

Committee on the Future Relationship with the European Union

Oral evidence: Private Virtual Meeting

Monday 8 June 2020

Members present: Hilary Benn (Chair); Mr Peter Bone; Joanna Cherry; Sir Christopher Chope; Mark Eastwood; Florence Eshalomi; Mark Fletcher; Antony Higginbotham; Dr Rupa Huq; Stephen Kinnock; Nigel Mills; Nicola Richards; Gary Sambrook; Mr Barry Sheerman; Jane Stevenson; Matt Vickers; Dr Philippa Whitford.

Questions 389 - 419

Witness

I: Michel Barnier, Head of Task Force for Relations with the United Kingdom, European Commission.

Examination of witness

Witness: Michel Barnier.

Q389 **Chair:** May I take this opportunity to thank staff from the Commission—Isabelle Misrachi, in particular, and your colleagues—and staff from the Parliamentary Digital Service, Broadcasting and *Hansard* for making today's session possible?

Michel, welcome. Could you introduce yourself for the purposes of recording, just to tell people who you are? I know that we know, but it is just so that we have it for the transcript.

Michel Barnier (*Translation*): I am Michel Barnier, currently the chief negotiator for the European Union in the negotiations with the United Kingdom. We are here at the European Commission with Clara Martinez Alberola, my deputy, and Paulina Dejmek-Hack, who is the director of the UK task force.

Q390 **Chair:** Thank you very much indeed; you are most welcome.

May I thank you on behalf of the Committee, Michel, for agreeing to meet us again today? It is good to see you, even though these proceedings are virtual rather than physical. As ever, we have a lot of ground that we want to cover and many questions that Members would like to ask. We have all read the detailed statement that you made on Friday after the fourth round of negotiations. I just wonder whether there is anything that you would like to add, to supplement that, before we turn to questions.

Michel Barnier (*Translation*): Good afternoon, Hilary; thank you very much for this invitation. Of course, I cannot see you directly, but nevertheless I am delighted to have the opportunity to say hello to each and every one of you. I am pleased to be here with you, and I am pleased to confirm that I and my team are available to you for any dialogue that might be useful over the coming months, as we have already done on various occasions over the last three or four years—we have been lucky enough to do that. I do think it is important that your institution, the House of Commons, as well as the House of Lords, should keep contact with the European institutions. I know that you have a dialogue tomorrow with David McAllister, who very efficiently chairs the co-ordination group in the European Parliament. For my part, the door is certainly open for all these discussions with British representatives, if you so wish, although of course I only negotiate, and I will continue to negotiate exclusively, with the British Government.

Perhaps I could just preface our discussion. Of course, I do want to leave as much time as possible for questions and answers, but perhaps I could just make a couple of general introductory comments about our state of mind at the moment, as well as about the context in which we are discussing this economic and commercial Brexit, if I can use those terms, having managed to organise an orderly political and institutional Brexit on 1 February, after lengthy negotiations.



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We have been in these negotiations for four years now, leading on from the referendum in June 2016. There have been two general elections on your side—two Governments—and throughout that period, the EU negotiating team, which I lead, has always been respectful of the result of the referendum and the decision that was taken by a majority of British citizens. That issue is not open for discussion. Our concern is just that we want to ensure that Brexit is delivered in an orderly fashion. That has been my concern for three years—for the divorce itself—and it remains my concern for the economic and commercial Brexit with which we are dealing now.

We are pressed for time—I think it is worth recalling that—and that is because of the choice made by the British Government not to request an extension of the transition period and of the negotiations. Of course, because of the coronavirus crisis, I have been hearing that this kind of extension could have a degree of legitimacy. From our side, I would just recall what President Ursula von der Leyen said a few months ago: we are open to an extension. We remain open, but that has to be a joint decision—something that is shared by both sides—and, as I speak, the British Government have told us that they do not want an extension, so that means that on 31 December this year, one way or another, the UK will leave the single market and the customs union. We therefore just have to decide whether the UK leaves the customs union and the single market with a sustainable agreement between us, or without an agreement. Of course, we hope that we will succeed, but for us, we have to make clear our conditions for access to our market of 450 million consumers and 22 million businesses, and access for British goods and services, people and businesses. Of course, we are sovereign here too, so we will be fixing the conditions for access to our market, just as, the other way round, you will set the access conditions to your own market, but we have to make sure that we have a method and a co-operation that will allow these exchanges to go as smoothly as possible.

What I want to add to what I said on Friday, Hilary, is that in any case, there will be a change. Whatever happens, there will be a change. It will not be business as usual, whatever happens. This change is created by Brexit, so I suggest—this is what we will be doing on the EU side—that we need to step up our preparations for the change which, whatever happens, is going to come about on 1 January 2021, in particular in terms of checks on goods going from one side to the other.

Perhaps in a nutshell I could just say a few words—I can come back to this later if necessary—about what we are looking for from the UK side: a change and some kind of political impulse to ensure that more realism is injected into the conditions for access to the European market. I am inventing nothing here. I recalled this very firmly and calmly on Friday. The political declaration was negotiated comma by comma with Boris Johnson and agreed with him on 17 October last year and endorsed by the 27 Heads of State or Government—this is also something that the European Parliament is following very closely. The political declaration is



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not a dogmatic and technical document; it is a political declaration that was agreed by the UK Prime Minister with 27 Heads of State and Government and the European Parliament. We expect this text to be translated legally into a treaty text, so that is what these negotiations are about. That is why there is the issue of the level playing field, which is there, quite simply, because your country has a quite unusual situation vis-à-vis the European Union. You are leaving the European Union and the single market and the customs union, and yet you remain there right next to us as a big country that we respect and we love, but with an economic relationship that does not exist between us and any other country in the world, because you are so close to us and because of the volume of trade. That is why the condition of the level playing field, which was agreed on by Boris Johnson in the political declaration, is something that will remain.

