

Public Accounts Committee

Oral evidence: Implementing EU Exit: the financial settlement, HC 973

Monday 23 April 2018

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Members present: Meg Hillier (Chair); Bim Afolami; Sir Geoffrey Clifton-Brown; Caroline Flint; Luke Graham; Gillian Keegan; Anne Marie Morris; Bridget Phillipson; Lee Rowley.

Sir Amyas Morse, Comptroller and Auditor General, Adrian Jenner, Director of Parliamentary Relations, National Audit Office, Elaine Lewis, Director, NAO, and Richard Brown, Treasury Officer of Accounts, HM Treasury, were in attendance.

Questions 1–148

Witnesses

[I](#): Sir Tom Scholar, Permanent Secretary, HM Treasury, Mark Bowman, Director General, International and EU, HM Treasury, and Ian Ginsberg, Deputy Director, European Financing, HM Treasury.

Report by the Comptroller and Auditor General
Exiting the EU: The financial settlement (HC 946)

Examination of witnesses

Witnesses: Sir Tom Scholar, Mark Bowman and Ian Ginsberg.

Q1 **Chair:** Welcome to the Public Accounts Committee on Monday 23 April—auspiciously, it is St George’s day, of course. We shall be discussing the EU financial settlement with the UK as we leave. The NAO has done an analysis of the Treasury’s methodology and approach to this, which is alarming in what it misses out. Clearly, the settlement reflects some of the political discussions that have gone on, but one of the areas we want to probe is what is not in there, so that the British general public understand the total cost to the UK of leaving the EU and what the risks are. Obviously, the other thing that the Report brings out is the uncertainties in the calculations the Treasury has made, which the Treasury does acknowledge. You have this parameter of 10%, roughly, between the two figures in the range for a settlement figure, and we want to probe how you have reached those figures and what the risks are of this going up—or, indeed, it could possibly go down.

I shall introduce our witnesses. We have Mark Bowman, director general for international finance at the Treasury; Sir Tom Scholar, permanent secretary at the Treasury; and Ian Ginsberg, deputy director for European financing at the Treasury. We are keen, as I’m sure you are, to whip through the business. We are obviously fully abreast of the Report and have done some preparation, so we don’t need to reiterate what that says. We hope you will not feel that all three of you need to answer every question, so we will direct the questions where we can, but if one of you is the right person, you can jump forward and we will accept your answer on behalf of all three of you, if you are able to do that. You don’t need to repeat yourselves, and we will do our best to stick to that as well.

First, to you, Sir Tom, when will the taxpayer begin to recognise significant savings, compared with remaining in the EU? When will we see the dividend for the UK taxpayer?

Sir Tom Scholar: The budgets that we’ve set and the fiscal forecasts that we have obviously at the moment have a line in them in respect of EU budget contributions. The settlement that we are considering today will be less than is set out in that line, and that will gradually reduce over time. The OBR, in making their fiscal projections, have assumed that the Government will end up spending, one way or another, all the money that is currently set aside for EU contributions, but that it will be able to spend

it on its own priorities, decided domestically, rather than it simply being transferred to the EU.

That said, the OBR have also said, in their March publication on the Budget, that the thing that above all will determine the impact of EU exit on the public finances will not so much be the direct effect of a lower line for net contributions, but the indirect effect of the impact of the overall agreement, both with the EU and ultimately with other countries, on the performance of the economy and what that means for the public finances.

Q2 Chair: That's a long way of saying that you don't know.

Sir Tom Scholar: It is not possible to predict at this stage.

Q3 Chair: Some of our commitments will go on for some time after we leave. When you look at the net benefits and costs, you obviously take that into account, but you also—we will come to this in more detail later—have the various institutions or regulations that the UK will no doubt still want to deliver, whether it does that through the EU or sets them up separately. How much have you taken that into account as a benefit to the UK taxpayer versus a cost? They are costs that have already been paid to the EU, but they may well be a cost to a UK-specific organisation such as a regulatory body on animals or something.

Sir Tom Scholar: You are quite right. This is one of the things that the Government want to explore with the EU as we enter the second phase of the negotiations and we start to map out the future economic partnership between the UK and the EU. It is possible that there might be some agencies that we want to stay associated with. Probably that would involve some financial contribution to the running of some agencies. We have not included anything in the settlement on that.

Q4 Chair: We might want to stay in those ones, but we might need to set up a UK equivalent. Some areas cannot be unregulated, but we might not choose to bind to the EU. Have you looked at the cost of setting up these organisations from scratch?

Sir Tom Scholar: Each Department, in its area of expertise, is planning for life outside the EU. That includes in some cases new ways, either reinforcing regulations or making—

Q5 Chair: And we're giving money to them. We looked at DEFRA. They had to do letters of direction to Ministers because of the issue of having to pay up front before policy is passed in Parliament. Is the Treasury keeping an eye on that?

Sir Tom Scholar: Yes, we are.

Q6 Chair: Do you have a projection of how much that might cost?

Sir Tom Scholar: We don't have an overall figure, not least because we do not yet know precisely in which things we will still be participating and which things we will not.

Chair: Okay; we will come back to that later.



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Q7 **Caroline Flint:** Sir Tom, why couldn't you be clearer about what was in and what was out in terms of the estimates of the financial costs? A number of areas have been left out: the European development fund, contingent liabilities, receipts that go directly to the private sector. Some of my colleagues will go into more detail about that, but, generally, what is the problem in being clear about these issues?

Sir Tom Scholar: I think we have been clear. The Chancellor's letter of 24 January went to the Treasury Committee and was copied to this Committee and some others, and it was deposited in the House of Commons Library. It is a four-page letter that set out in full not just the reasonable central estimate, but some of the other issues that need to be considered. For example, it covers the European Investment Bank, contingent liabilities, the European Central Bank and the European development fund. I think that that is a reasonable and full characterisation of the totality of the settlement and all of the issues around it.

Q8 **Caroline Flint:** What else do you think could be included at a later date and when would that be? What areas are you looking at at the moment that could be included in future updates?

Sir Tom Scholar: One feature of the settlement that we were keen to negotiate was to include a very clear ceiling or cap on the elements that could come within the settlement. Once this is agreed and ratified on both sides, there are not any new elements that can come along and be added to it. There is, as we have fully acknowledged and as the Report also sets out, uncertainty as to what the precise cost will be, but in terms of the things that we are paying for, that is now agreed. At the point that the legal text is ratified, that will be a formal legal obligation that will not change.

Q9 **Caroline Flint:** Aren't there potential costs that are not included in the settlement agreement but will have to be thought about in future? Some of the potential costs to us include some of the agencies that we sign up to that we might want to continue to be a part of, and we haven't really worked out what the cost of that might be, and other costs in terms of setting up organisations because we come out of ones in the European Union.

Sir Tom Scholar: As I was saying earlier, it is of course the case that domestic Departments that need to replicate, one way or another, services currently provided through the European Union, whether agricultural support payments or the regulation of medicines, for example—there are other examples too—will need to develop their own arrangements for that, and they are planning on that basis already.

Caroline Flint: Have they been given—sorry to interrupt you.

Sir Tom Scholar: Sorry. I was going to say that, as you know, in the Budget in the autumn we allocated £1.5 billion this year and £1.5 billion next year for preparations for all that. Clearly, where there is a new activity that the UK Government undertake beyond that, there will be a

cost associated. However, at the same time, we will not be contributing through the European Union to the costs that we were previously meeting.

- Q10 Caroline Flint:** When do you see there being a further report to Parliament on how this is all shaping up, before we get to the day that we actually leave?

Sir Tom Scholar: There is a decision that the Government will need to take, which they haven't taken yet; it is a decision for Ministers. As we get beyond the agreement with the EU27, there is a question about what information will be provided to Parliament to inform the meaningful vote and subsequently the withdrawal Bill. There is a clear decision for Ministers there. The Chancellor is on the record as saying that he thinks it would be appropriate to give some comprehensive analysis to Parliament at that point, because it is at that point that Parliament will vote on whether to accept into UK law this new formal obligation.

Beyond that, we need to devote some thought, which we haven't done yet, to the reporting arrangements that we will introduce to make sure that Parliament and the public are kept well informed as to the progress of the payout. There are some recommendations on that from the NAO, which are very helpful and which we will be looking at.

- Q11 Caroline Flint:** On that, and going back to your earlier answer about Departments having been given directions to get on with working out what the costs for them will be, as well as the ongoing costs for running certain services, do you see that reporting being in the form of one big report, or would we get that in tranches from Departments over a period of weeks and months in the autumn, for example, before we finally leave? Is there discussion about what form that might take?

Sir Tom Scholar: I don't know the answer to that yet. We certainly have an obligation to provide information on the EU financial settlement. There is then a further discussion, right across Government, as to how exactly to assess the implications—both direct, in terms of the payments we are not making, and indirect, in terms of the domestic expenditure that we will incur instead—and how to account for them. That has not happened yet.

- Q12 Caroline Flint:** At the point at which we leave the European Union, as well as the, if you like, broad financial settlement as and when we leave, are you satisfied that we will be in a good place to have clarity on the ongoing liabilities and amounts we will be paying in, both during the transition period and beyond?

Sir Tom Scholar: We will have a very clear statement of what will then become our financial obligations. They are not currently obligations, but once they are formalised into a legal agreement and ratified in the UK and the EU, they will become legal obligations. That will be very clear at that point, and we will make sure that Parliament is properly informed as to what those obligations will be.

- Q13 Caroline Flint:** Will the Treasury take a lead across Government to ensure that, at the point that we have that clarity, the British public will



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have—despite the challenging nature of this—a clearer idea and a clearer sense of the amounts of money that will be retained in the UK for the benefit of some of the services in areas that were previously provided by the EU?

Sir Tom Scholar: I cannot say yet what will be published at that point, for two reasons. First, in part that will depend on what, precisely, the future agreement with the EU will be. That negotiation will continue for some time, and I do not think it will be complete at the time when that is set out. Secondly, as I said, it is a decision for Ministers how to reflect and present the total cost on one side of the ledger, and the reduction in contribution on the other.

- Q14 **Sir Geoffrey Clifton-Brown:** Sir Tom, do you expect that the other costs, such as the UK's contribution to the financing of the European Defence Agency, the European development fund, contingent liabilities, receipts that go directly to the private sector, participation in EU programmes, fines and so on, will exceed the £35 billion to £39 billion already set out as a direct cost to the EU?

Sir Tom Scholar: I don't know the answer to that now. It depends on what exactly is agreed in each case. It is the decision of the UK Government what objective to set. What we are talking about here is the settling of obligations between the UK and the EU. If, beyond that, the UK decides to enter into new agreements and new obligations, that is a different question.

- Q15 **Sir Geoffrey Clifton-Brown:** There is a certain amount that we know we will definitely be obligated to pay. This table has been prepared for us. There are some very good sources in there—Her Majesty's Treasury, the NAO, the OBR and so on—and I have no difficulty adding them up to come to a figure well over £40 billion.

Sir Tom Scholar: Is this a table in the Report?

Sir Geoffrey Clifton-Brown: No, it is not.

