

Committee on Exiting the European Union

Oral evidence: The UK's negotiating objectives for its withdrawal from the EU, HC 1072

Wednesday 15 March 2017

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Members present: Hilary Benn (Chair); Alistair Burt; Mr Alistair Carmichael; Maria Caulfield; Joanna Cherry; Mark Durkan; Jonathan Edwards; Michael Gove; Peter Grant; Jeremy Lefroy; Mr Peter Lilley; Karl McCartney; Mr Pat McFadden; Craig Mackinlay; Seema Malhotra; Dominic Raab; Emma Reynolds; Stephen Timms; Mr John Whittingdale; Sammy Wilson.

Questions 1371-1503

Witnesses

I: Rt Hon David Davis, Secretary of State for the Department for Exiting the European Union; and Olly Robbins, Permanent Secretary, Department for Exiting the EU.

Examination of witnesses

Witnesses: Rt Hon David Davis and Olly Robbins.

Q1371 **Chair:** Good morning, Secretary of State. Good morning, Mr Robbins. Thank you very much for coming to give evidence before us today and thank you for your response to the Select Committee's first report, which we received yesterday and which we will be publishing. We have a great deal of ground to cover this morning, as you would no doubt expect, so I would be grateful for short questions and answers as succinct as possible.

Mr Davis: I will try to break character, yes.

Q1372 **Chair:** It has been reported, Secretary of State, that you told the Cabinet that they should be prepared in case no deal is reached in the negotiations. I am not going to ask you what you did or did not say to your Cabinet colleagues, just to pre-empt your response, but I want to begin by clarifying some very basic factual matters relating to what no



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deal—and by that I mean no agreement, no deal, no transitional arrangements—would mean for the United Kingdom. Can you just confirm that no deal would mean that British businesses would face tariffs and other non-tariff barriers in their trade with the 27 member states of the EU? A simple yes or no will suffice.

Mr Davis: I am afraid that a simple yes or no does not actually do it, Mr Chairman. The presumption of no deal is literally that.

Chair: Sorry, could you just say that again?

Mr Davis: Can you hear me alright? That is fine. The presumption of no deal is literally that; it would be a presumption—and it is a presumption at this point—of most-favoured-nation status, under the World Trade Organization arrangements, which means there will be tariffs. It does not say very much about non-tariff barriers, but the presumption you are making is probably right.

Q1373 **Chair:** There would be tariffs. That would mean, for example, UK producers of dairy and meat produce would be facing tariffs of 30% to 40%, and on cars it would be 10%. Is that correct?

Mr Davis: That is properly correct, but forgive me, Mr Chairman; I do not want to mislead the Committee by absence. The range of tariffs is from next to nothing, in fact nothing, right through to very high numbers on agriculture. You are quite right that the numbers on agriculture are high, because of the protectionist nature of the common agricultural policy.

Q1374 **Chair:** Can you confirm that it would mean that there would have to be customs checks between Northern Ireland and the Republic of Ireland, in those circumstances?

Mr Davis: There are already customs checks between Northern Ireland and Republic of Ireland, because there are excise differences, but they are done in a very light way.

Q1375 **Chair:** Are you saying, Secretary of State, that there would be no change? Would there be a change?

Mr Davis: No, I am saying that there would be customs checks, but that does not mean that they will be heavy-handed. Again, I would not want anybody to misunderstand what I say. That does not mean that we demur from our position of wanting to have a very light border, no hard border.

Q1376 **Chair:** Can you confirm it would mean that the United Kingdom would no longer be part of the US-EU Open Skies Agreement?

Mr Davis: It would not be part of that agreement. One would presume that that would not apply to us. It does not say anything about whether there will be a successor.

Q1377 **Chair:** Right, but we would fall out of it. Can you confirm that it would



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mean the loss of passporting rights for the British financial services sector, on the day we come out of the single market?

Mr Davis: Again, as it currently exists, that would be the case. I would expect that to be the case but, when I said to you that I am not sure what the outcome on non-tariff barriers would be, that is an area of uncertainty.

Q1378 **Chair:** Can you confirm that UK citizens would no longer have access to the EHIC health treatment card?

Mr Davis: I think that is probably right. I have not looked at that one.

Q1379 **Chair:** Thank you very much. Can you confirm that, in the absence of a data adequacy decision from the EU Commission, there would, at best, be legal uncertainty about the transfer of personal data between the United Kingdom and the EU?

Mr Davis: I am not sure about that. The issue there is that there are plenty of other states outside the EU that have data access and, for example, safe harbour characterisation. That has been robust, despite things like the Schrems court case. It is not quite as clear as that, but it is one of the issues we have to deal with.

Q1380 **Chair:** When we met the tech sector it was certainly top of their list, because they said that they would be very anxious without it. Can you tell the Committee whether the Government have undertaken an economic assessment of the implications for the British economy and for British businesses of there being no deal?

Mr Davis: It made an estimate during the leave campaign or the referendum campaign, but one of the issues that has arisen is that those forecasts do not appear to have exactly been very robust since then. If you mean under my time, the answer is no.

Q1381 **Chair:** You did say on television on Sunday, I think I am right in saying, that you were preparing for all eventualities. Clearly no deal is one of the eventualities if what it is reported you told the Cabinet is correct. You are saying that there has been no further assessment of the implications of no deal at all since before the referendum. Is that correct?

Mr Davis: No, that is not correct. You are putting words in my mouth, Mr Chairman.

Chair: No, no, no. I thought that you had said you had done nothing further.

Mr Davis: Yes, you are and you are also asking me, by inference, to comment on the Cabinet discussion. Let me put you out of your misery on the Cabinet discussion: yes, I did brief the Cabinet in terms of what we have to do. This is part of an ongoing process that started last year. It is rigorous across every single department of state—every single one. It ranges from customs, as you mentioned, through to agriculture and



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what we do there, through to nuclear safety. Every single department of state has an effect there. One of the difficulties about your style of yes/no answers to questions is that you do not deal with what we can do to mitigate, and much of this is about mitigation. Any forecast that you make depends on the mitigation that you undertake and, as a result, it is rather otiose to do the forecast before you have concluded what mitigation is possible.

Chair: Indeed, we will no doubt come on to that. I am grateful for your advice on my style of questioning.

Mr Davis: Mr Chairman, of course you have been a Cabinet Minister before and I have been a Select Committee Chairman before. I am sure we can exchange all sorts of wisdom.

Chair: We have not even mentioned the word “experts” yet.

Mr Davis: I was going to leave that to Mr Gove.

Q1382 **Chair:** Can I just be absolutely clear? Has there been any assessment since the referendum? I understood you to have said a moment ago that you had not done anything further on the implications of no deal, but you have said publicly that you are preparing for all eventualities.

Mr Davis: Yes, that is right.

Q1383 **Chair:** Has there been a further assessment of the implications of no deal since 23 June last year?

Mr Davis: There has not been one that would be to my satisfaction. Let me give you a couple of examples.

Chair: The answer is no, there has not been.

Mr Davis: Let me give you a proper answer, Mr Chairman. One way of assessing this is to build an economic model, which makes all sorts of assumptions and then projects the outcome. I cannot remember which member of the Bank of England it was who said that economic model builders had had a Michael Fish moment. The point of the issue is here: we need to make assessments not just of the whole economy, but of the effects on components of the economy. To take your example on customs, one of the concerns from some companies—and it does vary—is not so much the tariff as the delays on customs going through that make the issue. You highlighted the point of the Northern Irish border, which is a special case of that.

There are various ways of dealing with that. Not all of it is about new software systems or new inspection systems. Let me give you a single example. In current arrangements with customs, there is something known colloquially as trusted traders. In Treasury speak, I think they are called authorised economic operators. An authorised economic operator has a special relationship with HMRC, whereby they have electronic



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notification. We are talking about a number of companies that account for either 60% of our exports and 74% of our imports or the other way round, but it is significant anyway; it is nearly two-thirds of our international trade. For those operators, the clearance of 92% of their cross-border traffic takes five seconds. The remaining 8% are things where the customs notifies them will require an inspection.

We have discussed this, or at least one of my Ministers has discussed this, with the British Chambers of Commerce. The question here is if we can extend the AEOs and the trusted trader structure to much smaller companies. Can we change the rate? Until you have an answer to that, the assessment of the economic impact of these customs is not possible to calculate. The simple truth is that you have to do this in sequence. I am forever facing questions in this process saying, "Have you done this yet?" No, we will do it when we have the information. We will do it when we have the facts. We can make the same arguments about agriculture. In those circumstances, there will be a tariff structure. It is one of the reasons we are trying to avoid it. There will also be, because it is much more of an issue, phytosanitary checks. They are there already, so it may not be a change for them, and ditto for banking and so on. All of these things are being done piece by piece. When we have finished making the Lego blocks, we will build the house, and then we will have the forecast you are talking about.

Chair: Indeed, and you have moved on to the ways in which you would seek to mitigate the impact of there being no deal.

Mr Davis: I am not challenging your argument.

Q1384 **Chair:** I am just going to finish on the point about no deal. You are saying that you have not done a further assessment. You have confirmed to the Committee this morning that: no deal would mean tariffs and non-tariff barriers, and the level of tariffs in the case of the two examples I gave; there would need to be further checks across the border between Northern Ireland and the Republic; we would no longer be a part of the EU-US Open Skies Agreement; passporting rights would be lost; UK citizens may well lose their EHIC cards; and there is uncertainty about data adequacy. Given that, I have a very simple question. Do you think that leaving with no deal would be a bad outcome for the United Kingdom?

Mr Davis: I think I have effectively given you the answer at this stage.

Q1385 **Chair:** What is it?

Mr Davis: Let me answer it properly, Mr Chairman. I have just said to you that, at this stage, until we have worked out all the mitigation procedures, we could not quantify the outcome. You have not asked me about the upsides, by the way. The fact is that, for roughly 60% of our trade, we could relax these things the other way, whereas this is referring to 40% of our trade.



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The other thing I would say to you is that the Prime Minister said, in terms, that no deal is better than a bad deal. Why did she say that? She said that because, in the emotional aftermath of the referendum, there were lots of threats of punishment deals and all the rest of it. Let me be clear that we could manage this in such a way as to be better than a bad deal, and that is true. I cannot quantify it for you in detail yet. I may well be able to do so in about a year's time, but it is certainly the case. Frankly, Mr Chairman, it is not as frightening as some people think, but it is not as simple as some people think.

Q1386 Chair: I was not asking whether it was frightening. I was asking whether you personally, given the job that you have, would regard no deal as a bad outcome for the United Kingdom.

Mr Davis: It is not as good an outcome as a free-trade friction-free open agreement, which is why we are trying for it.

Q1387 Chair: Right. We now have the International Trade Secretary saying it would be an outcome that would be bad. We have you saying it would be not as good as, and we have the Foreign Secretary saying it would be perfectly okay. That does cause a certain amount of puzzlement, I must say. I am presuming from what you are saying that you do not regard it as perfectly okay.

Mr Davis: Mr Chairman, you are making rhetorical points. I will respond to it. I do my job on the basis of facts and data and research and analysis and operational planning. Off the back of that, I will give answers that are accurate and that are factual, not throwaway lines in an interview—factual answers. That is what I intend to do today.

Q1388 Mr Carmichael: Do your colleagues not do the same?

Mr Davis: I am sure they do. Why do you not ask them here and ask them?

Chair: Perhaps you should do all the interviews on this subject, rather than some of your Cabinet colleagues. That might be one way around it.

Q1389 Emma Reynolds: Good morning. When you came before us in December, you said that you were still thinking about whether the letter to trigger Article 50 would be a short one or a long one, and that you had not yet decided. Now that you have had time to think about it and there is probably a draft in existence, I would hope, can you tell us whether it will be a short or a long letter?

Mr Davis: It will be for the Prime Minister to tell the House at the appropriate time. I am not going to tell you what is in the letter.

Emma Reynolds: Okay, so you will not answer the question.

Mr Davis: I will leave it at that.