We can talk about how—I am open, and I have some room for manoeuvre in discussions—we are going to bring about that level playing field. But, in any case, the robust commitments—the rules for fair play in economic and commercial terms—go not just one way. They are between you and us, and the other way, and that condition will remain right to the end, like the commitments that we want on horizontal governance and a link between the different sectors in the negotiations, such as the commitments that we want on the protection of fundamental rights and data protection, and when we are talking about internal security, police co-operation and fisheries—of course, that is a difficult issue that I am quite familiar with. I can confirm that nobody on the EU side, Hilary, is calling into question UK sovereignty over UK waters, for example, and nobody is calling into question the fact that you will no longer be bound by the common fisheries policy. We know that but, nevertheless, we would like to find a sustainable, balanced agreement on reciprocal access to waters and on fishing in those waters. Let me remind you that, for the European Union—this is not a tactical position; it is a fundamental position—if we want an agreement on trade between the UK and the EU, we are going to have to find, at the same time, a balanced agreement on fisheries.

I will not go into more detail about everything that I said in the last round. We are disappointed about the level of commitment from the UK in these negotiations, in particular on those four points and on the fact that your country needs to understand that there are consequences of Brexit that cannot be avoided—it is a real change. I have noted that one of you, Nigel Mills, was very active on “Leave means Leave.” Yes, and that has consequences in lots of different fields, which we will have to organise in an objective way and for which we have to be prepared.

Perhaps I could just say as well that I have my regrets. I am a bit disappointed that, unlike what the political declaration says, the UK does not want to discuss at all subjects that are important for us in overall terms of the UK-EU: issues linked to defence, security policy and foreign policy. As a former French Foreign Minister, I said on Friday that I did not understand the reasons behind that refusal, because I think that there would be reasons in the interests of the stability of our continent and the

security of our citizens to co-operate in this area. But we have noted the refusal from the British side to open up a discussion on this point, which is nevertheless covered by the political declaration.

Two other very brief comments. I would like to confirm our wish—it is a commitment from our side—to implement the withdrawal agreement in a very rigorous, impeccable way. We are expecting the same of the British side, because we have British and European citizens on either side and we need to guarantee their rights. Then, of course, there is the operational implementation over the coming weeks of the Ireland and Northern Ireland protocol. I know how complex it is, but we have done a lot of hard work on that with the British—first with Theresa May and then with Boris Johnson—and one of the conditions was that that protocol had to be implemented perfectly by both sides.

By way of conclusion, just a word on something, because I have been reading the British press, and sometimes over the last few days and weeks we have seen declarations from British politicians. Now, you know what the EU's positions are—they have not changed since 2017. We regret this Brexit, we respect this Brexit, and we will implement it in all areas and at all stages by a treaty that guarantees that we will continue to have solid, ambitious relations in all fields. The EU's positions, which are restated after each meeting of the 27 Heads of State and Government, are not dogmatic positions. They are not born out of some kind of technocratic and bureaucratic vision held by the European Commission. Sometimes I say that I have been elected throughout my life by citizens. That has been the case: I have spent a lot longer as an elected representative than those who are criticising these decisions. I have a mandate, which was set by the Heads of State and Government, and by the European Parliament. Do not think for a second that European leaders—they are politicians as well—will be changing their position. They will continue to defend the interests of the European Union and their countries, and that is my mandate: to defend the interests of the European Union and European Union countries—nothing else. We will continue along those lines.

Of course, as a negotiator, I have a fairly clear idea of where there is room for manoeuvre in these discussions, and that is linked to the trust that you have shown in me. I am ready to use that room for manoeuvre as proactively as possible in order to seek out compromise, but compromise will never come about to the detriment of the interests of the European Union and our people. However, that said—

Chair: Michel, I am just slightly anxious about—

Michel Barnier (*Translation*): Just to conclude, Hilary, one last thought. Despite all the difficulties and all the constraints, I am confident that we will be able to reach an agreement in the very short amount of time that we have left before 31 October. Of course, we have to be prepared for all options, and that includes no deal. We are ready, although that is not what we want. But I do think that an agreement is possible in the very



short time available to us, and I will continue to work in that spirit. Thank you.

Q391 **Chair:** Thank you, Michel, for that very full opening statement. We are going to move on to questions from myself and colleagues; we will need short questions and short answers if we are to cover all the ground.

Do you yet have a date for the High Level Conference?

Michel Barnier (*Translation*): European leaders suggested 15 June to the UK.

Chair: That is really helpful.

Michel Barnier (*Translation*): But we do not have an agreement on that date for now. That is a proposal from the European Union.

Q392 **Chair:** It is extremely helpful to know that.

On this question of the level playing field, and state aid in particular, the EU is saying that the Court of Justice will have a role in cases referred to it by the European Court. Is this a proposal that the EU has ever made in respect of any other trade or association agreements that it has negotiated with other third countries?

Michel Barnier (*Translation*): I have said—I will it say again—that we are negotiating an agreement for which there is no precedent. I know that the British side likes to base what we are doing on precedents of Canada, Japan and South Korea. I am familiar with all those agreements, which took years of discussions. We do not have much time, but that is unprecedented as well—the timeframe imposed by the British side for these negotiations of just a few months. That was why we made the proposal of zero tariff, zero quota, because any other position would require time that we do not have. I confirm that this is without precedent.

