

# Treasury Committee

## Oral evidence: The UK's economic relationship with the European Union, HC 473

Wednesday 24 April 2018

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Members present: Nicky Morgan (Chair); Mr Simon Clarke; Charlie Elphicke; Stephen Hammond; Stewart Hosie; Catherine McKinnell; Wes Streeting.

Questions 521 - 593

### Witnesses

[I](#): Sir Amyas Morse, Comptroller and Auditor General, National Audit Office.

## Examination of witness

Witness: Sir Amyas Morse.

Q521 **Chair:** Sir Amyas, thank you very much indeed for being here this afternoon to answer our questions on the publication from the National Audit Office last week, "Exiting the EU: The financial settlement". Just for the purposes of the record and those watching, could you just say who you are?

**Sir Amyas Morse:** My name is Amyas Morse. I am the Comptroller and Auditor General.

Q522 **Chair:** Thank you very much. Hopefully we have some fairly short and focused questions. The report is not too lengthy, which I think all parliamentarians are always grateful for. I want to start with what happens in the event of non-payment of the settlement and the reference to legal advice in the report. In relation to the financial settlement, the Prime Minister told the House if we do not agree the future partnership then the offer is off the table. First, is it your understanding that the payment of the financial settlement is conditional on there being an agreement on a future partnership?

**Sir Amyas Morse:** No, that is not my understanding. Will you allow me to set it forth as best I can?

**Chair:** Yes, please, absolutely.

**Sir Amyas Morse:** To some extent, I am indebted to the Treasury's explanations for this. My understanding is as follows. In the autumn, leading up to a significant vote, there will be a draft of the withdrawal treaty and, at the same time, there will be what I will call a statement of intent. That is a sort of vision statement for how the rest of the relationship is intended to work. The idea is that the statement of future intentions is supposed to assist in approving the treaty. The treaty, once approved, will pass into law in time for us to leave the EU and then will become legally binding. Therefore, the payments would fall to be paid no matter what, under international law.

I have one word more on that. The reason why that would be is because the payments are primarily in respect of continuing membership for the extension period. That is what they are for, so they do not actually relate directly to whatever the future arrangements may be. Any future negotiations on trade and so forth exist separately from that treaty.

Q523 **Chair:** We are going to come on to talk about the settlement and the £35 million to £39 million and what it is entitled to. Is it your understanding that that amount of money is paid come what may, even if there is to be no future relationship after 2019? Let us say in the event of a no-deal situation, is there still an amount of money to be put on the table or not?

**Sir Amyas Morse:** Just to run through that, obviously in the next year leading up to our leaving the EU there is a possibility that we will decide to go ahead with that treaty. Parliament will either decide to do that or it

will decide not to do it. That is a determinant event, as far as I see it. If it decides to accept that treaty and go ahead and adopt that treaty, then the terms of the treaty then become binding, partly because we would continue to be members of the EU for the extended period. Therefore, as you can see from our report, at least some of the payment would fall to be made during that period.

Q524 **Chair:** Some do not.

**Sir Amyas Morse:** No, that is true. That is true, but that is normal for the EU budget. It is not special. It is normal, but that is correct. I am simply being as clear as I can. That is the nature of it.

Q525 **Chair:** In your report, you say on, I think, two occasions that the advice indicates that a withdrawal agreement would fall to be interpreted on its own terms.

**Sir Amyas Morse:** That is right.

Q526 **Chair:** Can you just explain to us what was meant by that?

**Sir Amyas Morse:** I fear in one way that you might say that I am pointing out the blazingly obvious. What I am simply saying is the previous legal advice related primarily to what would happen if there was an exit without agreement, what rights there would be. I am not going to go into any more detail than that. The one bit of that advice that I have referred to is the piece of advice that says if you make a treaty or an agreement with the EU, all that body of potential claims you might have made otherwise falls away, because they have been superseded by that agreement. I thought it was necessary to point it out because we are trying to elucidate quite a lot in the report, not because I think it is the most blinding insight in the world.

Q527 **Chair:** Just take a step back. You received the letter from me, which I think was dated 20 December, asking you to prepare this. I think it was after you had come in for a session. Can you just talk us through how you and your team then proceeded with the work, talked to the Treasury, and in particular anything that the Treasury provided you with in order to be able to produce the report?