Q1390 Emma Reynolds: You will leave it at that. Is there a reason for the



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two-week delay, given that neither Number 10 nor your department dampened down speculation over the weekend that the letter would be released this week?

Mr Davis: Will the letter be released this week? We are not the source of that guesswork. The truth is, I think I am right in saying, that we are expecting royal assent tomorrow, so it could not have been done today anyway and why rush? Why rush from that? My department is not the source of that guesswork. It is not the first bit of guesswork. The earlier one was the 9th and the earlier before that was the 5th, which was totally impossible under the parliamentary timetable.

Q1391 **Emma Reynolds:** Will the letter go beyond the objectives? You said in December that the letter would focus on objectives. Will the letter go beyond the detail of the objectives set out in the White Paper and the Prime Minister's Lancaster House speech?

Mr Davis: Ms Reynolds, I am literally not going to detail the letter for you. That is for the Prime Minister to do at the right time.

Q1392 **Emma Reynolds:** Can we turn to timing and so-called transitional arrangements? Many of the witnesses that we have had before our Committee and many leading business organisations, including the Institute of Directors recently, have spoken of the need for a transition period, and the Mayor of London did so yesterday, in order to provide businesses with certainty at that stage. The Government have not really agreed to this, have they? What they mean by that is a time-limited period after we leave in case there is no deal in place. What the Government have talked about is implementation or a phased-in approach. Can you confirm that those two things are different?

Mr Davis: When I was here last, we talked about this at very great length and I made the point that we needed to distinguish between the range of views of what a transition arrangement means, which is why we used "implementation period" as a better phrase. The range of views, just to remind you, range from the views taken by some members of the Commission that we will do the "divorce", the departure deal, and then after that have a transitional arrangement while we are still paying money and there is still the free movement of people. There are all of these things going on and we will do the long-term deal in slow motion. That is plainly not what we are after. That is the first thing to say.

Other people are vague about transition arrangements. I was not here for your discussions with the IoD, so I do not know precisely what they said to you, but let me give you one example of it. One example is that many banking structures and many of the financial services structures want to have time from the point at which they know what the outcome is to the point at which it takes effect, so that they can then do their planning on facts, not fears. I understand that, but we are talking about something that is a negotiation and the negotiation has not yet started. What we do have around Europe among member states is an



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understanding that we are going to need some time to put into effect whatever it is that we agree afterwards.

Last time, I resisted being drawn on what that—I do not like “transition arrangements”—implementation phase would be for a very simple reason. What the implementation phase needs to be is dependent on what the final outcome is—what the end structure is. If it is very similar to now, and arguably a comprehensive free trade agreement would be quite similar to the effect in terms of accessing the single market, then less transition is required. If it is a big difference, more transition is required. As I say, we have not started the negotiation. I would rather not try to initiate the negotiation through this Committee.

Q1393 Emma Reynolds: It is still the case at the start of negotiations, as far as we are aware, that neither the EU-27 nor the Commission and Michel Barnier have agreed that these negotiations will take place in parallel. Is that the case?

Mr Davis: That is the case, at the moment. That is right.

Q1394 Emma Reynolds: Even though the Government want to conclude both Article 50 and a free trade agreement within two years, and all the other things like justice and home affairs, there is still a risk that our future relationship negotiation will endure for longer than the two years, past March 2019. There is still a risk of that, is there not?

Mr Davis: I did not write the Article 50 guidelines, but they say, in effect, that at the end of two years you are not a member of the European Union anymore, unless you negotiated something different. There is a fixed timeline on that. In the British national interest and the British Government interest, it is sensible to achieve the decisions by the end of the two-year period, from a negotiating point of view, but also from an intelligent management point of view. That is what we intend. You are right that the first formal conversation between Michel and me will almost certainly be about this subject.

Q1395 Emma Reynolds: But there is still a risk that this could take longer than two years, because no other country around the world has managed to agree a free trade agreement with the EU within that period.

Mr Davis: It is very interesting. Let me say this. Karel De Gucht, who used to be the Trade Commissioner, is not a fan of Brexit and is a critic of Brexit, said in terms that this could take a long time, but it does not need to. It is not a technical constraint; it is a question of political will. Why did he say that? This is not like CETA and so on. We start from the position where we have identical product standards, identical regulatory standards and so on. As you know from the last time I appeared here, the Great Repeal Bill will ensure that we are at that stage at the moment we leave.

Q1396 Emma Reynolds: At day one that is fine, but regulatory divergence will kick in. When you campaigned to leave the EU, you campaigned to take



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back control of regulation. Regulation can differ in 50 days.

Mr Davis: There is a big difference. With respect, Ms Reynolds, there is a big difference between doing what you need to do to keep regulations aside. That is a much more complex issue than people realise, because not all of our regulatory identity is dependent on European Union organisations. Sometimes it is based on European organisations that are not members of the Union. That is the first thing.

The second thing is that, when two countries come together to arrange a trading arrangement between themselves, the first stage is to be able to understand each other's structures and standards, so that takes time too. None of that do we have to do. Neither do we need an entry-into-force period, which is the other issue that takes time in these things. It is not just the sign-off; it is the actual period of industry coming to meet the new standards. That is the first thing.

The second thing is this. This has been reflected back to me in my discussions with other member states, but also to other of my colleagues. They want to see a constructive outcome, which we interpret to be a deal, and the reason they want to see a constructive outcome is because they have trading arrangements with us already. There is a strong vested interest on both sides of this negotiation to actually get an outcome. That is not the position you have when you are starting a free trade deal from nowhere. This deal is unique and the approach we have taken to it is unique too. One of the reasons we have taken an overarching, comprehensive free trade agreement approach to this is because it is simpler to do than the way they normally do free trade agreements. If you go and look at the history of the CETA deal, there is analysis sector by sector by sector by sector, and sector-by-sector negotiations. Each of those takes time. We are trying to get around that.

Q1397 **Emma Reynolds:** On the substance rather than the timing, it is the case that we and the Government are seeking a deal that is more ambitious than CETA, I am hoping.

Mr Davis: I think that is right. I think that is fair.

Q1398 **Emma Reynolds:** The decision-making procedure that governs CETA is due to a mixed agreement and therefore requires unanimity in the Council and ratification of what will be 37 rather than 38 national parliaments and regional parliaments of the EU-27. Such a procedure is likely to apply to our free trade agreement, will it not, if it is going to be more ambitious and more comprehensive than CETA?

Mr Davis: This is a matter that changes as we go, because of the Singapore case that has happened on this. That may well be the case. We simply do not know at this stage. It will depend on the structure of the negotiations. Another of one of the early things that I will need to talk to Michel about is how we structure this. If we structure it as one big



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package deal, then I suspect it will have to go through mixed agreement. It may be structured as separate deals. We do not know.

Emma Reynolds: We may well need ratification of all of those parliaments.

Mr Davis: We may, but I reiterate the point that I made at the beginning or in the last round of answers to this. Bear in mind that every country we deal with will have an interest. They have an established interest, not the interest we have with CETA, which is future business. Future business is never as attractive as defending your current business.

Q1399 **Mr Lilley:** I want to revert to the transitional agreement idea. I entirely take your point about implementation. When we joined in 1973, we had four years when our tariffs moved to converge with and become identical to the common external tariff. That was a sort of implementation process. In what circumstances would there need to be a transition? I do not know what a transition involves; I have been trying to find out from the Mayor of London and the Institute of Directors without any great success. Have you managed to find out what contents people want in a transitional agreement, as against an implementation period?

Mr Davis: You make a good point, Mr Lilley. We have been talking to people about what they would want out of these things and it does vary. Every single person wants something different. That is part of the issue. This is why I say that what we need to do is first work out what the end state will be and then work out whether there is a need, whether there is a disruptive effect of some sort in the change, and whether there is a need to allow people to accommodate to that. That is one part of it. When I talk about the implementation stage or implementation phase, it is the Government implementation. It may also be corporate implementation as well. We may need to think this through. Bear in mind again, as I keep reiterating to the Committee—the Committee quite reasonably asked me for hard answers—that starting a negotiation is sometimes hard to do. It will be on both sides' interest to make sure that there is a smooth and orderly transition to the new state, and we will try to do that on an industry-by-industry basis, if need be. Again, that is contingent on the Commission's agreement and, more importantly, the Council's agreement.

Q1400 **Mr Lilley:** Just taking tariffs first, you would agree that, if we start with zero tariffs and end with zero tariffs, it is hard to think of any transitional arrangements that would be needed or even theoretically possible.

Mr Davis: Yes. There may be issues relating to rules of origin, let us say. You could give me tutorials on this, but let me go through it anyway. If we get what we are aiming for, in terms of an overarching free trade agreement, we cannot become an entrepôt for people to go through the European common external tariff barriers or be a loophole. We will almost certainly have to have rules-of-origin arrangements and there will be some sort of inspection arrangement to go with that. As I



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was saying before about trusted traders, that might be an electronic arrangement. I could imagine even that circumstance. We have not looked at that in detail yet, but I could imagine it. I am trying to think what the worst case in this context is, as we always do here. That is about the size of it. You are quite right that it is not very much of a transition. You might be able to do that in months.

Q1401 **Mr Lilley:** What about as far as non-tariff barriers are concerned?

Mr Davis: That is more of an issue, I think.

Q1402 **Mr Lilley:** As far as the regulation and standards are concerned, we start with identity and we hope to continue with identity. Therefore, there is no transition there.

Mr Davis: Or equivalence.

Q1403 **Mr Lilley:** Equivalence, yes, but we start with identity. On day one after Brexit, we would be where we were on day one before, or minus one. The only thing that we would have to negotiate or the principal thing that we would have to negotiate would be some system where one side or other challenges the other that something they have done diverges from identity or equivalence. That is what we would have to negotiate. Again, how could there be any transition for that? You would have to negotiate it. You would not negotiate not to negotiate until later.

Mr Davis: You are reinforcing my point, Mr Lilley, that the end state determines the transition. If the end state is near identical, then no transition is necessary. This is one of the reasons that there have been people who have argued that you must start by getting the transition state established. You cannot. It is logically impossible. That is the point I was making to the Chairman earlier. You have to get each step established first, and it may well be that, if we get a very good agreement, which is what we are aiming for, being ambitious about it, then there will not be an enormous need for transition. But we will see.

Q1404 **Mr Lilley:** Yesterday, we had the Mayor of London, who I have to say was impressive, pragmatic and positive, except when it came to this transitional deal. He could not tell us what he wanted in it. Reflecting afterwards, it struck me that, for some people, a transitional deal is just a way of saying, "Let's put off leaving until after the next general election." For others, it is simply a kind of displacement mechanism; it avoids having to think about what the end result is. Of course, you would logically have to know what the end result is if you were to negotiate. Do you have a similar impression about not everybody but some people who are floating the idea of transition?

Mr Davis: Can I start by saying, and I do not know if the Mayor told you, that I meet with him once a month to discuss these issues? The last one we had was on the issue of creative industries. This is all non-regulated; it is all about country-of-origin status and so on. Generally speaking, from my point of view, the best answer in most cases, if not all cases, is to get something that does not require transition. Now we are where we



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are, nine months on from 23 June, more and more companies see that. Early on, bearing in mind the amount of propaganda that flew around from all sides at the time, people were afraid of what the changes might bring. You are right that there was a sort of: "Put it off, then we can plan for it when we come to it."

That is not entirely irrational. It is not entirely irrational for a head of a big corporation to say, "Okay, you are going to change the environment in which I work. Please give me time to accommodate to it, even though I do not know what the change is." People are bringing to think through this. In the City, I know they are beginning to think about how to manage for this either way. Last week, the head of Peugeot was saying that they can deal with what he called "hard Brexit". You know I hate that term, but he said, "We can deal with that, with no deal and we can deal with a deal arrangement." His answer, if you remember, was setting up supply chains inside the United Kingdom. What is happening over time is that people are thinking through their responses and, as they do that, the arguments about transition become more rational, more factual and narrower.

Q1405 Mr Lilley: I have one last point. To have a transitional agreement in general, you need to have decided what you are transitioning to.