Hilary, I often show this table I have with me, and I suggest that we keep it in mind to help us to understand why the relationship that we want to establish with the UK cannot be compared with any other. On the one hand, the table deals with geographical proximity, and we are very close: 32 km between France and the UK; and zero km between the Republic of Ireland and the UK. At the same time, we have an unprecedented volume of trade. None of these countries in Asia, South Korea, Japan or Canada has the same volume of trade with the UK, and no nearby country, including Norway, has the same level of trade. That is why it is important to understand that the proposal that we have made is unusual. It is not based on precedent.

Chair: Okay. Can I just ask you—

Michel Barnier (*Translation*): I am ready to talk to you about state aid.

Q393 **Chair:** No, I was going to say that if one looks at the level of state aid given by the United Kingdom and compares it with that of some other EU member states, it is actually less, so the question I wanted to ask is



whether you have a particular worry that in the absence of the kind of agreement you are proposing, the UK will then suddenly go and start giving a great amount of state aid to its companies, given the history that we have used it less, as a percentage of GDP, than some EU member states.

Michel Barnier (*Translation*): We are not making an agreement with the UK now for a few months or years; we want this to be sustainable and lasting. That is why my mandate quite clearly says that there is a need for a solid commitment in terms of state aid. That is something that is important for the member states and for the European Parliament. The UK committed to this. I would remind you what it says in the political declaration. The UK committed to respecting with us, and vice versa, the rules that are applicable at the end of the transitional period in the field of state aid. As we say every day, it is not just a question of subsidies and the WTO system—we know the limits of that. We are talking about state aid, and so, on this point, we will not accept a reinterpretation of the political declaration. We want to find a solid, complete framework for state aid. We do not just want to do something based on the WTO system, and this is to ensure that things are implemented properly at a national level.

This is one of the major points of the level playing field. We want to be able to build our relationships on a fair, long-lasting basis. As I speak, we have seen no British proposal regarding our proposals, apart from this reminder about the WTO framework, which is not sufficient. Nor do we know what national state aid regime will be implemented by the UK on 1 January next year. We would like to know that as well so that we can work in a climate of trust. That is the position that we have. In that context, I am ready to work in a constructive way and, in good faith, to seek out the solutions—a toolbox.

Q394 **Chair:** That is very helpful, because you are saying very clearly that if you saw more detail from the UK about the state aid rules that it is planning, that might assist. Do you think there is any possibility of reaching agreement on a dispute resolution mechanism on state aid with independent arbitration that does not have the European Court of Justice as the ultimate decider of what is allowed and what is not?

Michel Barnier (*Translation*): Hilary, the problem is that we are in a process of negotiating. I am not commenting on past negotiations or looking ahead to negotiations that have not started yet; we are in the midst of negotiations. That means that we have to look at the detail of what a negotiation or a compromise might look like. The main thing that I want to see is a serious and rigorous mechanism. “Level playing field” does not refer to just state aid issues. There is also the non-regression clause when it comes to the climate, the environment and social rights. We want robust mechanisms that work. When it comes to governance, whenever it is a case of interpreting Union law it would be the Court of Justice that interprets that so that we can preserve the European Union’s legal autonomy. This was approved in the context of the withdrawal agreement and the political declaration, so that is what it means.



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Extradition might be one issue, as might UK participation in European Union programmes and the exchange of data. That is where the interpretation of European law can only be done by the Court of Justice.

Q395 Nigel Mills: Mr Barnier, you said that there was some room for manoeuvre in negotiations. Do you think that the mandate that the EU leaders gave you actually leaves you sufficient room to strike a deal with the UK this year?

Michel Barnier (Translation): Thank you for that question, Nigel. My answer is yes.

Q396 Nigel Mills: Mr Gove said he thought that the chances of a deal were around 66%; are you more or less confident than him?

Michel Barnier (Translation): Well, I am impressed by Michael Gove's ability to put a figure on it—to set a percentage on the chances of success or failure. I am not going to do that. At this stage, I do not have many grounds for optimism, to be honest. I am sure it is definitely below the percentage he mentioned, but an agreement is still possible, and that is what I am working towards. But the British Prime Minister needs to give his team the necessary political impulse, so it also has that negotiating margin. There will be no agreement that is to the detriment of the single market. That will never be the case. Once that is clear, hopefully we can find an agreement. Mr Mills, just let me say once again that we do want to work towards finding an agreement.

Q397 Nigel Mills: I thank you for that. You were very clear last week that the political declaration must be the basis on which the negotiations proceed. Do you not think that your mandate from EU leaders goes beyond that declaration in some key areas such as fisheries and state aid? That is one of the key stumbling blocks in the negotiations, and it looks to the UK like the terms of engagement have moved since the agreement last year.

Michel Barnier (Translation): Let me say the following. I check with European leaders on a regular basis—through their Ministers, and when I meet the Heads of State and Government at the European Council, as I have been doing for the past four years. I also meet the ambassadors—they meet every week—and they have placed their trust in me. They drew up the mandate and they attach a great deal of importance to it. As I said to David Frost two weeks ago, we had a working group with the Fisheries Ministers of coastal states—the countries directly concerned by the fisheries issues. They confirmed that they have placed their confidence in me. So they have given me a mandate, and that mandate allows me to work and to try to find a compromise.

