



Select Committee on the European Union

Corrected oral evidence: Brexit: scrutiny of negotiations

Wednesday 21 February 2018

10.05 am

Watch the meeting

Members present: Lord Boswell of Aynho (Chairman); Baroness Falkner of Margravine; Baroness Kennedy of The Shaws; Earl of Kinnoull; Lord Liddle; Lord Teverson; Lord Whitty.

Evidence Session

Heard in Public

Questions 1 - 16

Witness

I: Mr Michel Barnier, Chief Negotiator, Task Force for the Preparation and Conduct of the Negotiations with the United Kingdom under Article 50 TEU.

Examination of witness

Mr Michel Barnier.

Q1 **The Chairman:** Welcome, Mr Barnier.

Michel Barnier: Thank you, Lord Chairman. I warmly thank you, Lord Chairman, Lords and Ladies for this new meeting. I am very happy to see you again. You are welcome here for many reasons—as I have said in the past, my door is always open—but more precisely because the two Chambers of the British Parliament must be regularly, precisely and deeply informed about these negotiations.

You will have to see and approve the Withdrawal Agreement, and as parliamentarians you inform the important and necessary public debate throughout this extraordinary and complex negotiation. In order to have a real, clear and sensible debate, national parliaments must be involved. That is why I take the time on each of my visits to every capital of the 27 to meet, at my request, the national Parliaments, the national trade unions, the business communities and, obviously, the Government. I want to take the time to meet the national parliaments.

It is clearly necessary for you in this phase of the process, and it will be necessary for all the other national parliaments, as far as future relations are concerned, because at least some of the new treaties or new international agreements translating those future relations will be mixed treaties requiring national ratification by unanimity of the 27 national Parliaments, and even of some regional Parliaments. I remember clearly what happened with the CETA agreement. We have to be mindful of this.

As I say, it is a real pleasure to meet you. Perhaps you would like to say a few words first, Lord Chairman. Then I will take the time to tell you where we are.

Q2 **The Chairman:** Can I respond by thanking you very much on behalf of our Committee for your time? For most of my colleagues, it is not the first time you have met our Committee. For me, it is in fact the first time, because when we were last in Brussels I had a rather pressing appointment with my heart surgeon.

It is lovely to be back and to have your welcome for what I think will be a reflective discussion, which is very much our style and, I know, yours. We are putting it on the record, which is appreciated, if that is all right. We very much welcome your welcome today and your implied readiness to carry on this conversation when we need to, not least because you touched on the fact that there will be—and we very much hope there will be—future relations. We might come back to that as we conclude.

You will be familiar with the work of our Committees—I hope you are—and the style in which we put things forward. We have a little more reflective style perhaps than our colleagues in the Commons. Indeed, some of us have come from one to the other. My colleagues all have their pressing questions, but in introducing this session I would just like to ask

you briefly to summarise your take, as we say in English—your view—of the current state of play in the negotiations, as we are at this interesting point of junction between phase one and the beginning of phase two.

Michel Barnier: Lord Chairman, if I may, I will switch to French.

The Chairman: Of course, yes.

Michel Barnier: This is just for cultural diversity...

[*Interpretation*] Chairman, ladies and gentlemen, I would like to tell you my frank view of the state of play in these ongoing and rather exceptional negotiations, which I am leading on behalf of the 27 member states. We are in the European Commission building here, at the Commission's headquarters, and the European Commission is the lead in the negotiations. This is where the relevant services and expertise are available to run the various EU policies, the policies which your country has decided to leave.

From the very beginning, in my role I have been given a very clear remit by the 27, with whom I work very closely on a daily basis, and of course by the European Parliament, which will have the final say on the Brexit treaty.

Perhaps in reply to one of the points that was made in Munich on Saturday, which I attended, Prime Minister Theresa May raised the very important issue, which I would be very happy to come back to, of our future defence and security relationship. She referred to the "Brussels ideology" at one stage. I was quite struck, I must say, by this particular formulation. We do not have an ideology. There is no spirit of revenge and no desire to inflict punishment; that is the very opposite of what I want.

Let me point out that I am not a Brussels technocrat; I am a politician. It is true that for 10 years I was a member of the European Commission, and I have now come back in a different capacity. I lead these negotiations with a firm, constructive and clear-eyed approach, but there is no ideology in this. We have rules. As Members of the House of Lords, you work day in and day out on legal texts. The European Union is not a federal state; it is a community of 28 nations, which is founded on a community of law and the rule of law. When we talk about the UK's withdrawal, we are talking about disentanglement from hundreds of legal texts and international agreements. I work on the basis of legal facts, and I do so as objectively as I can. I just wanted to stress this particular aspect. Of course, there is also the role of the European Court of Justice, which is the common court of all 28 until the UK leaves the European Union.

What is the state of play in the negotiations? We have asked to begin with issues relating to the past and the present: in other words, the separation that your country has decided on. My goal is to ensure that this can be an orderly rather than a disorderly withdrawal. That is why the joint report that we—Theresa May, Jean-Claude Juncker and the

negotiating teams—signed off in December after a lot of work is so important. This interim report is an important development; it puts us on the path to an orderly withdrawal rather than a disorderly one.

*[Slide 1]*¹

1. We have not got there yet. Since December, I have followed my remit, which is to finalise the treaty on separation. On the diagram, that is the yellow part towards the top. This means enshrining in a legal text all the relevant paragraphs, of which there are 96 in the report, and all the other issues relating to separation that have not been fully negotiated, or in some cases not even negotiated at all. These are less vital issues perhaps than citizens' rights, the financial settlement or Ireland, but they are by no means negligible issues; they are Euratom, goods placed on the market, legal and administrative proceedings that began before your departure but in some cases will be concluded after departure, intellectual property, public procurement and other issues such as governance.

All these issues are part and parcel of the negotiations that we are having this very week with the United Kingdom negotiating delegation, with a view to reaching an agreement. That is the work that we propose to continue and need to continue until October.