Mr Davis: Yes.

Q1406 Dominic Raab: Good morning, Secretary of State. Good morning, Mr Robbins.

Mr Davis: I should let you do some work. He has not nudged me yet.

Q1407 Dominic Raab: One of the so-called risks of the negotiations, whether there is a deal or no deal, is the impact of tariffs or any form of barrier on parts coming in and out of the manufacturing process that is conducted in the UK. It has been interesting, as we look at this substantial problem, to hear voices like James Dyson talk about what industry can do to mitigate that risk and build up a bit of self-reliance in the UK. To what extent have civil servants or Ministers been talking to industry chiefs like James Dyson, and to what extent is there a collaborative approach to mitigating that particular risk?

Mr Davis: I was just looking to see if the Canadians are still here. I will explain why in a second. We have met with about 360 companies in the last nine months. I cannot remember how many roundtables we had, and this is one of the issues that comes up. There was a view that just-in-time manufacturing techniques were seriously handicapped by having to cross a border. The reason I was looking for the Canadians is that I used to operate across a border between America and Canada, with products that deteriorated very fast, so it was not the classical just-in-time. We had mechanisms for dealing with this. To come back to the issue of the trusted trader I was giving as an example to the Chairman earlier, there are methods of dealing with this, in terms of the relationship with the customs authorities and how they manage it.



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For example, if you have an organisation, let us say, an aviation manufacturer, with hundreds of parts to make up one engine, aircraft or whatever, or a car manufacturer, there can be computerised manufacturing systems that pretty much trace all the parts. It is possible for them to have an arrangement with the customs authority that says that we know where they all come from. They will be audited from time to time. There may be the odd snap inspection but, generally speaking, you can get a fast transition across a border. That is the sort of thing we are looking at. Does that answer your question?

Q1408 Dominic Raab: It does. In particular, I was curious to know the extent to which there is some collaboration with industry on this. One of the answers could be the one you articulated; the other, a possibility or a combination of them could be to try to build up our self-reliance in the production of at least some proportion of the parts that we need for some of these processes.

Mr Davis: That is right. In the event of our optimal outcome, the only thing that gets in the way is rules of origin. That is the thing you have to look for. You have to be able to turn around to the authorities in wherever you are exporting to, in this case the European Union, and say to them that we have hard evidence to give them satisfaction that all of this car, 80% of this car or whatever the agreed proportion is made from things brought from within the European Union. If not, these are they and this is what the tariff should be.

Q1409 Dominic Raab: I will come on to some of the opportunities, but the other risk that we are quite focused on is financial services, passporting and the like, whether the answer is passporting or regulatory equivalence. One of the interesting points made is the £1 trillion of UK finance going into European companies. My reading of some of the remarks from Michel Barnier, but also national industry bodies like the Association of German Banks, is that there is a far more emollient tone in relation to the City and UK-based finance than perhaps before the referendum. I wondered whether you are picking that up as well, in terms of the prospects for a win-win in relation to that or at least the avoidance of lose-lose and a choking of UK-based finance.

Mr Davis: It bounces up and down a bit but, generally speaking, there has been a progressive warming of the tone, I think. Up until Christmas, up until the Prime Minister's speech in January, there were still people around Europe who basically did not think this would happen, so they were not focusing on it. The more they focus on what is necessary, the more they see that things like the German Mittelstand depends on a virtually infinite source of capital from the City of London, and that there are symbiotic relationships between Luxembourg financial services and London, and so on. There is a whole series of reasons why there is a tendency for it to get warmer, as you say.

Also bear in mind that Michel is characterised as some sort of bogeyman by the British press. He is a tough negotiator, but his last task in the



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Commission prior to this was on the financial services side. Before Jonathan Hill, he was the commissioner on financial services, so he understands the need to get this right and the danger to the whole entity from causing fractures.

Q1410 Dominic Raab: You mentioned that there was a dawning around January or February that Brexit is actually going to happen. We have heard some talk of the punishment or the price that must be paid, both on the continent and here. We have also increasingly heard voices here talk about avoiding that and searching for win-win. I can think of comments made by the German finance minister and other comments from Berlin, from Madrid and also within Brussels. Are you detecting an attitudinal shift in a positive direction or will we ultimately have to wait to get down to brass tacks and negotiations, before that is likely to emerge? I am wondering the extent to which the national blood pressure needs to be braced for the continuation of the posturing via the press, on both sides I suppose, or the extent to which the negotiations have scope to build up a rather more positive spirit to them.

Mr Davis: That is an incredibly complex question to answer, because the dynamics of the negotiation will go hot and cold, from time to time. There will be times when we disagree and there is some pressure. Broadly speaking, I can tell you empirically, from talking to member states, foreign secretaries, finance ministers and prime ministers, that there is a growing determination to get a constructive outcome. The issue is whether the member states' views make it through to the Commission, so there is an institutional issue. There will be issues, as the Chairman or Ms Reynolds raised early on, where we will need to resolve how we do this. The first point of tension is how the negotiations take place.

My general view is that this is eminently achievable because the attitude of the European states is one that wants a good long-term relationship. Even this morning when Mr Tusk was saying sharp things, he said that we want to be friends. We want to have an amicable long-term relationship. That desire, that wish, that commonality of culture, that commonality of interest is what I think will drive this in the longer run, much more than any negotiating gambits we use. It will be that.

Q1411 Sammy Wilson: I just want to ask some questions around the exit bill, which has been presented or has been mooted. The White Paper never mentioned anything about an exit bill. It mentioned keeping good relations with the EU etc., but there was no mention at all of any of the costs of leaving the EU. Is that an oversight or is that an indication that the Government do not believe they have any obligation to make payments?

Mr Davis: It is sort of neither, Mr Wilson. The first thing to say is that this bill has not been presented. I have not seen any rationale behind it. I have seen the *Financial Times'* surmised rationale, but we have not seen anything. The other thing I would just remind people of is that we



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are at the beginning of a negotiation. Positions will be taken in all of this. Our stance is pretty straightforward. We are a law-abiding nation. We believe in international systems of rules. We obey them, and we have rights and obligations. We will insist on one and meet the other. That is the first thing to say.

I do not necessarily agree with everything you said, but the House of Lords report on this was interesting, because it laid out the competing arguments quite well. From the Committee's point of view, it is a very good starter in this exercise, but we do not recognise the numbers that you are talking about.

Q1412 **Sammy Wilson:** There seem to be two ends of the spectrum. One is that it is totally a legal obligation and the other end, as put out by one of the former legal advisers to the EU, is that it will be like a negotiation to buy a rug in a Moroccan market. It could be somewhere in between. I would not want you to give a figure, but have the Government made any assessment of what issues may well be a legal obligation that we cannot escape and what part will be down to political haggling?

Mr Davis: That has been done only in my head. There is ongoing work on all of the legal aspects. The reason that I point you to the House of Lords report is that it makes clear that there is an interaction between these two things. At the end of the day, anybody who has been a Minister in the Council of Ministers knows that the European Union is about getting answers to solve the problems. It will be a problem solving/negotiated/legal-based outcome, and that is a woolly answer, but I suspect it will be a woolly exercise, at least in part.

Sammy Wilson: It might be a woolly exercise but—

Mr Davis: The outcome will not be woolly.

Sammy Wilson: It has been made clear, at least by some of the European negotiators, that it is going to be top of the list when it comes to the issues that need to be dealt with.

Mr Davis: It is one of the top three or four.

Q1413 **Sammy Wilson:** I suppose that is understandable, given the hole that there will be in the EU budget when the UK leaves the EU. Some people have suggested to the Committee that this could be one of the issues that puts negotiations into the mud very quickly and stops the negotiating process happening. In your visits around the various countries that you have visited so far, have you had any indication from member states as to how they view this and, secondly, how do the Government intend to deal with negotiations getting bogged down on this issue very quickly?

Mr Davis: I am not going to answer the last one, Mr Wilson, because I am not going to tell you what the negotiating tactics will be for dealing with any stop/go to the negotiations. In terms of the responses to me



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from going around, I think people understand. This comes right back down to our issue of parallel versus sequential negotiations. I think every country I have talked to understands that. Most of them are very sympathetic to our view.

There is a real systemic issue here or slight schizophrenia. They all understand the position. Most of them, nearly all of them, are sympathetic but there will be an issue of not breaking the solidarity of 27. As these are not negotiations but prior talks, I have not tried to break that. I have not tried to impact on that. What I would say to you is to look at the first set of guidelines that the Council hands down to the Commission and see how they respond to that, and then you can make a better judgment. At the moment, I am loath to be drawn any further on how we are going to deal with it, except to make plain that we think it should be a parallel negotiation, that we do not recognise the numbers being talked about and that we will meet our obligations, when we are convinced of what they are.

Q1414 Jeremy Lefroy: I wish you and your team every success in the coming couple of years. It is incredibly important and vital that we get the best possible deal, so all the best with that.

Mr Davis: Thank you for that.

Q1415 Jeremy Lefroy: If I can just talk a bit about science, innovation and research, I declare an interest as a member of the board of the Liverpool School of Tropical Medicine and of the Innovative Vector Control Consortium, which has been in receipt of funding via the EU over the past few years. One of the reasons that people are very concerned about long-term research funding is that, through Horizon 2020, there is an element of certainty that money will come for research to UK universities. Clearly, if Horizon 2020 is not there anymore, it will depend more upon the UK Government allocating research funding. What discussions have you had about continuing to participate in EU-wide research programmes, which are of great benefit to UK research establishments?

Mr Davis: We have had none with the Commission yet, because we have not started. The first thing is that, very early on in this process, back in August, the Treasury put a lot of things in place, underwriting certainly up to 2020 and even beyond in some cases, encouraging universities and research operations to continue to make applications. In due course, it set in motion discussions with the Commission to make sure that they are properly met, how we fund them and all that sort of thing. At the same time, to offer a slight tangent, Mr Lefroy, we also did things on students to make sure that the base business of the universities was not jeopardised. I am not kidding; to get the Treasury to move in two weeks in August is a measure of quite how seriously the issue is taken.

In the longer run, as it stands, I do not know what ongoing relationship we may have with projects or operations like Horizon 2020, like Erasmus and like all the various elements. I will say to you what I have said to every university and every research operation that I have talked to,



which is this: we are a science superpower. We have more Nobel laureates per capita than any other country in the world. In absolute terms, we are second only to the United States. One of the reasons for that is the internationalism of our science. We attract people here. They come to our best universities, the golden triangle of London, Oxford and Cambridge in particular, but generally across the board as well. We intend to keep that going. We intend to continue that contest for talent, if you like, and we do not intend to allow this Brexit process to get in the way of that, if we can possibly stop it, and we will be able to stop it doing so.

In terms of the overarching guideline, we have been very clear about it. I have done everything from having dinner with the presidents of royal academies, through into Universities UK, through into talking to the various institutes in Cambridge, to talking to science-driven companies like GSK. We have said the same message over and over again. There has been no doubt about it. I was criticised to some extent, around about Christmas, for saying that this is not a door-slamming exercise on immigration, for example. That is true in terms of our attitude to funding and our attitude to access to people. Does that answer the question?

Q1416 Jeremy Lefroy: It is very helpful. If I could just touch on access to people, typically people who come from other countries to research are often not that well paid. It is not a profession you enter to become wealthy; it is because you care about it, are passionate about it and want to advance the sum total of human knowledge. How are we going to ensure that, in a work permit regime or whatever takes the place of the current free movement, limitations on having people below a certain salary do not disrupt the flow, in both directions, of researchers and academics?

Mr Davis: You are quite right that classical work permit systems tend to go off salary as a measure of market value, but nearly all of them, or nearly all the good ones anyway, have some mechanism in them that allows you to recognise another measure of value. Although I am not Home Secretary, you can be sure that I will be making quite serious representations on that front when we get closer to the Immigration Bill, which will come later down the way, to ensure that that happens. I cited before that I used to work in Canada as a landed immigrant, as they called them then. I had other people who were brought in from other countries who were not paid as much as I was, but who were very important in technical skills terms. We have to have a technical skills requirement, and that is what I would expect to see.