Let me give you an example on fisheries. I am quite familiar with the fisheries sector, because at one stage I was Minister for Fisheries in France. We have two contradictory positions, really. The European Union says, "Status quo; no change," and the British side says, "Let's change everything." If we remain entrenched in that way, there will be no discussion on fisheries. If there is no discussion on fisheries, there will be



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no agreement on fisheries, and if there is no agreement on fisheries, there will be no agreement on trade. I want to find an agreement on fisheries because I know that that is a prerequisite on the European Union side for finding an agreement on aspects such as commercial and economic matters.

So we have these two positions, Mr Mills. If we want to find an agreement, we have to discuss the space between those two positions. I have the endorsement of the Heads of State and Government, and Ministers, to make that clear and to work—informally, even—on the different parameters that could constitute the basis for a compromise agreement. One parameter could be zonal attachment, which the UK seems to think is the only parameter. That is not the case for us. There are historic fishing rights as well, some of which go back centuries in our respective territorial waters. There are the economic interests of local fisheries communities. Very importantly, for both of us, there are the conservation of resources and UN rules. If we do not discuss these parameters, we will not get an agreement, but we are happy to discuss on that basis.

Q398 Nigel Mills: You said you had some room for manoeuvre to come up with different proposals. Does that mean that you are able to negotiate solutions with the UK that are perhaps slightly outside the mandate from the EU leaders, and then to go back to them to seek their permission, or are you only able to talk about proposals that they have given you permission for?

Michel Barnier (Translation): I will respect the negotiating mandate. I have worked on this in great detail with European leaders, and I know that within that framework there is a possibility of finding a compromise, but it has to come from both sides. At the moment, when it comes to the level playing field, there is no political will on the British side. As I said to Mr Frost, if you do not move on a level playing field, on governance, on fisheries and on the basic fundamental principles in relation to judicial and police co-operation, there will be no compromise.

Q399 Stephen Kinnock: Many thanks to you, Monsieur Barnier.

I would like to ask about the level playing field aspect of the negotiations, and particularly the way in which they link to the trade talks that have now started between the United Kingdom and the United States of America. You will have seen the leaked memo from Downing Street instructing Ministers to have “no specific policy” on animal welfare in US trade talks. Has this rung alarm bells in Brussels and other member states, in terms of how the US trade talks and a US trade deal could lead to a slipping of standards in the United Kingdom, with that obviously having an impact on trade talks with the European Union?

Michel Barnier (Translation): Well of course, Stephen, we are following those negotiations very closely—they have only just started—and we follow other negotiations as well. We had agreed, I think, with the UK that we should inform each other formally, rather than having to go and find



information from other sources. In any case, we are going to follow these negotiations very carefully. We are not going to allow the UK to bargain with EU standards in order to get agreement with other countries.

In the British position for its negotiations with the US, there is a reference to level playing field, yet the UK is refusing that in relation to the EU. There are also mechanisms in relation to governance, but we do not find those in the UK mandate with the EU. I would like to wish the UK negotiators all the best in their negotiations with the US, Japan and the EU—three major negotiating processes—but when it comes to access to the European market, for example in relation to food safety, and the European model, which is still the UK model until the end of the year, if there is any watering down of or a move away from that, there will be consequences: a severe impact on products coming into the European Union afterwards. I do not want to comment on the way in which the UK runs its negotiations—it is not for me to comment—but some developments might have an impact on products coming into the European Union afterwards.

Q400 Stephen Kinnock: A question now on the state aid aspects of the level playing field, and particularly how they relate to the Northern Ireland protocol. Article 10 of the Northern Ireland protocol ties the United Kingdom to EU state aid regulations in perpetuity because, of course, this is an internationally agreed treaty. Mr Gove, in a recent hearing with the Committee, said that the interpretation and implementation of article 10 of the Northern Ireland protocol would be a matter for the Joint Committee. Can you confirm that that is not correct and that, in fact, the interpretation of article 10 will be a matter for the European Court of Justice in perpetuity?

Michel Barnier (*Translation*): I would not use the words “in perpetuity”; they tend to apply to something like life sentences.

The agreement that we reached with Boris Johnson, after a great deal of work prior to that with Theresa May, is a good agreement, I think. It is a lasting and durable agreement. I would not say “in perpetuity”. It is subject to regular democratic confirmation every four years by Members of the Legislative Assembly but, nonetheless, it is an agreement for the long term. We have to make sure that it is properly applied from day one. The protocol will remain legally binding if there is not an agreement on future relations with the United Kingdom. The rules on state aid in that protocol will remain applicable whatever happens with the current negotiations. We would also require the European customs code to be applied as well. That was a commitment entered into by Boris Johnson’s Government, but this would be for products, goods and the Single Electricity Market. When it comes to state aid rules, those will continue to apply in parallel.

Chair: I am afraid that we are going to have to move on.

Q401 Nicola Richards: Mr Barnier, I know that you have said today that the position of the EU has not changed since 2017, but you will have heard



that the German constitutional court recently ruled that it was not subordinate to EU economic law. Therefore, EU law is not supreme in Germany, so essentially, for the first time ever in the history of the European Union, a national court has refused to submit to the ECJ. As a member state has ruled this, you must know what you are asking from the UK, as a non-member state, is ludicrous.

Michel Barnier (*Translation*): I can see where you are coming from in referring to this ruling by the Karlsruhe court. The European Commission has made its views clear. I do not want to rehearse those views, especially with you, really, because this ruling relates to the European Central Bank. I am a bit surprised to hear this from a country that is not in the eurozone. Why would you use this argument? We want a balanced and sustainable relationship with the United Kingdom, and we want to set the conditions of access to our markets in a sovereign manner. I am talking about goods, services, the supply of services, professional qualifications and state aid. On all those subjects, it is the European Union that will determine conditions of access to its markets on a sovereign basis, in the same way that you will. Nobody is questioning that.