Chair: It is extrapolated from the Report, and from the information that is in there.

Sir Tom Scholar: It is slightly difficult to comment without having the table in front of me.

- Q16 **Sir Geoffrey Clifton-Brown:** Okay, but you must have done some work on the costs other than those directly in your estimate of £35 billion to £39 billion.

Sir Tom Scholar: I will ask Mr Bowman in a moment to say a bit more, but let me just give you one example: the European development fund, which is referred to in the NAO's Report.

Sir Geoffrey Clifton-Brown: The £2.9 billion.

Sir Tom Scholar: At the start of the current MFF period, we entered into commitments relating to that. Those are not commitments of money to be



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paid to the EU; it is a vehicle for allocating our development assistance budget. In the past six years, as in previous years, DFID has decided how much of its development budget to spend bilaterally, how much to put through multilaterals such as the World Bank and the UN, and how much to put through the EU. We have the commitments that were decided at that point, and we will meet those commitments, but that is not a cost of exit. That is money that we were going to allocate in any case.

- Q17 **Chair:** Just to make it easier for everybody, we are looking at page 32 of part 2, from “Payments not included in the estimate”. It is listed there and on subsequent pages. Much of what is in our aide-mémoire is from there, but not entirely.

Mark Bowman: As Tom said, the components of what we agreed in December and have been putting into legal text, in terms of the financial settlement, are very clear, and we have come to a very watertight definition of it.

- Q18 **Sir Geoffrey Clifton-Brown:** Can I stop you there, Mr Bowman? It is all very well having the headline figure, but if all these other costs are going to have to go on top and will exceed the headline figure, aren't the public getting a misleading impression of what the costs of leaving the EU are going to be?

Mark Bowman: I don't accept that description. We agreed very clearly the components of the settlement. It is true that it is not possible, at this stage, to put a specific figure on all those components, because it depends on future events. For example, we have agreed to pay commitments that were made during the period up to 2020, which will fall afterwards. We know what the headline number is. We also know from experience that a proportion of EU commitments never materialise. We secured a very important agreement that we will not pay for things that do not materialise, but we will only know for certain the true figures after the event, as it were, when the de-commitment rates are agreed.

The £35 billion to £39 billion figure we think was a reasonable central estimate—€40 billion to €45 billion. It is true that there are some elements that we do not know in terms of exactly quantifying the components. I think you were pointing us to figure 13 in the document. I would argue that there are some very good reasons for justifying that we made some very conservative assumptions. For example, looking at this table, in terms of our contributions in 2019 and 2020, as the NAO Report sets out, we used the Commission estimate. If we had used the OBR estimate, that would have reduced the figure. In terms of the de-commitment ratio, we used a figure of 7% to 8% and, in actual fact, over the period of the last MMF the figure was 9%. It is true that we cannot be certain about the specific figure, but in terms of a reasonable central assessment, I think we were right to—

- Q19 **Chair:** I think what we've heard from both Sir Geoffrey and Caroline Flint is that this is the settlement but there is a wider bill that the taxpayer is funding, and that wider bill is also of interest. The settlement, which is



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what we are here, in core, to discuss today, cannot be seen entirely in isolation. There are other costs that are not part of this legal financial settlement, and that is where Sir Geoffrey is—

Mark Bowman: That is absolutely right. I would argue that the financial settlement—the withdrawal element of this—in terms of the components, is very well specified. Clearly, in terms of the future relationship, there is an ongoing negotiation—

Chair: The problem is that in Treasury speak, and perhaps even in parliamentary speak, it is well specified because we understand it, but if you stop the average person in Hackney or the Cotswolds—without in any way being detrimental to our constituents—they do not necessarily see the fine definition of what the settlement is versus the total cost. Caroline Flint, do you want to pick this up?

Q20 **Caroline Flint:** I just want to pick up on a phrase that Sir Tom used in relation to the European development fund. You seemed to suggest, Sir Tom, that there is a difference—I do not want to put words into your mouth—between our costs, which we should be paying as a full member of the EU up until the point we leave, and where we decide to spend our overall aid budget, for example, in the future. Is that what you were suggesting, and is that why there is a difference? Did I hear that right?

Sir Tom Scholar: No; I think there has always been a decision as to how we allocate the aid budget, how much of it we put through European programmes and how much of it we put through other things. What I was saying was that DFID made that decision some years ago. Because of the requirement in primary legislation to spend 0.7% of GDP on aid, if they were not spending it through the EDF they would be required by law to spend it through some other route.

Q21 **Caroline Flint:** Yes, I agree on that. What I was trying to tease out was the difference, in the public's understanding and in our understanding, between our obligations and the costs to pay up until the point at which we leave the EU—that set figure—and then, in terms of our future collaboration with the EU, in whatever form that takes, the costs that we either can choose to opt into, or possibly opt out of. You are quite right, we could spend the 0.7% of GDP via another vehicle that was not the EU. That seems to be an option for the future. Is that right?

Sir Tom Scholar: In terms of the development budget, one of the things that will be discussed in the second phase of the talks will be what the relationship between the UK and the European development fund is going to be, and that is primarily a matter for DFID—

Q22 **Caroline Flint:** I realise that is a ministerial decision. But there is a difference, isn't there, between the ongoing funding of certain streams that we sign up to or agencies we decide to be part of—that is not an end in itself and it does not commit us to it for ever more—and some of our obligations right now?

Sir Tom Scholar: That is exactly right. This is what I was trying to say in answer to Sir Geoffrey Clifton-Brown: the Government can decide to enter



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into a new agreement and through doing that get some service or some value from the EU in some way. There is a cost associated with that, but it is a completely different thing from the notion of the obligation arising from exit.

Mark Bowman: Tom has really said this, but the negotiation was about how to deal with the obligations that have arisen from our membership. In the future, there will clearly be a negotiation. The Prime Minister has said that we may want to participate in certain programmes, have close relationships with various regulators, and—

Chair: What we are pushing for is clarity and transparency over that future relationship as well as the settlement, but we will come back to that in more detail.

- Q23 **Sir Geoffrey Clifton-Brown:** Sir Tom, isn't there a case really for more of these "unknown unknowns" to be rolled up in the negotiation—things like our future relationship with the EIB, or these 44 different agencies with the EU that we are currently a member of? Isn't there a case that more of this detail needs to be tied up before we actually leave?

Sir Tom Scholar: The negotiation is now starting, or has now started, on the second phase and all those issues are absolutely on the table for the discussion. Quite how much of the fine print and the detail will be decided by the time the withdrawal agreement is finalised I don't know, but it is absolutely the case that those issues are next on the agenda.

- Q24 **Sir Geoffrey Clifton-Brown:** If Parliament is to have a meaningful vote, which presumably is going to come in around about October of this year, how is Parliament going to be able to make up its mind and have a meaningful vote if it doesn't have all that information?

Sir Tom Scholar: Parliament at that stage will have a withdrawal agreement and it will have an agreement between the UK and the EU27 on the framework for the future relationship. I can't tell you precisely what form that will take because it needs to be negotiated over the next few months, but the Government's intention is absolutely that there will be clarity for Parliament and the country as to what form that future partnership will take at that point.

- Q25 **Sir Geoffrey Clifton-Brown:** Can I press you? You have given Parliament a range of £35 billion to £39 billion, with a median of £37.5 billion. That is quite a narrow range considering the number of unknowns just in the basic payments that you have already outlined—things like exchange rates, inflation and those sorts of things, and the relative economic performance of the UK compared to the EU. What sort of sensitivity analysis have you done to make sure that you are likely to be realistically within that range?

Sir Tom Scholar: We have looked at all of the main drivers, and the Report has a very helpful table—figure 13 on page 33—which goes through some of the areas of uncertainty.



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Probably the single biggest driver is the first one mentioned there—sorry, it is not the first one that is mentioned, but the “Financing share”, which is the first one mentioned over the page, at the top of page 34. In other words, what UK share is going to be used in the calculation? There is also a rather useful chart on page 28, which sets out the range within which that “Financing share” can fluctuate before it starts to push the settlement out of the reasonable central assumption that we have set out.

That is the main driver, and we have done some sensitivity analysis around that. Our conclusion is that it’s really quite unlikely that the “Financing share” would go above that level. It’s possible to see that it might go below, but only once in 10 years has it gone above that level and we are looking at an average over six years. I just give that as one example. I’m sure that my colleagues can take you through in more detail.

- Q26 Sir Geoffrey Clifton-Brown:** Can I take you to figure 7? In 2015, it went as high as 15.7%. Now, if it went to 15.7% again, I suggest that your figure would be very conservative, would it not?

Sir Tom Scholar: You are right that in 2015 it did go to that level. That is the only occasion in 10 years when that has happened, and that was associated with a rather extraordinary and completely unusual set of circumstances, which was a revision of all back data, going back, I think, to 2002.

- Q27 Chair:** But isn’t that something that could possibly happen, given that the UK is leaving? Would the EU Commission feel tempted to do a similar exercise?

Sir Tom Scholar: In that exercise, the accounts for all back years, I think, to 2010 or 2012, were closed at that point, so there’s no possibility of going back and having that kind of revision happening again.

- Q28 Chair:** Categorically, are you ruling out a revision of that scale or a revision at all?

Sir Tom Scholar: What I am saying is that I am not ruling anything out. I am just talking about the likelihood. I think that every year there is a revision of past data. It is normally quite modest. Quite often it moves in our favour—sometimes it moves against us. I am saying that the revision in 2015 was unprecedented at the time and does not seem likely, but I couldn’t completely rule it out. That is the only year when the financing share has gone to that level.

- Q29 Chair:** So you consider that a low risk, Mr Bowman?

Mark Bowman: The so-called budget surcharge in 2015 was unprecedented and, as Tom said, it went back to 2002—or a very long period. The accounts have been closed, so it is extremely unlikely that you will get any adjustment at anything like that magnitude. It is true that the whole process of corrections will still continue. That is a symmetric arrangement, so if it turns out that the contributions we make in ‘19 and ‘20—if the data gets revised, there will be an adjustment. That could work in our favour or against us.



- Q30 Sir Geoffrey Clifton-Brown:** Going back to that table, which you helpfully pointed us to. You pointed us to financing share, but I also mentioned exchange rates and inflation, and also mentioned in this table was outstanding commitments. In your sensitivity analysis, you must have done work on all those factors. Does that still bring you within that £35 billion to £39 billion range that the Chancellor wrote in his letter?

Sir Tom Scholar: Again, the NAO Report has some helpful commentary on this. First of all, looking at inflation, the main issue is the discount rate used for the pension liability, which is at a very low level. It is quite unlikely that that will go any lower. It is much more likely that the discount rate will go up over time, which would then reduce the net present value of that liability. There is the question of the exchange rates. This settlement is denominated in euros, because that is the basic accounting unit for the EU. As a member, our financial contribution has always been denominated in euros, so by definition there is exchange rate risk. We don't forecast exchange rates. It is also a pretty standard bit of economic theory that you can't really forecast exchange rates. In the fiscal accounts—this is just one example—right across the Government accounts, moves in the exchange rates always hit the—

- Q31 Chair:** Are you hedging? Because we have looked at this issue in relation to defence spending, which is in dollars usually. Are you hedging by buying up euros in advance, or is that something that the Treasury doesn't like to do?

