



Select Committee on the European Union

Uncorrected oral evidence: Progress of negotiations on the future relationship

Thursday 17 December 2020

4.45 pm

[Watch the meeting](#)

Members present: The Earl of Kinnoull (The Chair); Baroness Brown of Cambridge; Lord Cavendish of Furness; Baroness Coultie; Baroness Donaghy; Lord Faulkner of Worcester; Baroness Hamwee; Lord Kerr of Kinlochard; Lord Lamont of Lerwick; Baroness Neville-Rolfe; Lord Oates; Baroness Primarolo; Lord Sharkey; Lord Teverson; Lord Thomas of Cwmgiedd; Baroness Verma; Lord Wood of Anfield.

Evidence Session No. 1

Virtual Proceeding

Questions 1 - 13

Witnesses

I: Rt Hon Michael Gove MP, Chancellor of the Duchy of Lancaster; Emma Churchill, Director, Border and Protocol Delivery Group; Brendan Threlfall, Director, Transition Task Force Northern Ireland; Jess Glover, Director-General, Transition Task Force.

USE OF THE TRANSCRIPT

1. This is an uncorrected transcript of evidence taken in public and webcast on www.parliamentlive.tv.
2. Any public use of, or reference to, the contents should make clear that neither Members nor witnesses have had the opportunity to correct the record. If in doubt as to the propriety of using the transcript, please contact the Clerk of the Committee.
3. Members and witnesses are asked to send corrections to the Clerk of the Committee within 14 days of receipt.

Examination of witnesses

Michael Gove MP, Emma Churchill, Brendan Threlfall and Jess Glover.

Q1 The Chair: Welcome everybody. Welcome back, Chancellor of the Duchy of Lancaster, the right honourable Michael Gove MP. Thank you very much for coming today to the virtual House of Lords and to the European Union Committee.

This is a public evidence session, and we will be taking a transcript. We will send that transcript to you. If you could send us any corrections in due course, we would be very grateful.

As we have only an hour this afternoon, I would be grateful if all questions and answers could be kept brief. For the benefit of those watching, I will explain how we will set about it. I will call each Member who is going to ask a question in turn. They will have four minutes to put their questions to you, Chancellor. Then I will call the next Member. We have 13 Members who will be called in what we call ordinary time. A number of Members who were not able to have questions will be in extra time afterwards. We still hope to finish on the hour.

The Committee is keen that I say something about scrutiny, which is a very important part of our role as a Committee, both in sessions such as this and of documents. The Lords have made their dispositions for next year. We are going to have a whole Committee just for the Northern Ireland protocol. I do not know whether you knew that. It will come up later in the questioning, but it is very important indeed that we get those scrutiny arrangements in place as soon as possible, and by year end. After 40 years of an excellent relationship between Parliament and the Government on document-based scrutiny, we would like that to continue.

I will go straight to my questions. What is the real deadline in your view for the completion of negotiations?

Michael Gove MP: Thank you very much, Lord Kinnoull. I welcome the new arrangements to scrutinise the Northern Ireland protocol. The Joint Committee met today to ensure that the agreement in principle was concluded satisfactorily on both sides. I will make sure that the documentation relating to the protocol is made available to your Committee and to others as quickly as possible.

On the real deadline, I hope that we can conclude an agreement as quickly as possible, but the talks may go on until after Christmas. The European Parliament made it clear earlier today that, if we cannot conclude an agreement by Sunday, it feels that it will not be able to ratify it appropriately. Of course, the EU can apply a provisional application of the treaty.

As I mentioned to the House of Commons' new equivalent to this Committee earlier today, we will want to ensure that Parliament has a say and a chance to scrutinise any agreement that is reached. Realistically, it is in the days just immediately after Christmas.

The Chair: If an agreement is reached, could you give us a bit more colour as to the process and timetable for its ratification and implementation by the UK? In particular, could you give more colour to what arrangements will be in place to ensure proper parliamentary scrutiny?

Michael Gove MP: I think we will want to ensure, with Parliament's authorities, that Parliament can sit for as long as possible on any of the days until, and even including, 31 December so that there can be adequate scrutiny of the future relationship Bill.

When there has been legislation that it suited everyone to pass as rapidly as possible, Parliament has sat—the Lords in particular—for well beyond its usual number of hours. That is something that I would want to do because I would want to ensure that there was the maximum amount of time for scrutiny of the legislation.

The Chair: You mentioned provisional application. Is it the case that you feel that an agreement is likely to have to use provisional application as a mechanism for preventing a nasty interim period?

Michael Gove MP: It is certainly the case that the EU may need to avail itself of that. Obviously, it is a decision for the EU, but agreement at the Council for provisional application may well be an option that is exercised if we do not manage to secure agreement by Sunday.

The Chair: I probably was not quite clear. Is a provisional application likely to be how we would seek to try to do it, given that we have quite a lot of our own procedures that may take some time to put through?

Michael Gove MP: The Government's aim would be to have a Bill going before Parliament to be agreed in both Houses.

The Chair: That is very clear. Thank you very much.

Q2 **Lord Kerr of Kinlochard:** Good afternoon, Mr Gove. You told our colleagues in the Commons earlier today that you thought there was a less than 50:50 chance of a deal. My hunch is that there will be a deal, but supposing that there is not, you seem to be rejecting the idea of any stopgap solutions to prevent a hiatus. You told the Commons that there would be no gap; either there would be an agreement this month or, if there is no time for that, we must accept that there will not be an agreement, so you do not envisage negotiations in January.

Michael Gove MP: No.

Lord Kerr of Kinlochard: You said there would still be contact between the UK and the EU, but we would not be seeking to negotiate a deal. Is that seriously the Government's position?

Michael Gove MP: Yes. If we cannot secure a free trade agreement before 31 December, it will be the case that we will trade with the EU on WTO terms. Of course, it is the case that there will be conversations, as

there would be between any set of neighbours, and those conversations may well involve the EU choosing or our choosing to make unilateral decisions that make life easier for one or the other side. It may well be that those unilateral decisions are reciprocated. People have talked about them as side deals. I do not think that is the right terminology, but I am sure the Committee will understand what I mean. It certainly will not be the case that we will be going back to seek to secure an FTA. If it is the case that we cannot secure a deal by 31 December, that is it.