Could I just supplement what I said about the Northern Ireland protocol, because I wanted to say something about the role of the Court of Justice? Its role is maintained in the protocol—it is extremely clear—and the Joint Committee cannot reinterpret that point. That is not its job and it will not do that.

Q402 **Nicola Richards:** Thank you. Frankly, I am sorry that you do not understand why I am bringing this issue up. Perhaps I could write to you to spell out the magnitude of the issue, because essentially Germany's decision risks blowing up the EU's entire legal set-up, so it is important that you understand. I note that 26 out of the 27 member states have not yet commented, but it is likely they will have one or two things to say about this themselves, because if I am right, the recent ruling means that it is possible to pick and choose which EU laws apply to Germany. However, you are telling the UK, as a non-member state, that it is not possible for us to reach any concessions on your unrealistic demands on state aid.

Michel Barnier (*Translation*): Nobody is calling into question the primacy of European law. The Commission is clear. The European Central Bank is clear on this as well. I suggest that you look at the comments made by the European Commission and by the ECB on this very subject. I do not want to mix things up here. Here we are discussing negotiations that will allow us to finalise relations between your country, which has chosen to leave the European Union, and the European Union. We fully respect your decision—we are not disputing that—so I do not fully understand the point of your question.

Q403 **Nicola Richards:** Perhaps, Mr Barnier, I can write to you, as I said, to spell out my concerns, because essentially you are asking the UK to be subordinate to EU law when your own member states are not, and that is



problematic. Do you not agree?

Michel Barnier (*Translation*): Nobody is allowed not to respect European law—we have to respect European law. Do not try to find arguments. Mr Johnson signed up to the political declaration. I have had another look at the political declaration, especially on level playing field issues. I would urge you to read that again. We want the political commitments that were entered into by Boris Johnson to be put into legal form. With a bit of good will, we can hopefully manage to do that in full respect of our respective sovereignties. Nobody is questioning your sovereignty. You are sovereign, but so are we. By using those two sovereignties, if you like, we should be able to find a way of ensuring coherence between our rules and regulations, as per the political declaration, so that we can ensure smooth trade and relations, and that means that a level playing field and fair competition need to be respected. I do not see why that would not be possible, because at the same time, the UK is saying, “We want to keep a very high level of standards on climate and the environment.” We will see what your intentions are on state aid, but on that basis, we should be able, if we want this ambitious partnership, to use our respective sovereignties to have a coherent relationship so that there is no unfair competitive advantage.

Q404 **Jane Stevenson**: Good afternoon, Mr Barnier. I was pleased to hear you acknowledge in your opening remarks that nobody is calling into question sovereignty on UK fishing waters, but you also said that any trade agreement was totally conditional on a fishing agreement. Last week, we heard from David Frost that every—*[Inaudible]*—fisheries agreement with the EU is a freestanding agreement that is not connected to anything else. Why should it be so different with the UK?

Michel Barnier (*Translation*): Ms Stevenson, we missed some of your question, so perhaps you could repeat it. There was a problem with the sound, so could you just sum it up again?

Jane Stevenson: I am pleased to hear you say that nobody is questioning the UK’s sovereignty on fishing waters, but you are also saying that any trade agreement is totally conditional on a fishing agreement being included and agreed upon. Last week, we heard from David Frost that every other fisheries agreement with the EU is a freestanding agreement that is not connected to other trade issues. Why should the UK have a different position with you?

Michel Barnier (*Translation*): European leaders confirmed once again through their Fisheries Ministers that there will be no general trade agreement between the EU and the UK if we do not get a balanced agreement on fisheries at the same time—it is as simple as that. The UK needs to take note of that, and that means that we need to find a balanced agreement on fisheries. I think it is possible. I am prepared to discuss that with the UK team—it is a very competent team—but it is a prerequisite when it comes to getting a trade agreement.



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If you look at the history of our maritime relations, fishing and access to waters—and do not forget that fish move around—and if you look at fishing communities in Scotland, Ireland or on the continent, I think we have grounds for finding an agreement that takes into account all interests of zonal attachment, historic rights and protecting local communities.

This is an important part of the economic agreement. It is not just a question of fishing, because you also have to process those fish. We are talking about reciprocal access to our waters and markets, which is why the fisheries agreement is part of the economic agreement, because it also includes access for processed products to the European Union market.

Q405 Jane Stevenson: You have publicly described the EU's negotiating position on fisheries as "maximalist"? What did you mean by that? Your mandate requires you to uphold the Union's fishing activities. Do you consider that that means maintaining the status quo? If not, what is your interpretation of that?

Michel Barnier (Translation): The two positions are maximalist. Both sides have very strong positions. One says, "We're not going to change anything," and the other says, "We are going to change everything." When you negotiate as an MP—I was an MP for a long time—you work on amendments with the Government, but if nobody budges, there is no discussion. But if there is no discussion on fisheries, there will not be an agreement on fisheries, and if there is no agreement on fisheries, there is not going to be agreement on trade. You need to know what you want. I want an agreement on fisheries and trade, and we are prepared to work between those two positions to find the basis for a compromise. That is why we need to discuss parameters as we discuss fisheries agreements with other countries as well. They do not focus on just one element; they take into account several parameters.