2. In her speech in Florence, Theresa May called for a transition period. Even if you use a different term to describe it, for us it is a transition period. Personally speaking, I am very attached to the spirit and the letter of Article 50. The transition is not simply a way of prolonging the negotiations; nor is it anticipating or prejudging future relations. It is a transition. Mrs May has asked for this, and the European Council and the 27 Heads of State and Government have accepted this request in principle, with the views of the 27 clearly in the frame. I have been given a mandate to begin negotiations on this transition period, and this was set out in the guidelines from the General Affairs Council on 29 January.

Negotiations on the transition have begun with our British opposite numbers. We have seen disagreements expressed on the British side on the framework that we are proposing for this. These are, I must say, quite substantive disagreements that need to be tackled and resolved if we want such a transition.

I would just point out that this transition can be achieved only under the framework of Article 50. If we do not have agreement on the Article 50 provisions, and an orderly agreement, it will not be possible. The only legal base for such a transition is Article 50. I very much hope that we will be able to iron out these problems, but we have not got there yet. That is why the transition period has not been ensured. At this point in time, there remain too many disagreements on this, and too many diverging views between both sides on this issue.

¹ Note from witness – ref <https://www.parliament.uk/documents/lords-committees/eu-select/scrutiny-brexite-negotiations/Slide-1-brexite-next-steps.pdf>

3. The third series of parallel work, even though they do not necessarily start at the same time, are the discussions on our future relations, which in our view are considerably more important than the actual separation. European leaders have already clearly expressed their hope to build a sound, solid and ambitious partnership with the United Kingdom, respecting our views and your views and aspirations on both sides.

If all goes well, the guidelines for this should be adopted at the European Council in March, a month from now. I will only then begin negotiations with the United Kingdom on the various aspects of our future relations.

For all this, I would just point out that we have an important rendezvous in October. Give or take a few days, the ratification process will then begin before the UK Parliament, in the Council of Ministers on the EU side and the European Parliament. That will take some months. October is also the time by which the European leaders have asked for the future of our relations to be set out in a political declaration that has to be precise and tangible.

One should not underestimate the importance of this political declaration. European leaders want to know where we will be going after that. They want to know what they are committing themselves to, and they do not want to be taken by surprise. That means that even as talks on this future relationship continue after October and throughout 2019 and 2020, the key principles need to be in place in October, so we are talking about less than 10 months from now.

The House of Lords, the House of Commons—I said the same thing to the delegation on Monday when it came; I met them here—and the European Parliament need to know exactly what is at stake. That is the correct procedure to follow so that members of whichever Parliament will be able to follow up on the Withdrawal Agreement and know exactly what it entails and will bring in its wake. That means that both sides have to have a clear overview. That is why I said the other day in London that the time has now come to make choices or to confirm choices that have been made as regards our future relations.

[Slide 2]²

Of course, a key issue—it is not the only one—concerns our economic relations. For the time being, the United Kingdom is part of the same market as the rest of us and so part of the same rules. I refer here to a slide that has become quite well known; people are very familiar with it. It is in the form of a stairway, but stairs can be walked up or down depending on your point of view; it cuts both ways.

Of course, if you look at this from a logical standpoint—I tend to do that; perhaps the word “Cartesian” springs to mind—at the top of the stairs is the highest level of integration; in other words, membership of the

² Note from witness - ref <https://www.parliament.uk/documents/lords-committees/eu-select/scrutiny-brexit-negotiations/Slide-2-future-economic-relationship.pdf>

European Union. As you go down the stairs, you go towards ever less integrated steps. From the most integrated to the least integrated, the intensity of the economic relationship varies depending on the type of relationship one has with third countries, because you will become a third country. Therefore, we are looking at the different co-operation models that we have in place with third countries with which we have closer or less close relations.

Also on this diagram, as you can see, are symbolised the red lines expressed by your Government. I simply superimposed the two: our co-operation with third countries on the one side and the British red lines on the other. This is the end result. It is your choices that have held sway in this respect.

I listened to a programme on the BBC this morning, Radio 4 to be precise, which informed us that the European Union had decided to tear up the financial passport. That is simply not true. We simply cannot accept this. We are not tearing anything up. It is the British Government who have decided to withdraw from the European Union single market and have therefore torn up the financial passport. We have not done so. The financial passport is open to all EU member states and to any country that wants to belong to the single market under the conditions which you are perfectly familiar with because they are also your conditions; they are the conditions that you have drawn up with us over the last 45 years.

I worked very closely with the British Government on financial services when I was in charge of financial services in my capacity as European Commissioner. I simply cannot accept it when I hear it said that we are tearing up the financial passport. We are not tearing up anything; it is the British Government who have simply decided to give up on the financial passport, and I will say so very clearly on this and other issues if necessary. So we have indicated the UK red lines on the diagram.

We are also talking about a balance of rights and obligations, but of course these possibilities are open to your Government and your country. It is up to the United Kingdom to decide. If you decide to renounce any role for the Court of Justice, if you reject freedom of movement of persons—we are not talking about immigration; we are talking about the free movement of EU citizens—if you refuse to contribute to the budget, if you wish to recover your regulatory authority and if you want to ensure full sovereignty in trade negotiations, these will be the consequences. If these five red lines are maintained by the British Government, as of April we will be talking about a free trade agreement and nothing more than that. It is up to the British Government to make that decision. That is what I wanted to say.

Of course, in any negotiations on a trade agreement—we negotiated a trade agreement recently with Canada and another a little earlier with Korea, and we are finalising an important agreement with Japan—there are differences. Each of these agreements is adjusted to fit the country we are negotiating with and takes account of particular realities. They are all based on a careful balance of rights and obligations. We will not accept

cherry picking or tinkering with the balance of rights and obligations of both parties. We have to be clear about this; it is your country that is leaving the European Union, not the other way around. We have no reason to change our rules, which you contributed to putting in place and designing over the 45 years that you were part of the European Union before deciding to leave, which we very much regret.

There is a key point to make here in relation to economic issues and the political conditions for ratifying this future agreement, which will probably be a mixed agreement in the trade field. As I said last time, although you were not present then, Lord Chairman, this trade agreement with the United Kingdom will be quite specific and unlike others. When we negotiated the other trade agreements—I mentioned the ones with Japan, Korea and Canada—we did so as part of a regulatory convergence process. These countries came closer to us and vice versa on standards and regulations.