**Sir Amyas Morse:** This is all pretty helpfully set out in the appendix to the report, where we talk about how we did the audit. Not going into that much detail, let me just refer to it. We met the Treasury, explained what we were doing and explained what the scope of the information we thought we needed to see was. That was substantially that we needed to see whatever draft agreements were in existence with the EU, which of course was one of the key determinants. That agreement had in it a lot of detail about how the payments would be calculated.

We then looked at the Treasury's own modelling and how they had gone about going from that agreement to something where they modelled a sum of money. We looked at the assumptions they had made in all that. We talked to them in great detail about all of that. We arrived at a view,

based on the balance, that we thought it was a reasonable number to have put forth.

Q528 **Chair:** I do not know if you are a solicitor by background or not.

**Sir Amyas Morse:** I am not a solicitor, no.

**Chair:** Or a lawyer, I should say.

**Sir Amyas Morse:** I am afraid I am an accountant, but I used to be a tax partner in PricewaterhouseCoopers, so I have a little familiarity with legal matters.

Q529 **Chair:** I appreciate that, and you are here with your C and AG hat on, not as a lawyer. Did the Treasury provide you with sight of any legal advice on when the payment could or might not be made?

**Sir Amyas Morse:** Not on that matter, no. Frankly, I did not think I needed legal advice to determine that if you—

Q530 **Chair:** Sorry, perhaps I am not being clear. Legal advice they had received that they gave you sight of.

**Sir Amyas Morse:** They did not, and I do not know whether or not they have had legal advice. My impression is not.

Q531 **Chair:** I think our understanding is that the Government have had legal advice on this, when this amount of money is going to be paid or not. Just to be clear, your team did not see that legal advice.

**Sir Amyas Morse:** No.

Q532 **Catherine McKinnell:** Good afternoon. In the report, there were a number of uncertainties that were cited relating to the final settlement figure. Which of these causes most concern, in your opinion?

**Sir Amyas Morse:** The most significant number, if I can say it like that, is the economic share, if I can call it that. That is what drives most contribution and therefore it is the most significant. I would say the financing share is the most significant number of all those. It is the biggest number.

However, it is just important to say when we call them uncertainties, we are actually describing that quite neutrally. In other words, if you look at that particular one, the most important of the uncertainties, we have adopted an assumption of share that came out of the published information from the EU, which was at 12.7%. Our own modelling in the UK from the Office for Budget Responsibility runs at a lower figure, 12.4%. What that shows you is, if that lower figure is right, we would have to contribute less. When I say it is reasonable and there are uncertainties, I am not telling you in code that I think that the uncertainties are all one way and we will definitely be paying more. On this particular one, based on what I have just recited to you, it is more likely to be less than more.

Q533 **Catherine McKinnell:** Is that the reason why you have not challenged the Government to take more account of the uncertainties and the different level of risk, because you think the risk falls on the lower payment side, rather than the higher payment side? I am just thinking a more realistic representation of the possibilities, taking into account the uncertainties, would give the Government more of an ability to potentially mitigate those risks.

**Sir Amyas Morse:** Forgive me; I am not sure that they would have any ability to mitigate. This is a point estimate produced in order to inform the British Parliament of roughly, if I can say it like this, what the contributions are likely to be in the circumstances of an extended period of membership. What I am saying is we believe that if they had wanted to be more certain they could have quoted a wider range of figures. I am not saying they would have resulted in a bigger number at the end of the day. The top end would have been higher and the bottom end would have been lower. We are simply telling you what we found. If we had a direct message like that to give, we would give it.

Q534 **Catherine McKinnell:** In terms of the assumptions that the central estimate has been based upon and the acknowledgement within the report that it could affect the outcome, which of those assumptions do you think is the most sensitive?

**Sir Amyas Morse:** That is the one that I think is the most sensitive, the one I have told you about. It is by far the biggest.

Q535 **Catherine McKinnell:** I guess you have already answered that you do not think it is appropriate to give a broader range. Are you comfortable that it is likely to come within that figure?

**Sir Amyas Morse:** I can tell you that if that level of financial share fell below 12.3% of the total, or went above 12.9%, that would start affecting the total number, either up or down.