Q406 Jane Stevenson: Given that the EU insists that nothing can be the same after we leave, David Frost found it unusual that fisheries seems to be an exception for the EU, as you want that to remain the same after we leave. I hesitate to use the phrase "having your hake and eating it"—it is a very bad pun in English and I don't think it will translate. If we are not going to reach an agreement on fisheries by 30 June, what would be the consequences for the wider negotiations?

Michel Barnier (Translation): I could mention many areas where the UK, which is leaving the single market and the customs union—I have mentioned these publicly—wants basically to keep the status of a member state without any of the obligations and constraints. I will not go into those now—I do not think there is any point. I would say today that we have these two very strong positions on fisheries. We need to work on the area between those two positions to try to find an understanding. I am happy to continue discussing it. I will not say anything more than that today.

Q407 Dr Huq (Translation): Thank you very much for coming, Mr Barnier. I



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agree about the nature of this situation.

(The Member continued in English) That said, the UK is a major contributor to European security, and we are a big user of things like the European arrest warrant, which keep us all safe. On organised crime, terrorism and cyber-attacks, I just wondered whether, if the EU took a bit less of a hard line on treating the UK as just a third country, regarding access to databases, and was a bit more—I hate to say it—pragmatic, would that not make its own citizens safer as well as us?

Michel Barnier: Many thanks, Rupa, for your appreciation. I know your personal position on Brexit.

(Translation) The UK wants to be a third country. That is the very reason for Brexit, and that has automatic consequences, as I said four years ago, at the start of my mandate. You are talking about being hard-line or inflexible, but in this field, as in others, I have to take into account the situation regarding other third countries with which we have established relationships. When we are talking about trade or the internal market, I have to remind you that we have a duty to countries in the European Economic Area such as Norway, which accepted conditions that the British do not want. I keep a close eye on fairness. We have to be fair with other third countries but, nevertheless, when we are talking about internal security—the security of our citizens—I really do want to seek pragmatic solutions. For the moment, we are discussing extradition with the UK. For all the internal security issues, we are trying to seek out some very pragmatic solutions. There was the question asked by Theresa May of Boris Johnson in the House of Commons just the other day on Prüm, Europol and SIS. We have to find a solution on how to continue to co-operate with a third country—because that is your choice—that is not in Schengen. That is the aim of the negotiations—finding solutions to this. But, nevertheless, there are things linked to the fundamental rights of citizens, because when we talk about internal security measures, we are talking about data exchange, and sometimes the exchange of personal or even very personal information, such as DNA data.

We, on our side, have a duty to protect our citizens and their fundamental freedoms. That is of course why we need a commitment from the UK side on the fundamental issues linked to the protection of citizens' rights, and that is why we need to find a solution for the assessment process for data adequacy regarding unilateral measures that we take on one side or the other for data exchange. In the absence of an agreement, any exchange of information will be based exclusively on existing international instruments to which the EU, the UK and other member states are parties, such as for Interpol. We are seeking out an agreement, but I have to say that we have made a fair amount of technical progress with the UK on this particular issue. We know what we want, because we know that this is all about our citizens' security, but we have some practical issues linked to the European Court of Human Rights and the protection of our citizens when it comes to data exchange, so we will continue.



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Q408 **Dr Huq:** It sounds encouraging that progress has been made in the fourth round of negotiations on things like police and judicial co-operation, as well as law enforcement, but I think some people are puzzled about why the UK is required to sign up to continued ECHR membership when it is already a member and we are not planning to withdraw from that one. Can you resolve that for us?

Michel Barnier (Translation): Well, Dr Huq, the ECHR is the human rights framework to which all member states of the EU and the UK are parties, and that is why we think that respect of the ECHR reflects our shared values. There needs to be a possibility to appeal to British courts. Everything linked to that is something that should continue to underpin our relations. Moreover, this was agreed on in the political declaration at paragraph 7. There was an initial discussion—you mentioned this—and I noted that during the course of this round it was constructive, so we will continue that discussion in future to try to scope some common ground. I am the EU negotiator. The European Parliament has faith in me, and it is really very sensitive to this particular issue, so we have to find a solution that the European Parliament is happy with.

Q409 **Mr Bone:** Good afternoon, Monsieur Barnier. You are a very skilled negotiator and you managed to get an agreement for the UK to leave the European Union, which many people said was impossible. I am also encouraged to hear that you think that the likelihood of a trade deal is somewhere between 51% and 66%. Our Minister thinks it is 66%, so that is very encouraging. If I understand you right, the High Level Conference is probably going to be on 15 June, where it is going to be agreed that there will be no extension to the transition deal. You have also said that these are very difficult negotiations. Given that, is there a date in your mind—perhaps some time in the autumn—when a decision has to be made, because it is quite clear that you cannot be negotiating in December or November on a future trade arrangement that will happen in January? In this country, people often refer to us having either a Canada deal—a comprehensive free trade agreement—or an Australian deal, which is the World Trade Organisation. Minister Gove indicated there was a date in his mind, but he would not tell us what it was. Do you have a date in your mind? Is 31 October the date by which this has to be sewn up?

Michel Barnier (Translation): Thank you very much, Mr Bone, for that very important question about timing. The High Level meeting will, I hope, be a few days after the Joint Committee, where Michael Gove will be discussing the situation. If the UK Government maintain their very clear position not to extend, there is no decision to be taken. If there is no joint decision to extend negotiations, the period will run until 31 December. To go back to what you said, Mr Bone, I don't know how much time you are going to need for ratification, but on our side, at least, we need two months between reaching an agreement and the end of the ratification process. In order to answer your question, that means that, probably, regarding 31 October, we have to finish by then. That is crystal clear. It

also means that we will be working very hard because we need to resolve various issues.

