

26. **We think it is essential that the joint commitment to avoid a hard border in the Withdrawal Agreement is reflected in the Political Declaration and ensured in the future relationship.**

Governance of the Withdrawal Agreement

27. The second main part of the Withdrawal Agreement⁴⁹ that is yet to be agreed is the governance arrangements for the Withdrawal Agreement, and specifically the mechanisms that will be used to settle disputes between the two sides. The Government has agreed to accept the jurisdiction of the CJEU during the transitional/implementation period.⁵⁰

28. The Commission has set out its proposals for dispute resolution, most recently in the draft Withdrawal Agreement. Both sides have agreed to give the CJEU full jurisdiction as currently provided for in the EU Treaties during the transition/implementation period in respect of the interpretation and application of the Withdrawal Agreement. Both sides have also agreed to establish a Joint Committee, co-chaired by the UK and European Union, which will be responsible for the implementation and application of the Agreement. The Joint Committee would have the power to adopt decisions which would be “binding on the Union and the United Kingdom” that will “have the same legal effect as this [Withdrawal] Agreement”. All decisions by the Joint Committee would be made by mutual consent.⁵¹

29. Negotiators have not agreed what would happen if the Joint Committee is unable to resolve a dispute. The European Commission has proposed that disputes that cannot be resolved by the Joint Committee will ultimately be settled by the CJEU at the request of either party. It has also proposed that the CJEU would be able to enforce disputes with a power to impose penalty payments.

30. The Government disagrees that the CJEU should be the ultimate arbiter of the Withdrawal Agreement. Although it has acknowledged the fact that the CJEU is the ultimate arbiter of EU law within the European Union, it has previously rejected the suggestion that the CJEU must therefore be given the power to enforce and interpret international agreements between the European Union and third countries. In August 2017, the Government published a paper exploring how the provisions of the Withdrawal Agreement and any future partnership agreement might be overseen once the UK has left the European Union. It said, “There is no precedent, and indeed no imperative driven by EU, UK or international law, which demands that enforcement or dispute resolution of future UK-EU agreements falls under the direct jurisdiction of the CJEU.”⁵² The Government has not yet published a specific counter-proposal to the EU’s proposal.

31. The White Paper on the future EU-UK relationship said that the Government favours arbitration for dispute resolution in specific cases that arise under the agreements that establish the future EU-UK relationship. However, it also said that arbitration would not

49 European Commission, [Draft Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community](#), 19 March 2018

50 In addition, the Government has arranged for preliminary rulings to the CJEU on citizens’ rights to continue for a period of eight years after the transition/implementation period

51 The draft Withdrawal Agreement also establishes specialised committees, on citizens’ rights, other separation provisions, the island of Ireland, Sovereign Base Areas, and on the financial provisions. Recommendations by the specialised committees would be referred for adoption to the Joint Committee. See, European Commission, [Draft Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community](#), 19 March 2018

52 Department for Exiting the European Union, [Enforcement and dispute resolution](#), 23 August 2017

cover all disputes and would be conditioned by a requirement for any arbitration panel or the Joint Committee to seek a preliminary ruling from the CJEU in relation to EU rules, by mutual consent. It said:

The Joint Committee or arbitration panel would have to resolve the dispute in a way that was consistent with this interpretation. This would respect the principle that the court of one party cannot resolve disputes between the two.⁵³

It is not clear whether the Government views a similar model of dispute resolution applying to the Withdrawal Agreement.

32. In our May 2018 report on the progress of the negotiations we agreed with the Government that “the CJEU should not be the final arbiter after the transition/implementation period is concluded” but we acknowledged that “dispute resolution [cannot] be left to the Joint Committee for technical and political arbitration alone” and that the “only acceptable solution is a final arbiter whose composition is balanced between representatives from the UK and the EU’s institutions.”⁵⁴ In answer to a question about arbitration, the Secretary of State told the European Scrutiny Committee on 5 September 2018 that, “we are making good progress”.⁵⁵ We have not yet seen the Government’s proposals for how the membership of an arbitration panel would be agreed, including how consideration would be given to including specialist expertise for a specific case.

33. Since our last report on the progress of the negotiations in May 2018, we have not seen any progress between the two sides on agreeing how disputes over the provisions in the Withdrawal Agreement should be settled. We acknowledge that the European Union will wish to preserve the autonomy of the CJEU to interpret EU law, but it should recognise that the Withdrawal Agreement is a deal between two sides. In August 2017, the Government set out a range of possible dispute settlement mechanisms and models of arbitration that are common in international agreements, but it did not declare which one it preferred. We repeat our recommendation from our May 2018 report that the Government set out its preferred arrangement for dispute resolution.

No Withdrawal Agreement

34. Since the White Paper on the future EU-UK relationship was published, attention has also been devoted to the prospect of the UK leaving the European Union without a Withdrawal Agreement, the so-called ‘no deal’ scenario. This will happen if the Government and the European Union fail to agree a mutually acceptable Withdrawal Agreement and Political Declaration on the future EU-UK relationship. It could also happen if the UK Parliament or the European Parliament vote against the ratification of these documents (provided there is no subsequent rapid renegotiation, an extension of the Article 50 timeframe or the suspension of Article 50). Under these circumstances, the UK would leave the European Union in accordance of the terms of Article 50, on 29 March 2019 without a Withdrawal Agreement. The Institute for Government has published an infographic that shows the possible routes to a no deal scenario.⁵⁶

53 Department for Exiting the European Union, [The future relationship between the United Kingdom and the European Union](#), 12 July 2018, Chapter 4, paras 39-43

54 Exiting the European Union Committee, [The progress of the UK's negotiations on EU withdrawal \(March to May 2018\)](#), Fifth Report of Session 2017–19, HC 1060, 24 May 2018, para 34

55 European Scrutiny Committee, Oral evidence: EU Withdrawal, HC 763, 5 September 2018, [Q842](#)

56 Institute for Government, [Autumn surprises: possible scenarios for the next phase of Brexit](#), 17 August 2018, page 3

35. Major manufacturers based in the UK have talked publicly about the risks to their businesses if this happened. An Airbus risk assessment said that the effect of no deal on just-in-time supply chains would lead to unrecoverable delays to production. The cost to the company's turnover could be up to £1 billion per week:

Every week of unrecoverable delay would entail material working capital impact, re-allocation cost, cost for inefficient work, penalty payments to customers and up to €1B weekly loss of turnover. Despite the incremental stocks, the disruptions in a no deal Brexit situation are likely to add up to several weeks; potentially translating into a multi-billion impact on Airbus.⁵⁷

On 26 June 2018, BMW's Customs Manager said in a statement to the media that "We always said we can do our best and prepare everything, but if at the end of the day the supply chain will have a stop at the border, then we cannot produce our products in the UK".⁵⁸ Moreover, on 5 July 2018, Ralf Speth, the Chief Executive of Jaguar Land Rover, said that without the right deal, tariffs would cost the company £1.2 billion a year and make it unprofitable to remain in the UK.⁵⁹