Sir Tom Scholar: Managing public money points to some of the risks in hedging. It is quite an expensive thing to do. You certainly incur the cost, but you don't know whether you will incur the benefit. The Treasury has historically not hedged against foreign exchange risk, because we look right across the fiscal accounts and movement across the exchange rate will have a whole lot of effects, depending on whether we are making payments or receiving them. We would look at this within that overall framework. Of course it will be always open to us to hedge it, but it is not something that we are currently considering.

Chair: You are not proposing to do that at the moment, even though you know this big bill is coming?

- Q32 Sir Geoffrey Clifton-Brown:** I am going to try a third time, because I haven't had an answer to the question on this sensitivity analysis. You must have done a sensitivity analysis of all these factors, and of the relative economic performance of the euro against the pound and of the two economies. Do they still point to the fact that you are within that £35 billion to £39 billion range?

Sir Tom Scholar: Yes, we've done sensitivity analysis. As we said in January—we did the sensitivity analysis before the Chancellor wrote his letter—we stand by the comment that this is a reasonable central estimate.

- Q33 Anne Marie Morris:** Can I turn to the withdrawal agreement? As I understand it, this financial settlement is very much based on the



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assumption that the withdrawal agreement will be much as it is now. We have clearly taken the Bill through the House. To what extent can that withdrawal agreement now be changed and what implications will that have for the financial settlement?

Sir Tom Scholar: Some elements of the withdrawal agreement are agreed and some are still being discussed and negotiated. At the March European Council, a document was published—I believe it was a joint document between the EU27 and the UK—which sets out the status of the discussion under each heading. Some bits were green, including the financial settlement, because that is now agreed. Other areas are certainly not green, because they are being discussed.

Q34 **Anne Marie Morris:** But those areas that are not agreed will have financial implications, won't they? When you say that the finances are agreed, that does not mean to say that there won't be any change in the amount of money that is owed one way or t'other.

Sir Tom Scholar: I don't think that is right, because we have now finalised the agreement with the EU on the elements where we will recognise a liability, as is set out in the report. Nothing new can be added to that.

A number of issues are still being discussed on the withdrawal agreement. The one that you read about most often is the whole question of the border between Northern Ireland and the Republic of Ireland. There are then a whole host of quite technical things like, for example, what will happen to goods that are on the market at the moment of exit, but those things do not have financial consequences for the UK.

Q35 **Anne Marie Morris:** I am not sure I would agree with you there. If I can just take you to TF50, which is the joint report from December last year, it says: "Under the caveat that nothing is agreed until everything is agreed, the joint commitments set out below in this joint report shall be reflected in the Withdrawal Agreement in full detail. This does not prejudice any adaptations that might be appropriate in case transitional arrangements were to be agreed in the second phase of the negotiations, and is without prejudice to discussions on the framework of the future relationship."

Does that not imply that there can be changes to the agreement, and that that could have financial consequences?

Sir Tom Scholar: There are two things there. First, since that report was written, we have agreed on an implementation period.

Q36 **Anne Marie Morris:** And has that been costed and taken into account in your financial calculations as to what the figure will be?

Sir Tom Scholar: I will turn to Mr Bowman on that in a moment. We now have agreement on the implementation period. In terms of the future relationship or partnership between the UK and the EU, it is quite possible, as I was saying earlier, that the UK Government may choose to enter into some area of co-operation or to purchase some service that will have



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some cost associated with it, but that is quite separate from the question of the cost of the exit bill in terms of the recognition of liabilities arising from the past.

Mark Bowman: On the question of transition and whether that impacts on the financial settlement, the important paragraph of the joint report from December is paragraph 96. It makes clear that the proposition the UK put forward was conditional on agreement on the transition. We did that at that time because we knew that we wanted to negotiate a transition period and we did not want to have to come back to a discussion of whether additional financial contributions were required. That agreement in December was put forward by us and was conditional on our achieving a transitional agreement.

Q37 **Anne Marie Morris:** Okay, so would I be right in saying that, while you have some figures in the report, that is actually only one pile of money? There is potentially another pile of money that still needs to be, if you like, translated to the British public and parliamentarians as being a separate chunk of money. We talk about the minimum liability being X and Y billion, which is what your average voter will look at and say, "That is the cost of leaving to meet our current obligations; there will not be any more money." You are now saying that there actually might be, because you count them as separate pots.

Mark Bowman: No. Maybe you misunderstood what I said. The deal we reached in December—the £35 billion to £39 billion—was put forward by us on the condition that we would achieve a transitional agreement. The £35 billion to £39 billion covers the cost of a transitional period and the costs of commitments we made during our period of membership. There will not be an additional amount of money to be paid because we have now negotiated a transition agreement. That is covered in the joint report.

Q38 **Anne Marie Morris:** If "nothing is agreed until everything is agreed", there may not be a transitional agreement. What then?

Mark Bowman: We have been through a process of reaching the agreement in December, which was a political agreement. We are currently going through the process, in the withdrawal agreement, of turning that into legal text. However, you are right: that does not become a legally binding agreement until the whole of the withdrawal agreement is signed off.

Q39 **Anne Marie Morris:** So as a consequence the financial position could also change?

Mark Bowman: If there isn't an agreement on the overall withdrawal agreement, the commitments we have made in the financial settlement are not legally binding.

Q40 **Anne Marie Morris:** Can I take you to paragraph 87 of the joint report? At the end of it, it says: "There remain areas where further discussions will be required to reach agreement during the next phase of negotiations." Is there a list of those areas, and have they been priced?



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Mark Bowman: The reference in the joint report—paragraph 87 that you refer to—is under the heading “Other separation issues”. These are issues about how we disentangle ourselves from the EU—issues such as how you deal with goods that were placed on the market before our exit, and what happens if they are still on the markets.

The list of issues is in the draft of the withdrawal agreement, which was published by both sides following the March Council. As Tom explained, the areas where the negotiators have come to an agreement at a political level—we have not ruled out the possibility of technical changes if there were inconsistencies in the legal text—are the green text. In the areas of text that are white or yellow, there is still further work to be done, but in a sense I think that answers your question. That is the list of issues that still need to be resolved.

Q41 **Chair:** So they are the known unknowns?

Mark Bowman: Yes.

Sir Tom Scholar: But the important thing is that they will not have an impact on our estimate of the cost of the financial settlement.

Q42 **Chair:** So they might have a cost, but not on the narrow settlement?

Sir Tom Scholar: In nearly every case there is no cost attached. I think there may be one or two items with a very small one, but we are talking very small amounts of money, and not anything that would come close to affecting our central estimate of the cost.

Q43 **Anne Marie Morris:** What basis has been agreed between the UK and the EU about how the costs of implementation will be shared? Clearly, there is a cost to moving from where we are now—the institutions we have, and the processes and protocols and so on—to where we will be post-2019. Who is supposed to pay for what? What has been agreed between the parties?

Chair: Mr Bowman, you have been in the negotiations. Presumably most of it falls on us, because we are the ones leaving.

Mark Bowman: I am not sure I completely understood the question, but on the different components of the settlement, the contributions in 2019 and 2020 will be made on the same basis as they were as a member state. We will contribute as we would have done as a member state.

Anne Marie Morris: I think you have misunderstood my question.

Chair: It is about the cost of disentangling.

Q44 **Anne Marie Morris:** Exactly. The question is about the fact that there will be a process that has to be gone through. The EU will have to make changes in terms of what it does about customs posts, regulations, and organisations. Likewise for the UK, there will be changes that we have to make about how we deal with customs trade, investment in IT, and so on. How will the costs be met?



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Mark Bowman: I think the simple answer is that, as with our previous discussion, there are a whole set of issues about the future relationship and a negotiation has to happen.

Chair: You are in the hot seat discussing it.

- Q45 **Anne Marie Morris:** The question that occurs to me is that, given that we are one and they are 27, we have much more change to implement than they do. If the result is that costs are borne where they fall, I am not sure that would be fair. Is that the sort of issue that is now being discussed?

Chair: It is perhaps unfair to ask the Treasury to determine whether it is fair, but perhaps answer the factual question about where the costs will fall.

Sir Tom Scholar: Let me try to answer that, and my colleagues might want to add to it. To take the example that you have raised, of leaving the customs union, as you say there will be costs associated with that in terms of different facilities on either side of the border—that would mean, obviously, on the UK side of the border, but also in Ireland, France, the Netherlands, Spain and other countries that do not have a land border but certainly receive and send goods, to and from.

In the absence of anything agreed to the contrary, it would be the case that each country would meet its own costs, but we are just embarking on the discussion of what the future arrangement would be. There is nothing to say that we cannot also have a discussion about how to allocate costs, but I think it would be fair to say that the default, and what people would generally be expecting, would be that each country would meet its own costs.

- Q46 **Anne Marie Morris:** Which is going to be expensive. What about the issue, which is also dealt with in this joint agreement, about citizens' rights? Clearly, with that go changes in who is entitled to pensions, social security, health benefits and so on. Has the Treasury looked at the implications of that for this country?

Sir Tom Scholar: There is an agreement that needs to be struck on the precise rights of UK and EU citizens, first of all, in the transition or implementation phase. That is now agreed. Secondly, in the future—this is not agreed, because it needs to be discussed and negotiated as part of the future relationship—I would expect that discussion to include direct rights, rights of residency, rights to work and so on, but presumably also financial rights. At the moment, as you know, there is a social security regulation that governs the rights that the nationals of one member state have when they reside in another, and something needs to be agreed in that space. Certainly the Treasury will have an interest in the financial implications of that.

- Q47 **Anne Marie Morris:** When will you set out in your report what these additional financial consequences are, as you have done for the cost of our contributions up to 2020?



Sir Tom Scholar: At the moment when something is agreed.

- Q48 **Chair:** What about giving advice to Ministers and, indeed, to Mr Bowman, who is in the hot seat negotiating, before an agreement is made? Will there be any financial analysis done on the cost of bearing pensions, child benefit or whatever before the deal is struck?

Sir Tom Scholar: As the Government forms its negotiating position across all of the issues that it needs to negotiate, the question of the fiscal cost and the economic implications will be very important on each and every issue. And the Treasury will be providing that.

- Q49 **Chair:** And that will be under the bracket of advice to Ministers, so not public?

Sir Tom Scholar: Certainly at the point at which it is advice to Ministers, it will not be. Then there is a separate decision, at the point at which the Government presents an agreement, on what supporting analysis it provides along with that.

Chair: You are quickly picking up our theme—that we want as much published as possible about the total broader costs.

- Q50 **Bim Afolami:** Mr Ginsberg, you have not said much—not your fault, I am sure. From your position, what was the assumption—obviously, when you put together financial modelling, there are lots of assumptions—that was most debated within the Treasury? From memory, what was the assumption that was hardest to come to when putting together all this work?