We need to make a lot more progress over the coming four months than we have done in the past four months. I suggested to David Frost, for whom I have the utmost respect—the British team is very professional—that we change our working method and step up our relations, perhaps working in more restricted groups. One thing that I would like to remind you Members of the British Parliament is that we here are a community of nations with our European Parliament, and I need time, in the interests of the negotiations, between each round. I have to see the member states once, twice or three times between each round, and there are 27 of them. I have to go back to the European Parliament—various different Committees—and that takes time. That is why, on our side, we want to stick to this method of negotiating by round, with a few weeks between each round, but during each round we could work more intensively and perhaps with more condensed methods using smaller groups. We are going to need the next three or four months of July, August, September and October to conclude, but I think it is still possible.

Q410 **Mr Bone:** Thank you. That is very clear and it makes a lot of sense. You were talking about the need for ratification—that makes absolute sense to me—and 31 October seems a very sensible date. Do you think there would be enough time between 31 October and 31 December for business in the European Union to prepare for whatever exit or deal is proposed?

Michel Barnier (*Translation*): No, of course not. You cannot improvise preparation in a few weeks. The preparation has to be done before. Mr Bone, there are two different subjects when we talk about preparation. There is readiness, if you like—what will happen on 1 January. In any case, there are changes created by Brexit—the automatic consequences of Brexit for checks on products, as products will have to be checked when they come into the single market. There is no longer automatic certification and all sorts of things like that. On our side, we are going to step up preparations for readiness, but then there is the other kind of preparation, which is another layer—the preparation for no deal. On the EU side, we have about 100 notices for each economic sector, and we are bringing them up to date to make sure that everyone is ready. We do not want no deal, but in any case, it is up to the British. Although on our side we have stepped up our preparation for both readiness and preparation, we cannot waste any time.

Chair: Thank you.

Q411 **Mr Bone:** Very quickly, Hilary, may I ask one more? So if we reach 1 November and there is not an agreement on a trade deal, it will be the position of the European Union that we will go out on a WTO basis on 31 December. Is that correct?



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Michel Barnier (*Translation*): Yes, but that will be your choice—it is your decision. So, the answer is yes. If there is no agreement, yes, you will go out on WTO terms.

Chair: That is very clear; thank you.

Q412 **Dr Whitford:** Bonjour, Monsieur Barnier. Do you think there is real recognition in the UK that the Northern Ireland protocol is not a backstop anymore, but a long-term solution?

Michel Barnier (*Translation*): Dr Whitford, I hope that everybody has understood that, because that is how it is—that is the truth of the agreement that was reached with Boris Johnson to square the circle. We managed to reach that agreement, and of course it is very complex because it fulfils several objectives: no hard border on the island of Ireland, the protection of the all-island economy, the protection of the internal market for European consumers and European businesses—products entering Northern Ireland enter Germany automatically, if there is no border, and they can go to France, the Netherlands and so on, so we have to inspect the products—and at the same time keep Northern Ireland in the UK customs territory. That was a clear request from Boris Johnson, so those are the four points we have managed to bring together and resolve in this agreement, but the agreement is meant to last, as long as it is confirmed every four years by the Assembly in Northern Ireland. There is the objective to preserve peace, the all-island economy and the Good Friday agreement, so I hope that everybody understands that, deal or no deal, that protocol should be operational.

Q413 **Dr Whitford:** Are you concerned about the lack of preparation to implement the protocol, either regarding port infrastructure or advice to businesses? Does that contribute to a loss of trust between the EU and the UK that could undermine negotiations?

Michel Barnier (*Translation*): We are vigilant because here it is peace in Ireland—the stability of the island—that is at stake. It is respect for the Good Friday agreement in all its dimensions as well as the integrity of the internal market, so we are very vigilant. We have spoken about this on various occasions with the UK Government—Michael Gove is responsible for this. We have been hearing reassuring statements over the weeks. We have seen the UK's command paper, which is very useful in terms of principle, but as far as we are concerned, it does not contain enough specific technical measures that need to be implemented. We know that measures have to be taken in terms of infrastructure, human resources and posts that need to be created for the checks to be carried out.

Let me remind your Committee and the Parliament that you represent—I do not want to over-dramatise these checks—that while I know that there may be political issues at stake, some of these checks already exist between Northern Ireland and Great Britain. There are already SPS checks on plants and animals, for example, coming from Great Britain into Northern Ireland. There are already checks in Belfast at the port and the



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airport, so we want to develop these checks so as to protect the internal market. We have a Joint Committee and we have specialised groups meeting, but we will not wait for 15 December to be sure that the treaty is operational. We want to be sure about that well beforehand. That is why this technical work is ongoing and that needs to be stepped up between our two teams.

We need to be looking at some very specific issues: IT systems, VAT and tax, SPS measures, customs issues and fisheries. All that needs to be dealt with by the Joint Committee in respect of the withdrawal agreement, which is not up for negotiation and will not be renegotiated.

Q414 Dr Whitford: The Northern Ireland sub-committee has only actually met on one occasion, although the coronavirus outbreak has obviously contributed to that. Does that give you concern that things are simply not moving fast enough and that, as Stephen Kinnock asked you about, there is a real threat to the single market via Northern Ireland if these checks are not functional?