In the case of the United Kingdom, the exact opposite is happening. We are now fully integrated, you are fully integrated, into the single market. You have decided to begin to diverge from that and to recover your ability to do so. From the EU point of view, this is a source of great concern to all business communities across the European Union, to trade unions, to environmental groups and to consumers. What will this divergence entail over time after the UK withdrawal? Will it become a source of regulatory competition, as some British Ministers and politicians have suggested? We listen carefully to what they say. If it were to become a tool for regulatory competition, otherwise known as dumping—tax dumping, social dumping and environmental dumping—we would have an issue.

I am not talking about me personally; I am talking about all the member states and all the organisations and bodies that are part of the public debate. I want the negotiations to succeed right to the end. I am not just talking about Brexit itself but about building a new partnership with you after Brexit. We have to pave the way for that, and we have to ensure that these agreements can be unanimously ratified, as they will need to be in the parliaments of all 27 member states. You are part of a national parliament and you will be well aware of how difficult the parliamentary ratification process can be. We must not underestimate the necessary conditions and the difficulties we will face in this future ratification process. We need to be very clear about the possible risks of dumping and the implications that could have.

To conclude on the future architecture of our relations with the United Kingdom post Brexit, I can envisage four main pillars. The first pillar is a free trade agreement along the lines of the Canada model, with certain specific provisions. The second pillar contains bilateral agreements between the EU and the UK on issues of joint interest, such as aviation. We will need to sign an agreement at least to enable British aircraft to land in the European Union and vice versa. Other sectors are also concerned; I am thinking of the co-operation networks between our

universities and co-operation in the research field. A few days ago, I met some of the representatives of major French hospitals working in cancer research. They are creating a very close co-operation network between 10 European hospitals on cancer. Cambridge hospital is one of those. We have to find a way of keeping this co-operation going on research, laboratories and universities. It is in the interests of everyone, of both sides. Of course, each of these agreements will be a specific agreement. There are a number of possible agreements within each pillar.

The third pillar is that of co-operation on justice and home affairs. Here, too, there are conditions concerning justice and home affairs that need to be respected, as is the case with trade. In this respect, we need to be very careful not to upset or undermine our relations with countries that are part of the Schengen area, which the United Kingdom is not, and that are special cases, such as Denmark with respect to Europol, and with other third-country partners. There is a lot of room for cooperation in this third pillar when it comes to the exchange of information, operational co-operation with Europol, judicial co-operation in the field of criminal law and mutual judicial co-operation. Your country is not part of the Schengen area. You will not want to recognise free movement of persons after withdrawal. Therefore, there are limits on what can be achieved, but we will have to continue working on the issues.

The fourth pillar is that which Theresa May mentioned in a constructive spirit in her speech in Munich. I made a speech of my own in Berlin in November, which I can send to you if you like, on this future partnership for security and defence, the stability of our relations and the future of our foreign policy. Your country will be leaving the EU institutions. It will no longer be part of the decision-making process. That is what you have chosen to do, but we have to find a means to hold a political dialogue and to find ways of linking or associating the UK as a third country to policies of common interest when it comes to the peace, security and stability of our continent.

That is an issue of key concern to me. I was Foreign Affairs Minister in France and I did a lot of work in the European Commission on defence issues. You will have seen that there are new initiatives that have been taken by the 28 in this field. I hope we will achieve an effective and real partnership as soon as possible on foreign security and defence policy with the United Kingdom, which is one of the key countries when it comes to international diplomacy, with a seat on the UN Security Council. It is very much in our interests to work together.

That is what I wanted to say about the current state of play in the negotiations and the future of our relations. In the coming days, we will publish, and you will receive, the text of a draft treaty on which we are working, which would bring together all the different elements of the withdrawal from the EU standpoint. You will see what has been published on transition; you will find legal reference to the joint report.

We do not have a lot of time left, and I am very concerned about the time issue. Time is flying past. We have decided to speed up the whole

process by putting this document—a document of the 27—on the negotiating table. It is the point of view of the 27, but hopefully it will facilitate the negotiations of the whole process, with a view hopefully to achieving a full provision on transition and the future.

Q3 The Chairman: I am absolutely sure that our whole Committee is very grateful for that very clear, Cartesian exposition, which puts your position very clearly on the table to us, which is extremely helpful. We also take some encouragement from the fact that you have emphasised not merely the difficulty of the current process but also the fact that there will be an endgame when it comes to future co-operation. Most of us, although we may have different political stances, will take the view that we need to get through the present hugely difficult situation and then start looking for a more constructive future.

In terms of the current position, you again reminded us—I remember the famous picture of you looking at your watch—that time is short. I presume it will be important to concentrate on getting agreement on the withdrawal issues now and then look forward to finding out how we can produce a sensible political agreement setting out the framework for a future relationship. I think most of us would take the view that it cannot be achieved immediately, because it will be a long and complex negotiation itself, based on the four pillars that you set out very clearly. I think most of us would find those coherent with our own thinking.

It might perhaps be useful if you could say a bit about what we are picking up about the need for clarity about the framework for the future arrangement by October, which will be the decision-making point for the ratification of the withdrawal treaty and so forth. Do you see the treaty, and presumably the transition arrangements if they can be negotiated, being clarified and voted on in October? That was my understanding of what you said.

In terms of the framework for a future relationship, which of course is also part of the Article 50 process or is taken into account in the Article 50 process, I know that some people here are arguing that there should be an annexe to the withdrawal agreement with a separate protocol. If so, does that have legal validity, or should it be a separate freestanding political declaration? Could you look at it in terms of a common agreement carrying the four pillars of interest under Article 217 of the Treaty on the Functioning of the European Union?

The problem with the immediate negotiations on withdrawal is that every time we look at this it is like a Russian doll; you get another layer of complexity. We understand that, but in terms of getting the right footing and right foundation for a future relationship, we need to be establishing clarity about how that should be established and how it should achieve political legitimacy, from which we can then go on to negotiate the future relationship.