36. In contrast to this, John Longworth, a former Director General of the British Chambers of Commerce and now Co-Chairman of the campaign group Leave Means Leave, has said that there would be benefits to the UK from a scenario in which the UK traded with the European Union on WTO terms. He acknowledged that a no deal scenario would be disruptive in the short term but said:

Because we would be able to remove tariffs, it would reduce the cost of living—especially for the poorest—boosting disposable income and the economy in the process. Trade deals would include non-tariff barriers, further boosting the economy and reducing living costs.⁶⁰

37. The former and current Secretaries of State for Exiting the European Union have said that 'no deal' does not necessarily mean that there would be no deals at all between the UK and the European Union. On 25 April 2018, the Rt Hon. David Davis MP, then Secretary of State for Exiting the European Union told us that sectoral deals with the European Union and its member states could be reached to mitigate the most disruptive effects of having left the European Union without a Withdrawal Agreement. He said:

Indeed, it would also depend on what you mean by "no deal". I have said to this Committee before that the complete absence of any outcome is unlikely. You might end up with a bare-bones deal; that is a phrase I think I have used before. You might end up with a whole series of bilateral deals. We are looking at tiny probabilities here. I do not think no deal is a significant probability at all. A massively higher probability is a deal. In the event it goes down that other route, nobody wants that. No other country wants that. Talk to Spain. They do not want their aviation issues blocked.⁶¹

57 Airbus, [Brexit — Risk Assessment](#), 21 June 2018

58 Financial Times, [BMW warns Brexit could force UK plant closures](#), 26 June 2018

59 Financial Times, [Jaguar Land Rover says hard Brexit will cost it £1.2bn a year](#), 4 July 2018

60 Brexit Central [John Longworth], [We should dump the Chequers proposal in favour of a deal with the EU on WTO terms](#), 25 July 2018

61 [Q1340](#)

38. On 23 August 2018, the Secretary of State for Exiting the European Union said that a failure to finalise or ratify a Withdrawal Agreement would not preclude there being sufficient goodwill to negotiate sectoral deals to ameliorate the effect on individuals and businesses. He said, “I find it difficult to imagine that our EU partners would not want to cooperate with us even in that scenario in key areas like this, given the obvious mutual benefits involved.”⁶² However, this cannot be guaranteed. On 3 September 2018, Michel Barnier told the Committee “if there is a no deal there is no more discussion. There is no more negotiation. It is over and each side will take its own unilateral contingency measures and we will take them in areas such as aviation but this does not mean mini deals in the case of a no deal.”⁶³ It is not clear to us whether this is what would actually happen and we note that it is reported that the Department for Transport has written to other EU member states to ask for separate negotiations on haulage and aviation in the event of no deal, which suggests that the Government may have a different view.

39. On 23 August 2018, the Secretary of State for Exiting the European Union set out in a speech five steps the Government is undertaking to prepare for the prospect of leaving the European Union without a Withdrawal Agreement. These included passing the legislation that is needed to prepare for UK withdrawal, recruiting extra staff across Government,⁶⁴ “bolstering institutional capacity” to take on functions currently operated at EU-level, negotiating the continuance of international agreements and allocating money for no deal preparations.⁶⁵

40. Independently of one another, the Government and the European Commission have published technical notes that advise on preparations for a no deal scenario, aimed at individuals, businesses and public institutions. On 19 July 2018, the European Commission issued a document that outlined some of the main effects.⁶⁶ The document emphasised that negotiations on the draft Withdrawal Agreement are continuing and that a negotiated settlement is the EU’s preferred outcome. However, it also noted that important issues remain unresolved. In the event of the UK leaving the European Union without a Withdrawal Agreement, the document said that controls at borders “could cause significant delays, e.g. in road transport, and difficulties for ports”, where there could be “long lines of vehicles waiting for customs procedures to be fulfilled”. It also said that the UK would become a third country for trade and regulatory issues, which would “represent a significant drawback compared to the current level of market integration”. It emphasised that while many measures would have to be taken at EU level, national, regional and local governments also need to step up preparation to “mitigate the worst impacts of a potential cliff-edge scenario”. The European Commission also published 68 technical notices advising on preparations for specific sectors of the economy, including health and food safety, financial services, customs, transport, and company law.⁶⁷

62 Department for Exiting the European Union, [Secretary of State Dominic Raab’s speech on no deal planning](#), 23 August 2018

63 [Q2563](#)

64 The Secretary of State said that there are more than 7,000 people working on UK withdrawal from the European Union and that there is funding for an extra 9,000 staff to be recruited into the civil service

65 The Chancellor of the Exchequer has committed £3 billion in the Budget on top of the £700 million already allocated for planning and preparations

66 European Commission, [Preparing for the withdrawal of the United Kingdom from the European Union on 30 March 2019](#), 19 July 2018

67 European Commission, [Preparedness notices](#)

41. The Government has started to publish its own documents providing advice to stakeholders on what to do in the event of no deal. On 23 August 2018, the Government published the first tranche of 25 documents—approximately one third of the total—which included technical notices on importing and exporting, regulating medicines and medical equipment, workplace rights and farming, among other subjects.⁶⁸ The Secretary of State said that he expected to publish the full set of no deal technical notices by the end of September 2018.

42. The Government's technical notices show that in many sectors, the Government would mitigate the effect of there being no deal by acting unilaterally with the assumption that the European Union would respond in kind. For example, in his speech on 23 August 2018, the Secretary of State drew attention to the technical notice on 'Batch testing medicines if there's no Brexit deal', which illustrates this approach.⁶⁹ Manufacturers can currently batch test medicines anywhere in the EU, EEA or other third countries with whom the EU has a Mutual Recognition Agreement. To ensure continuity of supply of medicines to the UK in a no deal scenario, the UK would continue to accept batch testing of human medicines carried out in these countries. The Secretary of State said he would expect the EU to do the same:

given that we start from a position of common rules, we would also hope and I think expect, in good faith between close partners, that the EU would recognise medicines from this country with our regulatory approval. But in a no deal scenario, we can't guarantee it.⁷⁰

43. On 4 September 2018, Philip Rycroft, Head of UK Governance Group and Permanent Secretary of the Department for Exiting the European Union, told us that the Government had undertaken country by country analysis of the effect of no deal on the EU27. In answer to a question on whether these would be published, he said, "We do not have any immediate plans, but it is certainly information that is informing decisions that Ministers take about their position across the range of scenarios that we are planning for."⁷¹

44. There has been renewed debate in the UK on the prospect of the UK leaving the European Union without a Withdrawal Agreement. It is in the interests of both sides to successfully conclude negotiations on the Withdrawal Agreement, so that the 21-month transition/implementation period is secured, and that certainty is provided for citizens and businesses in the European Union and the UK. It is clear that there would be significant consequences for the UK and the European Union from a no deal outcome. We remain of the view that this would be chaotic and damaging for the UK economy and would leave many businesses facing huge uncertainty.