Q536 **Catherine McKinnell:** I guess what I am trying to get at is I know there have been some concerns expressed about the range. Based on whether or not the assumptions bear out, and given the sensitivity to not just the key one that you have mentioned in terms of the share, but there are other factors as well, do you think that the range is sufficient? If not, would you suggest an alternative range that you think would take into account all the possibilities?

**Sir Amyas Morse:** Our comment has been that we think the range is narrow and it could be broader. What I am saying to you—and I am sorry to repeat myself—is that it would be broader probably in both directions, not just one.

Q537 **Catherine McKinnell:** To what extent would you broaden it to take into account all the possible outcomes?

**Sir Amyas Morse:** Not by that much.

Q538 **Catherine McKinnell:** By how much?

**Sir Amyas Morse:** No, I cannot answer that off the top of my head.

**Catherine McKinnell:** You cannot say.

**Sir Amyas Morse:** What I have already said to you is there is a range that would affect the number. I am sure we would still be within that range. I do not think there is something here that if they did it differently it would be more prudent or something of that sort. It is actually quite a prudent number, just a bit of a narrow range.

Q539 **Catherine McKinnell:** You do not think any consideration of downside risk as well as upside risk could affect the negotiations and mitigations.

**Sir Amyas Morse:** I do not think it is skewed. From what I have seen, it does not look skewed to me. I would be misleading you if I said that.

Q540 **Stewart Hosie:** Sir Amyas, the Treasury public estimate of the final settlement will not be the same as the payments and receipts recorded in the government accounts. The NAO has said the Treasury's withdrawal settlement includes payments directly from the EU to the UK private sector. Is it the case, then, that the cost to the public's finances of withdrawal should be around £7 billion higher, between £42 billion and £46 billion, rather than the £35 billion to £39 billion published, to accommodate those direct payments?

**Sir Amyas Morse:** The Treasury argues with our view on that, but that is our view, yes.

Q541 **Stewart Hosie:** It is your view. I think common sense would tell us that the public interpreting a financial settlement would incorporate the total net contribution and payments. Is that basically what you are saying?

**Sir Amyas Morse:** Yes, I guess so.

Q542 **Stewart Hosie:** Would you argue that the Government should have included, or should not—

**Sir Amyas Morse:** I obviously do think they should have done, but they do not agree with that, so you will have an argument from them tomorrow that they do not agree with that.

Q543 **Stewart Hosie:** I am looking forward to having that discussion with them, hopefully tomorrow.

**Sir Amyas Morse:** No, I am answering you now. I am answering you now.

Q544 **Stewart Hosie:** What justification did they give for not including these payments to the private sector?

**Sir Amyas Morse:** They gave me a technical argument about what should and should not be included. They thought that a distinction between public and private was an artificial one, and therefore they did not accept our argument.

Q545 **Stewart Hosie:** They thought it was an artificial one.

**Sir Amyas Morse:** Yes.

Q546 **Stewart Hosie:** Can I just carry on with this settlement figure? The Treasury estimates the withdrawal settlement would be £35 billion to £39 billion, and the NAO described that calculation as reasonable. Can I ask why it was described in that way, rather than the “true and fair” language that the NAO normally use?

**Sir Amyas Morse:** First, because, not to be unkind about it, your Committee or your Chair asked me the question, “Is this reasonable?” and I have answered it. Secondly, “true and fair” is only applicable when you are talking about a set of accounts. This is not a set of accounts. The reason for that formulation on a set of accounts is to describe the whole of the presentation of the affairs of a company, and you say therefore it is a true and fair view. This is simply looking at how a point estimate and some surrounding work and assumptions have been put together. What I am saying is, with all the moving parts that we have described to you, we think it is a reasonable number to have put forward. That is what we think.

Q547 **Stewart Hosie:** I understand exactly what you are saying. I do not disagree. All I would say is that range is between £35 billion and £39 billion, a £4 billion difference, 12% to 10% difference, or something of that magnitude. I take it what the NAO are actually saying is that range is reasonable, rather than a particular point within it.

**Sir Amyas Morse:** Yes. That is what I am saying, yes.

Q548 **Stewart Hosie:** I have just one final question then. It may be slightly repetitive, but I just wanted to get to the bottom of this. Why were you, as Comptroller and Auditor General, unable to give an opinion on what a true and fair figure should be, based on known exchange rates and agreed discount rates at this point in time? Are these, in essence, the moving parts that you are describing that would not allow you to put an imprimatur of “true and fair” on it?