Michel Barnier: *[Interpretation]* Let me respond on that point. Once again, we are preparing a treaty. We will have treaties. Obviously,

everything I say is subject to the position of the legal service of the Commission and the Council, and we need to ensure that we do things properly.

The future relationship will not be drawn up on the basis of Article 50. We will have to use several different legal bases: one basis for trade and one perhaps for an agreement on defence, security and judicial co-operation. There will be several legal bases, so it is not possible to have a document on the future relationship alongside the Brexit treaty on the basis of Article 50. That is why we are working on the hypothesis of a political declaration, which I hope would commit the 27 on one side and the British Government on the other. This would describe the future relationship in quite precise terms.

As of now, I cannot tell you exactly where it will be alongside the Brexit treaty, but it will be part of the same political package even if it is not necessarily part of the legal package. I know from European leaders—and I am their negotiator—that alongside the Brexit treaty they want to have this political declaration to make clear what would happen afterwards, post ratification.

I do not think there will not be a formal link. It is a discussion that will have to take place—a discussion that the 27 will need to conduct amongst themselves—about exactly where to locate this political declaration, but it cannot formally and legally be part of the same document.

Q4 **Baroness Kennedy of The Shaws:** I want to ask you about the December phase-one agreement and its status. Was it binding or is it contingent on a wider agreement? There is some concern as to whether to some extent it was a bit of a fudge to get us over that hump to move on to other discussions. Have both sides adhered fully to the spirit and substance of the agreement in subsequent discussions? We are concerned about Ireland. It does not seem to have been resolved, and there are still questions about citizens' rights that are concerning both European Union citizens in the UK and our citizens in Europe.

What is the process and what are the timescales for converting that December agreement into a legally binding text? At what point do you expect the withdrawal agreement to be ratified?

Michel Barnier: *[Interpretation]* Obviously, the December text is not a treaty. It has great political value. The content of the joint report now has to be translated into precise legal terms for the Withdrawal Agreement to be ratified by the two parties. The important thing for us was to reach agreement that sufficient progress had been achieved so that I could report this sufficient progress to the European Council. Establishing that sufficient progress had been made—there were 96 paragraphs and 15 pages; it was a very substantial document—the European Council therefore asked me to continue discussions and move on to other phases of separation and then perhaps to the transition. This was the wish of the UK Government.

You asked whether it commits us. Yes, it does. The British Prime Minister came to Brussels twice in the same week, the second week, in order to reach a conclusion and give her approval in her capacity as Prime Minister of the United Kingdom. President Juncker and President Tusk took note of this. A few days later, the 27 Heads of State and Government also gave their agreement and approval, so this document commits us.

I recognise that the document is not entirely precise on certain subjects. That is why in London the other day I said that it was important to be more precise about certain choices or to finalise them, particularly on Ireland. These 96 paragraphs will clearly be put into a legal text over the next few days. It will be a proposal for negotiation, but it will be faithful to the content of the 96 paragraphs, and we will accept no back-tracking. We need to make certain points more precise, but we cannot call any of them into question, because that could jeopardise the whole negotiating process.

On the financial settlement, and on citizens, things are very clear. There are not many issues relating to EU citizens in the UK or UK citizens in the EU that have been left to one side. Perhaps there is the issue of future spouses, but other matters have not been left vague.

On Ireland, however, given how sensitive the issues are, my concern and the British concern was to have a political framework within which we reassert our wish to ensure that there is no hard border, to respect the content of the Good Friday Agreement in all its dimensions and to maintain the 140 points of co-operation between the north and the south. Of course, you are absolutely right to suggest that we will have to take things further on Ireland, because we cannot leave solutions in vague terms. We need to work on technical matters, and we need to see operationally how the solutions that are required can be put into practice if we are to preserve the Good Friday Agreement.

Q5 Lord Whitty: Some of us visited both the north of Ireland and the Republic a couple of weeks ago. It would appear that the issues that need to be resolved are somewhat more than technical. In other words, there are different understandings of what the terms of the December agreement mean, particularly in relation to full alignment, in the default position were no other agreement reached. Do the European Union and the Republic of Ireland have the same understanding as the British Government? That did not appear to us to be the case.

The implication of that is that if you are going to turn the December agreement into a more precise document—and I presume that the Irish dimension is included in what you hope to agree in March—there are some fairly formidable problems that have yet to be resolved, particularly in relation to the border and what will happen at the point where the UK, including Northern Ireland, leaves the customs union.

Are you expecting the Irish dimension of the December agreement to be put into legal form in the same timescale as the citizens' rights and the budget dimension—in other words, before the March Council? That

seems to us to be a formidable task and risks reopening some tensions within Ireland. If I am wrong and that can come later, clearly we have more time to sort it out. If we have four weeks, our take on the Irish situation would be that that would be difficult.

Michel Barnier: *[Interpretation]* Lord Whitty, with all due respect, what causes tensions is the fact that the United Kingdom is leaving the EU. It is not the actual text that we are going to put on the table. That text is a consequence of your country's decision to leave the EU, the single market and quite possibly the customs union. What I was trying to clarify in the December agreement is that the United Kingdom, as a co-guarantor of the Good Friday Agreement, needs to recognise its responsibilities and commit to finding solutions. Those are the well-known paragraphs 49 and 50.

I know how sensitive the issue is, and I have always paid particular attention to all sides of the argument and listened carefully to the different viewpoints to see how we can ensure full implementation of the Good Friday Agreement, but we have to describe things the way they are and find solutions for the time being. Work continues week after week with the United Kingdom in parallel on the three options set out in paragraph 49.

There is the option whereby future relations would resolve this issue. Of course, we know that will be possible only if the United Kingdom remains in either the single market or the customs union. The second working hypothesis is that these are specific solutions. I agree with you, Lord Whitty, that it cannot just be solved by technology, even though technology will be part of the solution.

The third option is the backstops, which we are also working on and which we want to specify and clarify.

Withdrawal cannot be set out in a treaty in October unless there are operational or operationalised solutions on Ireland, whatever the future relations may be in this treaty. Yes, the 27 EU Governments are in agreement, including the Government of Ireland.