Q1417 Jeremy Lefroy: In the broader sense on freedom to work and work permits, concerns have been raised through many parts of the United Kingdom that there are special needs in certain areas for perhaps a greater level of access to people coming in than in others. Would a work permit system whereby permission to work was tied to a particular employment, which is the case in most of the rest of the world—as I have experienced myself and tends to say, “You are able to work in this



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place”—not be a way of enabling parts of the United Kingdom that really need more workers?

Mr Davis: You are attempting to draw me into doing the Home Secretary's job, but let me say this to you. This is clearly an issue in some parts of the world. In Northern Ireland, for example, there are requirements for agricultural workers, I think, and other special requirements. In Scotland, you have some special requirements. You had Sadiq Khan here yesterday; he will have special requirements in London. Whatever we do has to be flexible enough to meet these requirements.

My job is not to write the policy; my job is to bring the policy back to the UK, so it can be written in the national interest. I reiterate a point I made in the debate the other day: that we will operate any future policy in the national interest, and of course it will be brought before Parliament. It will be brought before Parliament. Nothing can change until Parliament itself has had its say on this matter. I would expect all of the issues that you have raised, as they are incredibly important and good ones, to be addressed by whatever policy we create.

Q1418 Jeremy Lefroy: Can I just move on to the European Medicines Agency? Clearly this is a very important body. It is based in London. There has been a strong suggestion that it would no longer be in the United Kingdom. Now, the UK has a very strong pharmaceutical sector. Would there not be a strong case for arguing, if it did not stay in the UK in its entirety, at least there could be a dual nature of the European Medicines Agency, where it could stay in the UK and perhaps be in another European Union country? Given the importance of this for things like trials of new medicines, would that perhaps be an interesting and innovative way of tackling an issue like this, which is of great importance to the UK?

Mr Davis: I think there are 77 European agencies. We have two of them, one for medicines and one for banking. I do not want to pre-judge the negotiation, but what you are saying is one component of the things we have to consider. With it is also what future arrangement, in any event, we have with respect to all of the global medicines approvals processes, both at the EU, which is where we are now, where there is a strong benefit in continuing to be parallel or matched, but also the FDA, where there is also a big market. Those are things that are currently under consideration. Can I ask that I talk to the Health Secretary about that specific point, because I have not talked about that specific point yet, and perhaps write back to the Committee on the matter?

Q1419 Jeremy Lefroy: I have just one final thing, Mr Chairman, very briefly. You have already mentioned the number of parliaments that are going to have to approve a final deal. Diplomacy, in respect of speaking with those parliaments and those countries, is going to be absolutely vital in the next two years. Perhaps parliamentarians here can be or already are involved. What plans do you have and do your colleagues in the Cabinet



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have for ensuring that as much of that positive diplomacy is done as possible so that, when the final exit agreement is put to those various parliaments, it will be approved?

Mr Davis: Somebody said I looked tired on television last week. Eight countries in three weeks is probably the reason, in part.

Jeremy Lefroy: It should not entirely depend on you.

Mr Davis: It will not just be me, by no means. That is what I am about to elaborate. Obviously the Foreign Office is involved as well. Liam and the DIT are involved as well. It is basically a whole-of-government exercise and, because of the operation of the various councils, virtually every Minister in Government is engaged. The Chancellor certainly has been already, to a great extent, but it is not just the Government.

Last night, I had a very brief meeting with the CBI to talk about their links across the countries. I will be going back to talk to research organisations on the same subject. We really need to engage almost an all-of-society operation in making plain to our European friends, because that is what they are, that they are our friends and they will continue to be our friends. We are not trying to threaten anybody. We are not trying to do anything heavy-handed. We are not trying to be coercive. We are trying to ensure that we get something that is in the interests of everybody, and so the people in whose interests it is ought to be engaged in doing that, and that is the intention.

Q1420 **Mr McFadden:** Good morning, Secretary of State. You said in response to the Chairman earlier that you do the job on the basis of facts, but you have also confirmed this morning that the Government committed to the statement and the policy that no deal was better than a bad deal, without any economic assessment of what it would do to the country. Why did the Government do that?

Mr Davis: You say it was without economic assessment. I said to you earlier that econometric models are only as good as the assumptions put into them. A variety of things were being said at the time: Britain must not be allowed to do better, and so on. The truth of the matter is that, whatever happens with respect to the European Union, this policy will open up the free trade arrangements with the rest of the world and the fastest-growing sectors of the world. Even when we were not going through the Brexit process, the secular estimates were that the European market would drop to 35% of our export market by the middle of the 2020s. It is quite plain where the general benefit is. A fact is not the same as a quantification.

Q1421 **Mr McFadden:** Without an assessment, you have mortgaged the country's economic future to a sounding.

Mr Davis: I do not quite understand that question.

Mr McFadden: You do not have an economic assessment of the policy.



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Mr Davis: I have a fairly clear view of how it will work out. I just do not quantify it yet. We will give a quantification later on, but it is quite plain how it will work it out. On the one hand, you have the aim of a good comprehensive free trade agreement. In the event that we do not get that or that there is no conclusion, we will have a fairly extensive contingency plan, which is already under way, as I said to you. Whatever happens, we will have sharply improved access to the rest of the world, off the back of a large number of free trade agreements, which will be coming into effect shortly after we leave—or some of them will be. You do not have to have a piece of paper with a number on it to have an economic assessment. I spent most of my working life before I came into politics dealing in business; you often knew what was a good deal, even though you did not have the numbers.

Mr McFadden: I hope that the people affected by your no-deal option will take some comfort from that.

Mr Davis: You will have to speak up, sir. I cannot hear you properly.

Q1422 **Mr McFadden:** You said in the House of Commons on 24 January that the Government were aiming for, and I quote, “a comprehensive free trade agreement and a comprehensive customs agreement that will deliver the exact same benefits as we have”. The no-deal WTO option does not do that.

Mr Davis: No, of course; I was expressing an ambition. I have to say to this to you, because one or two members of your party sort of jumped me and said, “How can you say that?” I make no apologies for being ambitious in this. We are talking about the future of the country here. I am aiming as high as I possibly can. That is what this is about. It is not about me trying to preserve a position of saying that we will aim low and then it looks like I have succeeded when I have not. We are aiming high. We are aiming to get the best possible deal for the country and I make no apology for that at all.

Q1423 **Mr McFadden:** The focus of my question is your statement, “No deal is better than a bad deal.” Sir John Major, your former boss and a former Conservative Prime Minister, said in his speech the other week that the WTO option is, and I quote him, “the worst possible outcome”. He is right, is he not?

Mr Davis: No. All you have to do is to read the rhetoric in the immediate aftermath of the referendum campaign and the result to see that some people were arguing for a punishment approach to the British people. There are ways of making this much worse than that. We are not going to do that; we are not going to allow that. The alternative option is by no means the worst possible outcome—by no means.

Q1424 **Mr McFadden:** Sir Ivan Rogers, when he was sitting in that chair a couple of weeks ago, told us that no major economy trades with the EU purely on the basis of WTO terms. He is right too, is he not?



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Mr Davis: No major economy does. What do the major economies trade with them on?

Mr Lilley: He said “purely”.

Mr Davis: Purely, I see. There are always relationships between major economies. Even in a non-outcome, I would expect some arrangements to be made.

Q1425 **Mr McFadden:** Can I finally ask you about the parliamentary process? Is it the Government’s policy to give Parliament a vote on defaulting to these WTO terms, if there is no free trade agreement?

Mr Davis: You were in the Chamber, so you heard what I said.

Mr McFadden: You would not take my intervention, so I could not ask you.

Mr Davis: I took quite a lot of interventions, but I did not see yours. There we are. There was no shortage of interventions taken. There never is when I speak at the despatch box, which I think you would recognise, if you are being fair about it. The simple fact is that we will bring back any negotiated deal to the UK Parliament, both Houses thereof. It is not my job to give tutorials in this matter. As I said in the House, Parliament always has the power to have a debate and a vote on any subject it chooses to. I can think of a number of methods of doing it, but I will leave that to you.

Q1426 **Mr McFadden:** My question was on your policy. Is it the Government’s policy to give themselves the option of defaulting to WTO terms, with no deal, without giving Parliament a vote? Is that your policy?

Mr Davis: The policy, as I stated, is when, not if, we get a deal—we are talking about tiny probabilities here—we will bring that back to the House of Commons, full stop.

Q1427 **Mr McFadden:** If there is no deal, what does the House of Commons do?

Mr Davis: We will no doubt make a statement to the House of Commons, and it is up to the House what it chooses to do.

Q1428 **Alistair Burt:** Good morning, Secretary of State. I could also pursue what Pat has been talking about, but we have discussed that quite a few times, so we will leave that be. It will no doubt come back. I have a couple of questions on migration but, before I do, can I just pick up something that both Jeremy and Dominic Raab said? My impression also from visiting friends on the continent is that the position has eased. You are right: a growing sense of the inevitability that we meant what we said in the referendum or that the referendum result was conclusive has certainly been apparent over the months. It started by people saying, “You are going to change this, aren’t you?” Now that is not the case and, therefore, there is a different style.



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However, when we start the negotiations proper very shortly, the issue of the bill will be there—the amount that we are being asked to pay and our views on that. The chance of rhetoric getting out of control at that stage is also very high. Could you assure us that you and colleagues will do everything in their power to ease down the rhetoric at that stage? We saw a couple of examples in the House yesterday; it is very easy. The papers will pick it up. The papers and the media want a confrontation and most of us do not want a confrontation. We think that your style and what you are talking about are absolutely right, but careless rhetoric from senior colleagues, the wrong tweet and the wrong conversation just scales it all up. Can you assure us that you will do everything in your power to make sure that colleagues keep the atmosphere that you are talking about and Donald Tusk suggested in one of his tweets?

Mr Davis: You will have noticed that, in the last nine months, I have not responded to any provocations on this matter. I suspect that the principal challenge to my health in the next two years will be having to be diplomatic, but you are right: it is very important that we ensure that the mood and temperature of our exchanges is controlled and, as far as possible, amicable. I say this because you are a practical man: there will be times when the negotiations get tough, I am sure, but tough does not mean spiteful, angry or whatever you want to choose.

I also start from another point, I should just say to the Committee. I am not one of those who does not like the European project. For the other countries of Europe, it is incredibly important. For Eastern Europeans, it is incredibly important these days. It reflects their commitment to liberty, democracy, the rule of law and so on. I start from an understanding that this is disappointing for them. Let me be plain about it: our friends are disappointed that we are leaving. I allow a considerable amount of slack just off the back of that. Yes, I will continue to say to colleagues to keep this as calm as possible and as amicable as possible. The last point that Mr Tusk made in his tweet this morning, which one could have responded to, was that we want to have amicable relations between the EU and the UK after this is over.

Q1429 **Alistair Burt:** That is absolutely right. I welcome what you said about the European project. Could I come on to migration? We were told, when we first spoke to you and Mr Robbins, that there were 57 separate studies being carried out by the department on the impact of all this and I am sure there are more now. What have those studies from around the UK told the department about the value of migration to the UK economy and how is that feeding into the process of negotiation?

Mr Davis: It is not yet, because negotiation has not started. It is part of the reason that, from about November onwards, I started highlighting to people that this is not to slam the door shut. This is not to pull up the drawbridge. This is simply an issue of control, not of saying that we are going to stop everybody coming. It is of note that I made the first speech on that to the CBI and then the second comment after a visit with the Chancellor to the City. People began to notice that. I made similar



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comments that have not got quite so much coverage, with respect to Mr Lefroy's comments, when talking to Universities UK, the various universities individually themselves, vice-chancellors, presidents of royal academies and so on. It is plain to me that we need to be sensitive about that. It is really an issue for the Home Office to deal with, but my issue on it for the moment is managing the expectations of people, so that they understand that the way we run this policy is going to be in the national interest.