**Sir Amyas Morse:** I would refuse to put a “true and fair” opinion on an examination of this kind. It is just not appropriate. I am just talking from my professional life. This is effectively a diligence review. It is not the audit of a set of accounts, as I said earlier. That phrase is just not appropriate and I would not use it. It also carries with it quite considerable legal connotations. Frankly, that is just not the right phrase.

Q549 **Stewart Hosie:** I understand the legal connotations. I do not know if you are a betting man. Given what you have said—and I understand why you have said it—what odds would you give the Committee on the number being lower than £35 billion or higher than £39 billion?

**Sir Amyas Morse:** I am not a betting man, and nor am I a turf accountant, I am afraid, Mr Hosie.

Q550 **Charlie Elphicke:** Sir Amyas, the NAO’s report states that the UK could pay up to £3 billion more in budget contributions after its withdrawal than

the Treasury estimates to offset earlier payments being lower. Why is this?

**Sir Amyas Morse:** The EU has an arrangement. In their financial year, they front-end a lot of activity. Therefore, they do not just take the contributions from members—it is not anything special for us—in segments evenly over the year. They can ask for them to be front-end-loaded. They have done that in quite a lot of years over the last number. More often than not, they ask for a front-end-loaded contribution. Under the EU rules they are entitled to do that. They ask it of all members. Because we would be leaving after the first quarter, we would always have paid three months, which would be our normal amount for the first quarter, but we would have paid this front-end-loaded amount as well. That will simply be contra'd off against the amounts we would pay after we had left. It really is not of any great moment whether it is paid before or after.

Q551 **Charlie Elphicke:** So this issue about the £3 billion will not actually result in more or less as an ultimate matter.

**Sir Amyas Morse:** No, it will not.

**Charlie Elphicke:** It will just affect the timing of the ultimate bill, in effect.

**Sir Amyas Morse:** It simply affects whether it is paid before we leave or after we leave.

Q552 **Charlie Elphicke:** Does that explain why it is the NAO raised this issue in the report but the language is not critical about it?

**Sir Amyas Morse:** Only because we want to make quite sure that all these things that might move around and that might cause alarm about what the number was are clearly explained.

Q553 **Charlie Elphicke:** When it comes to the ultimate liability we will have, as far as you can see, do you think it is sufficiently clear? Do you think the ultimate number, the ultimate bill for all this stuff—everything—is sufficiently clear, or do you think it is somewhat obscure at the moment?

**Sir Amyas Morse:** This certainly is not the ultimate bill. This is the bill for continuing to be a member with the extension and really just takes you up to that point and the various commitments made in the period that run afterwards. That is all it is doing, so quite obviously there will be a lot more to take into account than that in future.

Q554 **Mr Clarke:** Sir Amyas, I am just interested in the issue of contingent liabilities and the £14 billion that is set out in your report. The most substantial of these is the £7 billion relating to the EU financial assistance programme, which obviously issues loans to member states and partner countries with a view to preserving underlying financial stability. For how many years will that contingent liability continue to exist after Brexit?

**Sir Amyas Morse:** First, let me say the reason it is a contingent liability, and therefore not actually recognised in the accounts, is because it is not

regarded as very likely to happen. Forgive me for explaining things you already know. Some of these contingent liabilities could last for a very long time. If we are talking about a legal case that is not resolved, or something of that sort, the liability would be completely extinguished when the legal case settled out. I have already admitted to not being a lawyer, so I am sure you know better than me how long that can sometimes be, but it can be a long time. In other cases where there has been a guarantee of a loan or something like that, it will be when the loan is wound up or something of that sort.

It may last for a long time, but they are, as I say, contingent liabilities. It is quite interesting to note—and I am here quoting Tom Scholar—that during the euro crisis none of those contingent liabilities, as far as loan guarantees, fell in. The eurozone is not in a situation like that at the moment, so these are, in our view, quite correctly classified as contingent liabilities.

Q555 **Mr Clarke:** They would only arise up to and including 31 December 2020.

**Sir Amyas Morse:** No, contingent liabilities would last longer than that for liabilities incurred while we are members.