Michel Barnier (Translation): We are vigilant, as I said. The other day I heard, I think in the House of Commons, Mr Gove talking about “minimal checks”. I do not know what “minimal checks” means. I know what effective checks means. We are just waiting in this field, as in others, to make sure that everybody respects what they have committed to, but time is running—you are quite right—and I would like to see the next meeting of the specialised committee on Northern Ireland as soon as possible. We have a Joint Committee that will be meeting on 12 June. All the specialised committees need to meet very soon, but we do have the Joint Committee on 12 June, with Vice-President Šefčovič and Mr Gove—that is important. I would also remind you that the proper implementation of the Northern Ireland protocol in the withdrawal agreement and the proper implementation of the treaty, which has already been ratified by you and by us last year, is one of the conditions for us to trust each other enough to be able to establish proper conditions in all other fields.

Chair: Thank you very much indeed. I have two other colleagues who want to come in. If I could first ask Barry Sheerman to ask a question and then Antony Higginbotham, I think we might just get them in in the time available. Perhaps, Michel, you could answer both questions after they have been put. Barry, are you still here? No, I cannot hear Barry. Antony, would you like to come in?

Q415 Antony Higginbotham: Thank you very much for your time, Mr Barnier. The political declaration that the European Union rightly keeps referring back to states that we will create a new fisheries agreement, but actually what you are asking for is exactly the same as we have had before. Do you accept that the EU’s position is untenable and will have to change?

Michel Barnier (Translation): Antony, I have already answered that question three times since we started, so I will not add anything further. I think that if we maintain the situation of the EU and UK each having very



strong positions—the EU’s current position is to say that we change nothing; the UK wants to change everything—there will not be an agreement. If we want an agreement, we are going to have to discuss between those two positions and we are ready to do that.

Q416 Antony Higginbotham: The reason why I bring it up again is because the European Union seems very focused on the one hand on looking to the future—when we talk about the level playing field, you rightly say that this agreement is, alas, in the future—but on fisheries you take a very different approach, saying instead, “We must only look at history and we want to protect the history of communities.” We also want to make sure we look after our fishing communities here, and I think there is a bit of hypocrisy in the EU’s position.

Michel Barnier (Translation): No, history in terms of fisheries goes back quite a long way, not just the 47 years that we have spent together in the single market. Historic fishing rights—in our view, they are one of the key elements of the future fisheries agreement—go back much further between our countries. There are other elements here that we must take into account. I mentioned earlier that there are these parameters. There is zonal attachment, which is the only parameter that the UK wants to talk about with an annual discussion of the allocation of quota and access to waters, which is economically and technically impossible. Then there are the interests of the fishing communities and international rules. Once again, given the two very maximalist positions of the UK and the EU, if we wish to find an agreement, we will have to discuss somewhere between those two positions. We are ready to find a balanced agreement that will, let me remind you, cover not just access to water and fish, but also market access.

Q417 Chair: Thank you very much indeed.

A final question from me. Michel. It might be possible to negotiate agreements on all these things by the end of October, but it might not, so for those items on which it has not been possible to reach an agreement because there is not enough time, is it your expectation that negotiation on them will continue next year? It will not be under article 50—it will be under a different legal base—but do you expect that negotiations are likely to continue beyond 1 January next year?

Michel Barnier (Translation): Yes, we are no longer in the context of article 50. Among the subjects on which we are dealing with the UK delegation for these negotiations, there are those on which, if we do not reach an agreement before 31 October to allow time for ratification, there is a cliff edge at 31 December. That is particularly true for trade and fisheries, but for a lot of other subjects as well. We really need to take this point into account to try to know what will happen next year. If we do not have a trade agreement, as I said to one of your colleagues, on 1 January, it is the cliff edge and, for our commercial relationships, it is WTO rules, with all the consequences for quotas and tariffs. In some fields, if there is no deal, we might find contingency measures that will give us a



few months' grace, but I suggest that we do everything we can to reach an agreement, at least in the areas where we risk a cliff edge. Then, perhaps in another context, if we need to prolong the discussion, we can prolong the discussion, maybe perhaps also in areas that the UK has not wanted to discuss at the moment, such as defence and foreign policy, which could be done in a different way at a later stage.

Q418 Chair: That is extremely helpful. You referred to contingency measures. Do I take it from that that the EU thinks it would be possible to do that and to find a legal basis for those contingency measures while the negotiations continue into next year?

Michel Barnier (Translation): Well, Hilary, contingency measures are unilateral and that is not the point of the negotiations. In preparation for no deal, we have already published—a year and a half ago, actually—a contingency plan for no deal, so that is done. It is not what I would choose. It will never be what I would choose, but if there is no deal, we are ready on the European side to take unilateral measures. That would be contingency measures, but they would never be a replacement for an agreement between us; they would just be measures taken in an urgent situation. If there were no deal, we would have to take up the discussions again should the UK want, and that would go for trade as well as other areas.

Q419 Chair: That brings our session to an end. You have been very generous with your time, Michel, after the little difficulties at the beginning. May I thank you on behalf of the Committee for giving up your time to meet us today and to answer our questions? We will send you a transcript shortly, and I hope that if we have any follow-up questions—we will put those in writing—we can look forward to receiving your response.

Michel Barnier: Many thanks, Hilary. It was good to meet you, and to speak frankly and answer your questions frankly. Thank you also for your understanding. I am in the middle—the heart—of the negotiations, so it is not possible to say precisely every single thing on every point, because we are in the middle of these negotiations. Thank you very much for understanding that point. But I remain at your disposal, and I will remain at any time at the disposal of Parliament. Thank you very much.

Chair: Thank you very much indeed, Michel. May I also thank the interpreters very much for their assistance today?