Q1430 Alistair Burt: It is and it is not about the Home Office. There are wider issues. We have spoken to a number of employers in different parts of the country and, by and large, what they have said to us is that it does not matter about the type of business and it is not about highly skilled workers. A lot of companies have expanded their workforce because their businesses have expanded, and they have taken people in from the European Union not to take the jobs of British workers but because they have more work to do. They are anticipating that continuing. Accordingly, because of the importance of migration in the whole referendum issue, will migration, the ease of movement and issues around that be part of the discussions that you will be having in order to make sure that the needs of the economy can be fulfilled and that the determination on numbers will not drive everything in the negotiations?

Mr Davis: No, it will not. I suspect, Mr Burt, that the issue on migration will be one of the principle of free movement versus control, rather than numbers, in the conversations, which is why we went to the free trade option and therefore access to the single market, rather than single market membership. That is what I suspect.

It is plain to me that we have to run our subsequent policy to meet all the economic interests. Bear in mind that, just as an aside here, I come from the north of England. This is not just an economic issue; it is also a social issue of housing and all the other things that go with it. It is plain to me that we have to do that. I have said in terms, and again I was criticised for it, that this applies not just to scientists, bankers and so on; it also applies to seasonal workers in agriculture and so on. The aim of the Government, as the Prime Minister has made plain, and she is an ex-Home Secretary, is to bring down the net migration numbers, but it will not be done in a way that damages the economy.

Q1431 Alistair Burt: There are nuances around free movement and movement of workers that fulfil the aim of taking back control but allow a process that assists the economy. Just lastly in relation to EU citizens here, if the negotiations run all the way to the end and it becomes a typical European five minutes to midnight, there is the possibility that uncertainty continues in all that time. Would it be your very clear determination to end that uncertainty right at the beginning of the process, and do you get the same sense from your colleagues abroad?

Mr Davis: It is a very contentious issue, of course. I understand the concerns of people on the other side of the argument to me, but let me



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just describe where the policy has got to so far and what the reflections on it have been. The aim is to take the whole package of EU and British citizens together in one entity. In all except one of the meetings I have had since the White Paper with foreign ministers, it has spontaneously come up as the first issue. In that one, it was the second issue so, in all of them, it has come up in the first two issues. They are concerned about their own citizens, properly. They recognise the complementarity of the requirements. They understand our position, they agree with it, and it is notable that the sorts of noises in Brussels also reflect that. In that respect, the Prime Minister's approach on this appears to be working.

The issue is not really so much about the hard facts of what will happen as people's fears. If there is a technical issue that holds up the actual detail of resolution, what I will try to do, and I think I will succeed, is get an exchange of letters that makes absolutely plain what we think the outcomes will be and should be and we are determined to make, so we get both sides of the negotiation to agree that. That is what I will aim for. As ever, I am being ambitious, but in this case the ambition is very likely to be met.

Q1432 Chair: On the net migration point and given the Government's policy, the latest figure is 273,000, so to get down to the tens of thousands you need to take about 170,000 off that total. Is it your anticipation that that would come more from the rest of the world as opposed to the EU or the other way round, given what you have said about there not being a sudden reduction because of the needs of business?

Mr Davis: I do not know, Chairman. Remember the aim is to have a humane policy, but one that meets the needs of the economy. Somebody speculating on work permits. If it turns out to be that, it will be driven by that. I imagine it will be meeting demand rather than distinguishing and differentiating between A and B, depending on where they came from, but that is surmised on my part.

Q1433 Maria Caulfield: We recently had a visit to Dublin to meet with a range of people. We met with politicians of all parties. We met with businesses cross-border and businesses both in Ireland and the UK. We met with ordinary citizens who are concerned about the impact of Brexit, particularly on Ireland and Northern Ireland, and particularly on the peace process. They were all very clear that they want no border at all, in any form, between southern Ireland and Northern Ireland, but they also said that there is a lack of a clear message from the UK Government on this. The Prime Minister is saying that the aim is not to have a border, but the Secretary of State for Northern Ireland is saying that there will be no special arrangement for Northern Ireland. One cannot really happen without the other, so could you clarify what the UK Government's position is around a border between the Republic of Ireland and Northern Ireland?

Mr Davis: You have to be careful about the use of language in Northern Ireland, because things like "special arrangement" carry certain connotations in the politics of Northern Ireland. Let me be as plain as I



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can about the practicalities of it, which is the real issue. The first thing to say is this. The first foreign state I went to was Ireland; it was Dublin. I met Enda Kenny, of course Charlie Flanagan and the Deputy Prime Minister, who covers justice and home affairs, to, among other things, talk about this issue specifically. It is relevant that I then went on to a British-Irish Chamber of Commerce dinner, where I talked to a lot of people who dealt with issues across the border. It is incredibly important in economic terms to Ireland, as well as in political terms.

The fact is that there is a border there now and there are excise duty differences across the border, which are collected and which are dealt with, but they are dealt with in a subtle and not highly visible way. The trusted trader scheme that I talked about before is the sort of thing that operates and that is what we would have in mind. Now, it is not going to be easy. It will cost us money. It will cost us a lot of work on technology and so on to make border controls on goods, as it were, but without having border posts and so on, and that is what we intend to do. That is what we intend to do.

Actually, to square this circle this way, it is possible that we will end up with similar systems to what we use in Northern Ireland on the border. If we are using trusted trader electronic systems, those exact same systems will be used in sending things to Rotterdam, as well as sending things from Belfast to Dublin or vice versa. We are in no doubt about this: we are not going to do anything that jeopardises the peace process. It is not just us and it is not just the Republic of Ireland, both of which are absolutely committed to this. We have ongoing talks. Indeed, the Secretary of State for Northern Ireland has got them going on at the moment, when he is not dealing with the rather more pressing issue he has at the moment.

It is also the Commission. This may sound odd, but the Commission has a strong emotional investment in the Northern Irish peace process and indeed my opposite number, Michel Barnier, has. When I went to see him the first time, there was a slight humorous element, because he said that there is no negotiation without notification. We went through all of that, we talked about that and then he said, "But let's talk about Northern Ireland," because he had this personal involvement in it. I am confident that the two nations and the Commission will be able to solve this between them, because we really want to, because the technology is better than it was 20 years ago and because we all understand the value of it.

On the other issue of not just goods but people, the Common Travel Area will apply. What we will aim to do is pretty much identical to the 1949 Act, which effectively gives citizenship rights to the citizens of each country in the other country. That is our determination. Sorry, that was a longwinded answer, but it is an important issue.

Q1434 Maria Caulfield: Certainly when we were over there, the feeling was



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that there are a lot of warm words from the UK around the situation in Ireland, but no actual clear solutions. We are days away from triggering Article 50 and both Northern Ireland and the Republic of Ireland need certainty about what is going to happen, so can you be a bit more specific around what is going to happen around customs checks to goods? Particularly in the agri-food industry there, animals are reared in the north, say, they are sold in the south, then they go back and are slaughtered in the north and then are processed in the south. Workers are crossing that border not just once a day or twice a day, but maybe on an hourly basis.

Mr Davis: Workers in the numerous tens of thousands—I know.

Q1435 **Maria Caulfield:** Can you give us any specifics around customs checks on the border, going forward?

Mr Davis: The point here is that this is a practical problem that needs to be solved. It is not just words, as you say. For a practical problem to be solved, we have to have tested systems. We have to have designed systems.

Q1436 **Maria Caulfield:** Do we not have those yet, even though we are days away?

Mr Davis: We do not yet. We have quite a lot of design work to do, but that is under way. That is under way. HMRC is working on this at the moment. The Northern Ireland Office is working on this at the moment. We are having discussions with the Irish Republic on this at the moment. That is all going on.

Q1437 **Maria Caulfield:** Okay, so that is a work in progress. What about the Common Travel Area? Do we have agreement from the other 27 member states that, for the Common Travel Area, we can resort to what was there before we joined the EU?

Mr Davis: I do not foresee a problem. I put in the Amsterdam Treaty a specific reference to the Common Travel Area. However, it is phrased in terms of two member states, so that will plainly fall out, but again I do not see that that should provide a problem, partly because it is also one of the underpinning elements of the peace process. If we took that away, it would knock a leg out of the peace process. The only hiccup you could imagine is if the Commission itself said that we cannot have this special arrangement. I do not think they are likely to do that. It is our intention and it is the Irish Republic's intention to maintain it.

Maria Caulfield: That is also a work in progress.

Mr Davis: No, no, stop. Let us not put words in my mouth. What I have said to you is plainly what we intend and plainly what we expect. If you like, if you want to put a label on this entire hearing, you can call it all a work in progress, because we have not engaged in negotiation yet. I am telling you very specifically that this is a very well defined, intended



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policy. Please do not reinforce the problems you were talking about in Northern Ireland by calling everything a work in progress. That is why people get worried about this. We are aiming, very plainly, for a very clear outcome.

Q1438 Maria Caulfield: With respect, we were in Dublin a few weeks ago and we were told by politicians in Ireland that they have huge concerns about the uncertainty and that they want certainty as soon as possible. Could you give us any clarity about funding for Northern Ireland, because they currently get a huge amount of funding from the EU? They are concerned that, once we pull out of the EU, they will have severe funding pressures.

Mr Davis: Much of this has already been given. The large part of it is either in structural funds, CAP funding and so on, which the Treasury has already done, underwriting CAP Pillar I and bids on Pillar 2. This is basically all guaranteed, effectively until 2020, which is the end of the current Multiannual Financial Framework anyway. It is a seven-year period. I am sure you understand the dynamics of it. That is underwritten already, so that has been done to date. Again, this is a concern, but it is not substantive at the moment.

Q1439 Maria Caulfield: It is very commendable that the first meeting you had was with Irish Ministers and I understand that you said earlier that you meet with the Mayor of London, for example, on a monthly basis. How often are you meeting with Irish counterparts to discuss these issues?

Mr Davis: My Ministers altogether, not just me—I am getting stretched a bit thin—have had over 20 meetings. I cannot remember. Can you remember, Olly? It is something over 20 meetings so far.

Q1440 Maria Caulfield: Are there set meetings built in, as we go forward?

Mr Davis: Yes. There are a number of things. There is obviously the ongoing relationship with the Irish Government. We have an issue with the Northern Irish Executive at the moment, because it is not in place. When the election was called, I specifically invited the ongoing Ministers, the holding brief Ministers. There is no Government, but the Ministers hold the brief. I specifically invited them, from both parts of the outgoing Executive, to make sure they came. The Prime Minister had an explicit meeting with Sinn Féin, if I remember correctly, and I am due to have a bilateral with them. There is lots of it going on. There is no problem for them of access to us, I do not think, but there are other issues going on in Northern Ireland, which are taking their attention too.

Q1441 Joanna Cherry: Good morning, Secretary of State. Back in December when you gave us evidence, we had heard a few days previously from Michel Barnier, the European Commission's Brexit negotiator. It had been reported in the papers that he said, once Article 50 is triggered, Britain would have just 18 months to negotiate its exit from the EU in order to give the EU institutions enough time to ratify the agreement. When you gave evidence to us a few days later, you expressed



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confidence that Britain could meet that timetable. Do you still hold to that view?

Mr Davis: No, I said meet the timetable of the two years. I cannot remember whether I elaborated it at the time but, in his initial approach to this, Michel had the idea that we would have a long transition arrangement on the trade side of the deal and the other ongoing relationships afterwards. The Commission has not repeated that line since and I do not expect them to repeat it. I return to the Karel De Gucht comment. If the will is there, it is technically possible to do it.

Q1442 **Joanna Cherry:** What you actually said to us was, "Mr Barnier said 18 months and I think that it is all negotiable in that time." Does that remain your view?

Mr Davis: Yes, I think so, yes.

Q1443 **Joanna Cherry:** On 15 July last year, the *Daily Telegraph* reported that Theresa May, the Prime Minister, said that she would not trigger the formal process for leaving the EU until there was a UK approach backed by Scotland. Have you reached a UK approach backed by Scotland?