We hope that things will be clear in October. Perhaps on our side we can say how we see full alignment in certain sectors. For example, we have a concern about the application of the customs code. We are working on the basis of this hypothesis, but we are also working with the UK Government on other options in parallel. We will no doubt need to clarify these issues in the text that we produce in the coming days, and all this with a view to the time horizon in October. We are not talking about March. It does not need to be resolved by March this year but by October, just to be clear.

The Chairman: That is very helpful. Can we move towards transition agreements or transition periods?

Q6 **Baroness Falkner of Margravine:** I just have one quick point on the

slides that you showed us, which demonstrated a red line, supposedly, on the part of the UK that said that the UK would not be prepared to pay a "substantial financial contribution". That is the exact wording. I am slightly intrigued by that, because our understanding is that there is a substantial financial contribution and that there is more on offer for market access. I wonder whether you might elaborate on that.

I have one or two other points to pick up, but perhaps you would like to deal with this one.

Michel Barnier: *[Interpretation]* Here, we are talking about the future relationship after the end of the transition and once we have settled accounts of the past. Why did we put "no substantial financial contribution"? Your country has said that it no longer wishes to take part in the single market. However, if you wish to take part in the single market, like Norway, Iceland or Liechtenstein, the Norwegians, for example, make a substantial contribution to the European budget, to European solidarity, as the price for taking part in the internal market.

That is totally different from the accounts that we need to settle for the past and the present commitments that your country has entered into with us and we have entered into with you. As I have said on a number of occasions about the financial settlement, it is simply a case of the 28 paying for what the 28 have agreed on; it is nothing to do with the future.

Baroness Falkner of Margravine: Thank you, but I notice that Switzerland, which is not part of the EEA, does pay for market access. I was wondering what you had to say about that.

Michel Barnier: *[Interpretation]* In objective terms, just to make this clear, if your country were to change this red line and said that it did wish to take part in the internal market—and that model is available—obviously there would be the whole question of freedom of movement and the internal market rules that would have to apply, but there is also this contribution that Switzerland, and also Norway, makes to the European budget.

Q7 Baroness Falkner of Margravine: You referred to your negotiating directives, which were agreed at the General Affairs Council on 29 January. They say that the UK would have no say in shaping any of the changes to EU law. Is that politically viable?

When you respond to that, I wonder whether you could also touch on the other aspect of your presentation when you said that the regulatory divergence that you see will come from the United Kingdom. Would you accept that, by definition, economic and monetary union and the plans you are making for that will result in changes to the current framework, where we are aligned, and that, in the future, regulatory divergence may be driven by the needs of financial stability and eurozone rules and so on? Regulatory divergence will come from both sides; it will not just be from the United Kingdom.

Finally, what do you see as the big stumbling blocks when it comes to the

transition period?

Michel Barnier: *[Interpretation]* I was thinking about your second question. I am afraid I have forgotten your first question. Could you run it past me again? I am terribly sorry.

Baroness Falkner of Margravine: It was about your directives agreed at the General Affairs Council.

Michel Barnier: *[Interpretation]* Yes, I am sorry. You asked whether it is politically viable. This point is not negotiable. Your country wants there to be a short transition period. I have heard Mr Johnson say, "Not one day more than two years". We put forward a logical proposal whereby the transitional period would run from 30 March 2019 to the end of the multiannual framework period, 31 December 2020—21 months. We can discuss a day more or a day less, but it would be a short period. During that period, your country has said that it wishes to maintain the economic, political and social status quo and benefit from all the advantages of the internal market and the customs union. It would have to respect all the same rules as the other 27 member states. That point is not negotiable. Afterwards, of course, it is a different issue.

The second question on divergence was very interesting. It is your country leaving the European Union, not the other way around. We are talking about the relationship between your independent market and the single market. Obviously the European Union will maintain autonomy in decision-making. That is not negotiable. In the same way, your country also wishes to recover your autonomy in taking decisions. Regulatory and political sovereignty was one of the main considerations in the referendum. One day I heard Mr Johnson talk about "regaining freedom", but there we are.

We regret this very, very much. I regret it enormously. As a young French citizen of 21, I first voted in a referendum in my country for the accession of Norway, the UK, Ireland and Denmark to the EU. As a Gaullist, I still voted yes. I have never regretted that vote, which is why I regret that you are leaving now. It is something of a paradox that I am responsible for disentangling all this.

The only question I have about Europe's economy and the political conditions for ratification of the agreement is this. There are certain things that we hear in the public debate in the UK about divergence on financial regulation or divergence on environmental legislation. If all that were to take place, European companies and the European Union would look at how to avoid unfair competition or dumping. That is all I am saying.

Baroness Falkner of Margravine: Dumping is forbidden under WTO. In any event, it is not something that we expect or foresee.

Michel Barnier: *[Interpretation]* I am very familiar with the WTO rules, of course. We also know that there are means of diverging in regulatory terms that can create regulatory competition. But this cuts both ways. I

say it for you, and I say it for us: I hope that in our future relationship we will remain as close as possible to one another, in regulatory terms, on the basis of rights that we have constructed together. We have done all this together.

As a Commissioner, I presented 41 regulatory proposals on financial matters. I really buckled down to get agreement from the UK on nearly all of them. Only on short selling and bonuses did we not get UK support. On the other 39, we were there with you. We will have different instruments for regulation and financial supervision. I am just saying that that is the way we are going.

Q8 Baroness Falkner of Margravine: In the future, during the transition period, do you foresee United Kingdom regulators such as the Bank of England being able to participate as an observer in some other format or to have a dialogue in order to avoid regulatory divergence and to adopt as similar standards as possible coming through from the international arena? Do you foresee some sort of role for the United Kingdom regulators?

Michel Barnier: *[Interpretation]* During the transition period, which will be short, you will have to apply the *acquis communautaire* in its entirety. That is the condition for being part of the internal market. There cannot be any regulatory divergence during the transitional period when you are still within the internal market and the customs union, but there will be dialogue. We have said that in committees there can be dialogue, of course, but just in cases of necessity where there are specific British issues. That will be the decision of the 27. In general, however, during the period when you are part of the single market, the customs union and all EU policies, all the rules will continue to apply.