Lord Kerr of Kinlochard: Forgive me, but is that really sustainable? Supposing Dover is a lorry park, prices are shooting up in the shops and manufacturers are hard hit by EU tariffs; would we really be on our high horse riding off into the sunset, particularly if the Commission kept open the offer that Barnier has been making of the possibility of continuing negotiations in a short period of no deal?

Michael Gove MP: It would be the case that we would not go back into the negotiating room to seek to secure an FTA if we could not agree one by 31 December.

Lord Kerr of Kinlochard: Why is that, Chancellor?

Michael Gove MP: Because I think it is important, four and a half years from the referendum result, not to spin out the process unduly. Both sides are going the extra mile, but there has to be a deadline. Having been a newspaper executive in the past, I know that you can always extend a deadline, sometimes for talented and creative writing, but there comes a point when you have to press the button and the presses must roll.

Lord Kerr of Kinlochard: Yes. Of course, the virus intervened. Looking back, it seems rather a pity that we turned down the idea of an extension beyond December, which we were offered back in June. Are you still sure that was the right thing to do?

Michael Gove MP: Absolutely.

Lord Kerr of Kinlochard: Thank you.

Q3 **Baroness Donaghy:** Good afternoon, Chancellor. I want to ask you about the principles around the negotiations on the level playing field. I imagine you will not be in a position to go into detail on sensitive negotiations, but could you share the principles that the Government are pursuing on what are variously called non-regression clauses or, as I have heard recently, a rebalancing mechanism? Are you able to say anything about those approaches?

Michael Gove MP: Absolutely. We are committed to the principle of non-regression and, indeed, the EU in some of the trade agreements that it has secured—including, for example, with Canada—understands that. It is a common principle in FTAs.

What we take exception to is the proposition that was put forward in the negotiations that, if the EU unilaterally chose to adopt new laws, and we declined to after the conclusion of our free trade agreement, the EU could unilaterally impose tariffs or other barriers to trade if we did not follow suit. It would be impossible for us to accept that we would face a situation where, in effect, force majeure was applied in that way. We would want to have certainty and reciprocity in the way in which those arrangements operate.

I stress, as I think I have stressed to this Committee before, that we are committed, as Baroness Brown and others will know, thanks to the work of the climate change committee and others, to the very highest environmental and climate change standards. There will be no movement away from that.

Baroness Donaghy: While we are on that subject, would you be seeking an obligation on the EU to take account of higher UK regulatory standards, for instance on environmental policy, as well as an obligation on the UK in the event of higher EU standards? Would there be that sort of flexibility?

Michael Gove MP: Our approach is that we will set standards that we believe are high, right and appropriate for this country. If the EU wishes to emulate them, wonderful, but it is not our desire to seek to compel by any means the EU to follow suit in any of these areas. We respect its sovereignty, and we hope it will respect ours.

Baroness Donaghy: I want to turn to the issue of Gibraltar and the other overseas territories and Crown dependencies. What are the implications for them if they are not included in any agreement, or if no agreement is reached? We had a statement from the Chief Minister of Gibraltar recently that they had clear assurances in 2017 from David Davis, then Secretary of State for Exiting the EU, that, if Spain insisted that Gibraltar would not form part of any future arrangements with the EU, the UK would not do the deal. Does that commitment still stand?

Michael Gove MP: It is the case that we are negotiating hard to secure Gibraltar's interests and the interests of all overseas territories and Crown dependencies, but I cannot say more at this stage about either the negotiations or our contingency arrangements with respect to the OTs and Gibraltar in particular.

Baroness Donaghy: Would those contingencies include, for instance, a similar system of an arbitration panel to determine whether there has been an acceptable variation in standards?

Michael Gove MP: I think it could be the case that an arbitration panel could play a role in making sure that the free trade agreement works in the interests of all, but again it depends not so much on the composition but on the remit of the arbitration panel. I touched on this very briefly earlier with the Commons.

If an arbitration panel is asked to agree that it is legitimate for one side to retaliate if there is only a potential impact as a result of certain changes, that is one thing. If it is asked to weigh whether or not there is a material or a significant impact, that is another. I am not using those words because they are the words currently in play in the negotiations. I simply use them to illustrate the point that an arbitration panel, like any judicial body, can only be asked to adjudicate on the basis of a particular agreement or on the basis of a particular legal text. That arbitration panel, like all judges, will look at what the politicians have agreed and not interpolate its own view.

Q4 **Baroness Primarolo:** Good afternoon, Chancellor. Could you explain to us what the Government are doing to address concerns raised in the European Parliament and elsewhere about the granting of data adequacy to the United Kingdom? I am thinking particularly of the Irish Council for Civil Liberties, which has written to the Commission in connection with the data breach on real-time bidding, the largest ever data breach reported to our Information Commissioner.

Michael Gove MP: The first thing to say is that we are fully compliant with GDPR; indeed, the role the Information Commissioner's Office plays is vital in making sure that data protection rules are adhered to. Our judgment would be that, given that we are fully compliant with EU law at the moment, data adequacy should be granted. Of course, the EU undertakes an autonomous process to make that judgment, separate from the FTA. I am more hopeful, in the course of developments in the last few days, that adequacy will be granted. If it is not, obviously businesses can insulate themselves from any of the risks through the addition of standard contractual clauses to the relationship they have with EU commercial actors.

Baroness Primarolo: But, Chancellor, UK businesses—particularly in the data economy—are not used to being in an environment where there are regulatory obstacles. The implications of not getting data adequacy are substantial. You talk about using contractual arrangements, but I am sure you are aware of the report by the New Economics Foundation on the cost to businesses of not having data adequacy. It estimates compliance costs of between £1 billion and £1.6 billion that they will not be able to spend on their businesses. What steps will the Government take to mitigate that if there is no data adequacy agreement in place by 1 January?

Michael Gove MP: There is extensive information on the ICO's own website that can help business to prepare. It is certainly the case that the Secretary of State for DCMS has been energetic in making sure that business understands the ways in which it can prepare in the event that we do not secure adequacy. As I say, I am more confident—although I cannot be 100%—that because of recent developments that is more likely.