Mr Davis: What we said in terms of the Scottish Government was that we will do everything to ensure that the Scottish people get a good deal—not the Scottish National Party but the Scottish people get a good deal. It is the same for the Welsh people and Northern Irish people, and indeed the people of England. That is what we intend.

We have had discussions in the JMC over a variety of things with the Scottish Government representative. There have been areas of agreement. The most obvious one is issues like the protection of employment rights and areas relating to justice and home affairs. There have been areas where we understand the concerns of the Scottish Government, for example immigration matters, and I think they may well be resolvable by other mechanisms than the Scottish Government think, but we understand that. There are areas that are currently under debate, which are how we handle and the effect of devolution in the return of powers. That is due to be debated at, I think, the next JMC (EN).

There are areas that are much more difficult, such as the Scottish Government's request to have a special arrangement for remaining inside the single market, whilst the rest of the United Kingdom is outside it. We think that is difficult. Indeed, I note that at least two of the advisers to the Scottish Government felt that was impossible as well. We have technical work under way on it, but I am not optimistic that that will come to a conclusion. In that area, as I said earlier, the intent is to try to give as good a deal in terms of access to the single market as we currently have and solve that problem there in terms of outcomes for the Scottish people, not necessarily the individual policy requests of the Scottish Government. Now, we said at the beginning that there will be no veto. We will discuss as openly and as frankly as is possible, and that



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is what we have done. We have not got to an identical position. We are very close on a lot of issues, but not all.

Q1444 **Joanna Cherry:** Should the Committee take from your answer that, as yet, there has been no agreed UK approach backed by Scotland?

Mr Davis: I cannot add any more to what I have told you. There are areas where we agree and areas where we do not agree.

Joanna Cherry: There is no overall agreement.

Mr Davis: There is not on things like the single market.

Q1445 **Joanna Cherry:** Do you accept that the *Daily Telegraph* was correct when it reported that the Prime Minister said that she would not trigger the formal process for leaving the EU until there was an agreed UK approach, backed by Scotland?

Mr Davis: I do not know. Ms Cherry, I am not here to comment on the journalistic virtues of the *Daily Telegraph*. You can make that judgment. I do not.

Q1446 **Joanna Cherry:** Let us look at the terms of reference for the Joint Ministerial Committee. Are you familiar with those, Secretary of State?

Mr Davis: I have read them.

Q1447 **Joanna Cherry:** They state that, inter alia, the purpose of the Joint Ministerial Committee is to seek to agree a UK approach and objectives for Article 50 negotiations. When do you expect the Joint Ministerial Committee to reach agreement on a UK approach?

Mr Davis: The phrase is "seek to agree". If one side does not want to agree, which I am afraid has been the position of the Scottish Government from time to time, then there is no way that seek to agree can turn into agree. I am afraid that the stance of the Scottish Government on this has been, frankly, a very political one that is not necessarily in the interests of the people they represent.

Q1448 **Joanna Cherry:** Do you agree with me that, in order for the Joint Ministerial Committee to reach agreement, it needs to meet?

Mr Davis: It has met four times, I think.

Q1449 **Joanna Cherry:** Are you aware that it was cancelled this week without any prior consultation with any of the participants?

Mr Davis: We have a difficulty at the moment, which does not relate to Scotland. It relates to the issue of the Northern Ireland Executive. During the election period, the Northern Ireland Executive still had Ministers in place. Once it had gone, there were not Ministers in place. The only way that the JMC can meet is to meet as two-thirds, not to meet as one.

Q1450 **Joanna Cherry:** Are you saying that the JMC cannot meet at present



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because there is no Northern Ireland Executive? Is that your evidence?

Mr Davis: There is a three-week timetable, Ms Cherry, for the resolution of the election. At the end of that, if we do not have a Northern Ireland Executive, we will have to make a decision on what we do. I will discuss that at that time with the Northern Ireland Office and the Secretary of State for Northern Ireland.

Q1451 **Joanna Cherry:** I am puzzled as to your evidence. Are you saying that there will be no further meetings with the Scottish Government and the Welsh Administration until such time as a Northern Ireland Administration has been formed? Is that your evidence? I am just trying to understand you, Secretary of State.

Mr Davis: I am going to give you the answer, if you will just stop trying to put words into my mouth. I have had a meeting with Mr Mike Russell three weeks ago, since the last JMC (EN). I have had a meeting with the First Minister of Wales last week. There is discussion with them. There are also the territorial Ministers who attend and are part of that Committee, who have constant meetings too. "No" is the answer to your question.

Q1452 **Joanna Cherry:** The Prime Minister has made it clear that she wants to trigger Article 50 before the end of the month. When will the next meeting of the Joint Ministerial Committee be held?

Mr Davis: It will be as soon as we can, once we have a resolution on Northern Ireland.

Q1453 **Joanna Cherry:** Will one be held before the end of March?

Mr Davis: It may not be, but that does not mean that we will not have any further discussions with the relevant governments.

Q1454 **Joanna Cherry:** There may not be any further meetings of the Joint Ministerial Committee before Article 50 is triggered. Is that the position?

Mr Davis: There may not. There may not, but I do not know at this stage.

Q1455 **Joanna Cherry:** Will the devolved governments be given any notice of the triggering of Article 50?

Mr Davis: I think we will be having conversations with them beforehand.

Q1456 **Joanna Cherry:** There will be a conversation with them beforehand. Both the Scottish Government and the Welsh Administration have produced detailed white papers about which this Committee has heard detailed evidence. Does the British Government intend to publish any response to these white papers?

Mr Davis: What happened when those white papers were produced is that they were both presented to the Joint Ministerial Committee and we discussed them in some detail. The position of the British Government on



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each component of the issues is very plain to each Government, and indeed the whole JMC. That is where I took my comments to you about areas where we agree, whether it is justice and home affairs or employment legislation, and areas where we are still in discussion, which is over the question of how the devolution mechanism works.

Essentially the stance of the Scottish Government is that everything that is in the European Union remit goes down to the Scottish Government's control, which is incidentally not the position of the report done for the Scottish Parliament on this, which said that that was plainly untrue. In the area of the single market, we are still working. We still have technical work to do on this, but I have to say that the negotiability of such a thing, even if it were proved practical, which I do not think it will be, is moot to say the least. All of those points have been made to Mike Russell in the Committee and in bilateral meetings between him and me.

Q1457 Joanna Cherry: Do you intend to publish a response to the white papers produced by the Scottish and Welsh Governments, yes or no?

Mr Davis: We have already discussed it with them. Do you want a piece of paper? What we are about is the substantive interests of the people of Scotland, not the political point scoring of the SNP, which is what you seem to try to reduce this process to, which is really rather sad for the people of Scotland.

Joanna Cherry: Secretary of State, I do not want to reduce this to a political rally.

Mr Davis: You are doing very well so far.

Q1458 Joanna Cherry: Whether you like it or not, the Scottish Government was elected on 46.5% of the vote of the Scottish people at the last election in Scotland and has produced a white paper. I am simply asking you whether your Government will do the Scottish and the Welsh Governments the courtesy of producing a written response, not whether you agree with it. I am sure there are many parts you disagree with, and I would be very interested to know why, but I am not talking about me. I am talking about the people of Scotland. Will they be favoured with a written response to the detailed White Paper produced by their Government, yes or no?

Mr Davis: The Scottish Government have already had a detailed response in the meeting. One part of it that is still ongoing is the technical work that we are doing in conjunction with the Scottish Government, over their proposal for single market status for Scotland alone. That is not complete yet. I am not going to give any further commentary on how we are going to respond to that. We have done a great deal of response already.

Chair: We are going to have to move on.

Q1459 Mr Whittingdale: Secretary of State, we are eagerly awaiting the Great



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Repeal Bill, which we understand you will be introducing to Parliament reasonably soon, with the expectation that it will pass on to the statute book by the end of this session. As you are aware, while you are conducting your negotiations, the Brussels sausage machine is continuing to churn out evermore regulations. Can you say first of all what the status is of regulations that are issued post the passage of the Great Repeal Bill?

Mr Davis: The purpose of the Repeal Bill is to ensure that, on the day of departure, our corpus of law is identical to the *acquis communautaire*, to that point. The point of break is not after the Bill is passed; the point of break is the point of Brexit. Up until that point—everything passed—we will continue to be a full member of the European Union, we will obey their laws, we will pay our bills and all the rest of it.

Q1460 **Mr Whittingdale:** Does the Repeal Bill mean that future regulations issued by the European Union, while we are still members, become part of British law, even though they have been issued subsequent to the Bill?

Mr Davis: Yes.

Q1461 **Mr Whittingdale:** As you are aware, there are a number of issues being debated in Brussels at the moment that are of huge importance to the creative industries. The first I just want to mention is the digital single market. There are aspects of that that would be very harmful to the creative industries and to the Premier League, particularly around the issue of maintaining territorial licensing and geo-blocking. The British Government position previously was to defend those interests and to resist attempts to remove territorial licensing. However, it has been suggested that, because UKRep is having to devote their attention to the forthcoming negotiations, they are backtracking on or downplaying other issues. They do not wish to expend political capital by being difficult about those aspects, when they are about to go into the negotiation. Is there any justice to that concern, and can you give a reassurance that UKRep will remain as robust in defending British interests in ongoing discussions as it has been to date, or indeed rather more so?

Mr Davis: The short answers are no and yes. I do not recognise this idea that somehow we are reducing the emphasis on ongoing business. We take two clear stances on everything we do with the European Union: one, what is in our national interest; and two, what is in the European Union's interest. Those two things are rarely in conflict and I do not think they are here. As you know, we are against unnecessary restrictions in all trade areas and we will be continuing down that route. I have not talked to the DCMS Secretary on that issue in the last two or three weeks, but my understanding and my expectation are that we will be continuing our normal stance on this. Olly, do you want to pick that up?

Olly Robbins: If I may just briefly, Mr Whittingdale, on your general point, the emphasis on ongoing business if anything is increasing. As



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Ministers have said, we are very conscious that this is the market with which we will be dealing closely for years to come. This is an opportunity to continue to push it in the direction of openness and free trade, and so that is what we are trying to do. UKRep operates under Ministers' authority; it does not have a different policy position on any of these issues. The same collective process for agreeing our stance in committees and working groups up to the Council, with which you will be very familiar, still operates.

Mr Davis: A generic point, Mr Whittingdale, is that the digital area is one that is probably getting a disproportionate amount of interest from us. Of course it matters to the industries you are talking about, but getting all these standards right matters right across the board. Digital has more overspill effect in everything else than any other aspect of policy.

Q1462 **Mr Whittingdale:** I am glad that you recognise its importance, but can I ask that you will talk to perhaps the Premier League and the film industry, both of which depend on the maintenance of territorial licensing, which some in Europe are seeking to remove as part of the digital single market negotiation?

Mr Davis: I have not yet spoken to the Premier League, but I have talked to the digital industry more than once. Indeed, I think I said that, when Sadiq Khan came to see me last week, he brought with him John Sorrell, who you may recognise.

Q1463 **Mr Whittingdale:** Can I move on to another ongoing area of discussion affecting the creative industries, which is the audiovisual media services directive? You have already recognised that, for the creative industries, the paramount concern is the maintenance of the country-of-origin principle. We had Ivan Rogers sitting in that chair, who said that common sense would tell you that, the day after Brexit, there is no reason why our regulatory regime should be any less compliant than the day before Brexit. Therefore, if one were being sensible, you would just accept that, but that is not how Europe works. The key issue for Europe is that, once we are no longer subject to European law, the country-of-origin principle could no longer apply. Do you agree with that assessment? What optimism do you have that we can maintain the country-of-origin principle?

Mr Davis: We have explicit work going on, on exactly that issue. I have not seen it for some weeks but, if you like, I will write to the Committee on it in detail. It is a clear area. Ongoing equivalence regimes and equivalence mechanisms are going to be of incredible importance, particularly in service industry areas, whether it is film, video, any of the creative arts or indeed banking, for that matter, so this is why we are paying big attention to it. If I may, I will write to you in detail on it.