Ian Ginsberg: Nothing immediately springs to mind as being particularly difficult. There are obviously lots of assumptions that go into the modelling, a lot of which is quite complicated. The data that you rely on is often *sui generis*. It is Commission data and will not be comparable to anything else. You only have a few data points looking backwards to give you a forecast of what the future is going to be. You have to make a judgment on how reliable history is as a predictor of the future. Technically, there are things like looking at the pension costs and thinking about the degree of variability that goes into the net present value of very long-term obligations, which makes coming to a judgment on what the right answer is quite difficult.

There is a difference between what we were doing in terms of presenting the £35 billion to £39 billion versus what we were doing when we were negotiating. We reached a settlement that was notable for having very few numbers in. So the intention behind communicating and helping to make this settlement a bit more transparent was to explain to people what was going on and how much the things in the settlement cost. In order to do that, we and the Commission agreed that the most transparent way of doing that would be to put out publicly available data that had been independently verified and audited by the ECA, and that helped in terms of making some of the complicated assumptions a bit simpler.

- Q51 **Bim Afolami:** If I pick one—let us just take the overall performance of



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the British economy as being one key input, particularly to the financing share and other areas—how good would economic performance have to be in 2019-20 for our contribution to be high enough to kick us out of the £35 billion to £39 billion range?

Ian Ginsberg: Typically, we leave the economic forecasting to the OBR. It is quite a complex set of calculations. On the financing share, which you are referring to when you talk about economic performance, economic performance is partially a determinant of what our share of EU contributions are in 2019-20.

Bim Afolami: Yes, and there are other bits to it.

Ian Ginsberg: It will also depend on what the exchange rate is at that point in 2019-20. You would also have to make an assumption about what the—

Q52 **Bim Afolami:** What the impact of increased growth does to your exchange rate.

Ian Ginsberg: Yes, so it is not a straightforward calculation. Also, the effect of GNI becomes even more complicated because of part of the rebate calculation, which has three components, including something called “the UK advantage”. That offsets any change in our GNI share through the change in the rebate, which will then reduce the amount we pay.

Q53 **Bim Afolami:** So you’re saying it is not linear?

Ian Ginsberg: It is a non-linear calculation.

Q54 **Bim Afolami:** I suppose what I am trying to get a handle on is the extent. We picked something completely static, in terms of the financing share. I am just trying to figure out how likely it is that we get out of that. I picked “how good”; I suppose you could do the flipside of how bad it was.

You talked about economic growth and exchange rates. In relation to the US war debt that we paid back—Gordon Brown, when he was Chancellor, paid that off finally, if I remember rightly—how did we pay the exchange rate for that? Presumably that debt was in dollars. How did we do that?

Ian Ginsberg: I wasn’t around for that calculation.

Q55 **Bim Afolami:** The reason I asked that was not because I necessarily thought that you would have been around—maybe Sir Tom Scholar was in the Treasury at the time it was paid off; I don’t know. I am interested in whether we took a different approach then from the one we are taking now, and why?

Sir Tom Scholar: I must say, I do not remember what we did in terms of the US war debts. What we have done here, though, is some sensitivity analysis as we arrived at the reasonable central estimate. On your question about how the British economy would perform, the last 10 years has included times when the British economy has performed much more



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strongly than the European economy, and times when it has performed rather more weakly—for example, if you go back 10 years, at the time of the recession. Nevertheless, within that time, the financing share—with the one exception that we discussed earlier, where there were specific exceptional factors at play—has always remained within that corridor.

- Q56 **Bim Afolami:** One interesting thing that comes out of this is the assumption that the UK will participate fully in EU programmes through '19-20, hence our contribution to those being the same. What is the scope for any clawback if, in '19-20, it is quite clear that we are not participating fully in those programmes for political reasons, or for any other reason, I suppose?

Sir Tom Scholar: Just to clarify, do you mean, for example, taking the Horizon 2020 programme, if there is a sharp fall in the—

- Q57 **Bim Afolami:** If the British Government judge that we are not being treated fairly.

Sir Tom Scholar: We have a mechanism agreed in the withdrawal treaty—a dispute arbitration mechanism—which is there to be used in exactly that kind of circumstance.

- Q58 **Chair:** Can you explain that a bit more? Does that apply to other disputes over the finances?

Sir Tom Scholar: Perhaps I can turn to Mr Bowman.

Mark Bowman: On the first part of the question, the vast majority of receipts are predefined and pre-allocated, so for structural and regional funds, the amount that the UK will get is already predetermined. For other elements of receipts, you are right that there is a process for bidding for them. There is a provision in the withdrawal agreement for dispute resolution. That is one of the areas where—

- Q59 **Chair:** Can you please spell out how that will work?

Mark Bowman: It is an unresolved part of the negotiation. There is a provision for a joint committee. There will be a committee on the financial aspects of the report, so that will be where concerns—

- Q60 **Chair:** So at the moment, as we stand here today, there is nothing—

Mark Bowman: At the moment, the negotiation is not concluded on what the overall governance of the withdrawal agreement will be. That is one of outstanding issues from March that needs to be resolved.

- Q61 **Chair:** It is quite a big outstanding issue, isn't it? If we feel that the UK is getting a very rough deal from the Commission, there is not a way of dealing with that at the moment.

Mark Bowman: Yes, there is an agreement that there will be a dispute resolution mechanism, but exactly how it operates is something that still needs to be resolved. Obviously, it is very important that we get that right.



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Q62 **Chair:** So until that agreement, we do not know how a disagreement over the numbers will be resolved.

Mark Bowman: The exact mechanics and the governance of dispute resolution is, as I say, a part of the withdrawal agreement that is not yet finalised.

Q63 **Bim Afolami:** Mr Ginsberg, you mentioned that we are using Commission data rather than OBR information. Was there resistance from the British Government to that point when it was originally discussed, or were we happy to accept that?

Ian Ginsberg: Do you mean in terms of producing the public estimate or in terms of settling the settlement?

Bim Afolami: Both.

Ian Ginsberg: In terms of producing the public estimate, we felt that, in the interests of transparency, the data produced by the Commission in their financial report and their annual report and accounts provides a relatively straightforward place to go to find—

Q64 **Chair:** You mean they weren't going to disagree with it.

Ian Ginsberg: They are not going to disagree with it, no, but—

Q65 **Chair:** So that made it a lot easier.

Ian Ginsberg: That does help, and you would have to dig quite hard into the OBR's forecasts to get exactly the same output.

Mark Bowman: The context is important here. We were very keen to produce an estimate that the Commission would agree with, so, for example, on the financing share of the contributions in 2019-20, we went with their forecast, which delivered a financing share of 12.7%, even though our own estimates would have been slightly more in our favour. We thought that it was fair enough to use that. It was a conservative judgment that it was—

Bim Afolami: That is what I was getting at.

Sir Tom Scholar: The key point to understand is that the use of the Commission's assumption rather than ours does not change the money that we will actually pay. The money that we will actually pay depends on out-turn data. It only affects the presentation.

Q66 **Chair:** It got you over that hump in negotiations. Rather than having a detailed discussion about OBR figures or other figures, you chose the Commission figures, which they already agreed with.

Mark Bowman: The Commission would have found it difficult to justify to the member states why they were using OBR figures.

Q67 **Chair:** So that was a factor in your decision.



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Mark Bowman: Yes, but it does not affect how much we pay. Actually, it turned out to be a conservative assumption.

- Q68 **Sir Geoffrey Clifton-Brown:** Why have you included in your figures the income from the European Investment Bank but not the liability from the European development fund?

Sir Tom Scholar: On income of the EIB, do you mean the repatriation—the repayment—of the UK's capital?

Sir Geoffrey Clifton-Brown: Yes.

Sir Tom Scholar: I am subject to correction by my more expert colleagues, but my understanding is that we are talking about two quite different types of institution. The European Investment Bank is a bank and we have paid capital into it, and as we withdraw we can withdraw our capital, whereas the European development fund is a pay-as-you-go fund into which the member states put money year by year that is then distributed to recipient countries, so there is not any capital sitting in there available to be repatriated.

- Q69 **Sir Geoffrey Clifton-Brown:** But isn't the real reason that it is not part of the European treaties? You explained that to us earlier.

Sir Tom Scholar: Our £35 billion to £39 billion is a statement of the obligations that we are prepared to recognise in terms of our membership of the EU. We do not include the European development fund in that because, first of all, as you say—this is a technical legal point—it is not established as part of the EU through the EU treaties. It is a separate fund that we have entered into. That is, in a sense, a technical point. The more important point is that this is part of our overseas development assistance budget that we have chosen to spend through that route. We could have spent it somewhere else. We have chosen to spend it through that route. We will continue to spend it through that route for the remaining couple of years of the life of the fund, and then DFID will decide where they want to spend it in future. It is quite a different category of spending from an obligation arising out of membership of the EU.

- Q70 **Sir Geoffrey Clifton-Brown:** Are we assuming in the negotiations that the EU will behave as if we were a continuing member—in other words, that they will not do things like accelerate expenditure that would otherwise have come in the next capital period or redefine liabilities? Basically, are we assuming that they will behave exactly as if we had continued to be a member?

Sir Tom Scholar: We have negotiated various protections in the agreement that give us some comfort. My colleagues might like to go into a bit more detail, but, for example, there are two mechanisms that impose a cap on spending in 2019 and 2020: the first is the overall MMF ceilings and the second is the requirement of the own-resources decision. Taking those two together, it provides a completely binding ceiling on spending in those two years.



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A second protection that we have introduced—that we have agreed or negotiated—is that, in respect of liabilities, we would pay only if the liability actually materialises and only when it materialises. Thirdly, we would pay only to the extent that everybody else was paying as well. To that extent, our incentives are well aligned.

- Q71 **Sir Geoffrey Clifton-Brown:** So these liabilities are capped in 2020. There are things like the ongoing customs dispute on shoes and textiles, which some people have estimated could cost up to €2.4 billion. Will that liability be capped when we leave in 2020?

Sir Tom Scholar: The first thing to say is that the British Government do not recognise or accept the liability that the Commission has asserted in respect of that. We will contest it vigorously. The second thing to say is that it is a separate issue. It is not part of the financial settlement that we are reaching with the EU and it has not been negotiated through this process—it is a separate legal process.

- Q72 **Chair:** And, in effect, it is dealing with historic years of funding anyway.

Sir Tom Scholar: Yes. It is not a future liability.

- Q73 **Sir Geoffrey Clifton-Brown:** When do you expect that to be settled?

Sir Tom Scholar: I don't know the answer to that. These things quite often take quite a long time. It is only very recently that the Commission first published its initial findings. I do not know how long it will take.

Mark Bowman: On the protections that we secured, it is important to recognise that we fought hard to achieve this. We will contribute in 2019 and 2020, but we secured a protection that we will not be impacted by any changes to the MFF regulation, which is the overall ceiling for the EU budget, or the own-resources decision, which is the basis on which countries contribute, after we have left.