Baroness Primarolo: To be sure that I understand you clearly, Chancellor, your response is that you anticipate that we will get data

adequacy going forward but that, if we do not, businesses will have to take mitigating steps in order to protect themselves and spend the extra money to do so. Is that correct?

Michael Gove MP: Yes, but I think the question of the amount can legitimately be debated. It is certainly the case that, if businesses undertake the mitigation measures that I have mentioned, they will not face those risks. That will be the case for EU businesses as well; there will be appropriate steps that they might wish to undertake.

Q5 Baroness Primarolo: Perhaps I could move on to a question linked to data adequacy and us getting the data adequacy agreement, which is with regard to the UK taking steps to mitigate the gaps that will occur in UK-EU security co-operation. Are you in a position to tell us what steps are being taken in the event of a deal or no deal with regard to access to those databases?

Michael Gove MP: In the event of the comprehensive agreement that we seek, it should be the case that we have access to all the law enforcement, national security and justice tools we want, with perhaps one particular exception. It is also the case that, if we do not secure that agreement, there are alternative steps that we can take and alternative measures that we can use, many of which we were using in the first half of the first decade of the century.

Q6 Baroness Primarolo: Chancellor, given that you said you thought there was only a 50:50 chance of agreement, and given that the Home Office Minister and the officials who accompanied him were unable to tell the House of Commons Home Affairs Select Committee exactly what the suitable arrangements would be for alternative databases to be in place, perhaps you could give us a little more detail now, with regard specifically, for example, to SIS II.

Michael Gove MP: Yes. Schengen Information System II, to which we have only had access since the second half of the first decade of the century, is the database that would be most difficult for us to secure access to because it would require us to accept ECJ jurisdiction, but it is the case that information can be shared through Interpol and other means. When it comes to key national security questions, which should be at the forefront of any Minister's mind, national security is a national state competence, and the forms of co-operation that already exist—for example, between security agencies and others—are robust, well tested and well understood.

It is also the case—I say this in no boastful way because it reflects well on others and not on me—that EU countries benefit significantly from their co-operation with UK law enforcement and national security agencies. I think it is in everyone's interests that that pragmatic co-operation should continue.

Baroness Primarolo: Yes, but if there is no deal there will not be.

The Chair: I am sorry, Baroness Primarolo. I regret that in the interests

of time we have to move on. We may be able to come back to that in extra time. I will add you to the list for that.

Q7 Lord Wood of Anfield: Mr Gove, it is very good of you to join us today. I want to ask about traffic and transportation issues. Could you outline what major disruption businesses and citizens should expect to experience in the weeks after 1 January, either with or without an agreement?

Michael Gove MP: We have published a reasonable worst-case scenario in the event of no agreement that lays out what we think is at the pessimistic end of what could be expected. It is difficult to predict accurately because, as everyone will appreciate, passenger and freight traffic has been affected by the Covid pandemic. The level of business readiness has been improving over the course of the last few months, so I think the reasonable worst-case scenario is at the pessimistic end, but obviously it provides us with a scenario against which we can plan.

Lord Wood of Anfield: You gave some details to the Commons earlier about the reasonable worst-case scenario. I believe you said that between 40% and 70% of HGVs heading to the EU not being ready for new controls, creating queues of up to 7,000 trucks and delays lasting two days, was a reasonable worst-case scenario. Is that correct? If so, I think people will be wondering why, after all this time for preparation, that is the scenario we expect in just 15 days.

Michael Gove MP: Let me draw a distinction. The reasonable worst-case scenario is not the prediction of what we expect. It is a planning scenario. Contingency in government requires the officials with whom we work and the Ministers responsible for decisions to work out what could, to a reasonable person, occur in the worst eventuality, so that we can plan for that and so that we are not blithe or blasé. Our expectation would be that the situation would not be that bad because of the scale and level of preparation that business leaders have put in place.

Lord Wood of Anfield: I want to ask about the Kent access permit. One of the issues that keeps coming up is how the authorities are going to distinguish trucks heading for the EU coming through Kent, and needing a Kent access permit, and those heading for domestic destinations inside Kent, such as Ashford, Dover or Folkestone, that do not. How will the monitoring system be able to distinguish those categories of transport?

Michael Gove MP: On this occasion, I defer to my colleague Emma Churchill, the director-general at the Border and Protocol Delivery Group.

Emma Churchill: As you correctly say, Lord Wood, there is only a requirement to have a Kent access permit if you are making an international trip out of Kent over the short straits. There are two different categories of HGV that could perfectly properly drive around the Kent strategic network without wanting to make that crossing. One is locally based hauliers. Working with Kent County Council, we will be issuing them with local access permits that entitle them to drive on that

network. There will be some that are not haulage firms based in Kent and therefore would not have local access permits, but as they come down the M2 or the M20 they will, of course, be entitled to do that without a Kent access permit.

The DVSA enforcement people, who will enforce the Kent access permit, are able to tell which vehicles do not have an international operator's licence. They will know which of them are not likely to be making the international trip and will know not to take enforcement action against them. Secondly, we recommend that those doing domestic distribution carry proof with them that they are doing so, so that if they are pulled over they could demonstrate that they did not need a Kent access permit.

Lord Wood of Anfield: An issue that has often come up in our hearings is welfare and safety. There are questions about the adequacy of facilities for lorry drivers who may be spending a lot of time stationary in Kent. How are you responding to those concerns?

Michael Gove MP: We have worked with the Kent Resilience Forum and Kent County Council to provide appropriate facilities. As you have rightly pointed out, it is all the more important that they are there because of the pandemic risk, but Emma may say more.

Emma Churchill: Our colleagues in the Department for Transport have been working very closely with the Kent Resilience Forum. They have a full welfare plan for drivers, which covers a number of things.

First, of course, it covers the medical provision that will need to be on site both at Sevington and Manston, as well as other types of welfare provision. The Kent Resilience Forum has spent a lot of time thinking about the toilet provision for drivers, which is very important, both at Sevington and at Manston. The Kent Resilience Forum and local health leaders have worked very closely to make sure that all the sites are properly Covid secure in the way that you would expect.

Baroness Brown of Cambridge: Good afternoon, Chancellor. Can you tell us when port and inland customs facilities and IT systems will be ready for the new arrangements? By that time, will they have been thoroughly trialled so that we can be sure they will work smoothly?