Q556 **Mr Clarke:** Yes, sorry; that is what I meant to say. Yes, indeed. The other issue is the European Investment Bank and the €35.7 billion that the UK Government have given in the form of guarantees to that. The report notes it will also remain liable for some or all of the €3.5 billion of capital that we have paid in. Were we legally required to make that commitment, and if we were not why are we doing so?

**Sir Amyas Morse:** If you will forgive me, remember no new commitments have been made as a result of the withdrawal treaty or will have been done until the treaty is actually signed. It is not a question that the Treasury is going off, incurring liabilities. They are putting together a draft agreement that will be debated by the House, and nothing is incurred before that.

Q557 **Mr Clarke:** To inform the debate of the House when that comes to pass, were the EIB to make very poor investment decisions—hopefully it will not, but if it did—after we had ceased to be a member of the European Union and we were in transition, we would still be liable for losses.

**Sir Amyas Morse:** We would only be liable where guarantees had been provided while we were a member. We would be affected by things that happen to assets or loans that we had provided a guarantee on while we were a member. Those things could happen after we cease to be a member, but there cannot be new liabilities for something else piled on to us.

Q558 **Mr Clarke:** Our formal membership of the European Union ceases in April next year. I am just trying to understand the nature of the transition period. Would we be liable for liabilities incurred during transition?

**Sir Amyas Morse:** I think that is right, is it not? Yes, that is right.

Q559 **Mr Clarke:** We would, notwithstanding the fact we are no longer a formal member of the union.

**Sir Amyas Morse:** The agreement, as proposed at the moment, is that we continue to be members of the EIB during that period.

Q560 **Wes Streeting:** Sir Amyas, I just wanted to pick up some of the exclusions from the report, if I may. The report highlights the Treasury excluded £2.9 billion worth of payments to the European Development Fund from its withdrawal settlement. Can you explain the Government's thinking behind that decision?

**Sir Amyas Morse:** I can explain it insofar as I have heard it. Their view of that was that these are development grants, which are given on an annual basis. I listened to this being explained. By the way, I am not absolutely convinced whether that is right or not. There may have been a binding commitment entered into to pay those amounts, but that is a matter to clear up. If that was true it would be just a mistaken apprehension by the Treasury, but that is a matter for us to discuss with them. I am sure, subsequent to this hearing, they will be interested.

Q561 **Wes Streeting:** I was going to say that if it is a mistake, it is a pretty expensive one.

**Sir Amyas Morse:** It is not really. We are likely to pay this amount. We have an aid budget. We pay mostly through DFID. As you know, we have a legal commitment to pay 0.7% of our gross national product in aid. This goes towards that. Just using the European Development Fund as one of the multilateral distributors is not an extraordinary thing, I do not think.

Q562 **Wes Streeting:** You mentioned your explanation in terms of how you have understood it. I just wondered if the Government made you aware of these payments, or whether you had asked the Government why they had been excluded.

**Sir Amyas Morse:** The Government made us aware of them. There has been no record of anything being concealed from us. If I had been dissatisfied with their behaviour I would have made sure you knew that.

Q563 **Wes Streeting:** I appreciate that. Were there any other items of expenditure that the public may consider as part of being in the EU that the Government may have excluded?

**Sir Amyas Morse:** That is the main one.

Q564 **Wes Streeting:** That is the main one. The European Investment Bank is not part of the main EU budget, so why have these payments been included as part of the settlement that the UK will receive, but not the EDF payments, just for clarity?

**Sir Amyas Morse:** We are getting capital back as a result of leaving, and that is part of the agreement. That is the reason that is in there. Why not include the payment for the European Development Fund? I have given you what the Treasury said to us about that. We are not sure

whether that is quite right, because we think that there was a binding legal commitment that all members entered into to pay those amounts, so that might be a difference.

Q565 **Wes Streeting:** That is helpfully flagged to pick up with Treasury.

**Sir Amyas Morse:** Sure, yes.

Q566 **Wes Streeting:** How did the National Audit Office treat payments to and from Euratom?

**Sir Amyas Morse:** I am glad you asked that. Let me look at my Euratom notes.

**Wes Streeting:** It is always delightful to us when we ask a question that leads to witnesses viewing their notes, and no doubt the people behind you as well.