- Q74 **Sir Geoffrey Clifton-Brown:** Can I be absolutely clear on this, because it is a really important point? After 2020, there will be no liabilities relating to our existing membership up to 2020. In other words, it is a closed book when we leave in 2020. When we have paid our 2020 contribution, it is a closed book and there cannot be any further liabilities.

Mark Bowman: No, there will be liabilities that we pay off in 2019 and 2020 and then in successive years, but in terms of the 2019 and 2020 contributions and the commitments that stem from our being part of the budget up to 2020, the EU cannot change the basis for how we contribute or the overall ceiling, because the legislation as it applies to us on the MFF and the ORD is frozen.

- Q75 **Chair:** But they could consider fines and so on—the normal things—if something has gone wrong.

Mark Bowman: Yes.

- Q76 **Anne Marie Morris:** "Events, dear boy, events," the famous playwright wrote. Going forward, clearly there will be some really unforeseen things.



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What happens if there is a eurozone crisis? How will that affect us, clearly not through the settlement that is currently provided for, but through future risks and ensuring that we are prepared? How would you go about protecting us? Have you already looked at how we would deal with that sort of issue?

Sir Tom Scholar: It would have no impact on the financial settlement that we have agreed.

Q77 **Anne Marie Morris:** Except that they might not be able to pay it because they might not be in the same happy financial position they are in now.

Sir Tom Scholar: The payments mostly go in one way. There are offsetting receipts, but they tail off quite quickly. The main impact on the UK would be through the effect on a large and important economy on our doorstep. That would certainly have an impact on the British economy, just as the last eurozone crisis did. That would be the main impact, but there would be no impact on this financial settlement.

Mark Bowman: And we absolutely protected ourselves in the financial settlement from any of these risks. Actually, this was one of the reasons why we agreed that the cut-off date for contingent liabilities would be the date of our exit, not 2020, because we were concerned about the possibility of new instruments to support eurozone countries being created after we had left. As I said, the cut-off date for contingent liabilities is March 2019

Q78 **Anne Marie Morris:** Given that you rightly point out that payments go one way rather than the other way, can we get away with paying less as a result of a crisis?

Sir Tom Scholar: Once this agreement is ratified, it becomes an international legal obligation.

Q79 **Anne Marie Morris:** Okay. What about other future things that are unagreed, like what we do about the border with Ireland? If we land up being a customs clearing house, who would bear the cost of that, and how is that going to be accounted for going forwards?

Sir Tom Scholar: As part of the discussion on the future customs agreement—whatever it is—as I said earlier, it is completely conceivable that there is a discussion of cost sharing there. My guess is that the position of the EU27 would be, “Well, it was the UK that decided to leave the customs union, so the UK can meet its share of the associated costs.” That is, I think, the position that they would take. But it is not impossible to imagine, depending on what exactly was agreed—if there was some better solution that worked better for everybody—costs being discussed as part of that.

Q80 **Anne Marie Morris:** The Committee is getting the impression that while we have one set of numbers, which is all about our obligations and which takes us up to 2020, there is a whole bundle of other things that are currently unknown and, therefore, uncoded. At what point are you going to produce a financial report on all of that? Now, you also know what is in



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the transition agreement. Are you going to produce another financial report that says that if the transition agreement looks like x, this what the financial liability of the UK is going to be?

Sir Tom Scholar: The Government needs to negotiate the future relationship with the EU. Let me take one example. The Prime Minister, in her speech in Munich in February, talked about the security co-operation between the UK and the EU, which would go on being very important. Now, the EU has a number of agencies and programmes that are related to security. It is a matter of choice for the British Government whether it wants to take part in those, and then a matter for agreement with the EU27 whether we will do. If we do, you could imagine that there would be some payment associated with that—we would be getting a benefit from it. So my assumption—it is only an assumption, because it is a future decision for Ministers—is that, at any point that there is a formal agreement with the EU, there will be information and analysis published to support and explain it. The first sign that would come would be when the framework for the future agreement is decided later this year. Then, looking down the track, as there are discussions and negotiations continuing during the implementation period, at some point there would be further detail available. But, again—I keep stressing this point—the future payment for a service that will continue into the future is a completely different thing from the settling of a past obligation.

Q81 **Anne Marie Morris:** That, I understand. My point is that, because they are separate, as you have rightly clarified, at some point they have to be crystallised into an amount of money, because otherwise, parliamentarians, as Ms Flint raised earlier, can't make a sensible decision, and the British public don't really understand what the total liability is. So do you have a timeline, or are there specific events, that will trigger your producing another financial report?

Sir Tom Scholar: When there is a proposal, which obviously would go to Parliament, for what the UK's future relationship would be, that would need to say, "The UK intends to co-operate with the EU in the following areas and the following ways and through the following institutions, agencies or organisations," and the cost of that would be X for this, Y for that and Z for that, and the total cost for the whole thing would be whatever it was. That would be analogous to other countries who are outside the EU, but who have a relationship of one sort or another with the EU. Typically, there is also some payment associated with the service that they receive from it. So, absolutely, Parliament would have to have that full information to make an informed decision.

Q82 **Anne Marie Morris:** In answer to one of my earlier questions, you said that the transition agreement was now sorted. If it's sorted, will you not be reporting some sort of financial analysis as to what, therefore, the cost to the British taxpayer is going to be?

Sir Tom Scholar: That is incorporated, as Mr Bowman was saying earlier, into the settlement we are discussing today. It is all part of a single agreement. There is a financial settlement; there is agreement on an



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implementation period. That is already included in the cost that we are looking at today.

Q83 Chair: I think one point is the post-transitional arrangements between citizens.

May I just go back to the point that Ms Morris was raising about a eurozone crisis, because one of the aspects of uncertainty is contingent liabilities, which you have a low risk on? However, if there was a eurozone crisis, there would be a higher risk there. Have you factored that in? What is your range of concern? As I say, you have factored it in as quite a low risk, but if the worst happened it could be much higher, couldn't it? The Chancellor covered some of that in his letter.

Sir Tom Scholar: I will give one example—actually, the most important example—which is the European Investment Bank, where we are recording a contingent liability. Actually, we have already in the past had that contingent liability, as every member state has, in that there is callable capital in the event of serious financial difficulty at the EIB. What I would say on that is that we went through the last eurozone crisis and that liability didn't emerge and, indeed, didn't even come at all close to emerging.

Q84 Chair: So you still think there will be a low risk, even in that situation.

Sir Tom Scholar: Yes.

Q85 Lee Rowley: We have been talking about future assessments and “known unknowns”, or “unknown knowns”—whichever way you want to go at it. What processes will you take to ensure that the future settlement is fair and accurate from a UK perspective?

Sir Tom Scholar: The settlement is as agreed now and as published, and as explained by the NAO in its Report.

Q86 Lee Rowley: The assessment of that settlement.

Sir Tom Scholar: The assessment and, indeed, the implementation of it. Again, we have negotiated a number of protections here that we can take you through, including the right to audit the figures that will be provided to us as the basis of the payments that would be made. We are thinking through internally the capabilities and the skills that we will need to do a good job of scrutinising that. I should say we have got a lot of relevant experience here. For 40 years, we have had a team of people scrutinising EU finances and challenging everything that the Commission has put to us, so we have a lot of institutional memory on that. More recently in this exercise, we have supplemented that with expertise in corporate finance, legal and audit.

Q87 Lee Rowley: What sort of skills specifically do you think you do not have at the moment that you will need in this new approach?

Sir Tom Scholar: Let me give my answer and then my colleagues might want to add to it. I think that the main thing that will have changed here is that, rather than scrutinising figures and payments from within an



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organisation, we will be doing it from outside. That is categorically a different type of relationship, so we need to make sure that our right of access to figures and ability to scrutinise and stress test them is robust for that.

We are still working on that. The NAO, as you see, have made a number of recommendations, which we will be looking very carefully at, and I should say that we have been very grateful to them for the assistance that they have given us already as we have considered how to do that. I don't have the full answer for you today, but I think that is the single most important difference—that in future we will be outside this organisation rather than within it, so we need to make sure that our arrangements are robust for that.

Q88 Lee Rowley: When do you think you will have the full answer? When will you be here next when this question can be answered?

Sir Tom Scholar: I don't know the answer to that.

Q89 Lee Rowley: But that is a process question. You must know when you will define the skills in order to be able to get those skills in place.

Sir Tom Scholar: I don't know the precise answer and I hadn't thought through that answer before coming in. My guess is that it will be during the remainder of this year, since from March 2019 this will be going live and we will actually be implementing this agreement, so we will need to make sure that we have got these arrangements all sorted out, I think, in the course of this year.

Q90 Lee Rowley: I have just a couple more questions on this particular point. In all the processes or the majority of the processes in the withdrawal agreement, the EU proposes and then we have a right to come back and to challenge, and then eventually to pay. What confidence do you have that the EU is going to be proposing fair and balanced assessments, rather than things that are political reflections of the moment?

Sir Tom Scholar: In most cases, the amount that we will be required to pay will be based on a formula using actual data. That will be actual audited data and publicly available, I think, in most cases. What we have tried very hard to do in this negotiation is to restrict the possibility of judgment or subjective decisions and, as far as possible—this is all about de-risking it and closing out the uncertainty—base it on actual categories that can be audited properly, including after the event if need be. That is why we have taken the approach that we have, which is to recognise the scope of the obligations in a clear way, such that we can then have confidence that we are paying what we have recognised that we will pay and not more.

Mark Bowman: That's absolutely right. For example, if you take the commitments that will become payable after 2020, we know what the stock of commitments will be at 2020 and then the question will be tracking over time when those are actually paid. The EU will have to declare those in their accounts. There will be a lot of other member states



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that are interested in ensuring that they are providing accurate and the right information, but because we are no longer part of the EU, we also want to have the right for our auditors to go in and check their numbers.

Q91 **Chair:** You “want to have”, so you haven’t—

Mark Bowman: No, we have. In the withdrawal agreement, we have secured the right for our auditors to get access to information.

Q92 **Lee Rowley:** What is the status of the discussions on the formula? Who actually constructs the formula that you were talking about a moment ago?

Mark Bowman: In a sense, the formula has been constructed in the agreement we have already reached, so we will—

Lee Rowley: We’re talking about detail—

Mark Bowman: To take the example I have just given, at 2020 we will know the stock of commitments that have been made from the EU budget at the date of our exit. Then the question is when those are paid, over time, and the de-commitment rate—the extent to which those commitments don’t turn into expenditure. We will need to carefully track that over time to ensure that when the Commission asks us for resources, we are only paying expenditure that has actually happened. But the formula for how that is calculated is defined in the agreement that has already been reached.

Q93 **Lee Rowley:** Okay. Let’s assume that the assessments are accurate. How do you ensure that the United Kingdom is not held to a more accurate assessment of its requirements than any of the member states that stay with the European Union? How do we ensure that it doesn’t become a case of, “We’re all equal but some are more equal than others”?

Mark Bowman: Exactly through having the right to send our auditors in to check their numbers and ensure that we are being treated equally with others.

Q94 **Lee Rowley:** What is your definition of “equally”?