Michael Gove MP: Yes, it is the case that all our inland facilities are ready. There are one or two areas that will not be fully ready until after the new year—for example, the development of HMRC facilities at Ashford Sevington, but that is only part of the Sevington site.

Databases are being extensively piloted, tested and indeed used. The database or portal to which Stewart just referred—the check an HGV is ready for the border system—was up and running on Monday and has been well used since then.

Emma Churchill: Yes, it has. All the systems that now need to be live for January are live. That includes the goods vehicle movement service that I know the Committee has been concerned about. That has opened

for registrations and is being used by haulage firms. "Check an HGV is ready to cross the border" is the other web service that the Committee has been interested in and is the one to use to get the Kent access permit; it went live on Monday and is already being used. Over 360 Kent access permits have already been issued for 1 January and beyond, so those systems are up and running.

You asked about infrastructure. Ashford Sevington is going to be ready on 1 January for the purposes of traffic management. It has been agreed that the HMRC functions that might have been done on that site will instead, for the month of January, be done at Ashford Waterbrook, which, as you may know, is right next to Sevington. That was the contingency that we had in place if Sevington was not ready to open for all of those functions. All the other inland sites that need to be ready for 1 January will be ready to open as planned.

Baroness Brown of Cambridge: Have there been any problems with all those new IT systems since they went live?

Emma Churchill: No.

Michael Gove MP: None that I have heard of. I am sure that if there are problems, we will hear of them, and I hope the Committee will too, so that we can tackle them.

Baroness Brown of Cambridge: Is the port infrastructure fund adequate? We hear reports that it has been hugely oversubscribed and, for example, that Dover has been allocated £33,000 against a bid for £33 million. Are we going to have adequate infrastructure available next year?

Michael Gove MP: It was heavily subscribed. It is the case that we have been able to give support to the overwhelming majority of ports that applied. In the specific case of Dover, its bid encompassed some entirely understandable requests for support to put infrastructure in place, which could not be in place until 2023. The purpose of the port infrastructure fund was to ensure that the infrastructure that is required by July is in place, but we are continuing to work with Dover to make sure that its perfectly legitimate request to improve facilities overall in the coming years can be met.

Baroness Brown of Cambridge: May I follow up Baroness Donaghy's question? If we were to have very much higher standards in the area of CO₂ emissions, I think I understood you to say that we would not want to be able to take action against the EU if it was working to lower standards. By that, do you mean that, if our industries experience extra costs for decarbonising that their competitors in the EU are not experiencing, we would not want to do anything to support our industries in that situation?

Michael Gove MP: We will do everything we can to support industries in the absolutely vital drive to decarbonise, but one of the things that we do not intend to do is to penalise our friends in Europe if they do not maintain the same high standards as us.

Baroness Brown of Cambridge: Thank you very much.

Q8 Lord Sharkey: A week ago, Chancellor, the Commission brought forward four contingency measures to mitigate some of the significant disruptions that would occur on 1 January if a deal with the UK is not yet in place. When will the Government bring forward no-deal contingency measures to reciprocate those published by the Commission on basic road and air connectivity, aviation safety and fisheries?

Michael Gove MP: Very shortly. We are warm and positive to the proposals that have been put forward on aviation safety, air transport and road transport. We have more reservations about the Commission's approach on fisheries, but we recognise that these unilateral steps by the Commission can benefit both sides.

Lord Sharkey: You have probably seen that the latest Markit Purchasing Managers' Index says: "Shortages of critical inputs, alongside pressure on capacity following forward-purchasing by clients ahead of Brexit, contributed to the sharpest rise in backlogs of work across the manufacturing sector since May 2010". What is your response to that, and to concerns about the risk of supplier or consumer stockpiling ahead of 31 December?

Michael Gove MP: I think it has been the case that business has been making sure that it has strong stocks in areas that can be appropriately warehoused, whether it is supermarkets with ambient goods or manufacturers making sure that they have access to parts. That is an entirely understandable step that they should take.

Even absent the end of the transition period, in other parts of the world other economic actors have done similar things because of the well-advertised and well-understood pressures on global trade that Covid has generated, and that have been affecting the containerised sector. Those steps have been taken, but, of course, it is our aim to ensure, as we discussed earlier, that we maintain the freest flowing trade possible, hence the steps that we have taken on infrastructure and databases.

Lord Sharkey: I want to come back briefly to the contingency measures that we talked about a moment ago. How sustainable are those measures in the long term if there is no agreed basis for the future UK-EU trading and security relationship?

Michael Gove MP: Again, the EU has made it clear that these are unilateral moves. As I say, we will be announcing how we might reciprocate. Should it be the case that we do not secure a free trade agreement, I think everyone understands that there will be a period of adjustment. The disruption in the reasonable worst-case scenario is envisaged to diminish over time. Whether or not that scenario is unduly pessimistic, I think most people would agree that during the period of adjustment we would find a new normal demonstrating itself.

Lord Sharkey: Will the contingency measures not have to mirror each other—ours with the EU—if they are to be effective?

Michael Gove MP: On aviation and road transport, pretty much, yes. On fisheries, it remains a subject of contention.

Lord Sharkey: Does that mean no?

Michael Gove MP: On fisheries?

Lord Sharkey: Yes.

Michael Gove MP: The specific ask on fisheries is one that we think is—how can I put this?—a bit forward. I will not say more at this stage because the Environment Secretary will be saying more about it.

Lord Sharkey: Thank you very much indeed.

Q9 **Baroness Neville-Rolfe:** Chancellor, congratulations on the progress you have made latterly in the Joint Committee. I believe that the text of the draft decisions and the unilateral statements on the operation of the protocol were agreed today. Were any amendments made and how long will the arrangements last?

Michael Gove MP: No amendments were made. Obviously, the Joint Committee itself is a confidential process, but it is fair to say that it was cordial. No changes were made. There will be a refinement on the EU side of the list of arbitrators that it has put forward, but I think it is the substitution of one distinguished figure for another.

Baroness Neville-Rolfe: How will the operation compare in the event of, first, agreement, and, secondly, non-agreement on the future relationship?