Q9 Lord Liddle: One of the main political concerns of those of us who are unhappy with Brexit, Monsieur Barnier, is that Parliament should have a vote on the final deal. One of the concerns that emerges from the discussion of what the final deal is going to be is that you say that the political declaration is going to be precise and tangible. Will it tell us quite clearly what the nature of the economic relationship between Britain and the EU 27 will be post Brexit?

Michel Barnier: *[Interpretation]* As far as I understand what the EU leaders want to achieve, my answer would be yes. I listen to them very carefully. I have travelled around the various EU capitals, and I have an ongoing dialogue with them. In the light of all that, my answer would be yes. On the part of the House of Lords or the House of Commons, this desire for a clear vision of the future relations will be very much the same.

When it comes to the EU Governments and EU parliaments, we have a clear desire to know what form a future relationship will take. We will have to see what is said and written in the coming months, but if the British conditions and red lines have not changed in the light of all that, we will see whether there is indeed a free trade agreement. We are ready

for that. We are ready for judicial and police co-operation. We are ready for co-operation in the defence and security fields.

The declaration will be quite precise, even if it is not a fully-fledged treaty. We would in any case need to use the remaining two years to achieve one or more treaties on future relations, but this declaration will be very precise and tangible.

Q10 Baroness Kennedy of The Shaws: That is very interesting. Just to make it clear, Mr Barnier, I am in the same camp as Lord Liddle, in that the result of the referendum does not sit happily on my shoulders and I am very discontent with what is taking place. Those of us who take that position have fought very hard to make sure that the British Parliament has a proper say after the end of negotiation. That political statement and the clarity of it will be very important to how progress is made thereafter.

If our vision of the future is really going to be so negative for the British public, we would want clarity about that so that one could have the right quality of debate at that point in Parliament as to the substance of what is taking place. It is very easy for things to be spun politically, as we know, as being more positive than they really are. We really would need to have some clarity in any political statement. I just say that because it would be very valuable for the quality of debate in Britain at the point when we have the debate in Parliament and have a meaningful debate about the nature of any deal that is forthcoming. We are really relying on that statement being of real substance.

Michel Barnier: [*Interpretation*] I agree with you. I cannot tell you about the nature, quality or organisation of the debate in the Parliament of the UK, but I was a Member of Parliament in France for 20 years in both Houses. I can fully understand that you want to have a debate of quality, a clear debate, on a matter of such gravity. I find it hard to think of a decision as grave as your country's decision to leave the European Union. That is why it is vital to have a clear debate.

The same applies to the European Parliament and the European Council. Some leaders say, "We do not want a surprise after the Brexit treaty. We want to know the direction of travel". It is exactly the same point, and I will do everything on our side to have the necessary clarity so you have all the information you require to decide.

Q11 The Chairman: That is very welcome. Could you to say a bit more about citizens' rights? As you know, the European Parliament resolution in December last year specifically registered its concerns. We had a very fruitful exchange with Mr Verhofstadt yesterday.

Clearly, it is very much in people's minds. I must say that it is remarkable how many people, either through their family ties or through their employment connections or for other reasons, have very close associations across the European Union, including in our insular British climate. Many of us have been politicians, as you yourself have said, meeting the needs of people, citizens or constituents, as we perhaps used

to call them. The difficulty some of this may cause is important.

I just wondered what your reaction was to the European Parliament's concerns, and I suspect there will be some matching concerns from the United Kingdom as soon as anybody realises they may lose something they have taken for granted. How will those issues be addressed? They are a very important part of the political discussion and maybe the political commitment that is forthcoming.

Michel Barnier: *[Interpretation]* As a negotiator, I work according to a very clear mandate, which is updated by the Council of Ministers, the Ministers of the 27 as need be. Needless to say, I work in close collaboration with the European Parliament. I will be attending a hearing before the Brexit Steering Group later today, led by Guy Verhofstadt. I meet them every week. What you have said is perfectly fair. I will indeed follow this very carefully and very closely.

There are two key points in this respect, one of which concerns the joint report that you mentioned a moment ago on a very specific issue. The United Kingdom wants to put in place registration formalities for all EU citizens, all 3.5 million persons concerned. While one can understand why they might wish to know these persons and to check criminal records, for example, the European Parliament has a concern, which I share, that it should be simple, straightforward, at a reasonable cost and proportionate.

The British Government have assured us that this will be the case, and we have put these commitments into the joint report. We will also incorporate those into the treaty itself, and the European Parliament will be extremely vigilant on this issue. Let us not forget that the European Parliament will have the final say on this treaty. It will have to ratify it on the EU side at the same time as the Council of Ministers. This is a very sensitive issue.

The second sensitive issue concerns the transition period, on which we have disagreement with the UK Government. They do not want to extend the same rights to EU citizens who arrive in the United Kingdom during the transition period between 30 March 2019 and December 2020 as to those EU citizens who came before the date of Brexit. We believe that the freedom of movement applies during the transition period, and therefore the same rights should be extended to EU citizens.

That is a point of disagreement. I will say no more about that. That is up for discussion at present, but I am extremely conscious of it. I very much have to bear in mind what the European Parliament is thinking and saying.

Q12 **Lord Teverson:** Monsieur Barnier, one of the things the European Parliament has commented on is British citizens who are residents of the UK and who do not wish to give up their European citizenship and the question of how to find a way forward on this. This is something that people feel quite strongly about. As my colleague Baroness Kennedy has

said, there is the Dutch move in the European Court of Justice at the moment. Do the Commission or the EU 27 have any view on that whatsoever, apart from it perhaps being very difficult treaty-wise? Could any progress be made in that area?

Michel Barnier: *[Interpretation]* First of all, in the negotiations, the withdrawal agreement and the joint report, we have addressed the issues of British citizens in the EU and EU citizens in the UK who have already made a life choice or who will do so by the end of the transition period. However, we will not be dealing with matters pertaining to the future after that period because we do not know what the future immigration policy of the United Kingdom will be. There will be a discussion of these issues as part of our negotiation of the future relationship.