Mark Bowman: The definition of “equal”—the key principle that we established in the joint agreement and is now reflected in the legal text is that we only pay for expenditure that actually happens, so that will be the key thing to—

Q95 **Lee Rowley:** Yes, but you know as well as I do from your background that there is a huge amount of interpretation of what that means, because there will be an assessment of what occurred, what is occurring, what is going to occur, the macro and micro factors that have an impact. There is a huge amount of negotiation around this, even if there are factual elements in the centre, so how do you assess what equal means in that context?

Mark Bowman: It is different for different elements. It is more complicated when you talk about the pensions issues and how those go

out over time. But in terms of the bulk of the settlement post 2020 and the commitments made by the EU budget—that is the stock of commitments that have been made—those are detailed in the EU's accounts. We know what that figure is at 2020 and our challenge is working out when those commitments are turned into expenditure and whether that expenditure actually happens.

- Q96 **Lee Rowley:** So as a politician, you would have no problem with me holding the Treasury to account if, subsequent to these assessments being made, it was deduced that those assessments were incorrect or inaccurate, or wide of the mark in any way. What would be your tolerance on that?

Mark Bowman: Well, there is another element to this, which is the normal process of adjustments that happens over the time we will still be part of it.

- Q97 **Lee Rowley:** I am asking you tell me what I should hold you to. Is it within 5%, within 2%, within 0.1%?

Chair: If you were back in two or three years' time.

Mark Bowman: I don't have a figure. I don't think I am in a position to give you a figure. The challenge is assuring this Committee that we have been treated as we would have been treated had we been a member state.

- Q98 **Lee Rowley:** Is the Treasury proposing to give us a figure, or is the Treasury saying that we have to make our own figure up? Will I ever get a figure out of you, or do I have to make my own?

Sir Tom Scholar: We will certainly be reporting on this. What we have given here is, as I said earlier, a reasonable central estimate of what the overall cost might be over a long run of years. Secondly, we have constructed it in such a way that, wherever possible, calculated payments can be based on actual data. If you take a commitment that the EU has entered into in 2020, but it hasn't yet paid the money in 2025—well, it either pays the money or it doesn't pay the money. That is a public, auditable fact. If it pays the money, it is not just the UK that has to pay its share; it is all the other countries too, because that is part of the annual budgeting process. When previous years' commitments that hadn't previously crystallised do crystallise, every member state has to make their respective contribution. That is the second thing to bear in mind.

Thirdly, as I said earlier, we don't yet know—this is a decision for Ministers; it hasn't been thought through yet—quite what form the accounting will take. However, I am quite sure that the Government will want to provide—and Parliament will certainly require—some form of reporting on how the implementation of this is proceeding. I don't know whether that will be an annual report or more or less, but I would certainly expect that one of the things that we would be reporting to Parliament would be how much we have paid this year, and that we would explain it.

- Q99 **Lee Rowley:** I understand all that, but I am really trying to home down



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on the specific point, rather than the generalities. If you don't mind me being slightly provocative, there is an element of having cake and eating it in these answers. The cake is that you are confident that these are fundamentally based on accurate assessments, and based on true data and facts, and therefore there should not be a huge variation. The wish to eat it is that you won't tell me, if subsequently it proves not to be the case, what tolerance levels you would want to be given in terms of the accuracy of the assessments you make. Either you are confident and you will say, "We are confident within X%," or you are not confident, and that is fine—I understand that there is still work to be done.

Sir Tom Scholar: I am not trying to be evasive or avoiding the question. I am just trying to understand precisely what the question is. Our reasonable central estimate is £35 billion to £39 billion. That is based on an estimate of a financing share. At a certain point, that will be known with certainty. It is based on an assumption of how much of the commitments actually end up getting spent. That will only be known with certainty over time, as we go through. I am not quite sure of the percentage sensitivity, because we are saying the world is uncertain: some things will crystallise and some won't. If they crystallise and that triggers a payment, we should pay that, but we should also be able to satisfy you and Parliament that we are paying the money that we should be paying, and that we haven't been hoodwinked somehow.

Q100 **Lee Rowley:** I have one final point, because I don't want to monopolise. It is £35 billion to £39 billion in aggregate, which is made up of a series of constituent parts. Let us say that N is one constituent part. That constituent part is based on a series of actualities, as you were telling me a moment ago—a basis of assumptions, a basis of assessments. What level of tolerance should I give to how accurate N is? Plus or minus 10%, plus or minus 2%, plus or minus 0.1%, or an equivalent? I am asking for a magnitude here, rather than an actual number.

Sir Tom Scholar: But we have not forecast N. I think that is my point.

Q101 **Lee Rowley:** I mean as part of the process. You were telling me you are very confident about this process, but then you are not telling me what the tolerance level would be around that confidence level.

Sir Tom Scholar: I am not really sure how to answer this, because I am still slightly struggling to understand the question.

Q102 **Chair:** Can I take a different tack then? You talked about having the skills in place by the end of this year, and one of the key skills from what Mr Bowman said, and from just looking at all of this, is that you need to have auditors who are really up to the job of holding the EU to account. Also, as the NAO Report highlights, there is a reasonableness expectation about what you will have access to. That is a matter of interpretation. In the agreement you have been referring to, Mr Bowman, are you confident that the auditors will have the right access and, secondly, how are you going about appointing these auditors, and what sort of skills are you looking for? Is it commercial? Is it EU understanding? What pool of auditors are you fishing from?



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Mark Bowman: Tom talked about the challenge we have now to ensure that we are properly resourced and have the proper skills going forward. We have what I think is—

Chair: That's internally in the Treasury.

Mark Bowman: Yes, internally in the Treasury. This is important. We have a very professional team who have been tracking the EU budget for years and years. We have a team who have been deeply engaged in—

Q103 **Chair:** So when we talk about the auditors, we are talking about Treasury officials and not separate auditors—just to be clear.

Mark Bowman: No, the answer I was going to give is that we have a team who have been deeply engaged in this negotiation. The challenge, now we have got to this stage, is to work out how we can implement it. We have this important provision to have access for auditors. Now we are doing an internal piece of work to specify exactly the information that we will require and we are considering which auditors to use. This is an urgent piece of work, which, as Tom says, we will be doing over the rest of this year.

Q104 **Chair:** In this field, are there many firms that can do this type of audit, and what particular skills are you looking for?

Mark Bowman: That is a question we will have to come back to because this is something we are currently considering in terms of the resourcing and who we can use to do this work.

Q105 **Chair:** On the other side, there is the European Court of Auditors, with British representation of course. They have all that on one side and we have a private firm of auditors, presumably, that you are going to recruit on the other. Are there auditors out there who understand EU financial systems? Is that a market from which you can appoint somebody?

Mark Bowman: I think the reality will be that it will be a combination of Treasury officials who have a deep understanding of the EU budget and external auditors who we will use. I do not have a completely defined specific answer to your question about who exactly we will use in terms of audit because—

Q106 **Chair:** When will you need to appoint them by, in order to keep an eye on what is happening?

Ian Ginsberg: The first part of the settlement, as it is constructed in article 141 of the withdrawal agreement, means that we start paying on this new basis in 2021 and our financing share is settled in 2022. So while we remain, during the implementation period, as part of the budget, our normal scrutiny of the EU's expenditure will obtain.

Q107 **Chair:** So that will be in-house. It is post 2020 that you are looking at.

Ian Ginsberg: For some period, you would need to have a different set of ex-post audit arrangements.

Q108 **Chair:** That is plenty of time to recruit the right people, presumably.

Sir Tom Scholar: Could I just say one general thing? One thing I am taking from this session is a very strong desire on the part of the Committee for, as soon as we can manage it, clarity on the whole bunch of accountability issues: what information we will provide, when we will provide it, and what assurance mechanisms we will have, including the question of audits. As I said earlier, we are at a slightly early stage of working all that out, because until quite recently we were focused on the settlement itself. What I would like is to take that away and incorporate it into thinking of the kinds of information or supporting evidence that the Government might publish later in the year, as we get to the vote. As I said earlier, that will be a decision for Ministers. I cannot say now what it would be, but there is a very clear desire on the part of the Committee, which, but the way, I entirely understand. We will take that away.

Q109 **Chair:** Our sister Committee is seeing the Chancellor on Wednesday, so I am sure they will push the point to Ministers. Just to finish the auditor point, a number of us went out from a previous Committee to visit the European Court of Auditors and other audit bodies in Europe. It was a very interesting visit. We have British representation on that; when do we lose it? Does it go when we leave or is it separate? Do you know? If you don't know, you can write to us.

Sir Tom Scholar: I believe that that is up to the point at which we cease to be a member.

Chair: It literally is the same timetable. Thank you.

Q110 **Luke Graham:** Sir Tom, what is the risk to the UK of us not benefiting from some of the long-term programmes that we've invested in over a number of years—for example, the Galileo programme?

Sir Tom Scholar: As you say, there has been a lot of benefit to the UK from participation in some of these things, and the Government's clear position is that that is something that the Government want to continue as part of the deep and special partnership that we are seeking to negotiate. That applies across a number of areas, including, for example, the Horizon 2020 research and development funding that I mentioned earlier.

Q111 **Luke Graham:** In the calculations and forecasting that you have been doing, presumably this—I mean, some of the benefits are clearly factored into the NAO Report, but with some of the longer-term programmes, we are factoring in a pound figure for benefits that we still hope to accrue over future years.

Sir Tom Scholar: In terms of the fiscal arithmetic, as I said earlier, the OBR assume for their forecast that the Government continue to spend all of the money they currently spend on net contributions to the EU, but that they spend it on other things. In terms of the fiscal expenditure, you could, for example, as a future choice for the Government, replace the funding stream associated with Horizon 2020 with an equivalent stream of funding direct to UK research bodies. That is in terms of the direct fiscal impact, so the fiscal accounts are robust to different ways of doing this.



Q112 Luke Graham: I appreciate that. I'm sorry, but my point was that with the programmes we have already invested in, we would have sunk some cash in on the basis that there would be some intangible benefits, which I will come on to in a moment, but also presumably some fiscal benefit for us, because we would have been in a project that we hoped to have future innovation from or future physical products that we would have been able to take value from. Is that being included in the forecasts and calculations, and to what extent are those benefits being included?

Sir Tom Scholar: I don't think that the OBR forecast would go down to that level of detail. As I understand it, with Horizon 2020 they are typically particular research projects with a finite life, and then when you get to the end of that, it's a question of moving on to a different project. It's not quite the same as funding something with a stream of future income.

Q113 Luke Graham: When it comes to the intellectual property, for example, that we may have sitting in the EU at the moment—this could be the historical intellectual property that has built up over the years through different contributions and different schemes—how will that be divided up? Will the UK be getting value back from some of that IP? Will we still have ownership over that IP, whether in percentage terms or as an absolute segment?

Chair: Or none.

Luke Graham: Yes—or none at all.

Sir Tom Scholar: I'm not sure of the answer to that question. It's not something that we have—again, I don't think that the OBR will have got down to that level of detail.