Michael Gove MP: The Northern Ireland protocol is designed to be an all-weather arrangement. It was explicitly designed to ensure that, in the absence of a free trade agreement, both the EU single market and Northern Ireland's integral place in our customs territory could be protected. That is what it does. Obviously, a free trade agreement, if it can be successfully concluded, means that some aspects of the protocol become easier to manage.

Baroness Neville-Rolfe: Are you working with business on how the trading will actually work and to test the mechanisms? As an ex-retailer, I was thinking that a dummy run attempted by lorries serving perhaps small businesses across both borders, and back, to test the paperwork and the IT systems, the VAT, the health certificates and rules of origin and so on, would make a lot of sense. How much of that has been attempted or will be attempted now that you have agreed the arrangements?

Michael Gove MP: World-class supermarkets such as Tesco have been working closely with us. Brendan Threlfall, who is the mastermind behind that agreement, may say more.

Brendan Threlfall: On testing, some of the Northern Ireland hauliers have already tried the goods vehicle movement service, which is run by

HMRC. There has been some testing on the specifics falling out of the Joint Committee. There is less on the goods-at-risk tariffs issue, for example. It is less a question of immediately testing and more getting businesses registered on to that scheme, which is now live on GOV.UK, and traders can register for it now. There will be a four-month period of provisional authorisation in the UK trader scheme, as we call it, and then you will become a permanently authorised trusted trader. That is a registration process, rather than testing as such.

Baroness Neville-Rolfe: I think it would be quite helpful if you could do a test with small businesses, or for them, talking to Northern Irish businesses as well, not just the big Tescos, which will be well prepared, but the very many smaller companies, and indeed service industries, that we worry about.

Brendan Threlfall: I can assure you that on the business engagement front it is an across-the-board process. The bigger retailers are certainly engaged, but the small business organisations are represented. We are particularly focused on small business readiness because we know there are challenges. We are extremely alive to that.

Michael Gove MP: We have seen more than 10,000 businesses in Northern Ireland sign up for the trader support service to ensure that their worries can be dealt with.

Baroness Neville-Rolfe: Do you get the impression that they feel a bit better about it all? They were particularly concerned, and came and told the Committee that.

Michael Gove MP: I would not say that every single worry has been set at ease, but since the agreement in principle last week, and its adoption today, I think there has been a widespread welcome from the overwhelming majority of Northern Ireland businesses. We will continue to work with those that have concerns to address them.

On your broader point about dry runs, we have been undertaking dry runs in a number of sectors in the event of a non-negotiated outcome, to ensure that, for example, fish and shellfish can make their way rapidly to Boulogne-sur-Mer for sale, and we are learning from those dry runs.

Baroness Couttie: When will the long-term regime for unfettered access for goods from Northern Ireland to the UK actually become operational? There is not much time until 1 January.

Michael Gove MP: Unfettered access for goods from Northern Ireland to the UK?

Baroness Couttie: Northern Ireland businesses to the UK, yes, exactly.

Michael Gove MP: It is operational now.

Baroness Couttie: It is operational now, so they will not see a particular change from that perspective.

Michael Gove MP: The trader support service is there to ensure that all their needs are met.

Baroness Couttie: How will goods moving between Northern Ireland and Great Britain requiring or not requiring export declarations be differentiated in practice on the ground?

Michael Gove MP: Moving from Northern Ireland to the UK?

Baroness Couttie: Between Northern Ireland and Great Britain.

Michael Gove MP: It will be the case that the processes we have in place at the moment can provide sufficient information to the EU to satisfy the requirements, as it sees them, of the Union customs code, but over to Brendan.

Brendan Threlfall: On the unfettered access side, there will be two phases. Phase 1, on the definition of what is a qualifying Northern Ireland good and business, will be on the basis of the statutory instrument that has gone through both Houses. Effectively, it is all goods in free circulation in Northern Ireland for this interim period, which is a more open approach, we acknowledge, but one designed to provide some continuity and stability in January.

We will transition from that to a phase 2 approach to unfettered access, which we set out in the Command Paper and will auto-enrol Northern Ireland established traders into the goods vehicle movement service with HMRC, and give them a reference number. At that point, we can use the GVMS system to ensure that we can distinguish Northern Ireland authorised traders and a trader, for example, coming from Ireland wanting to use a transit route to Great Britain. At that point, we would have the long-term system in place. Our aim is to align it to the point at which we start to phase in controls in GB more generally for EU trade—for example, on the Dublin to Holyhead route.

Baroness Couttie: On the ground, how will you be able to tell which businesses require export declarations and which do not? How does it work?

Michael Gove MP: As Brendan said, stage 1 is permissive, and in stage 2 Northern Ireland businesses will register to avail themselves of that freedom.

Brendan Threlfall: In phase 1 there is a—

Baroness Couttie: It is just a registration system, so when they go through they are picked up on a system.

Brendan Threlfall: Yes. From next summer, everyone will be on the goods vehicle movement system, and that will allow us to differentiate. From 1 January, there is still, through the taxation Bill, an anti-avoidance measure, so that HMRC can take action if it picks that up. Through intelligence or shipping manifest data that we have on movements, it can

already pick up someone trying to divert deliberately through Northern Ireland. That is an interim operational response. From next summer, we will move the system on to a longer-term footing.

Q10 Lord Faulkner of Worcester: Good afternoon, Chancellor. Thank you for coming to see us again. What proportion of traders, and indeed trade, operating between Great Britain and Northern Ireland will be covered by the trader scheme? Do you have any estimate of that?

Michael Gove MP: The overwhelming majority.

Lord Faulkner of Worcester: In that case, their goods will be judged not to be at risk of moving into the EU single market; is that right?

Michael Gove MP: Yes.

Lord Faulkner of Worcester: Are you relying on them to self-certify, or will there be checks to see if what they are saying is correct?

Michael Gove MP: We will ensure that it is Northern Ireland qualifying businesses that avail themselves of that opportunity. As Brendan indicated, there are ways of ensuring that, if people try to play fast and loose with the system, we can be alert to that.

Lord Faulkner of Worcester: Thank you. Will that cover SMEs, as well as larger companies?

Michael Gove MP: Yes.