45. In many areas, the Government's no deal contingency planning rests on the European Union taking reciprocal action to minimise harm. This assumes that, if no deal is reached, there would be sufficient goodwill between the two sides that specific sectoral agreements could still be reached to minimise damage to the UK and

68 Department for Exiting the European Union, [How to prepare if the UK leaves the EU with no deal](#), 23 August 2018

69 Batch testing is the process of confirming every batch of medicine has the correct composition through laboratory tests

70 Department for Exiting the European Union, [Secretary of State Dominic Raab's speech on no deal planning](#), 23 August 2018

71 [Q2679](#)

EU economies. When we met Michel Barnier, he ruled this out and we would ask the Government to respond to his statement. Furthermore, even if both sides wanted to work together to find ways to mitigate the worst effects, it is far from clear that there would be enough time to negotiate, agree and implement any sectoral deals before the UK leaves the European Union at the end of March 2019. The Government has said that further technical notices will be published throughout September. We will take further evidence on these and the effects of a potential no deal exit from the European Union. We think it particularly important that there should be a notice covering the Irish border issue. We also call upon the Government to publish the country by country assessments on EU member states' economic interests that the Department has undertaken.

3 Future EU-UK economic relationship

Introduction

46. On 12 July 2018, the Government published a White Paper, which set out its vision of the future EU-UK relationship, including the future economic relationship. The White Paper is the most detailed exposition so far of the Government's vision of the future EU-UK relationship. On 3 September 2018, Michel Barnier told us there were many parts of the White Paper that were welcome and highlighted the chapters on security in particular. However, he also made it clear that the proposals on customs and a common rulebook for goods and agri-food are unacceptable to the European Union.⁷² Michel Barnier told us on 3 September 2018:

The proposals made in the White Paper on two points are not acceptable as they are; they are not acceptable to the European Union. That is the White Paper proposal on customs and the White Paper proposal on the common rule book for goods.⁷³

Customs arrangements

47. The customs arrangements that will replace the UK's membership of the Customs Union will sit at the heart of the future EU-UK economic relationship. In our May 2018 report, we concluded that it was "highly unsatisfactory that nearly two years after the referendum, Ministers have yet to agree, and set out in detail, what kind of trading and customs arrangements they wish to negotiate on with the European Union."⁷⁴ While the Government has now reached a settled position on what these arrangements should entail, the Government's proposals have been rejected by the European Commission as unworkable.

48. The White Paper proposed the "phased" introduction of a 'Facilitated Customs Arrangement' (FCA). The FCA is intended to:

ensure that goods entering the EU via the UK have complied with EU customs processes and the correct EU duties have been paid. This would remove the need for customs processes between the UK and the EU, including customs declarations, routine requirements for rules of origin, and entry and exit summary declarations. Together with the wider free trade area, the FCA would preserve frictionless trade for the majority of UK goods trade, and reduce frictions for UK exporters and importers.⁷⁵

49. The FCA would entail the UK operating two separate tariff regimes—one for goods that are destined for the UK market, and one for goods that are destined for the EU market. When a good reaches the UK border and the destination can be demonstrated by a trusted trader to be destined for the UK market, the UK tariff rate would apply, and

72 See Frankfurter Allgemeine Zeitung, [Interview mit Michel Barnier](#), 2 September 2018 and Guardian, [Michel Barnier says he strongly opposes May's Brexit trade proposals](#), 2 September 2018.

73 [Q2537](#)

74 Exiting the European Union Committee, [The progress of the UK's negotiations on EU withdrawal \(March to May 2018\)](#), Fifth Report of Session 2017–19, HC 1060, 24 May 2018, para 20

75 HM Government, [The Future Relationship between the United Kingdom and the European Union](#), 12 July 2018, para 15

the European Union tariff rate would apply to goods that are demonstrated to be destined for the European Union. If a good reaches the UK border and the destination cannot be demonstrated, the higher of the UK or European Union tariff rates would apply. Where the destination of a good is later identified to be that of a lower tariff jurisdiction, the UK Government would repay the difference. According to the White Paper it is estimated that up to 96% of UK goods trade would be likely to be able to pay the correct or no tariff upfront, with the remainder likely to use the repayment mechanism.⁷⁶

50. The White Paper proposed a tariff revenue formula that would take account of goods destined for the UK entering via the European Union and goods destined for the European Union entering via the UK, to ensure that tariffs are remitted to the correct jurisdiction. However, it also said that “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” and that the “UK and the EU will need to agree mechanisms, including institutional oversight, for ensuring that this process is resilient and verifiable.”⁷⁷ From this, it appears that the tariff revenue formula, based on trading trends, would be a reciprocal arrangement in that it would take into account goods entering the European Union destined for the UK. The Government would remit duties on goods destined for the European Union market, minus estimated European Union duties collected on goods destined for the UK market.

51. The European Commission has said in the strongest terms that the FCA (and also the common rulebook) are not acceptable as they are. On 2 September 2018, it was reported that Michel Barnier said that the European Union “cannot relinquish control of our external borders and the revenue there to a third country—that’s not legal.”⁷⁸

52. Furthermore, he criticised the FCA for being vulnerable to fraud and that it was not possible to track goods reliably to their end destination, to ensure that the correct tariff rate was paid. On 20 July 2018, Michel Barnier asked, “How can customs authorities verify the final destination of goods, and therefore assure that the correct customs tariff is applied? Is there not a major risk of fraud?”⁷⁹ On 2 September 2018, he was reported to have said:

Moreover, the British proposal is not practical. It is impossible to tell exactly where a product ends up, on the UK market or in the internal market. For example, sugar is transported by the tonne in 25-kilo sacks, so you cannot

76 HM Government, [The Future Relationship between the United Kingdom and the European Union](#), 12 July 2018, para 16

77 HM Government, [The Future Relationship between the United Kingdom and the European Union](#), 12 July 2018, para 17

78 Frankfurter Allgemeine Zeitung, [Interview mit Michel Barnier](#), 2 September 2018 and Guardian, [Michel Barnier says he strongly opposes May’s Brexit trade proposals](#), 2 September 2018. On 3 September 2018, Michel Barnier told us, that there are four reasons why we cannot accept those proposals on these two points in the White Paper. First... “It is not possible for the Union to delegate to a third country protection of its customs union or the control of its external borders or the management of a collection of its customs revenue.” Second, “these proposals...would create...extra cost and bureaucracy.” Third, “they might create deflection in trade by the UK applying a more advantageous customs tariff and it could also lead to major distortion in competition to the detriment of EU business if UK businesses were able to not have to respect the same rules that we respect in terms of the factors of production, our social standards for labour and environmental standards regarding production methods.” Fourth, “our objective analysis of these two proposals leads us to believe that they would call into question the very integrity of our Single Market.” [Q2537](#)

79 European Commission, [Press statement by Michel Barnier following the July 2018 General Affairs Council \(Article 50\)](#), 20 July 2018

trace every sack to its destination. That would only be possible with insane and unjustifiable bureaucracy. Therefore, the British proposal would be an invitation to fraud if implemented.⁸⁰

53. The White Paper set out some actions that the Government would take to reduce the risk of fraud and its ability to track goods where necessary:

Where there is a material risk of circumvention of higher UK tariffs, the UK would make it illegal to pay the wrong tariff, and use risk and intelligence-based checks across the country, rather than at the border, to check that the right tariffs are being paid. This would protect against fraud, ensure that the UK has an effective trade remedies regime and strengthen the UK's position in trade negotiations.⁸¹

The White Paper also said that it was possible that greater data sharing across borders, “including potentially the storing of the entire chain of transactions for each goods consignment, while enabling that data to be shared securely between traders and across relevant government departments” could reduce bureaucracy and help to combat fraud.⁸² The White Paper did not indicate how long these measures would take to implement.