**Sir Amyas Morse:** What I am going to say is that the payments to Euratom are still subject to negotiations.

**Wes Streeting:** Okay, fine.

**Sir Amyas Morse:** I am so glad I looked at my notes. I should not be enjoying myself.

Q567 **Wes Streeting:** I did say "fine". I am not sure that is at all fine, but that is certainly not your fault. We need to get the situation with Euratom cleared up. Finally, the NAO report states that some fixed assets have not been included in the settlement figure. Which were excluded?

**Sir Amyas Morse:** It was assets with offsetting liabilities, so, for example, a property with a loan associated with it, or something of that sort.

Q568 **Wes Streeting:** Have EU buildings been excluded?

**Sir Amyas Morse:** Yes.

Q569 **Wes Streeting:** Does that effectively mean the UK has contributed to the construction of these assets but will not be reimbursed for them?

**Sir Amyas Morse:** Not through this agreement anyway.

**Wes Streeting:** Not through this agreement.

Q570 **Stephen Hammond:** In your report, you say that the Treasury estimates that we will make 60% of our settlement payments by the end of 2021.

**Sir Amyas Morse:** Yes.

Q571 **Stephen Hammond:** You also note that you do not expect the UK to pay off liabilities "before they fall due", to quote it, unless it requests them to pay them off earlier.

**Sir Amyas Morse:** Yes.

Q572 **Stephen Hammond:** In what circumstances do you think it would be in the UK's interest to pay them off earlier?

**Sir Amyas Morse:** First, it is worth saying that it is not within the draft agreement that we could pay off everything early, even if we wanted to. We could, given our general obligations under the treaty, decide to pay off the tail end on or after 2028, so quite a long time in the future. The main thing we would have an option to pay early, if we wanted to, would be the pension liability.

Q573 **Stephen Hammond:** We could pay the pension liability before the non-pension outstanding liabilities.

**Sir Amyas Morse:** That is right. The only one we have a really material say in paying earlier or later is the pension liability. It is fair to say that, given that discount rates are at a historic low, you would have to be a pretty brave person to say that was the right thing to do. This is something you would want to keep under review and see if market conditions turn around and it makes sense. Right now, I would be pretty astonished by anyone who came forward with that idea.

Q574 **Stephen Hammond:** Just in terms of the pension liability itself, it is a final salary scheme liability.

**Sir Amyas Morse:** It also includes a health insurance scheme.

Q575 **Stephen Hammond:** Have we written any interest-only uplift protection for ourselves into the agreement? For instance, if post-Brexit the EU decided that it needed to keep the quality of staff and ramped everybody's salary by 25%, post-leaving are we exposed to non-inflationary increases in salary, i.e. big one offs, or not?

**Sir Amyas Morse:** I think we are actually, yes, but remember something about this. If I just go back to our share of the costs here, we are talking about a participation roughly in the mid-12 percent. With a lot of these things we say, "What if they did this or that?" but mostly they would be paying for it themselves, not us. This is not stuff we would pay and they would not. We would all pay.

**Chair:** It is not quite taking back control.

Q576 **Stephen Hammond:** I understand that point. As the Chair has just said, it does not mean we are taking back control, does it? We are still heavily exposed until, potentially, 2064.

**Sir Amyas Morse:** I am not sure I have given you the right answer there. I need to check that, because I have a feeling that we have said we are liable for rights accrued up to the date that we leave. Let me come back and confirm that.

**Stephen Hammond:** That would be very helpful.

**Chair:** Could you write to us on that?

**Sir Amyas Morse:** I will make sure you have that before your hearing.

**Chair:** If you could write to us on that or send us a note, that would be very helpful. Thank you.

Q577 **Stephen Hammond:** That is very helpful, because I was going to pick up the point you also make that the Treasury will need to have sufficient information as to the likely costs and benefits of one-off payments. Of course there is a relatively standard pension contribution computation, but, if we do not know the scheme rules, potentially we cannot make that computation, so that would be very helpful. You identify foreign exchange risk as well, because the payments will be denominated in euros. It is fair to say, is it not, that that is a risk we have been exposed to for many years? There is not going to be a change of risk.