Lord Faulkner of Worcester: Can you give us a sense of which goods or traders are unlikely to be covered?

Michael Gove MP: Major multinational concerns that are likely to be sourcing a variety of products into Northern Ireland and then sending high-spec finished goods from Northern Ireland.

Lord Faulkner of Worcester: In those cases, when will tariff waivers and the reimbursement scheme for such goods come into operation?

Michael Gove MP: It will be the case that we will reimburse and waive all tariffs, but Brendan may say a little more about that process.

Brendan Threlfall: The tariff waiver scheme will be available from day one, but it is important to say that it will only go up to certain ceilings on how much you can claim over a period. If you are a big processor that brings things into Northern Ireland and sends them on to the European Union, you are unlikely to be covered for that, but if you are a smaller business, you will be covered by the tariff waiver scheme. The reimbursement scheme will be rolled out by HMRC early next year, and we need to provide further guidance on that.

Lord Faulkner of Worcester: Are you confident that HMRC will be ready?

Michael Gove MP: Pretty confident, yes. Over the last year, I have been impressed by the speed with which HMRC has responded, not just to the Covid pandemic and the responsibilities placed on it, but to the various requests that we have made of it.

Lord Faulkner of Worcester: Would you talk me through how the scheme will work in practice for goods that start in Great Britain, leaving Great Britain at the port of Holyhead, say, go to Dún Laoghaire and then the trucks are driven north to Northern Ireland? How will it cover them?

Michael Gove MP: We should have a twin-track approach that means we can distinguish goods that are destined for Northern Ireland or come from Northern Ireland and goods that are destined for the Irish Republic or come from the Irish Republic.

Brendan Threlfall: The decision of the Joint Committee refers to goods being moved by direct transport between Great Britain and Northern Ireland. The legal definition of direct transport can include transiting through another territory, and in this case that would be through Ireland and the EU customs territory, providing the goods stay under customs supervision. In practice, that will mean that you can use the Dublin to Holyhead route and avail yourself of the UK trader scheme. You just have to put your goods into the transit procedure, which means sealing the truck and going to a point of destination in Northern Ireland and releasing your goods for free circulation at that point, so they cannot go missing in Ireland.

Lord Faulkner of Worcester: In my big truck, I would not be able to have half of my goods aiming for, say, the Dublin market and the other half for the Belfast market.

Michael Gove MP: They could not fall off the back of a lorry and into free circulation in Ireland, no.

Lord Faulkner of Worcester: I was not suggesting falling off the back of a lorry. I was thinking about being delivered to customers in both cities.

Michael Gove MP: No.

Lord Faulkner of Worcester: That is not possible, because the truck will effectively be sealed as it goes from one port to the other.

Michael Gove MP: Yes.

Lord Faulkner of Worcester: Thank you very much indeed.

Q11 **Lord Lamont of Lerwick:** Good afternoon, Chancellor. It is very good of you to come in the present very busy period.

May I turn to the end of the grace periods for authorised traders, supply of chilled meats, and animal products? Is it not the case that, after the grace period, all animal and plant products entering Northern Ireland from Britain will require export health certificates costing £200 each, and,

after the expiry of the grace period for chilled meat, Northern Ireland will have to source fresh meat products locally or from the Republic unless the exemption is extended to all UK-EU trade by agreement with Brussels?

Michael Gove MP: With respect to the first grace period on export health certificates, the period was agreed following our own consultation with the supermarkets and the agri-food sector here, so that they felt that they were in a position to be effectively compliant with the EHC requirements. I think the costs may be cumulatively less than you mention.

With respect to the chilled meat exemption, it is the case that it exists for six months, but it is explicitly also the case that an attempt by some to argue that it should be non-renewable was rejected, because we want to be in a position to ensure that Northern Ireland suppliers can, if necessary, get the products they need for their customers in Northern Ireland.

Lord Lamont of Lerwick: I noted quite a cautious reaction from business groups in Northern Ireland. Some say that you have fundamentally altered the relationship between Northern Ireland and Britain because you have taken measures that will avert empty stores and shelves in the short term, but will increase the costs. That will mean that Northern Ireland either has to supply itself locally or, increasingly, from the south because of the cost structure.

Michael Gove MP: There are two things. First, inherent in the protocol right from the very beginning, when it was signed, was an acceptance that the EU *acquis* would apply in certain areas. The negotiations that we undertook with Maroš Šefčovič were designed to reduce, mitigate or manage that process.

The second thing is that, of course, there are significant and important exceptions to the rule, but a large part of the produce that is provided—pork products and so on—to consumers in Northern Ireland originates in Northern Ireland. I think it is the case that there are Northern Ireland producers who see an opportunity as well. Obviously, it is a commercial decision for the actors concerned, but it is no bad thing for Northern Ireland's food sector to continue to be able to provide Northern Ireland consumers with high-quality products.

Lord Lamont of Lerwick: You mentioned the word *acquis*, which is the first time it has been mentioned. May I go back to Baroness Donaghy's question about the level playing field?

One can understand why environmental and social issues become the source of an argument about competitiveness, and why the British Government have accepted the principle of non-regression applying to those areas, but where in relation to the *acquis* does the non-regression principle end? The *acquis* is not just environmental measures or social measures; there is a whole corpus of tens of thousands of laws.

Presumably, the non-regression principle will not apply to the generality of the *acquis*, and we will be able to alter it subject to certain boundaries.

Michael Gove MP: That is exactly what we are aiming to do through the negotiations, yes.

Lord Lamont of Lerwick: Good. Thank you.

Q12 **Lord Thomas of Cwmgiedd:** Chancellor, it is very good of you to come. May I ask two questions? The first is a general one about parliamentary scrutiny in Westminster and in Northern Ireland, as to the way in which the protocol will operate and any changes that will be made. How do you see that working?

Michael Gove MP: It is important that UK Government Ministers make themselves available to the Northern Ireland Assembly so that we can answer questions and be held to account for the decisions that we have made. It is a very welcome development that your Lordships' House will have a Select Committee to look specifically at the implementation of the Northern Ireland protocol.