Q1464 **Mr Whittingdale:** One last one of equal importance to those industries, which the Chairman raised at the beginning, is the data adequacy requirement. We had it put to us by the tech sector that the



maintenance of the ability to transfer data across borders within Europe is utterly essential, in something that is going to be of increasing importance to this country. However, they also put it to us that it was not only essential for UK-based countries to be able to transfer data to other European countries freely; it was equally important for a very large number of European countries that they could transfer data to this country, particularly since some of their servers and other support are based here. To what extent can you mobilise other European businesses, for which the maintenance of this kind of freedom to transfer data and other goods more widely, to advantage of that and get them to argue our case in the forthcoming negotiations?

Mr Davis: You are quite right that there are some pretty powerful players. Microsoft has a three-server arrangement mirrored here, Dublin and Amsterdam, from memory. Google has similar issues. Yes, we will be marshalling those people. It is even wider than you describe. When the Chairman raised it, I considered whether I should go into detail or not, but I will now. There was a challenge by an Austrian man called Schrems against the Americans on safe harbour status. Of course, at the moment we are outside, but it is conceivable we could be involved in such a challenge. One of the strategies I am arguing inside Government is that we make ourselves extra-robust in that respect. That has security implications, commercial implications for other industries because data is so important there and of course enormously important implications for the digital industry and the tech industry itself. Yes, we will be engaging in that. As I said earlier, this is going to be not just the whole of the Government but a whole-of-the-country and a whole-of-society operation, once we get under way.

Q1465 **Mr Whittingdale:** On that point, you mentioned the importance to big international companies like Microsoft and Google, but what they have put to us is that almost every business, in every sector, now makes use of their technology. Therefore, they will be directly damaged as well. You can mobilise virtually the entire of European industry.

Mr Davis: The disruptive effects of this not being done properly are damaging across the board. You are quite right.

Chair: Thank you very much indeed. Can I just say, colleagues, that I am going to try to get in everyone who has indicated? We are going to need to be as succinct as possible in order to make that happen.

Mr Davis: I will try to break my habit of a lifetime.

Chair: We are going to give you a little bit of a rest now, because I am going to call Karl McCartney next, who has a question to put to Mr Robbins.

Q1466 **Karl McCartney:** It is no detriment to the Secretary of State at all, but just to give you a break. Mr Robbins, when we first met you, I questioned you on your people count, your headcount, and you proudly



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told me that you were just around 300, at that point. Secretary of State, when you came in front of us, you mentioned that that had gone up to about 325. That was some time ago. What is the headcount in your department now?

Olly Robbins: It is roughly the same, Mr McCartney, but we are in the middle of quite a big external recruitment exercise.

Q1467 **Karl McCartney:** It is roughly the same. Has there been any movement on the numbers of people who have been recruited from outside of the Civil Service at all?

Olly Robbins: Yes. It is an external exercise that we are in the middle of. We now have, either in the department or with firm offers and acceptances to come to the department, just under 80 people from outside the Civil Service.

Q1468 **Karl McCartney:** Of those 80 people, what proportion of those used to work in the Civil Service and may have been approached by one of the members of your senior management team and asked if they would like to come back to work in the department?

Olly Robbins: I could not give you that number, I am afraid. I am not aware of that being a particular issue.

Karl McCartney: If you would like to find out and write back to the Committee, we would be very grateful. I am very pleased to hear that you now have roughly 80 people who are coming from outside. That ends my questions.

Q1469 **Chair:** What is the current total full-time equivalent headcount of staff in DExEU? I have asked a couple of questions and was slightly perplexed to get one reply that said, "We are not going to give you a running commentary on the total number of staff we employ." I was not asking for a running commentary; I was just asking for a total. I know it is Ministers' responsibility for the replies and not yours, Mr Robbins, but it would be helpful to know what the current figure is.

Olly Robbins: The number this week is 322. Never forget, if I may, Chairman, that of course also under the Secretary of State's responsibility is UKRep, with a further 120 members of staff.

Q1470 **Mark Durkan:** Secretary of State, you referred to some of your exchanges in your current role with Michel Barnier and his recall of his personal involvement in the Northern Ireland situation and the cross-border peace programmes. As Minister of Finance and then as Deputy First Minister of Northern Ireland, I negotiated with him and his officials on these things and I am aware that he is a man of particularisms.

Mr Davis: I may have a job for you as an adviser, Mr Durkan.

Q1471 **Mark Durkan:** He has volunteered, both publicly and in his meetings



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with you, the fact that he has some emotional investment in that. Given that, has it occurred to the UK Government that maybe this wording that is often argued about in Article 50, about taking account of the framework for its future relationship with the Union, might offer a case for saying early on in these exchanges with Michel Barnier that we would want the framework for the future relationship with the union and the UK to specifically have, as named features, both the Common Travel Area and the Belfast agreement?

Mr Davis: It sounds to me like quite a good idea. I have not considered it in detail yet. Whether it is named or whether it is implicit, as far as I am concerned, bluntly, the Common Travel Area is non-negotiable; we have to have it. Ditto for the components of the Belfast agreement, but I will happily look at the specific you asked me about.

Mark Durkan: I note what you said about your wider task. You said that the deal is unique and the approach we will take to it is unique too, so of course there should be a unique Irish dimension within that deal, particularly as far as the framework for the future relationship with the EU is concerned.

Mr Davis: Were it not for that emotional investment, I would view this as a difficulty, because the European Union will not like having a separate relationship, but we have a decent chance.

Q1472 **Mark Durkan:** In one of his first public statements, he seemed to indicate that he was open to the possibility of some continuity of some of the special EU funding that attached to the peace process continuing beyond Brexit, as well. In terms of building towards those sorts of possibilities, what weight can you indicate the British Government can give to the point that the Taoiseach made, both in Ireland and in Brussels, on the 23rd of last month—that the Irish Government would want to see the specific consent provisions of the Good Friday agreement reflected directly in a new UK/EU treaty?

Mr Davis: I am going to need to read up on that properly, Mr Durkan. I cannot give you an instant answer to that. It sounds to me like I am going to be in the same place as you, but I need to be very careful.

Q1473 **Mark Durkan:** If the Taoiseach is able to say that on behalf of the Irish Government as co-guarantors of the Good Friday agreement, why are the British Government not saying the same thing as co-guarantors?

Mr Davis: I do not see an intrinsic problem, but I would need to just check with the Northern Ireland Secretary that he is comfortable with me saying that. I do not see a problem.

Q1474 **Mark Durkan:** It is important, in circumstances where people are quoting the Barroso doctrine in relation to various things. You can appreciate the importance from an Irish nationalist and constitutional perspective.



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Mr Davis: My hesitation is only formal. It is not substantive. I have to do my check with the Northern Ireland Secretary first, but that will be fine. I am sure I can get back to you today.

Q1475 **Mark Durkan:** Do you accept that, after Brexit, if the Good Friday agreement is properly reflected in the future relations between the EU and the UK, Northern Ireland is one part of the UK that could elect to re-join the EU without requiring an Article 49 negotiation?

Mr Davis: Not while it is a member of the United Kingdom, no.

Mark Durkan: That would be under the consent provisions of the Good Friday agreement.

Mr Davis: That is exactly why I need to talk to the Northern Ireland Secretary. I will come back to you on that. You are dealing in very delicate areas, quite rightly, and I will come back to you with a formal decision today, a formal response today.

Q1476 **Mark Durkan:** As well as that being one point of differentiation between Northern Ireland and the rest of the United Kingdom, because of the Good Friday agreement it could be one area of the UK that could re-join the EU without requiring an Article 49 negotiation. There is another point of difference as well, which is that Northern Ireland is the only part of the United Kingdom where people, by birth, will be able to declare themselves to be citizens of a member state of the EU.

Mr Davis: That is because of the passport arrangements between the two, exactly.

Q1477 **Mark Durkan:** It is not because of the passport arrangements. It is because of the Good Friday agreement. Are you comfortable with that also being reflected explicitly in any new agreement between the EU and the UK?

Mr Davis: I do not have any problem with that. The effective dual nature there seems to be recognised already. Again, I will give you a formal response to all this.

Q1478 **Mark Durkan:** A further point is that, because of the Good Friday agreement, we have Strand Two provisions, which are north/south. We also have very important Strand Three provisions east/west. In my view, both Strands have been underused and underdeveloped since the agreement. Given that many people recognise that there are going to be issues and implications for the institutions of the agreement as a result of Brexit, are the British Government open to using the ambit of Strand Two as a means of answering some of the problems that will arise, in terms of dealing with issues on a north/south, cross-border basis?

Mr Davis: Literally, Mr Durkan, I do not want to be difficult with you, but I am going to have to give you a formal response to all of this, rather than off the cuff. Forgive me; I am not trying to be difficult. I am



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conscious of how important this is in Northern Ireland. I am conscious that I do not want to trample across the Secretary of State.

Q1479 **Mark Durkan:** It surprises me that, in circumstances where we have been treated to constant refrains about trying to avoid a hard border, the Common Travel Area and lip service to the Good Friday agreement, more thought or attention has not been given to these things, because we have raised these things consistently with the Northern Ireland Secretary of State and others. It is surprising.

Mr Davis: I understand, but this is a whole-of-government exercise and I am not an expert in that area. I will make sure that we get proper responses to you. It will not take more than a day.

Q1480 **Mark Durkan:** You are saying that you are going to look at these things. I ask you then, when you are looking at these things, to consider constructively that the agreement could provide a tool kit for answering a number of the problems and the challenges that Brexit will bring for handling things on a cross-border basis and also for managing the future relationship on an east/west basis, between not just London and Dublin but also the respective devolved Administrations and the other island Administrations as well.

Mr Davis: That is interesting. Thank you for that.

Q1481 **Michael Gove:** As Secretary of State, what do you think Michel Barnier and his colleagues want at the end of this process?

Mr Davis: I think they want a constructive outcome that they can be proud of when they look back on it. This is a difficult time for the European Union, and I know they view our decision with some sadness. I think they will want to get the most constructive outcome at the end of it.

Q1482 **Michael Gove:** What would that mean for the nations of the continuing European Union? What are the particular aspects of the relationship with Britain that they would like to see emphasised? Obviously you cannot describe an end state in detail but, in general terms, what would they like to see Britain achieve as Europe's strategic partner, as the Prime Minister has put it?

Mr Davis: You are asking me to surmise and mind read, to some extent. We are hugely valued for a variety of aspects. Just apart from our role within the Council, we are hugely valued for our stance on security, our help on security, our defence positions, and our geo-strategic position with respect to Russia, Middle Eastern problems and so on. I would expect them to hope that that would continue. That is the first thing. Secondly, once we are outside the EU, we will still be a large player in the world. In many ways, we will be a larger player in the world because of our independent operation, and I think they would want to see us as allies in many of the initiatives they take.

Q1483 **Michael Gove:** I know that your ministerial colleagues have been asked to explore policy changes that come about as a result of our having left



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the European Union—things that we could do outside that we could not do within. Which are the most exciting of the ideas that have so far been put forward?

Mr Davis: I do not do excitement, Mr Gove.

Michael Gove: Let me use a synonym: alluring, engaging, interesting, provocative or worthy of being shared with this Committee.

Mr Davis: Neither am I a journalist. I do not do provocative either. We have been in the Union for 40 years, so we have a 40-year corpus of law. Some of it works well. Some of it works not so well. There will be areas where we will have to address the need to replace policy. There are fairly obvious ones on farming, fisheries and others. There may be some in the areas that Mr Whittingdale was referring to, in terms of digital areas. We might want to free things up a bit in some areas.

I am of the view that this is not going to be an instant fix. We are going to be out on good terms, make all that work and then take our time for Parliament, the UK Government and indeed the devolved Administrations to seek to improve our corpus of law. I am not going to pick out any one; I am not going to take any favourites.

Q1484 **Michael Gove:** Do you think that there are opportunities, however, in areas like Government procurement, specific support for industries going through periods of change or using an alternative to the current clinical trials directive in order to generate innovation in pharmaceuticals and life sciences? Do you think there is potential in any of those areas?