54. The Government's proposal for a Facilitated Customs Arrangement, and its associated common rulebook for goods, is integral to its vision for the future EU-UK economic relationship. However, the European Commission has made it clear that they regard the proposal as unworkable, saying that it would create legal problems, involve unacceptable cost and bureaucracy and call into question the integrity of the Single Market.

Common rulebook

Trade in goods and agri-food

55. The White Paper proposed the establishment of a free trade area for goods and agri-food. This free trade area would rest on a common rulebook, which would include “only those rules necessary to provide for frictionless trade at the border”. The UK would commit by treaty to ongoing harmonisation with the relevant European Union rules. The White Paper said:

This free trade area would protect the uniquely integrated supply chains and ‘just-in-time’ processes that have developed across the UK and the EU over the last 40 years, and the jobs and livelihoods dependent on them, ensuring businesses on both sides can continue operating through their current value and supply chains. It would avoid the need for customs and regulatory checks at the border, and mean that businesses would not need

80 Frankfurter Allgemeine Zeitung, [Interview mit Michel Barnier](#), 2 September 2018 and Guardian, [Michel Barnier says he strongly opposes May's Brexit trade proposals](#), 2 September 2018

81 HM Government, [The Future Relationship between the United Kingdom and the European Union](#), 12 July 2018, para 162

82 HM Government, [The Future Relationship between the United Kingdom and the European Union](#), 12 July 2018, para 20

to complete costly customs declarations. And it would enable products to only undergo one set of approvals and authorisations in either market, before being sold in both.⁸³

56. The White Paper stated that the common rulebook would be comprised of rules for manufactured goods, alongside UK participation in EU agencies that facilitate goods being placed on the EU market. It would also include rules for agriculture, food and fisheries products, encompassing those that must be checked at the border, alongside equivalence for certain other rules, such as on food policy. To ensure that rules were upheld in both markets, the Government and the European Union would cooperate on market surveillance. The White Paper also said that the UK would commit to a wide range of UK-EU 'level playing field' provisions. On 20 August 2018, the Government published slides that explained that the Government is proposing a common rulebook on state aid and a commitment that the UK would make "an upfront choice to commit by treaty to ongoing harmonisation with the EU's state aid rules." Furthermore, the Government proposed non-regression commitments for level playing field provisions on environment and social and employment standards.⁸⁴

Services

57. One of the Government's priorities in the negotiations is to re-establish the ability to exercise an independent trade policy, without creating friction for trade in goods with the European Union at the UK border. To this end, the Government's White Paper said that it would pursue "regulatory flexibility" for the UK's services industry, which could give the Government more latitude to strike trade deals on services in the future. On 24 August 2018, the Secretary of State told 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 [on free trade agreements] as possible. The reason that there is a distinction between services, and goods and agriculture relates to friction at the border, which obviously does not apply in relation to services.⁸⁵

58. The Government has said that diverging from Single Market rules on services means that "the UK and the EU will not have current levels of access to one another's markets."⁸⁶ The Government has not set out its evidence-base for why this would benefit the UK economy. On 24 July 2018, we asked the Secretary of State for Exiting the European Union what assessments had been undertaken by the Government on the economic impact of the decision not to have a common rulebook on services.⁸⁷ The Secretary of State committed to write to us with an answer and on 23 August 2018, the Secretary of State provided us with a response. He said:

83 Department for Exiting the European Union, [The future relationship between the United Kingdom and the European Union](#), 12 July 2018, page 7

84 Department for Exiting the European Union, [Framework for the UK-EU Partnership: Open and Fair Competition](#), 20 August 2018, para 48

85 [Q2393](#)

86 Department for Exiting the European Union, [The future relationship between the United Kingdom and the European Union](#), 12 July 2018, para 48

87 [Qq2391–2396](#)

The Government is undertaking a comprehensive and wide-ranging programme of ongoing analysis in support of our EU exit negotiations and preparations. This analysis helps to define our future partnership with the EU, and informs our understanding of how EU exit will affect the UK's domestic policies and frameworks. I know that you appreciate our specific responsibility not to reveal information that could reveal our negotiating position. As a result of this responsibility, I do not feel that it would be appropriate for Government to provide details of ongoing analytical work. When we bring forward the vote on the final deal, we will ensure that parliament is presented with the appropriate analysis to make an informed decision.⁸⁸

59. However, we were told by some service providers that they were not keen to trade away alignment with Single Market rules, with the ease of access that this provides to the Single Market, to secure opportunities for easier access to other markets. Adam Minns, the Executive Director of the Commercial Broadcasters Association said:

When I saw the Secretary of State talk about flexibility, I assumed that he did not mean broadcasting, because I do not know anyone in the broadcasting sector who is asking for more flexibility and, even if we were, we could get more flexibility without sacrificing mutual recognition or leaving the Single Market because the UK gold-plates so many rules anyway. It certainly is not going to be mitigation for losing access to 45% of our market, which is what the EU is.⁸⁹

Giles Derrington, Head of Policy for Exiting the European Union at techUK, said, “there is a lot of talk about the potential benefits of flexibility. We struggle to really identify where those might be on a global scale.”⁹⁰ Catherine McGuinness, Chair of the Policy and Resources Committee for the City of London Corporation, said, “business being business, it pursues opportunities where it sees it and, therefore, people have been pursuing opportunities in Asia already, as China in particular opens out to the world and as there are other opportunities.” She continued, “What we need to be doing to make up for this significant loss—and it is significant because it is one of our biggest service export markets—is helping to see further opportunities in the other markets that business has not yet seen.”⁹¹

60. It is unclear to what extent trade in services can be separated easily from goods, as many exported goods include a service or maintenance contract. This is especially true of data and communications products such as smart phones, but it is also true of manufactured goods such as lifts or aeroplane engines, which require engineers to fit and maintain components on an ongoing basis. Catherine McGuinness told us that her members have said “that the real value and the profit that they make on a number of the goods that they sell is almost entirely the service contract”.⁹² She described the division of

88 [insert link to letter once Committee has agreed to publish]

89 [Q2323](#)

90 [Q2319](#)

91 [Q2340](#)

92 [Q2355](#)

goods and services as “a false distinction”.⁹³ Giles Derrington, Head of Policy for Exiting the European Union at techUK told us that this entwining of goods and services would continue to increase. He said:

You are likely to see that potentially more in the future. If you think of things like 3D printing, at what point is trading something a good and at what point are you providing a service, which is a blueprint or whatever else it might be. Those kinds of things are only going to increase. There are big challenges globally. There is a lot of discussion at WTO about how you deal with some of these things in the future. Within our current status in the EU that is not a problem but trying to separate it is very difficult.⁹⁴

Witnesses told us that the result of this entwining or “servitisation”⁹⁵ of goods means that if the European Union and the UK were to introduce barriers to trade in services, this would also negatively affect the UK’s ability to trade in goods.⁹⁶ Furthermore, there are limitations to how far Free Trade Agreements, such as CETA, have been able to overcome trade barriers on services. Giles Derrington said:

There are potentially quite severe limitations within certain free trade agreements, if you look at them, about how you can provide services, particularly in terms of movement of people to provide that service. With something like CETA, effectively you can provide the first 12 months of a service through a person going back and forth. For those members who provide a UK hub for their engineers, et cetera, that means you cannot really house the engineers in the UK and have them serve five, 10 or 15-year contracts elsewhere in the EU. Do you locate them here? Probably not. You have to move them across as well.⁹⁷

61. On 17 July 2018, Michel Barnier made a similar point to the House of Lords EU Select Committee:

20% to 40% added value comes from services. In any product put on the European market, between 20% and 40% of the added value of the product comes from services. Europeans are constructive but not naive, and they will not accept a rule whereby you have unfair regulatory competition from services via free movement of goods.