I fully respect whatever your country's future immigration policy will be. I do not know what it will be, but certainly within the EU we do not accept discrimination between the 27 member states in our dealings with the United Kingdom. We would not accept discrimination from the UK between the 27 member states. That is just a point for the future.

We will not address the issue of citizenship in the treaty, because in legal terms European citizenship is acquired through a country as of the day it becomes a member of the European Union. You have your lawyers; we have lawyers in house. There is no discretion, we are told. A country that is a member of the Union automatically gives its citizens European citizenship. It does not replace national citizenship, unlike what Mr Farage and others might claim. I am a great French patriot. I am also a passionate European. It is one and the other, not one or the other. That European citizenship will be lost when you leave the European Union.

That is all I can say. I very much understand the spirit in which the Parliament has commented, but I do not really have anything else to say in legal terms about that.

Q13 The Earl of Kinnoull: I am going to ask a question about process and output, which is rather boring after what we have been listening to in the last few minutes. I hope you realise the difference and symmetry with the interaction you have with the Brexit Steering Group. It seems to me to be very healthy and good. We do not have a weekly download in that proximity, and I am very jealous of it, and I congratulate you on it.

I also want to say how wonderfully clear your slides are. I know how difficult that is, and I congratulate your colleagues on having produced them. The phasing slide answers a lot of the questions that I was going to put to you. Do you expect the green line on the phasing slide to consist of continuous negotiations, or would it be a bit like the American football that you have been playing so far, where everyone runs on to the field and then off the field?

Secondly, will the four pillars that you were describing on one of the later slides consist of a number of separate strands, or will you want to retain the negotiation in the early phases as being just those four strands? I have some further sub-questions after that, but perhaps you could

address those questions first.

Michel Barnier: *[Interpretation]* These are key issues of methodology, as was the case with all the other questions. You mentioned our working method. Everyone chooses their own working method, but on the EU side we are not talking about a federal state. We have never been a federal state and we do not want to become one. We are a community of 28 nations.

I need to ensure a unified position of the 27 that I represent. As part of this ongoing dialogue, I have meetings every week with the Brexit Steering Group of the European Parliament. We have a permanent group of officials from the 27, who also meet at least once every week. We talk about everything, because we have decided to be totally transparent. I immediately publish all the negotiating documents, which is the first time ever in the history of the EU. Why is that so? It is because I prefer transparency to leaks. That is why we work in that way. It took us some time to get used to this way of working, but we are adopting a very transparent approach. When we adopt a document presented by the European Commission, it has to go into discussion with the 27 and with the Parliament before it becomes a negotiating document.

This means that we can also have a public debate with all the concerned and interested citizens who want to know what we are doing today and tomorrow. We are prepared to speed up the negotiating process, but I very much intend to maintain this negotiating-round approach. We can have more of them, but I need it for a very clear and precise reason: I need time before and time after to report back on this and to discuss the points at issue with the member states and the Parliament.

I do not know whether it is easier on the UK side with the UK Government and Parliament, but for us it is much more complex. There are 27 of us. There are 27 national parliaments and a European Parliament. I cannot judge how these things play out on the UK side, but I need these clearly defined rounds. You can have more of them and they can be more frequent, but I need time before and after to be able to report back and to prepare.

On your last point, as of April 2019, if I have a mandate in March, we will be prepared and I will be prepared to begin negotiations in parallel on all issues [of the future relationship] across the board. We will negotiate the black part of the diagram: namely, the negotiation on future relations. That is my view. If we can reach agreement earlier on a particular chapter, so much the better. That could be on defence and security, for example. I had a meeting with High Representative Mogherini this very morning to prepare for this. One could envisage moving faster on this issue with a view to a partnership on defence and security in an earlier timeframe.

If we can make good progress, that is so much the better, but on these issues we have to work with the European Parliament and the member states. Defence is different from aviation, fisheries and so on and so

forth. We are talking about different circumstances, but they will all be negotiated in a co-ordinated way.

- Q14 **The Earl of Kinnoull:** I want to add one tiny thing on output. In your opening remarks you used the phrase “grand principe”. We have a UK Government who are using words such as “full, comprehensive and final” about the output, I suppose, for October this year: in other words, what we will be able to see is what the deal is. There appears to me to be some distance between “grand principe” and “full, comprehensive and final”. Could you give us a bit more colour on how much detail you think there will be by October and indeed by March next year?

Michel Barnier: *[Interpretation]* Which specific text are you referring to? Are you referring to the political declaration or the treaty? October is the political declaration.

The Earl of Kinnoull: I meant the formal agreements.

Michel Barnier: *[Interpretation]* Earlier, when I was speaking—and I pay close attention to what I am saying, particularly when I have the privilege of addressing the House of Lords—I was referring to the principles for March. In other words, in March I will receive guidelines with very clearly defined principles respecting the integrity of the internal market and autonomous decision-making by the 27, which need to be respected by the UK, as we will respect your decision-making autonomy. They are very clearly defined principles on the future framework for our relations.

I will then work on the basis of these principles over six months with the UK side with a view to achieving an agreement that will go beyond the principle. I am merely stating the principle. It will have to be very precise and tangible, not just a statement of principles. It will not be a treaty text, but it will be a precise declaration stating the details of the trade agreement on the various issues concerned, and not on other issues. Here, then, you can have a framework for police and judicial co-operation and the various other issues. We will need to go into details. This is for October. The principles are for March.

- Q15 **Lord Teverson:** Mr Barnier, I am aware that we are running short of time, but I wish to ask this. Although you have all the red lines that have been spelled out by the Government, do you feel that the UK Government have been sufficiently clear about negotiating position?

Just in case the answer is a one-word “no”—or perhaps even “yes”—perhaps I could also ask in particular about alternatives to the European Court of Justice for the future in relation to enforcement and dispute resolution. What is a practical way around that, too?