In the new year, if I am still in post, I will be meeting the Commission Vice-President Maroš Šefčovič regularly, and I will always seek to update Parliament after those meetings. The operation of the protocol will matter hugely, for reasons that the Committee well knows, to the 1.5 million people in Northern Ireland, and we would want to be in a position where they could have confidence, as well as other UK citizens and indeed EU member states, that it was operating effectively.

Lord Thomas of Cwmgiedd: Over the next few weeks, it is obviously important there should be no lacuna in the way in which scrutiny is carried out. How do you think you can facilitate that?

Michael Gove MP: Speaking personally, every day that Parliament may sit in order to bring forward the future relationship Bill, I will be here. Should it be the case that this Committee or any other feels it appropriate, either after the conclusion of an FTA or in the absence of an FTA, to invite me to answer questions, I will make myself available, or, in extremis, if I am unavailable, another Minister will make themselves available. It is absolutely vital that we provide people with all the information they need so that a democratic judgment can be made.

Lord Thomas of Cwmgiedd: You envisage no lacuna in the scrutiny process over the next couple of months.

Michael Gove MP: No. In the very near term, Parliament can sit on any day apart from Christmas Day, if necessary. In the short to medium term, obviously it is a matter for both Houses which committees they decide to set up to scrutinise the Government, but even if I cannot always answer questions for as long as we might both want, I will always do everything I can to make myself available, as will other Ministers.

Lord Thomas of Cwmgiedd: Will the Government continue to provide

from 1 January Explanatory Memoranda on EU Acts within the scope of the protocol?

Michael Gove MP: Yes.

Lord Thomas of Cwmgiedd: Thank you very much indeed.

The Chair: We come to our last question. Colleagues have asked whether they might be able to ask something in injury time, which would take us, if you agreed to it, to releasing you at 5.55 or so. I wondered whether you might be prepared to take their questions as well.

Michael Gove MP: Of course.

The Chair: That is very generous of you and I appreciate it. Our last regular time question comes from Baroness Hamwee.

Q13 **Baroness Hamwee:** Good evening, Chancellor. I hope no injuries are involved.

May I ask about citizens' rights and, first, the situation in EU states? Are you happy that we will get everything lined up in time to process applications from EU nationals, in particular from France, where they have given themselves a very short window to deal with it?

Michael Gove MP: Yes, and, to his enormous credit, Vice-President Maroš Šefčovič has been very diligent in making sure that EU member states live up to their obligations.

Baroness Hamwee: Are you in touch with representative groups in the different countries? There are some very active ones.

Michael Gove MP: I have been, but it has particularly been the case that the FCDO and my colleague, the Paymaster-General Penny Mordaunt, who leads on citizens' rights, as well of course as the Home Office, have been energetic in talking to those groups.

Baroness Hamwee: You may say that this is entirely with the Home Office. Mr Šefčovič referred to reassurances about the settled status scheme. There is concern about individuals who have not applied and who are very hard to reach. Have you been able to discuss means of communications with him to give reassurances?

Michael Gove MP: Again, Vice-President Šefčovič has been very energetic in making sure that the rights of EU citizens in the UK are protected. The EU settlement scheme will run right up until half way through next year. We will do everything possible to contact everyone concerned.

It was estimated at the time of the referendum that there were some 3 million EU citizens living in the UK. It is now the case that 4 million applications have been processed, and I am delighted both that the Home Office has managed to proceed at speed and that 4 million EU citizens want to stay and make their future in the UK. More than 700,000 Polish

citizens will be staying here, and I think there are more than 50,000 Slovaks and more than 200,000 Italians. That is great news.

Baroness Hamwee: It must be 4.5 million applications now, because it was almost that by the end of last month. I know you are very pragmatic and have lots of imagination. May I ask you to impress on colleagues that, if the communications to find people who have not applied have not worked so far, we do not want more of the same? We want something different and, as I say, imaginative. That is a personal request.

Michael Gove MP: That is a very good and fair point. We will do everything we can to reach everyone affected.

Baroness Hamwee: Thank you.

The Chair: Thank you very much indeed. We come to the injury time questions. Five colleagues want to ask short questions.

Lord Teverson: Good evening, Chancellor. Yesterday, my Sub-Committee met with the agri-food sector to look at exports. One of our key questions was about third country listing. Could you let us know what the situation is at the moment, and perhaps explain, if it is not granted, presumably under a situation of no deal, what that actually means?

Michael Gove MP: My understanding is that we should have third country listing, but my colleague Jess will provide us with the latest up-to-date picture.

Jess Glover: Third country listing comes into the category of decisions that the EU makes unilaterally, rather than being subject to the negotiations. There are various categories of third country and various lists on which a third country can be placed. My understanding, although I would seek to confirm this afterwards because I do not have the detail off the top of my head, is that we have been granted listing on a particular list, but I cannot now remember, I am afraid, which one it is. I will have to supply that information afterwards and I apologise.

Michael Gove MP: I think there are distinctions when it comes to agri-food and, as it happens, pet travel and so on. We have third country listing on agri-food in the event of a non-negotiated outcome, on the basis that we remain compliant with EU SPS requirements for a particular period. I am pretty certain that is the case. If it is not the case, I will instantly get on to the Committee afterwards to clarify.

Lord Teverson: That is pretty fundamental, Chancellor, so we would appreciate that.

Michael Gove MP: You are telling me.

Lord Teverson: I was a bit disappointed that, on the data side, you said that the Schengen Information System II was unlikely to be there. I think that is a bit of a celebration for villains, to be honest. I know all the other channels and that one is far more efficient than any other. I leave that as

a comment.

Michael Gove MP: I completely understand. We opted into Schengen Information System II during the coalition years, and I do not deny that there are authoritative figures who pay testament to its advantages; but there are alternatives and there are other things that we can do outside the EU to improve our security, but I very much take your point in the spirit in which it was offered.

The Chair: For the last time I call Lord Cavendish, who is shortly to retire from our Committee. We all wish him well.

Lord Cavendish of Furness: Thank you very much, Chair. Good evening, Chancellor. You have fielded a lot of highly technical questions, for which, many thanks. Mine is rather different and I too will ask you to use your imagination.

Would you agree that relations with our EU friends have been rather bruised by the Brexit process? Looking ahead, may I ask whether any thought has been given to devising a post-Brexit political process aimed at achieving what one might describe as the equivalent of a 21st-century entente cordiale?