He said that for this reason, the four freedoms—products, services, capital and persons—are indivisible.⁹⁸

62. On 3 September 2018, Michel Barnier told us that the common rulebook proposal was unacceptable to the European Union. He and his team described the Single Market as a coherent ecosystem and said that allowing the UK to diverge from European Union rules on services while retaining access to the Single Market for goods would therefore give UK businesses an unacceptable trade advantage. For this reason, he told us that the

93 [Q2355](#)

94 [Q2354](#)

95 [Q2144](#) [Michael Dougan]

96 [Q2355](#)

97 [Q2354](#)

98 [Q2144](#)

European Union viewed the UK's proposals on the common rulebook and the FCA as a request to compromise on the European Union's foundations and said that they were a direct threat to the integrity of the Single Market. He said:

We will not agree to unravelling or weakening the Single Market where goods and services are part and parcel of an integrated ecosystem, which we constructed together with you and your representatives over a 30-year period ... How could we ask European Union companies to accept the regulatory divergence that you want for services and thus accept unfair competition for goods? We cannot accept that. We won't, but it has nothing to do with free trade or a customs union of goods. Here we are talking about a Single Market, so we respect your red lines. You should respect our position. We will not agree to unravelling or weakening the Single Market.⁹⁹

63. The European Commission has now indicated that the Chequers proposals for a Facilitated Customs Arrangement and a common rulebook are not viable and if this remains the position then the Government will need to adapt its approach to the future EU-UK economic relationship. The Commission is proposing a CETA-style Free Trade Agreement, but we note that this would not, on its own, ensure the type of friction-free trade that many companies with just-in-time supply chains need. Moreover, the Government has not yet set out how it would maintain an open border between the Republic of Ireland and Northern Ireland in this scenario without imposing customs and regulatory checks.

64. Achieving the Government's stated objectives of maintaining friction free trade in goods and keeping an open border on the island of Ireland will require a much greater degree of customs and regulatory co-operation than that which is contained in CETA. We note that Michel Barnier has said that customs and regulatory cooperation would be possible in the context of a 'CETA-like' arrangement, but work to show whether this could in fact achieve frictionless trade would need to begin immediately rather than continuing with the Chequers proposals. The alternative ways for the UK to retain friction free trade with the European Union and to solve issues relating to the Northern Ireland/Republic of Ireland border would be either in an EU-UK Customs Union, combined with continued alignment on relevant EU rules, or through EEA membership together with a customs union. We note that neither of these options are Government policy.

65. The Government has said that there will be significant opportunities for the UK's service sector from the UK securing trade deals with non-EU countries. However, any increase in trade that is gained outside the European Union will need to compensate for any reduction in trade caused by the new barriers to Single Market access for UK businesses. We note that the effect of diverging from EU regulations and standards will have different effects on different sectors, and that it will be up to a future Parliament to decide on whether to deviate. Witnesses from some of the UK's most successful service sectors, for example broadcasting, told us that they were sceptical that opportunities to trade elsewhere would make up for the significant loss that they believed the Government's proposals would entail.

66. **Reaching a Withdrawal Agreement must be linked to obtaining a satisfactory Political Declaration on the framework for future EU-UK relations. The Secretary of State has indicated that the financial settlement should depend on achieving this outcome. He said that there are different ways “to give effect to the principle of conditionality”, including by making “explicit reference in the withdrawal agreement to the political declaration.” We note that Michel Barnier has also said that “there might be a link between the Withdrawal Agreement and the Political Declaration” and call on the Government to include any such link, if agreed, in the Withdrawal Agreement and Implementation Bill.**

Financial services and equivalence

67. There has been significant debate in the UK over which model the Government should pursue for the future EU-UK financial services relationship—one that is based on mutual recognition or one that is based on the European Union’s equivalency regime. Equivalence is a lesser form of mutual recognition, where there is recognition that the standards of a third country are the same as those of the European Union, but that recognition can be withdrawn unilaterally by the European Union at any time. On 2 March 2018, the Prime Minister outlined a vision for reciprocal market access between the EU and the UK that appeared to be based on some form of mutual recognition. She said:

As in other areas of the future economic partnership, our goal should be to establish the ability to access each other’s markets, based on the UK and EU maintaining the same regulatory outcomes over time, with a mechanism for determining proportionate consequences where they are not maintained.¹⁰⁰

On 7 March 2018, the Chancellor of the Exchequer gave a speech on the future EU-UK financial services relationship. He described a system that would be enshrined in an ambitious free trade agreement, based on regulatory equivalence (but not the European Union’s own equivalence regime, which was rejected as too limited) and mutual recognition. He said that under this system, the UK and European Union’s financial regulatory systems would “evolve separately” but that their trajectories would be guided by the European Union’s single rulebook as it exists today, and therefore both the European Union and the UK would continue to “deliver fully equivalent regulatory outcomes”. He stressed that the size of the UK financial services market, its contribution to UK GDP, its complexity and the risk that is borne by UK taxpayers meant that it would be inappropriate for the UK to be a rule-taker in this area.¹⁰¹

68. Rather than a model based on mutual recognition, the White Paper proposed a system of market access based on the EU’s equivalency regime, albeit one that would be improved and expanded.¹⁰² Witnesses told us that they were concerned by this policy change and that equivalence failed to meet the needs of their sectors. Huw Evans, Director General of the Association of British Insurers, said:

Ours is a world-leading sector; it is easily the most international insurance sector in the world and is the largest in Europe by some measure. For us a

100 Prime Minister, [Speech on our future economic partnership with the European Union](#), 2 March 2018

101 Chancellor of the Exchequer, [HSBC speech: financial services](#), 7 March 2018

102 Department for Exiting the European Union, [The future relationship between the United Kingdom and the European Union](#), 12 July 2018, para 65

future regime that is built on the foundations of the European Commission's equivalence model poses potentially significant risks that we end up as rule-takers, either completely or de facto.¹⁰³

69. Catherine McGuinness said that the City of London Corporation “did not welcome the White Paper and the way that it treats financial services”.¹⁰⁴ She was concerned that equivalence does not cover the whole of the financial services sector and that the European Union could withdraw it for political as well as legal reasons. She said:

Indeed, we have seen that recently with the Swiss stock exchange, which has been given a temporary permission for 12 months when really it ought to be given a longer one for certainty. We see that it can be very quickly withdrawn and we need clarity. We need stability, so that people have a longer time to off-ramp—I think that is what we are now calling it—if recognition is withdrawn. There could be a very significant impact on the business that people can do if they have to rely on that system.¹⁰⁵

70. The European Union's equivalency regime does not cover all sectors and it does not offer a uniform level of market access for those that it does cover. Huw Evans told us:

It is a piecemeal approach, done differently according to different directives, with different levels of market access—in some cases none at all—that come with it. It is an ongoing process. It is not something you can agree on day one and then you live happily ever after. It is an ongoing process of assessment. What you sign up to means that you have to be content that, ten years down the line, that is still going to be working in both your mutual interests.¹⁰⁶

71. Witnesses were sceptical that the Government would be able to negotiate an enhanced form of equivalence. Catherine McGuinness described it as an “uphill task to persuade the EU27”.¹⁰⁷ Huw Evans said that “it is a very ambitious ask” because the Government was asking for the European Union to let the UK have a say over how the third country equivalence regime would operate in future, “whereas... the equivalence mechanism in the third country regime is something that the EU considers proprietary. It is theirs.”¹⁰⁸

72. On 26 April 2018, Michel Barnier set out in a speech his view of a future UK-EU financial services relationship. He stressed that the EU cannot accept mutual market access without the common safeguards that underpin it, and that these safeguards would be undermined if the European Union had to rely on the rules, supervision and enforcement mechanisms of third countries whose banks were operating within the Single Market. He said, “This is not something that any country in the world would accept.” Instead, the UK would be offered third country equivalence, which was in the process of being improved. He said, “Why would the equivalence system, which works well for the US industry, not work for the City?”¹⁰⁹ On 3 September 2018, Michel Barnier told us he was confident the Withdrawal Agreement would cover the exchange of personal data between the UK and

103 [Q2315](#)

104 [Q2310](#)

105 [Q2339](#)

106 [Q2344](#)

107 [Q2343](#)

108 [Q2344](#)

109 Commission, [Speech by Michel Barnier at the Eurofi High-level Seminar 2018](#), 26 April 2018

the EU up to the end of the transition/implementation period, but that exchange of data in the future would require new negotiation, drawing on tools such as those used in agreeing equivalence in financial markets with the US and Japan.¹¹⁰

73. The White Paper sets out a model for the future EU-UK financial services relationship that is based on an enhanced version of the EU's third country equivalency regime. Michel Barnier has said that there are already improvements underway to the European Union's equivalency regime. The UK Government's use of the term enhanced equivalence may not be too distant from the European Union's suggestion of improved equivalence. However the existing equivalence regime clearly has its limitations, as it does not cover all parts of the financial services sector, would require the UK to be a rule taker, and can be withdrawn unilaterally by the European Union at any time. While we note that enhanced equivalence is an ambitious goal, we agree with the Government that it is a pragmatic negotiating objective, given the contribution that the financial services sector makes to the UK economy and its importance to the economies of our trading partners in the European Union.

4 Conclusion

74. While the European Union has stressed that the Government's White Paper contained a number of areas of convergence between the UK and the European Union, it has stated that the main components of the Government's vision for the future EU-UK economic relationship are not acceptable. We do not see how the Government's proposals on the common rulebook for goods and the Facilitated Customs Arrangements can remain as currently proposed given the European Union's fundamental objections. Nevertheless, the Secretary of State has said that discussions on these will continue. If, however, agreement cannot be reached on the basis of the current proposals, the Government will have to find an alternative approach to the future EU-UK economic relationship.

75. The differences between the two sides on the future economic relationship are significant but formal negotiations on the future EU-UK relationship will not start until after the UK has withdrawn from the European Union on 29 March 2019. While Parliament will want to see a detailed Political Declaration, with clarity on the shape of the future economic relationship including customs, trade and services, the Government's urgent priority must be to secure a Withdrawal Agreement. This would provide much needed certainty to citizens and businesses in the UK and the European Union, including the transition/implementation period up to the end of December 2020. We welcome commitments from both sides to negotiate "continuously" to meet this objective. Agreeing the terms of the "backstop" to prevent a hard border in Ireland remains the biggest obstacle to securing a Withdrawal Agreement.

Formal minutes

Wednesday 12 September 2018

Members present:

Hilary Benn, in the Chair

Joanna Cherry	Jeremy Lefroy
Stephen Crabb	Mr Pat McFadden
Mr Jonathan Djanogly	Seema Malhotra
Richard Graham	Mr Jacob Rees-Mogg
Peter Grant	Stephen Timms
Wera Hobhouse	Mr John Whittingdale
Andrea Jenkyns	Hywel Williams
Stephen Kinnock	Sammy Wilson

Draft Report (*The progress of the UK's negotiations on EU withdrawal (June to September 2018)*), proposed by the Chair, brought up and read.

Ordered, That the Chair's draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 35 agreed to.

Paragraph 36 read.

Amendment proposed, after "on WTO terms.", to insert "He rejected the Government's "Chequers" proposal because it would "perpetuate mass migration" leading to an "unlimited supply of cheap labour". He added "Every migrant entering the UK into a low-skill job costs British taxpayers a net £3,500 per annum in benefits and public service costs."—(Peter Grant)

Question put, That the Amendment be made.

The Committee divided.

Ayes, 7	Noes, 7
Joanna Cherry	Stephen Crabb
Peter Grant	Mr Jonathan Djanogly
Stephen Kinnock	Richard Graham
Mr Pat McFadden	Jeremy Lefroy
Seema Malhotra	Mr Jacob Rees-Mogg
Stephen Timms	Mr John Whittingdale
Hywel Williams	Sammy Wilson

Whereupon the Chair declared himself with the Noes.

Question accordingly negated.

Paragraph agreed to.

Paragraphs 37 to 43 agreed to.

Paragraph 44 read.

Amendment proposed, to leave out from “view that this” to the end of the sentence and insert “could be chaotic and damaging for the UK economy and would leave many businesses facing huge uncertainty at least in the short term.”—(Mr John Whittingdale)

Question put, That the Amendment be made.

The Committee divided.

Ayes, 7

Stephen Crabb

Mr Jonathan Djanogly

Richard Graham

Jeremy Lefroy

Mr Jacob Rees-Mogg

Mr John Whittingdale

Sammy Wilson

Noes, 8

Joanna Cherry

Peter Grant

Wera Hobhouse

Stephen Kinnock

Mr Pat McFadden

Seema Malhotra

Stephen Timms

Hywel Williams

Question accordingly negated.

Paragraph agreed to.

Paragraphs 45 to 75 agreed to.

Question put, That the Report be the Ninth Report of the Committee to the House.

The Committee divided.