Q114 Chair: It is quite a significant loss if we don't have any—

Sir Tom Scholar: As I said, the basic guiding principle of Government policy is that where these partnerships or joint ventures have value for the UK, we would like to continue with them. It's a choice for the Government in the negotiation as to which exactly to prioritise and then it needs to be agreed. With the kind of example you are giving, that would be something that I think the Government would want to continue to take part in.

Q115 Luke Graham: Obviously, you have done a lot of sensitivity analysis and, as HM Treasury, I am sure that was of a very, very high standard. Would I be right in saying that if I was the Minister or, indeed, the negotiating team, and I was going into the negotiation, I would be getting your sensitivity analysis saying, "Here's all the different projects we've been involved with. Here's some of the aspects of the sunk costs of those projects. Here are the future benefits that we're hoping to get, whether tangible or intangible," so that I know, on going into the negotiation, that I have a clear view of the costs and benefits that have been correctly assigned?

Sir Tom Scholar: That's right. Let me first of all say that that's how, up until now, we have approached the discussion as a member of the EU. Each year in budget negotiations, there's a question about how much the



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EU should allocate to one stream, one budget line or another, on which the UK always has a position. That position needs to be negotiated across different Departments. We absolutely have the kind of conversation and discussion between Departments that you are talking about. In the past, that has been as a member state. As we now look at what future relationship to agree, it is a similar type of discussion. It ends up in a different negotiation, but the Government are already familiar with doing the supporting analysis from assessing this kind of spending in the past.

Q116 Luke Graham: So we would be able to be clear about the sunk costs of these long-term programmes, and the benefits forgone if we try to negotiate programmes and do not end up getting in them. I raised the example of Galileo, but it could be any of the long-term programmes. They will be able to have a clear view of the sunk costs and the benefits forgone if we are not able to negotiate an ongoing relationship.

Sir Tom Scholar: Yes. As we approach that negotiation, on each and every area the Government have to decide whether this is something that we want to continue with. There are a number of elements to the decision on that, one of which will certainly be cost and benefit, which we would analyse in the way that you described.

Q117 Luke Graham: Okay; got it. Just going back to your previous answer, it is a little bit hazy when we get into the IP and the intangibles.

Sir Tom Scholar: I personally don't have the answer, but I am sure the Department does.

Chair: It would be very helpful if you could write to us.

Q118 Luke Graham: I just want to move back to the question that Mr Rowley was raising about the tolerance threshold of the percentage. I am struggling to understand something—maybe I am alone in this on the Committee; I am not sure. If you can articulate the costs and benefits of all our long-term projects, if you have done the sensitivity analysis, which should enable you to say, "Here's what happens if we make decision A or decision B," why can we not be given a clear steer and be told, "Look, if we negotiate badly and don't get any of these projects in the long-term stream, and we don't negotiate X, Y and Z, this will be our worst-case situation—so the £38 billion becomes £50 billion," and, "Here's the best-case—well within our tolerance, and we land up at £36.7 billion on the button."?

It sounds as if you have the elements, which is why I did not understand why you could not answer Mr Rowley's question. If you have all this information going through to Ministers, and you have the underlying analyses, why can we not be told what the broad threshold would be: the absolute worst case, the absolute best case, and the optimal, which is what you are saying, I believe, is the £35 billion to £39 billion?

Sir Tom Scholar: Let me start. I think, first of all, that we are talking about two slightly different things. The £35 billion to £39 billion is a reflection of liability associated with the past. If you then bring into it

which kind of projects we would fund on an ongoing basis, and what future benefit we might get from that, that is a whole different question.

Q119 Luke Graham: Apologies; I should clarify. From your answers, I understand that you are pretty confident that we will definitely be within the £35 billion to £39 billion range. The questions previously were about whether there will be a threshold on that. Then there is a second piece about what the total costs would be for the ongoing arrangements for the longer-term projects.

Again, maybe I am misunderstanding this, but it is two parts of the same question. If we do not get the negotiation right and we do not get all the benefits that we are expecting, some of the analysis that will inform the £35 billion to £39 billion will be off. We therefore may end up being worse off than in the figures that we were presented in the NAO Report and by yourselves.

Sir Tom Scholar: Yes. Going back again to figure 13, which lists the main areas of uncertainty, it is possible under each area to construct a sequence of events, and if you then add all of that up it could push you to one or other side of the range. I think trying to put a probability on it is extremely difficult.

Let's just take the biggest one: the financing share. The financing share depends on lots of things, in particular our VAT base, how many sugar duties we collect, and what the UK economy's GNI is, denominated in euros, compared with everybody else. I do not think you could analytically try to put probabilities on the likelihood of it being at this level or that level. It looks, to us, pretty reasonable to say that it will be within the range that we have set out.

In terms of a forecasting exercise, I cannot answer the question that Mr Rowley raised. Ex-post, we ought to be able to demonstrate to and satisfy Parliament and the public that the payments we made were a faithful reflection of the legal obligation we entered into.

Chair: The NAO Report does back up your position, but we are obviously going to be holding you very much to that final figure and to the steps along the way.

Q120 Sir Geoffrey Clifton-Brown: Three crisp subjects. First, on EU agencies, I have got a list here of 44 agencies, some of which are very important—nuclear decommissioning, medicines, aviation safety and so on. You must have done some work on the cost of either remaining in those agencies with an association agreement or coming out of them. This is one of the ongoing costs, and as I was saying at the beginning, the British public need to know what the cost of exiting the EU is. What work have you done?

Sir Tom Scholar: Each Department, as part of its contingency planning, is looking in each case at how it would replicate the service provided by a European agency once we are out of the EU, and in the case that that service is no longer being provided by that agency. To take the example of



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aviation safety, which you referred to, the Department for Transport needs to know how it would regulate and license all that if it, rather than the European Union, were responsible for it. Each Department is doing that.

At the same time, as you know, in some areas the Government is likely to want to participate in these agencies in the future. In other areas, it probably won't want to. None of that is decided yet. It is not decided as a UK position, and it is certainly not negotiated yet with the others, so it is not possible now to say what the costs will be, partly because we don't know for sure what each individual cost will be, and secondly because we don't know where we are going to end up. As I said earlier, at the point at which there is a clear proposition or a clear draft agreement or in-principle agreement that needs parliamentary support, I would expect that the Government will be able to say more about which agencies it is choosing to stay in and which it is not, and the cost.

Q121 Sir Geoffrey Clifton-Brown: The next subject is the 313 workstreams, which the Government has to implement across the piece to be ready for EU exit. Are you satisfied that the extra resources you gave in the spring statement are going to be sufficient for every single Department of Government to be able to supply sufficient skills and build the capital infrastructure needed, or will an extra round be needed during the implementation period?

Sir Tom Scholar: The £3 billion we allocated in the Budget—£1.5 billion this year and £1.5 billion next year—was based on our assessment of the need. I have got no reason to think, as of now, that that assessment is going to change, but of course, just like anything else in public spending, we are always looking at the cost and trying to reduce it where possible. If costs go up, we will try to work out what to do about that. I am not ruling anything in or out, but as of now we think that was a reasonable estimate.

Q122 Chair: There was some delay in them getting that money. Is that because Treasury officials were crawling over the detail of how they were costing some of that early preparatory work? They were also working on three contingency options at that point.

Sir Tom Scholar: We actually allocated the money for this financial year—2018-19—before the start of the year. That was set out in the spring statement, so Departments have known since before the start of the financial year how much additional resource they had to prepare for this.

Q123 Chair: We have been talking to Departments, and they are waiting for the money to come. They know what they might have to spend. Is that because your officials were crawling over the assessments of money? They never get it as quickly as they want it.

Sir Tom Scholar: When Departments make requests for extra resources, whether it is for Brexit or anything else, we scrutinise them. It does not surprise me that they come to you to complain about our behaviour. I hope this Committee will support the Treasury in scrutinising robustly—



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Q124 Chair: Funnily enough, we are at the same place on that issue. The serious point is that sometimes some of them can't implement things unless they have the cash to do it. Delay in this context, particularly with such a hard deadline, even with a transition period—they didn't even know about the transition period when they started planning; they clearly hoped for one, and they all kept coming and saying that, but they didn't have one—means there is an extra cost while they wait for that money. Are you factoring that in as well? Timely payments, in normal Treasury terms, may be slightly different in the context of a very definite deadline, where it is not just financial things that can be an issue but, in the case of customs and the border, which we looked at, it could be catastrophic if there is failure.

Sir Tom Scholar: One of the things we agreed in the autumn was a speeded-up and streamlined procedure for assessing Brexit-related bids, precisely with that in mind. The second thing I would say is that we, with the Cabinet Office and DExEU, have ongoing and rather close monitoring of all the spending on domestic preparation, precisely so that we do not get nasty surprises in the event that it looks like more money needs to go somewhere or, if it needs to be moved from here to elsewhere, we are able to do that quickly.

Q125 Sir Geoffrey Clifton-Brown: A few quick questions on pension liabilities, given that that is one of the largest liabilities we have. Can you confirm that the liability will be fixed at 8% of the total pension liability budget as at 2020?

Sir Tom Scholar: I believe so.

Ian Ginsberg: It is our financing share for the liabilities as they fall due. It operates in exactly the same way as our share of any of the other liabilities.

Q126 Sir Geoffrey Clifton-Brown: So, from thereon in, you should know total numbers and should be able to make an estimate of what our total liability is to 2064. You should be able to do an actuarial normal pensions estimate as to what our liability will be.

Ian Ginsberg: Yes. We will be provided with all the data we need to make the actuarial valuation every year we pay that liability.

Q127 Sir Geoffrey Clifton-Brown: Can I just be absolutely clear? If, after 2020, the EU employs a lot of extra staff, we will not be liable for the pensions for those extra staff?

Ian Ginsberg: The withdrawal agreement states clearly that we will only be liable for acquired rights up to 2020. That is set out very clearly.

Q128 Sir Geoffrey Clifton-Brown: Right. So the variables in that actuarial calculation are the usual things like life expectancy, final salaries, and discount factors and so on. Is that correct?

Ian Ginsberg: Yes.

Q129 Sir Geoffrey Clifton-Brown: There is nothing unusual about that. So,



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from 2028 onwards, we have a right to ask the EU to commute that total liability. How will we judge whether we wish to exercise that right and do we have a right to do it at any time between 2028 and 2064?

Ian Ginsberg: There is no point at which we cease to be able to exercise that right. We will make the judgment about whether it is value for money in the normal way that the Treasury would make a judgment about an investment that has a long time horizon, as it does in the normal course of business. We would obviously take expert advice as we get that estimate to see whether we think it is value for money.

Mark Bowman: There is an important element in terms of our overall estimate. The current budget liability in the EU accounts is on an historically very low discount rate, which you could argue inflates the book value of this. The agreement we reached does not matter because we will only pay what falls due. But you are absolutely right. We have this provision where, if both sides agree to commute it to pay it off earlier, we are able to do that, but we would have to do a very extensive cost-benefit analysis and reassure ourselves and then persuade Ministers that that was the right thing to do at the time.

Chair: I suspect some of us will not be here in 2034 or whenever we might be doing that.