Michael Gove MP: That is a very good question. Yes, I said in a different context that I believe we should seek to have a special relationship with the European Union, and with its member states. As everyone appreciates, we have very good bilateral relations with all the EU 27, whether that is co-operation with France on defence and security, as we are currently exhibiting with UK forces in Mali, or co-operation on life sciences with Germany and the Netherlands.

Overall, you are right that the process of re-setting the relationship will have had its ups and downs. The broader point is that we recognise and respect that both the sovereignty of the EU and the ambitions of its peoples should be at the heart of a new relationship, which I hope will follow on from the conclusion of the FTA, if we can secure it.

Lord Cavendish of Furness: Thank you, Chancellor, and Lord Chairman. I wish you all well. Thank you very much indeed.

The Chair: Thank you, Lord Cavendish.

Lord Oates: Good evening, Mr Gove. Thank you for spending time with us at this busy time. In response to the Lord Chairman, you said that even if an agreement was arrived at after Sunday, the Government would still wish to push a Bill through Parliament before 31 December, rather than provisionally applying the agreement as the EU intends. Would that be correct at whatever point before 31 December such an agreement was concluded?

Michael Gove MP: We will do everything possible to make sure that we can bring a Bill forward, and we will certainly ensure that we involve Parliament in our processes.

Lord Oates: My understanding is that the Government's intention would be for legislation to pass through the House of Lords in less than a day. Would you regard that as an acceptable time for scrutiny of such a complex agreement?

Michael Gove MP: The longer the better, in my view.

Lord Oates: But do you think that would be acceptable?

Michael Gove MP: If we are faced with a choice between concluding a free trade agreement and not, I would rather we did so as expeditiously as possible.

Lord Oates: But why not provisionally apply it, to allow scrutiny to happen, just as the European Parliament will?

Michael Gove MP: I will hand over to Jess.

Jess Glover: The procedures on the European side are different from the procedures on our side. There are steps that need to be taken to put the agreement into domestic legislation. In fact, there is no significant difference in time between what you might call provisional application and full implementation. Our judgment at this time is that it would not save any time to try to imagine what you might call provisional application on this side.

As CDL says, the intention is to conclude the agreement as rapidly as possible. Of course, we would all rather it had already been agreed and concluded and that everybody had longer—not least of all us, to write the thing—to introduce it and scrutinise it. Unfortunately, that is not the case, but we still seek for the agreement to be concluded as soon as possible and the Bill to be given as much time as possible in Parliament, given the constraints on time in the House of Commons and the House of Lords between now and the end of the year. It is a matter for the Houses to agree on how much time is to be made available.

Baroness Verma: My question is very practical, Chancellor. If there are traffic jams building up on motorways, will there be some sort of digital alert that lorry drivers can log on to, so that they can make alternative arrangements, especially if they are carrying goods that may not be sustainable in long waits on a motorway? If so, will it be introduced very early on?

Michael Gove MP: Thank you very much for the question, as it gives me an opportunity to say two things where I can express gratitude. The first is that, if there is disruption, we will be able to expedite both shellfish and day-old chicks, the two commodities that are most perishable. We have arrangements in place to provide for their fast-tracking, and I am grateful to everyone who has been involved in that process.

Secondly, a short Bill to make provision for the sharing of information through HMRC and others, to ensure that our border operations centre can provide real-time information, passed through your Lordships' House

earlier today and received Royal Assent even as this Committee was meeting. I am very grateful for the fact that the Bill was both effectively scrutinised and placed on the statute book at pace.

The Chair: Thank you very much indeed.

Baroness Primarolo: Chancellor, may I briefly return to the question of databases that the UK will be unable to have access to—SIS II, live passenger records and DNA fingerprinting? These are a vital component to our national security and we get the information in real time. For instance, we get information from Icarus within 15 minutes. You referred to alternatives that fall back on various arrangements that existed before. Some of those will move us from receiving real-time information to information that could take up to 60 or more days for the police to receive.

Given that access to that information is vital to our personal and national security, what steps will the Government take to ensure that we still have access to the other databases? You mentioned SIS II, but what about the others? What about the passenger name information, for example, or DNA and fingerprinting?

Michael Gove MP: We hope that we will be able to reach agreement on PNR access, which, as you quite rightly point out, can be a very useful tool. I think it is probably best that, in the event of a non-negotiated outcome, I return to the Committee and explain in detail which databases we will continue to have access to, and on what terms, and what steps we can take to improve border security in other ways, as a balancing item. I recognise that it is a balanced picture.

May I take advantage of this opportunity before the Committee to clarify, if not to correct, a point that I made when I was appearing in front of the sister Committee in the House of Commons earlier? At the beginning of that Committee hearing, the Chairman asked a series of quick-fire questions to which he wished to secure understandably brief answers about our participation in programmes. As I mentioned right at the very beginning, sometimes in the anxiety to give a brief answer one does not always give the best answer.

I was specifically asked about Copernicus, and I could not guarantee that we would be part of the Copernicus programme, in the same way that I cannot guarantee that we will be part of Horizon, Erasmus or Euratom, but we are looking at all those programmes in the context of the negotiations. Nothing is agreed until everything is agreed, but there are some EU programmes that we would want to continue to be part of. Again, once any agreement is reached, or if no agreement is reached, I would be happy to come back to this Committee to explain the approach that we have taken towards continued participation in particular EU programmes or, if we have chosen not to participate, how a domestic alternative can be put in place.

I am sorry for trespassing on your time, but I wanted to emphasise that it is a necessarily fluid situation, and no one should overread into any of my comments earlier a determination, at this stage, on our part to opt in to or to opt out of any programme definitively.

The Chair: I am very grateful for that. That was one of the areas that was on the cutting-room floor, I am afraid, when we framed our question set, so it is a very helpful clarification.

I thank you and your colleagues for the spirit in which you have answered our questions today and, indeed, for being here. We realise how busy you are and we all wish you well in the efforts that you are making at the moment. Please pass on our good wishes to our colleague Lord Frost, whom we hope to see soon. I am afraid we will hope to beg another place in your diary, probably as early as January. I am grateful to you for saying that you will do everything to try to make that as well. In the meantime, happy Christmas and goodbye.