**Sir Amyas Morse:** That is correct. It is also compensatory, to some extent. In other words, if our currency went up, how much it cost us to pay would go down in sterling, but on the other hand, if our currency went up, so might our share of the contribution. We are not unhappy with the fact that it has not been included.

Q578 **Stephen Hammond:** Okay, but there are any number of circumstances where it would be normal corporate activity to mitigate the risk.

**Sir Amyas Morse:** I agree with that.

Q579 **Stephen Hammond:** Do you not think that the Government should at least be having some thought about how they mitigate the risks or take action to mitigate those risks?

**Sir Amyas Morse:** My understanding is they are having thoughts about it. I base that on listening to them saying that on public record, because they said at the PAC hearing that they are considering it, not that they are going to do it, but that they are considering it carefully.

Q580 **Stephen Hammond:** Given they are considering it carefully, is that why you have not included it in your report as a recommendation to the Government?

**Sir Amyas Morse:** Traditionally, the Government have often chosen not to hedge, so it is a consistent policy position to take. Given that and the compensatory movement, I concluded that it was not something we wanted to make a recommendation about.

Q581 **Stephen Hammond:** Sorry, I have one last point there. I absolutely take your point that it is not normal government practice, but this is a tail of liabilities—

**Sir Amyas Morse:** This is not normal.

Q582 **Stephen Hammond:** Well, I was going to make exactly that point. We now have a calculable tail of liabilities, which we could actually make mitigation or hedging provisions against.

**Sir Amyas Morse:** Well, I think that is worth discussing with the Treasury team.

Q583 **Chair:** I have a few final questions, and then I will ask a more general

one at the end. Obviously, there are a lot of outstanding questions, some of which we will raise with the Treasury, some of which just cannot be known about yet, because we do not know the shape of the final negotiations or agreements. As I think you highlight in the report, whenever there is a deadline, there is an opportunity for parties to, either deliberately or just in the way that liabilities or others are paid out, game the system. You say, "The Commission may choose to add additional liabilities, such as provisions, before the end of 2020, or dispose of assets shortly after the end of 2020". Does the UK have any realistic way of preventing that sort of behaviour?

**Sir Amyas Morse:** What I understand from the Treasury—and, again, it would be a good idea to ask them more about this—is that there is, in the negotiations, discussion of an arbitration mechanism for these sorts of disputes. That is probably the answer.

Q584 **Chair:** Do you know if that is an overall arbitration, not just for finances, but for any outstanding issues? Did you have that level of detail?

**Sir Amyas Morse:** I cannot go that far, sorry. I heard it in almost exactly the context that we are talking about now, so no. I would say that. What I am slightly more concerned about is the possibility that people take a very severe look at any inaccuracies in how the UK fills in its returns or participates in programmes. We may get penalties that are within the rules, so you cannot say, "This is not fair", but there is a more severe approach taken to enforcement than there would be otherwise.

It would be a really good idea to get some general assurance against that. That really would be quite useful. Once those determinations had been made, you could not say, "This is not fair", because presumably they would be determinations within the rules. They would just mean that you got a rather tougher audit than you normally get. We would need to be quite nice to feel that was not going to happen.

Q585 **Chair:** Is that a recommendation, really, for Members of Parliament to look out for in terms of the final wording of the withdrawal agreement?

**Sir Amyas Morse:** Yes, or, given that the negotiations are happening at the moment, and being conducted by the people you are going to be talking to, I think you might ask them to have that one in mind.

Q586 **Chair:** I am going to come back to the future of all this. The other issue was about the report alluding to the EU restricting access to UK Government and companies for certain programmes. One of the things that have been raised in the House of Commons with the Prime Minister has been about the Galileo satellite programme, for example. Is that the sort of thing you were thinking of?

**Sir Amyas Morse:** Yes.

Q587 **Chair:** Were there other things? Was there anything else?

**Sir Amyas Morse:** I guess what I am saying is this. There is an assumption about what the UK's share in these things will be. Without

anybody behaving badly, you might find that, if people know you are leaving, you are less included in the plans than you would be otherwise. Although the intention is that that would be compensated in the mechanism, it is not helpful, none the less. Having a discussion about that is a good idea.

Q588 **Chair:** Earlier on, when discussing it with Catherine, you talked about the financing share and this 12.7%. Is there anything else that you wanted to draw to the Committee's attention on that?