Mr Davis: There are potential opportunities. Much depends, however, on what the ongoing relationship is in terms of equivalence between those regimes and the existing European regimes. To take the last one you picked, clinical trials, it has not been a great experience for Europe. Its clinical trials policy has not been very effective. We may well or will try to negotiate a position where we have the freedom to improve on it, but without infringing on equivalence. But that is a very detailed exercise, and it will constrain us a little bit afterwards. We will still be freer than we are now, but it will constrain our actions a little bit.

Q1485 **Seema Malhotra:** Secretary of State, you said that the Government have not undertaken any economic assessment of the impact of no deal since the referendum. Can I ask if you are aware of the economic forecasts in relation to Brexit in the OBR's document published this week?

Mr Davis: The OBR makes its forecast, but there is more than just Brexit involved in that. The growth pattern was higher for this year, as you will have seen. It dips a little then recovers again to 2% in 2021. That is not just Brexit; that is many things. Even in the funding arrangements there are very often shifts between years, rather than secular changes.

Q1486 **Seema Malhotra:** You will be aware and have read that, in relation to assumptions underpinning what could happen in relation to Brexit,



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consistent with the range of possible outcomes they describe, they say, "The negotiation of new trading arrangements with the EU and others slows the pace of import and export growth for the next 10 years."

Mr Davis: That is their assumption.

Q1487 **Seema Malhotra:** Do you agree with that assumption? They say that they "have calibrated this on the basis of a range of external studies of possible trade regimes".

Mr Davis: They are just picking averages. I said at the beginning that economic models are only as good as the assumptions put into them. They are also only as good as the mechanics within them. You will have seen that—I have forgotten which—one of the Deputy Governors referred to modelling's Michael Fish moment. It was Haldane. I do not worry myself about mathematical models that are very rarely accurate in the longer run.

Q1488 **Seema Malhotra:** Their forecast is based on external studies of different trade regimes and asserts that this could slow the pace of import and export growth for the next 10 years. Would you agree with that assumption being the best possible assumption that we can make right now?

Mr Davis: They are required by law to do those forecasts. They have taken outside views on it. I take the view that most of the forecasts made about Brexit, most if not all—

Q1489 **Seema Malhotra:** Sorry, Secretary, I just want to know whether you agree.

Mr Davis: I am answering your question frankly, in the way I want to answer it.

Seema Malhotra: I just want to know whether you agree or would you say you disagree with their forecast?

Mr Davis: I am not going to sit here, as a Member of Government, and disagree with one or other forecast. I am going to say to you that forecasts have their limits. That is the answer.

Q1490 **Seema Malhotra:** Could I just ask one final small question then? You raised a whole set of possible consequences of no deal. Indeed, there could be different outcomes from Brexit. If there is a situation, for example with no deal, whereby the UK had to take on certain extra functions, whether they are border checks or regulatory equivalence functions, could you foresee there being potentially a few years of cost to the state? Have you undertaken any assessment, at this stage, of what those extra roles would be that we would have to take on? Would you then see them being funded through cuts in public spending or in increasing taxes? Obviously the budget forecast is taking us all the way to 2021.



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Mr Davis: As I said to the Chairman at the beginning, the way you approach these things is to assess what is necessary first. You decide what you have to do organisationally and then you determine what the costs will be. That will be the sequence. The first stage of that is already under way in every single department of state. The next phase will be costing and working out some of it, which we have to do anyway. Against that, you also have to work on the premise that there will be changes to the underlying economy. The point of the Brexit strategy is to make the most of those underlying changes. Free trade with the rest of the world is not assessed, as far as I can see. There will be benefits from that so, at the end of the day, we will no doubt have an idea of the benefits and costs, and what the net position is. I suspect that the net is going to be positive.

Q1491 **Stephen Timms:** Secretary of State, we talked earlier about attitudes in Germany. I visited the German Parliament recently. Told that the UK is going to seek barrier-free access to the single market but will no longer operate free movement, all the MPs we met, representing all the parties in the German Parliament, said that this would be unacceptable cherry-picking. "Cherry-picking" is the term that they keep on using, and Germany is by no means the hardest nut to crack. I just wondered if you recognise that the aims that you have set out and all of us would hope to see achieved are going to run into very formidable political opposition in European parliaments.

Mr Davis: It is going to be a two-year negotiation, or a negotiation for the best part of two years. Of course, there will be people with opposing views. Germany is at the harder end of the spectrum on this. Of the nation states, they are not the most committed but certainly one imbued with the concerns of creating an exemplar for other people that might leave. That is the rational basis of the punishment arguments and all the rest of it. They are at the end that is saying that, but the tone of their own leadership has changed over time.

It would be interesting for you to read a sequence of the comments of Mr Schäuble, for example, from immediately after the referendum up until now. Mr Schäuble has been very constructive. That is what we are going to have to address. We are going to have to take that on. Germany has big industrial interests in having free trade with us. Never forget it is £290 billion from Europe to us, whereas it is £230 billion from us to them, so it is important for them. If I were talking to those parliamentarians, and I have not yet spoken to German parliamentarians, I would say to them to look at the original basis of what the European Union was set out to do. It was trying to achieve stability through trade, if I may simplify it, and to create a good economic model, so that the threats of the past do not recur. Surely a large part of that is free trade with us.

Q1492 **Stephen Timms:** Have you documented those comments from Mr Schäuble?



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Mr Davis: They are in the public domain. I am not talking about comments to me; they are the ones in the public domain. It is worth having a look. Just seek it.

Q1493 **Jonathan Edwards:** Would I be right in summarising that your department is responsible for the free trade agreement with the European Union and then the Department for International Trade is responsible for other trade deals?

Mr Davis: Broadly yes. My department is basically a servant to the Prime Minister and she is responsible for it.

Q1494 **Jonathan Edwards:** Therefore my question is: is there any conceivable situation whereby, should negotiations with the EU Commission be slightly more protracted than what you anticipate and no deal is reached before we leave, on Brexit Day, other trade deals could be signed before the EU trade deal, or is it the Government's priority to sign the EU trade deal first?

Mr Davis: We have not thought about that context, because I am aiming to conclude in the two years. That is the legal end of membership, so that is when we are able to sign the deal. We will be aiming for two years, not for beyond it. It gets quite complicated if you go beyond the end.

Q1495 **Jonathan Edwards:** Just a last one: should it be that the UK Government decided to sign the US trade deal, and there has been a lot of noise about that from the Secretary of State for International Trade, before the EU trade deal, do you recognise the difficulties that that may create in your ability to finalise the EU trade deal?

Mr Davis: It cannot be signed before the end of the two years. It cannot be signed before that. By the way, it is not just him. Apart from the Trump Administration, the heads of the Senate and the House of Representatives have also indicated enthusiasm for this. But it cannot be done before the two years are up. We can do everything but sign, but you will remember that, as I think I said last time, we are bound by a duty of sincere co-operation, so we do not undermine or create problems for the rest of the EU in doing what we do. That is why we cannot sign until afterwards, but we can certainly do everything else but. The signature will not be while it is not legal to sign. We will obey the law.

Q1496 **Jonathan Edwards:** There is no trade race between government departments then. There is no trade race between you and the Secretary of State for International Trade to sign the first trade deal.

Mr Davis: No, we are not having a race.

Q1497 **Chair:** There are just a couple more questions from me, Secretary of State. Are you still confident that, at the end of this process, we will still have access to data-sharing arrangements in the field of justice and home affairs? They are things like the Schengen information system,



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Prüm and ECRIS, which as we both know are very important to our national security.

Mr Davis: Yes, that is our intention. There will be technical issues, but I do not expect that we will face anything but supportive responses from the European Union.

Q1498 **Chair:** In the White Paper, the Government acknowledged that, in seeking and hopefully concluding a comprehensive free trade agreement, there will need to be an arbitration mechanism. The Government are allergic to the European Court of Justice. Would the EFTA court be a possible alternative model?

Mr Davis: It is not allergic to the European Court of Justice, in this context. If we did a deal with the United States, we would not have the Supreme Court of the United States be the arbitration mechanism. We will have to design the mechanism to be appropriate. There may be more than one. You might have one mechanism that applies to trade and another one to arbitration in justice and home affairs, for example, and they may be different in style. We are looking at that. We have already done some work on it. We are looking at putting in place the most decisive, fairest and most effective system, and it may change. It may be different. In some areas you have arbitration mechanisms; in other areas, you have political resolution mechanisms.

To give you an example, sir, the Swiss position is a political resolution mechanism and it has not worked. They have ended up with an unfortunate outcome after their referendum on free movement. We are looking at evidence on the effectiveness of these things, in different contexts, in different parts.

Q1499 **Chair:** Am I right in understanding that it is the direct applicability of ECJ judgments that is the thing that the Government object to?

Mr Davis: It does not really matter whether it is the ECJ or any other domestic court for a trade partner. We would not look to a system that was effectively subordinate or even the same as their own domestic court. We would look for an independent system, so independence is the key issue.

Q1500 **Chair:** When can we anticipate seeing the Great Repeal Bill white paper?

Mr Davis: I have told you privately, Chairman, and I do not mind telling the Committee that the primary problem here was that we had undertaken to show the devolved Administrations a copy at least a few days before we put it out in the public domain. Of course, the Northern Ireland situation gives us a problem with that. Until we get to the end of the three-week period, if there is a Northern Ireland Executive in place, it will be very soon after that. If not, it is going to have to be soon anyway, because we need to see it pretty soon. I cannot give you an exact date yet, but you will be aware that I am very conscious that you need to see this document soon, so that you can look at the



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upcoming bill properly. I hope you take the point, Chairman, that we have taken your request seriously. The timing of the last white paper was largely off the back of your own request on timing. I told you at the time that it was difficult—and it was, but we managed it. I will try to give you this as quickly as we can.

Q1501 **Chair:** I know that the Committee is very grateful for the speed with which the Government responded to our request for a white paper. We read it in the newspapers, but can you also confirm that there will be other bills following the Great Reform Bill? They will potentially deal with things like immigration. There may be one on financial services, the environment or whatever it is. There will be a series of bills to follow.

Mr Davis: Yes, there will be a number of bills. If I did not make it clear before, I apologise. The strategy is to deal with the repeal of the European Communities Act 1972 and the translation of the *acquis communautaire* into English law in the Great Repeal Bill. You quite rightly renamed it. The second phase will be dealing with substantive matters in primary legislation, because that is my view as to how it should be done, and non-substantive matters or less substantive matters in secondary legislation. There will be a number of major bills.

Q1502 **Chair:** The final question from me is this. Is there anything you want to add to what you said to me in that opening exchange of correspondence we had about how you intend to keep Parliament, but in particular this Committee, informed as the negotiations unfold, in addition to what will be your regular appearances before us?

Mr Davis: They are my excessively regular appearances.

Chair: I was going to say, but anyway it is how you propose to do that.

Mr Davis: We have not made much progress on that yet. We have said to you already that, for the House as a whole, we will obviously do at least as much as the European Parliament has. Of course, we truthfully do not know what that is yet, because this is unique, but we will work around that. Beyond that, to some extent it will depend on what information becomes available. As I said to you, whenever it does not undermine or risk our negotiating stance, and therefore the national interest, I will be keen to give you as much information as I can. Quite what that will be at the moment is difficult, because we have not seen the stream of what we get from the Commission, for example, and our response to that. I just say this to you: I will do what I can to keep you as informed as I possibly can.

Q1503 **Chair:** That includes keeping us as informed as the European Parliament would be because, as I am sure you realise, the Committee would not take too kindly to discovering stuff that we had not been informed of via colleagues in the European Parliament.



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Mr Davis: We will endeavour to avoid that. I have given UKRep instructions to that end and the department instructions to that end, some time ago.

Chair: That is extremely helpful. We are very grateful to you, Secretary of State, for giving up so much of your time, and Mr Robbins also. We will probably see you again in June, because we do intend to see you regularly. We are grateful. In addition to all of your many responsibilities and the travel that you are engaging in, thank you for coming today.