Michel Barnier: *[Interpretation]* I have the utmost respect for your country —its history, its solidarity, its diplomacy and its culture. I have a great deal of respect for the United Kingdom, and I am not going to express a judgment on what is happening in the Government or British political parties. I am following this very closely. I find the whole debate extremely stimulating, but I am not going to express a judgment, and I

am certainly not going to comment on the internal organisation of the British Government. Theresa May is very courageous and very solid. As I say, I have great respect for her.

The time is coming when we have to be more precise, and you have to accept the consequences of the decisions that you take. The time is coming when you have to accept the consequences of the choices you make. These red lines, and the staircase, are clear and simple. I have not done that to create problems or cause difficulties for the UK. I am simply saying that those are the consequences of your choices. There will be no cherry picking; you cannot be inside and outside at the same time. You can be in the internal market. If you are not, you are in a different market and you co-operate. How do you co-operate? You can do it like Ukraine, Turkey or Canada. But there, too, conditions apply, because we will not change what we are because you are leaving.

I am looking for these choices to be confirmed, for the consequences to be accepted, and to be told the truth, so that we can make progress more quickly, but cherry picking is not possible. The ideas on mutual recognition are very interesting from an intellectual point of view, but we will make no concessions when it comes to the 27's autonomous decision-making, in the same way as we fully respect the UK's decision to regain its autonomous decision-making.

If you are not in the internal market and you do not want to be in the customs union, we have to see how we organise co-operation between our two markets. I am looking for a clarification, a reaffirmation of previous choices and a willingness to accept what these mean.

When I hear these ideas about the financial services sector, which I know very well and which is very important for your country, there will be no generalised system of equivalences. That is not possible. Your country has chosen to leave the internal market. It will lose the passport, but, as we have said, there will be some equivalences between some financial sectors. It will be equivalence that we grant and accept on the basis of our rules pertaining to financial stability. I cannot really say any more.

Q16 **Baroness Kennedy of The Shaws:** I just wanted to ask you one question. There is your very interesting staircase, and that lays it out. I regret very much that we have set down all those red lines. I really just wanted to ask you how you would assess the likelihood of a no-deal outcome. How serious is the risk of that?

Michel Barnier: *[Interpretation]* I am frequently asked this question, but I am not working towards a no deal; I am working towards a deal. I very much regret the UK's departure. In my role, which is quite an unusual one, I would like to set the course for a sound, strong relationship with your country. We are coming closer to a deal for an orderly withdrawal. There are several deals. There is an orderly withdrawal, which is the yellow and orange lines, but there are a number of other deals that will be needed in the framework of other treaties between April 2019 and the end of 2020.

On the first deal, we are getting closer to an agreement, thanks to the joint report in December. Had we not had that agreement, we would be further away from that. We have to remain very calm and cautious, but my aim is indeed to reach such a deal.

All these things are interconnected. When I called for sequencing, which your country was against initially, it was a question of putting one foot before the other. Sequencing means that everything is interconnected. The future relationship will depend, of course, on the climate of negotiations that we have now when it comes to withdrawal and the negotiations. If we have no deal, everything is up for grabs.

The United Kingdom is and will remain a very important country, and it is clearly in everyone's interest to find an intelligent and sustainable agreement, but it will not be at the expense of diluting the single market. The single market is our common asset; it is the basis of everything we do in the European Union. You will be all the more aware of that, because, having read the speeches of Prime Ministers before and just after accession in 1973, that was clearly the main reason why the United Kingdom joined the European Community. That is why I find it all the harder to understand why you are withdrawing.

The Chairman: Mr Barnier, you have been most generous with your time. You have also been very generous in your comments about the United Kingdom. I seem to remember that Voltaire commented on some of our interesting political habits in the past: the need to shoot an admiral pour encourager les autres. We have derived a certain degree of comfort from what you have said and the sensitivity with which you have said it, as well as the clarity in which you presented it. What we have not had time to go on to, although you have hinted at it a number of times, is that there will be a long-term situation that will need resolving, and one hopes it comes on the back of an orderly withdrawal.

That will be a mechanism for future intergovernmental and interparliamentary relations, which we have emphasised a number of times, and you have too. That goes long beyond transition into the future. Perhaps it would take too long now to express all that, but perhaps we can store that for a future day. We will have to look at how this future relationship might work and the relations the EU has, for example, with other countries within Europe and with the United States Congress at the parliamentary level. These will all be important.

My feeling is that you have an almost impossibly difficult task, in which we wish you well, with David Davis, who of course is known to us, to get through this. Thereafter, we will need the maximum amount of good will and constructive thinking to take us further forward. We are greatly appreciative and we will continue the dialogue on our side.

Michel Barnier: If I may say so, the future relations between the Parliaments are not the most difficult point. It will be in our common interest to have co-operation afterwards between the House of Lords, the House of Commons, the European Parliament and, obviously, the national

parliaments. It should be possible.

It is not a point for me in the negotiations, but it is clearly a point where you, with the European Parliament and other bodies, must find a solution. This could be through COSAC, for instance. I take part in the COSAC meetings every six months, not only as a negotiator but as a former member of the national parliament in my country and a former Commissioner. There is a way. At each of these COSAC meetings I meet many delegations from countries outside the EU. It will be possible for you. I hope so.

I said exactly the same to the mayors of the 10 biggest UK cities outside London two days ago. They were worried about the co-operation, dialogue and negotiation with European cities. We have to find a way to maintain that, even if it is in a different framework, legally and financially speaking. We have to maintain this. We have to do the same for the research labs, for universities and for Erasmus.

The Chairman: That is very encouraging. I would just say, in conclusion, that in the end we have to be able to serve people who worry about this, who meet each other, fall in love, get married across national boundaries and who work with colleagues in different countries. That must continue, and we would very much welcome your friendship and that continuing understanding.

Michel Barnier: Thank you for your visit. Once again, you are always welcome, and my door is always open; for example, your team might want to ask some questions of my team. On a more personal note, I have been impressed and guided in my personal political involvement by many people, but Charles de Gaulle was the first. Another very important politician in France was Pierre Mendès France, on the left. In one speech, he said, "Never sacrifice the future for the present".

The Chairman: That is very good. I will remember that. Thank you very much.