**Sir Amyas Morse:** There is just one thing, which again may sound very obvious, but I am not sure it got much prominence. If you have a discussion that says, "We are paying our share for this extended membership; then we have to decide what programmes we want to participate in, and we can spend the resources either internally or with the EU", it is just worth reminding ourselves that the rebate we have at the moment, I am assuming, will not be there anymore. If we are paying future things to the EU, I would be kind of surprised if we still have the benefit of the rebate. It is just worth exploring, I would say.

Q589 **Stephen Hammond:** Can I ask one question about financing, which I probably should have asked earlier? You state that 60% of payments will go by the end of 2021. Your report then sets out the profile. Given what is obvious, as you said quite correctly, about discount rates, is it not fiscally irresponsible not to try to back-end those payments? Would we not do much better to back-end that profile?

**Sir Amyas Morse:** I do not think that is within the treaty at all. These payments will be payable when they fall due. That is how it works. You are not in that sort of control. It is not any different from how it is in the EU now. We cannot back-end our payments now, so it is the same.

Q590 **Chair:** That point about the rebate is a very good one. We will have to pick that up. That leads me on to one of the last points, which is about future work. I appreciate it is not just the NAO. As you may know, we are also in discussion with the OBR and with Robert Chote there about anything they might produce to inform parliamentarians when we get to a final vote, but it would be helpful to know what, if anything, further is planned, and what else you would need to see, to take this work on any further.

**Sir Amyas Morse:** I shall try to be consistent with what I said to this Committee when you kindly invited me before. In putting together the equation in people's minds, it is worth saying a couple of things. One of them is that, of course, the costs we have been talking about today are for continuing to be members of the EU, so there is a difficult comparison to be made between two different choices, which would occur at different dates and have very different consequences. We will try to understand what the Government are planning to put forward in their—I am sure they will not call it a prospectus—prospectus-style document explaining this.

We will try to look at all the data points that we can reasonably examine and report on. There will be things that are beyond our competence, which will be to do with economic assessment and so forth. I cannot tell you whether it is worthwhile having a treaty to access the EU in a particular market. I will not even try to go there, but I will try to look at the areas where there are costs, cost projections or things of that sort, where we can provide something useful, which I hope parliamentarians will feel confident in and will provide a basis for analysis.

We are exploring and thinking about this at the moment, rather than being in a position of having determined it. The reason we are doing that is because there is a considerable responsibility on us to contribute to this debate. We will talk, and we have had very open conversations with the Treasury up to now. We will continue to try to put our work together, to dovetail in with what they are expecting to produce for parliamentarians themselves. We will certainly provide assurance on as much of that as we can competently reach.

Q591 **Chair:** Would you expect to update the £35 billion to £39 billion figure?

**Sir Amyas Morse:** Yes.

Q592 **Chair:** Is there anything that you have learned as part of this process? Is there anything else that we have not asked you about that you feel the Committee, on behalf of parliamentarians, should be made aware of at this stage, from the work you have done and the conversations you have had with Treasury?

**Sir Amyas Morse:** No, there is not. In part, that is because this is a live negotiation. There is so much moving around. In fairness to the team, to try to put more things into this at this point would not be terribly informative. We have managed to grip this subject and get some focus on it, but the really serious business of assessment is going to happen in the autumn.

Q593 **Chair:** I have one question on a completely different subject, but it is an NAO report. I am going to wear a constituency hat for a moment. On 29 March, you published a very interesting report on the decisions taken to cancel three rail electrification projects. I wanted to ask you whether you stood by that report. What, if any, discussions have you had with the Department for Transport since publishing that report?

**Sir Amyas Morse:** First, I would say we do stand by them. We thought about it carefully. The representations I have had from the Department for Transport have been that it is quite feasible for these trains to be available. They think it is reasonable that they can be produced, and they probably will be, in the not-too-distant future. Since our report simply quoted the departmental advice at the time, which was that they are not currently in manufacture, I really do not need to go any further than that. That has not changed, as far as I am aware.

**Chair:** That is very helpful. I do not think colleagues have any other constituency matters or anything else about Brexit that they wish to bring

to your attention. Amyas, thank you very much indeed for your time today. We are very grateful, and it is very helpful before we see the Chancellor and the Permanent Secretary tomorrow. Thank you.