Ayes, 13

Joanna Cherry

Stephen Crabb

Mr Jonathan Djanogly

Richard Graham

Peter Grant

Wera Hobhouse

Stephen Kinnock

Jeremy Lefroy

Mr Pat McFadden

Seema Malhotra

Stephen Timms

Mr John Whittingdale

Hywel Williams

Noes, 3

Andrea Jenkyns

Mr Jacob Rees-Mogg

Sammy Wilson

Question accordingly agreed to.

Ordered, That the Chair make the Report to the House.

Ordered, That embargoed copies of the Report be made available (Standing Order No. 134)

[Adjourned till Wednesday 10 October at 9.00am

Witnesses

The following witnesses gave evidence. Transcripts can be viewed on the [inquiry publications page](#) of the Committee's website.

Wednesday 25 October 2017

Question number

Rt Hon David Davis MP, Secretary of State, Department for Exiting the European Union

[Q1–153](#)

Wednesday 29 November 2017

Peter Hardwick, Head of Exports, Agriculture and Horticulture Development Board; **James Hookham**, Deputy Chief Executive, Freight Transport Association; **Sian Thomas**, Communications Manager, Fresh Produce Consortium; **Duncan Brock**, CIPS Group Director, Chartered Institute of Procurement and Supply

[Q154–188](#)

Jon Thompson, Chief Executive and Permanent Secretary, HM Revenue and Customs; **John Bourne**, Policy Director of Animal and Plant Health, Department for Environment, Food and Rural Affairs; **Richard Everitt**, Chairman, Port of Dover; **Richard Ballantyne**, Chief Executive, British Ports Association

[Q189–251](#)

Wednesday 7 December 2017

Simon York, Director, HMRC Fraud Investigation Service; **Mike O'Grady**, Deputy Head, Organised Crime Operations North, HMRC Fraud Investigation Service; **Deputy Chief Constable Drew Harris**, PSNI; and **Assistant Chief Constable Stephen Martin**, Head of Crime Operations, PSNI

[Q252–301](#)

Wednesday 13 December 2017

Professor Alexander Türk, Professor of Law, King's College London; **John Cassels**, Partner, Competition, Regulatory and Trade Law, Fieldfisher LLP; and **Dr Scott Steedman**, Director of Standards, BSI and Vice President (policy), International Standards Organisation

[Q302–324](#)

Katherine Bennett, Senior Vice President, Airbus UK; **Rod Ainsworth**, Director of Regulatory and Legal Strategy, Food Standards Agency; **Angela Hepworth**, Director of Corporate Policy and Regulation, EDF UK; and **Dr Ian Hudson**, Chief Executive, Medicines and Healthcare Products Regulatory Agency

[Q325–375](#)

Wednesday 20 December 2017

Professor Michael Dougan, Professor of European Law and Jean Monnet Chair in EU Law, University of Liverpool; **Professor Anand Menon**, Director, UK in a Changing Europe; **Stephen Booth**, Director of Policy and Research, Open Europe

[Q376–454](#)

Wednesday 10 January 2018

Professor Richard Whitman, Head of School, Professor Politics and International Relations, University of Kent; **Fredrik Erixon**, Director, European Centre for International Political Economy; **Dr Stephen Woolcock**, Associate Professor in International Relations, London School of Economics [Q455–545](#)

Wednesday 17 January 2018

Christophe Bondy, Public International Lawyer at Cooley (UK) LLP and former senior counsel to Canada on the CETA negotiations; **Dr Lorand Bartels**, University of Cambridge and Senior Counsel, Linklaters; **William Swords**, President, UK-Canada Chamber of Commerce [Q546–633](#)

Wednesday 18 January 2018

Professor Greg Hannon, Director, Cancer Research UK Cambridge Institute; **Professor Eilís Ferran**, Pro-Vice Chancellor for Institutional International Relations, Cambridge University; **Dr Andy Williams**, Vice President Cambridge Strategy & Operations, AstraZeneca; and **Michael Lawrence**, Business Development Director, Deimos Space UK [Q634–690](#)

Wednesday 24 January 2018

Rt Hon David Davis MP, Secretary of State, Department for Exiting the European Union [Q691–835](#)

Wednesday 31 January 2018

Dmytro Tupchiienko, Data Protection Lawyer, EY, London; **Michael Emerson**, Associate Senior Research Fellow, Centre for European Policy Studies, Brussels; **Dr Tamara Kovziridze**, Co-founder, Reformatics, Tbilisi [Q836–905](#)

Wednesday 6 February 2018

John Springford, Deputy Director, Centre for European Reform; **Professor Clive Church**, Emeritus Professor of European Studies, University of Kent; and **Professor René Schwok**, University of Geneva [Q906–964](#)

Wednesday 7 February 2018

Professor George Yarrow, Chair of the Regulatory Policy Institute, Emeritus Fellow, Hertford College, Oxford, and visiting professor; **Ulf Sverdrup**, Director, Norwegian Institute of International Affairs; and **Professor Alla Pozdnakova**, Law Faculty, University of Oslo [Q965–1022](#)

Professor Carl Baudenbacher, Judge of the EFTA Court [Q1023–1048](#)

Wednesday 21 February 2018

Emanuel Adam, Director of Policy and Trade, BritishAmerican Business; **Dr Peter Holmes**, Reader in Economics, University of Sussex; **Dr Pinar Artiran**, Assistant Professor, Bilgi University, Istanbul; **Sam Lowe**, Research Fellow, Centre for European Reforma

[Q1049–1100](#)

Wednesday 27 February 2018

Pascal Lamy, former Director-General, World Trade Organization

[Q1101–1162](#)

Tuesday 20 March 2018

Dr Lars Karlsson, President of KGH Border Services, former Director of World Customs Organisation, Deputy Director General of Swedish Customs

[Q1163–1197](#)

Wednesday 21 March 2018

David Campbell-Bannerman MEP

[Q1198–1240](#)

Jessica Gladstone, Partner, Clifford Chance LLP; **David Henig**, UK Trade Policy Specialist

[Q1241–1284](#)

Thursday 22 March 2018

Iona Crawford, Associate, Freshfields Bruckhaus Deringer LLP; **Sally Jones**, Director for International Trade Policy, Deloitte; **Mike Regnier**, Chief Executive, Yorkshire Building Society; and **Glynn Robinson**, Managing Director, BJSS

[Q1285–1310](#)

Thursday 19 April 2018

Andrew Bailey, Chief Executive, Financial Conduct Authority, and **Sam Woods**, Deputy Governor Prudential Regulation, Bank of England

[Q1311–1339](#)

Huw Evans, Director General, Association of British Insurers, **Chris Cummings**, Chief Executive, the Investment Association, **Stephen Jones**, CEO of UK Finance, and **Nikhil Rathi**, CEO of London Stock Exchange Plc and Director of International Development

[Q1340–1377](#)

Thursday 25 April 2018

Rt Hon David Davis MP, Secretary of State, Department for Exiting the European Union

[Q1378–1488](#)

Wednesday 2 May 2018

Jill Barrett, Visiting Reader, Queen Mary University Law School; **Sir Jonathan Faull**, former Director General, European Commission; **Agata Gostynska-Jakubowska**, Senior Research Fellow, Centre for European Reform; **Lord Lisvane**, former Clerk, House of Commons