Q130 **Sir Geoffrey Clifton-Brown:** The discount factor is likely to remain low because it does not affect participating member countries in terms of an annual liability, but does affect the overall liability for the fund. If the discount remains low, are you likely to want to exercise the option in 2028 or not?

Mark Bowman: No. If we think the discount rate is historically low and that reflects the current very low interest rate environment, then commuting the pensions liability on the basis of the accounting value would probably not be a sensible thing to do, but when the time comes we would have a negotiation. If we thought we could negotiate a figure that was value for money and there was a case for paying off this amount to avoid this kind of long tail, we would do so, but we would have to do a very robust assessment.

Chair: I wonder if a future Committee will measure Mr Bowman's words.

Q131 **Sir Geoffrey Clifton-Brown:** But, Mr Bowman, we will have no control over that discount rate. It will be entirely a matter for the EU to fix it.

Mark Bowman: But it would be a negotiation, so we would have to put a proposition to the EU. As I say, if we thought it was not at a favourable discount rate, we would not enter into that negotiation.

Ian Ginsberg: And it would have to comply with international accounting standards.

Q132 **Chair:** We are talking quite a long way into the future. We know what the options are, but it is useful to hear what the Treasury's broad approach is.



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Mark Bowman: It might be too difficult, but it might be possible for us to include the possibility that we can still provide this at some point. It might be in the interest of both sides.

Q133 **Anne Marie Morris:** On the common agricultural policy and the payment we have been in breach of making to our own farmers, which has led to disallowance fines, the accounts set out the total and how much is finalised, and then there is an estimated additional disallowance of £244 million. That is the budget, but it is not yet clear what the actual bill will be and what the crystallised figure will be and how that gets taken into account in all this. Perhaps you can help us with some clarity.

Chair: Disallowances are in this as well—we have covered rural payments quite a lot in this Committee and that is one of the reasons Ms Morris is asking about it.

Sir Tom Scholar: I recall writing a letter to you about our annual White Paper on EU finances—I think I wrote to you about a month ago on that—which included some commentary on this particular issue. If my memory is right you are absolutely correct that there was an unusually large disallowance last year for particular reasons which I can't now recall. Is your question about the reasons for that last year, or the interaction with what we are talking about?

Q134 **Chair:** I think it is when the disallowances will kick in, because they will be historic won't they? They are not in-year, so the disallowances are applied after the annual budgeting round. You have got the capacity in the budget but you don't know yet what you are going to be paying out, so have you calculate that into all this.

Sir Tom Scholar: As I understand it, there is a process each year to look back on the previous year's or maybe even the previous couple of years' payments, and then there is a subsequent reconciliation. The timing of that—

Ian Ginsberg: The way the settlement will treat disallowances will be that it will be symmetrical for the UK and the EU. So if you imagine there will be disallowances that occur in the UK in the normal course of business and in the rest of the 27, those corrections will be made post hoc, and then the agreement in the withdrawal treaty is that a share of those disallowances will be effectively redistributed. So what would normally happen is the disallowance would go back into budget to be redistributed to member states. Since we are not in the budget we do not get to share that redistribution, so what we agreed as part of the withdrawal agreement is that we would get a share of that redistribution as part of the financial settlement.

Q135 **Chair:** So it is incorporated into this.

Ian Ginsberg: It is incorporated into the assumptions that go into the estimate.

Q136 **Chair:** I just wanted to pick up on some points that have been tangentially touched on around the amount of money that the private



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sector gets from Europe, which is obviously dealt with rather differently in terms of the settlement. There will be organisations—we don't know whether they are less likely to bid because we are coming out of Europe or they are going to be bidding and being successful. First of all, are you monitoring that activity to see what money from Europe is coming into, broadly, UK plc, or indeed our academic institutions, which are a big part of that?

Sir Tom Scholar: As Mr Bowman said earlier, the bulk of the receipts—around three quarters—are in some sense formula-based, whether it is structural funds or CAP. Of the remainder the great bulk is Horizon 2020, which we do monitor. I think the latest information is that the UK's share of the receipts is pretty much as it has been in recent years. I think 14.5%, 15%—around that area.

Q137 **Chair:** So you are keeping monitoring that on an ongoing basis? My next question is this: if it does dip and you have a research institution in the UK getting less money as a result of our leaving Europe, will the Treasury, or will the Government, consider providing that instead, because the impact on GDP could be significant if we are losing investment into research, particularly, or business more generally?

Sir Tom Scholar: The Government is very much trying to encourage people to keep bidding. To that end, the Treasury, in August 2016, obviously at a moment of considerable uncertainty about where we would end up, made a public guarantee of funding to projects that had been—I cannot quite remember the technical term—successful in their bids and would be expecting European funding. The Treasury guaranteed that in the event that, for whatever reason, European funding did not materialise, the Treasury would step in.

Q138 **Chair:** That is in the short term, but what about the long term? In a decade, where are institutions expected to get money from if the European pot is not available to them? There may be some cases where we have bought into institutions, but if we have not, that funding will dry up.

Sir Tom Scholar: That is another area where the Government needs to work out to what extent we are still participating in these things with the EU27 and then, to the extent that we are not, what the domestic arrangements are.

Q139 **Chair:** So there is still a lot of uncertainty around this?

Sir Tom Scholar: Yes. To take a specific example, on structural funds, the Government has said that it is going to develop a new domestic framework to deliver the same objective, but that is still being worked out. The same is true of other areas where the UK currently receives money from the EU.

Q140 **Chair:** Okay, we may well probe that at a later date. You received legal advice on the settlement. When will you be publishing that? We do not expect you to do so while there is a live negotiation—the NAO took that view as well—but will you be publishing that legal advice?



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Sir Tom Scholar: That will be a decision for Ministers. As you have just alluded to, the decision not to publish at this stage has been taken because the negotiation is still ongoing. In general, the Government does not normally publish its legal advice. Obviously, there are some exceptions to that. That will be a decision for Ministers, but I am sure that it would only be considered, in any case, once the negotiation is over.

Q141 **Chair:** I thought that might be the answer, but I thought it was worth asking anyway. We come back repeatedly to the information that Parliament will need in order to vote. I want to press you just a bit further. You have talked generally about providing information. Do you have, or is the Chancellor considering, a set plan for regularly reporting to Parliament, both on how the settlement is going and on the future liabilities we have talked about, so that we have a very clear set of figures that are easy for the public to understand? We have been praising the Treasury for getting better with the whole-of-Government accounts, for instance, so you can do this. Will you be looking at taking a similar approach and reporting regularly to Parliament and the public on the EU settlement and beyond?

Sir Tom Scholar: That is not something that is decided yet. Let me just say a few things. First, we were already expecting that, at the moment at which Parliament was considering the draft agreement through the meaningful vote, the financial settlement would be there and we would need to explain how that was to be implemented and accounted for. I have taken a very strong message from the Committee today that that is something you are extremely interested in and will be—

Q142 **Chair:** We are extremely interested in it being done in a timely fashion. If it comes out the day before a vote, it will not be much good to people.

Sir Tom Scholar: Yes. One thing I want to take away from this hearing is the best arrangements that we can devise around this settlement. There is then a further issue, which is a new one for us to think about: your broader interest in looking not just at the separation agreement but at the financial or fiscal consequences across the board. That is a slightly harder question to answer, because it involves spending across lots of different Departments and at that point there is probably necessarily going to be some uncertainty, but we will go away and think about that, because we quite understand the interest in it.

Chair: I am glad you have got that message.

Q143 **Sir Geoffrey Clifton-Brown:** May I come back to an earlier question about when we are going to reap an EU dividend and take you to figure 10? First, to reassure the British public, we are not going to need to find £39 billion all in one year; we are going to pay €7.1 billion and €11.2 billion in 2019 and 2020. That is correct, isn't it? We are not going to need to find £39 billion.

Sir Tom Scholar: Correct.

Q144 **Sir Geoffrey Clifton-Brown:** So is it reasonable to assume that when



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our liabilities to the EU drop below what would be our normal budgetary contribution, which is about €10 billion net, we will start to reap an EU dividend? Looking at that table, by 2021 we will be getting to €7.5 billion and starting to reap an EU dividend—or is that too simplistic?

Sir Tom Scholar: That is certainly correct in direct terms and you can see it in the table, to the extent that our payment to the EU in 2021 is less than it would have been were we still a member state. There is a direct fiscal benefit there. The one qualification to that though is what the OBR have said, which is that the overall impact on the fiscal position is likely to be dominated by the impact on the economy of the agreements. That is always going to be difficult to assess.

Q145 **Chair:** But not just on the economy. There is also the impact on some of the issues that Mr Graham and Sir Geoffrey raised about the cost of instituting new bodies and new regulatory systems—the costs of setting up all of those, whatever the opposite of a bonfire of the quangos is. We could see an uprising of quangos, couldn't we? And that would cost. Have you done that analysis or are you going to be doing it as part of that forward look you just mentioned, or that we were just discussing?

Sir Tom Scholar: That is exactly right. That is also an element. Therefore, there are three elements: a reduction in direct payments to the EU, whatever increase in domestic spending is agreed to replace the services that we were previously getting from the EU and, thirdly, the overall impact on the fiscal position. There is no simple answer to the question, "What will the consequence be?", but those are the three elements, I think.

Q146 **Sir Geoffrey Clifton-Brown:** Looking at the table, would you agree that it is likely that we will start to get an EU dividend sometime in the region of 2021-22?

Sir Tom Scholar: In terms of the direct effects on the budget, it entirely depends on what the Government decides to do in respect of spending. The current OBR assumption is that all the money the Government currently spends on the EU it will spend on something else, whether on a service that we currently get provided by the EU or something else. But then the bigger effect, as I said, is the indirect effect via the effect on the economy.

Q147 **Chair:** We talked earlier about 313 workstreams that are going on across Government to prepare for Europe. What are the ones that are big in your Department, Sir Tom, and what is keeping you awake at night?

Sir Tom Scholar: The Treasury has three main direct responsibilities on Brexit, and beyond that a broader responsibility relating to the overall economic impact of the agreement. Of the three, the first is the direct financial settlement, and I think we have covered that very fully already. The second is the customs agreement, which is implemented by HMRC but Treasury Ministers are the ones responsible for it, and the third is financial services—that is a sector we are directly responsible for. Of those, the whole customs discussion is one we are already very well engaged in.

Q148 **Chair:** We are seeing HMRC about that.

Sir Tom Scholar: I know you are seeing HMRC on that. On the financial services discussion, at some point, as part of the negotiation on the future arrangement, we will get financial services. We are not there yet, but we are doing a lot of work to be sure that we are ready for it when we do get there.

Chair: Our sister Committee, the Treasury Committee, I know is examining that in particular, among other things.

Thank you very much indeed for your time. Our transcript, thanks to our heroic colleagues at *Hansard*, will be published, hopefully, tomorrow. You will be able to see it uncorrected. It will be published on the website pretty quickly, so please do check it. We do not know exactly when our report will be coming out, but I don't think it will be very far off. We thank you very much indeed for your time and look forward to seeing you again, I am sure, on this issue at some point. Thank you very much.