[Q1489–1561](#)**Wednesday 9 May 2018**

Giles Derrington, Head of Policy: Brexit, International and Economics, techUK; **Elizabeth Denham**, Information Commissioner; **Stephen Hurley**, Head of Brexit Planning and Policy, British Telecom; **James Mullock**, Partner, Bird & Bird

[Q1562–1633](#)

Dr Bleddyn Bowen, University of Leicester; **Colin Paynter**, Managing Director, Airbus Defence and Space UK; **Patrick Norris**, Secretary of the European Affairs Group, UK Space

[Q1634–1692](#)**Wednesday 16 May 2018**

Dr Sarah Main, Executive Director, Campaign for Science and Engineering; **Dr Beth Thompson MBE**, Head of Policy (UK and EU), Wellcome Trust; **Professor Richard Brook OBE**, President, Association for Innovation, Research and Technology Organisations; **Professor Michael Arthur**, Chair, EU Advisory Group, Russell Group

[Q1693–1758](#)**Wednesday 23 May 2018**

Suella Braverman MP, Parliamentary Under-Secretary of State, Department for Exiting the European Union, and **Mr Robin Walker MP**, Parliamentary Under-Secretary of State, Department for Exiting the European Union

[Q1759–1908](#)**Wednesday 6 June 2018**

Nicholas Hatton, Co-Chair, the3million; **Anne-Laure Donskoy**, Co-Chair, the3million; **Barbara Drozdowicz**, Chief Executive Officer, East European Resource Centre; **Dr Mary Tilki**, Member and former Chair, Irish in Britain; **Catherine Hennessy**, Trustee, Irish in Britain

[Q1909–1954](#)

Fiona Godfrey, Chair, British Immigrants Living in Luxembourg, and Deputy Chair, British in Europe; **Jane Golding**, Co-Chair, British in Germany, and Chair, British in Europe; **Michael Harris**, Chair, EuroCitizens, Spain; **Kalba Meadows**, Founder, Remain in France Together

[Q1955–1996](#)**Wednesday 20 June 2018**

Guy Verhofstadt MEP, Brexit Co-ordinator and Chair of the Brexit Steering Group, European Parliament

[Q1997–2141](#)

Wednesday 11 July 2018 AM

Allie Renison, Head of Europe and Trade Policy, Institute of Directors;
Henry Newman, Director, Open Europe; and **Michael Dougan**, Professor of
European Law and Jean Monnet Chair in EU Law, University of Liverpool

[Q2142–2200](#)

Wednesday 11 July 2018 PM

Rt Hon Caroline Nokes MP, Minister of State for Immigration; **Simon Bond**,
Strategy Director, Board of Immigration and Citizen System and Europe
Director; and **Mark Doran**, Deputy Director, EU Exit Immigration Strategy

[Q2201–2309](#)

Tuesday 24 July 2018 AM

Huw Evans, Director General, Association of British Insurers; **Catherine
McGuinness**, Chair, Policy and Resources Committee, City of London
Corporation; **Adam Minns**, Executive Director, Commercial Broadcasters
Association; **Giles Derrington**, Head of Policy, Exiting the European Union,
techUK

[Q2310–2382](#)

Tuesday 24 July 2018 PM

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

[Q2383–2536](#)

Monday 3 September 2018

Michel Barnier, Chief Negotiator, European Commission, and **Sabine
Weyand**, Deputy Chief Negotiator, European Commission

[Q2537–2563](#)

Tuesday 4 September 2018

Philip Rycroft, Head of UK Governance Group and Permanent Secretary,
Department for Exiting the EU

[Q2564–2685](#)

Published written evidence

The following written evidence was received and can be viewed on the [inquiry publications page](#) of the Committee's website.

NEG numbers are generated by the evidence processing system and so may not be complete.

- 1 Association of British Insurers ([NEG0007](#))
- 2 British in Europe ([NEG0021](#))
- 3 British Retail Consortium ([NEG0010](#))
- 4 Dickinson, Rob ([NEG0013](#))
- 5 Finance & Leasing Association ([NEG0018](#))
- 6 Freight Transport Association ([NEG0004](#))
- 7 Freshfields Bruckhaus Deringer LLP ([NEG0019](#))
- 8 Investment Association ([NEG0009](#))
- 9 Irish in Britain ([NEG0026](#))
- 10 London First ([NEG0001](#))
- 11 London Market Group ([NEG0020](#))
- 12 Michael Emerson Centre for European Policy Studies (CEPS) ([NEG0012](#))
- 13 O'Brien, Dr Charlotte ([NEG0008](#))
- 14 Port of Dover ([NEG0005](#))
- 15 Professor Dr. iur. Dr. rer. pol. h.c. Carl Baudenbacher ([NEG0014](#))
- 16 Professor Graham Virgo Pro-Vice-Chancellor University of Cambridge ([NEG0017](#))
- 17 Professor Michael Dougan Liverpool Law School ([NEG0027](#))
- 18 Professor Rene Schwok Global Studies Institute University of Geneva ([NEG0016](#))
- 19 Rail Delivery Group ([NEG0003](#))
- 20 Stephen Woolcock LSE ([NEG0011](#))
- 21 the3million ([NEG0022](#))
- 22 the3million ([NEG0023](#))
- 23 the3million ([NEG0024](#))
- 24 the3million ([NEG0025](#))
- 25 TheCityUK ([NEG0002](#))

List of Reports from the Committee during the current Parliament

All publications from the Committee are available on the [publications page](#) of the Committee's website. The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

Session 2017–19

First Report	European Union (Withdrawal) Bill	HC 373 (HC 771)
Second Report	The progress of the UK's negotiations on EU withdrawal	HC 372 (HC 862)
Third Report	The progress of the UK's negotiations on EU withdrawal: December 2017 to March 2018	HC 884 (HC 1077)
Fourth Report	The future UK-EU relationship	HC 935 (HC 1150)
Fifth Report	The progress of the UK's negotiations on EU withdrawal (March to May 2018)	HC 1060 (HC 1552)
Sixth Report	Parliamentary approval of the Withdrawal Agreement and the future relationship	HC 1240
Seventh Report	The progress of the UK's negotiations on EU withdrawal: Data	HC 1317 (HC 1564)
Eighth Report	The progress of the UK's negotiations on EU withdrawal: the rights of UK and EU citizens	HC 1439
First Special Report	European Union (Withdrawal) Bill: Government Response to the Committee's First Report	HC 771
Second Special Report	The progress of the UK's negotiations on EU withdrawal: Government response to the Committee's Second Report	HC 862
Third Special Report	The progress of the UK's negotiations on EU withdrawal (December 2017 to March 2018): Government response to the Committee's Third Report	HC 1077
Fourth Special Report	The future UK-EU relationship: Government Response to the Committee's Fourth Report	HC 1150
Fifth Special Report	The progress of the UK's negotiations on EU withdrawal (March to May 2018): Government Response to the Committee's Fifth Report	HC 1552
Sixth Special Report	The progress of the UK's negotiations on EU withdrawal: Data: Government Response to the Committee's Seventh Report	HC 1564