

Exiting the European Union Committee

Oral evidence: The progress of the UK's negotiations on EU withdrawal, HC 372

Wednesday 23 May 2018

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Members present: Hilary Benn (Chair); Mr Peter Bone; Sir Christopher Chope; Stephen Crabb; Mr Jonathan Djanogly; Richard Graham; Peter Grant; Wera Hobhouse; Andrea Jenkyns; Stephen Kinnock; Jeremy Lefroy; Craig Mackinlay; Seema Malhotra; Pat McFadden; Mr Jacob Rees-Mogg; Emma Reynolds; Stephen Timms; John Whittingdale; Hywel Williams; Sammy Wilson.

Questions 1759 - 1908

Witnesses

I: Suella Braverman MP, Parliamentary Under-Secretary of State, Department for Exiting the European Union, and Mr Robin Walker MP, Parliamentary Under-Secretary of State, Department for Exiting the European Union.

Examination of Witnesses

Witnesses: Suella Braverman MP and Mr Robin Walker MP.

Q1759 Chair: Can I welcome before the Committee today Robin Walker and Suella Braverman, both Parliamentary Under-Secretaries of State at the Department for Exiting the European Union? You are most welcome. Thank you for coming today. As you can probably guess, we have a lot of ground to cover. A lot of members want to ask questions, so, colleagues, succinct questions and, witnesses, as succinct answers as possible would help us to get through all the business.

I want to begin by asking you about some of the recent developments regarding policy, and then we are going to get on to the process. We understand that the Cabinet has been discussing future customs arrangements: a customs partnership and what has become known in the trade as "maximum facilitation." If adopted by the Cabinet and agreed by the EU, would the customs partnership approach be ready to be put in place by December 2020? I do not know which of you wants to respond.



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Mr Walker: I am happy to come in on that. First of all, Chair, thank you for your welcome. It is a pleasure to be back before this Committee. As you know, the Government have proposed two potential options, both of which are still under discussion and the work on which is continuing. Both options have their challenges and need further development, and that is why the Prime Minister has tasked different committees with continuing working on them and different Ministers with working together on each of the options. Clearly, I am neither party to, nor could I comment on, private discussions that take place within Cabinet, but it is right that we work up the right approach to ensure that we meet the three key objectives of our customs policy: to provide for the most frictionless trade possible with the EU, to meet our commitments on the Irish border and to ensure that the UK has an independent trade policy.

Q1760 **Chair:** Okay, but the question was whether it would be ready by December 2020. I understand that there is further work to be done. I am trying to get an idea of the timescale, because if it were not ready then certain things would flow, which I will come to in a moment. Are the Government just unable to say at the moment whether it would be ready to be put in place by December 2020?

Mr Walker: It is important for that policy process to be completed before we can go into the detail of exactly what will be delivered when. We want to ensure—and I think you will have heard evidence from HMRC on this—that there are elements that can be brought into shape earlier, but there may be some elements that will take longer. Part of the work that is going on is challenging every Department across Government to try to bring those timescales down so that all elements can be in place.

Q1761 **Chair:** The answer is that you do not currently know, as a Government, whether it would be ready in time for December 2020 or not. Would that be a fair reflection of your response?

Mr Walker: The answer is that the work is continuing across Government on this issue and all Departments are being challenged to ensure that the arrangements are ready as soon as possible.

Q1762 **Chair:** I understand the challenge, but at the moment the Government are not able to say with any confidence that it would be ready by December 2020. If you were confident, you could say so and the fact that you cannot would suggest that you are not.

Mr Walker: The fact that there are still two policy options being developed means that we need to get to the end of that development on the policy options in order to be able to comment on the exact timescale for delivery.

Q1763 **Chair:** On the customs partnership, have the Government made any assessment of the number of transactions that businesses would have to undertake to keep track of the movement of goods in order to make the customs partnership work? Are you aware of whether work has been done on that?



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Mr Walker: I am aware that work has been done on that. We have been discussing the customs options with businesses over some period of time. We got a great deal of feedback from businesses, which will be being looked at both in our Department and by HMRC.

Q1764 **Chair:** Have the Government done any assessment of the number of applications for rebates there would be under this model, where the EU tariff that was paid to start with would then be claimed back if the UK tariff was lower than the EU tariff?

Mr Walker: Again, as part of our engagement with business, we have been discussing both potential models and getting the feedback of business on them. Part of that is its views on any potential rebate system under that partnership scheme, but it is important to stress that both of these options are still under discussion in Government. We have not confirmed that there is one that we are pursuing.

Q1765 **Chair:** That I do understand. The question is not about how it would work; it is whether the Government had yet made any assessment of the number of transactions, because obviously that would involve work for businesses and it would involve work for HMRC, presumably, to then pay the money back that had been paid originally by the businesses. Do you know whether any calculation has been done yet, as this process unfolds?

Mr Walker: I am not aware that there is a single figure there, but we have been discussing it with businesses and business groups as we have been engaging on these subjects.

Q1766 **Chair:** You referred to Jon Thompson a moment ago. He wrote to the Committee yesterday, referring to the "highly streamlined customs arrangement". I take it that is a reference to maximum facilitation. Is that your understanding?

Mr Walker: Yes, that is my understanding.

Q1767 **Chair:** Right. He said that some elements could be in place immediately, some would take a year or a couple of years, and some could take around three years, which takes us beyond December 2020. Could you tell us which bits would be taking three years?

Mr Walker: Having not yet seen his reply, I think it might be a question to take to him. This work is going on across the whole of Whitehall, where a number of Government Departments are being challenged to look at both of these options and to ensure that, where timelines for delivery look to be on the longer side, they are meeting the challenge of bringing those down. There is recognition that it is important for the best arrangements to be in place as soon as possible and, with the agreement between the UK and the EU on an implementation period to end in December 2020, it is important that we challenge Departments to work to that timescale.

Q1768 **Chair:** Right, but if Jon Thompson has confirmed to the Committee, in his



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letter, that some elements of the max fac option would take three years, that means it would go beyond December 2020. Therefore, what would be the Government's policy, if they adopted the max fac option and assuming that they could persuade the EU also to accept it, to cover the period between December 2020 and all of max fac being available to work?

Mr Walker: The approach that we have set out is one based on the minimum changes, and the maximum continuity and certainty, for business through this process. That is an approach that we will continue to take as we move forward. Clearly, we are talking about a hypothetical situation here. I do not want to go too far into hypotheticals based on matters that are still under discussion within Government, but the key here is to ensure that everything we can do to facilitate frictionless trade is being done. That is why those individual Government Departments, including HMRC, are being challenged to bring in those timelines.

Q1769 **Chair:** I understand that it is hypothetical, but presumably either the transition is extended or we remain in a customs union beyond December 2020. I cannot think of any other option, unless you can put one forward.

Mr Walker: As you know, we have agreed text with the European Union on an implementation period, where both sides are agreed that that should have a clear end and that should come to an end in December 2020. With regard to speculation about what might happen elsewhere, you may be stepping into territory here around the potential fall-back option, on option C, when it comes to the options on the Ireland-Northern Ireland border. All I will say on that is that we are going to be putting forward proposals on that front in the coming weeks. I cannot comment on those before they are put forward.

Q1770 **Chair:** Is it the Government's policy that the fall-back option should be time limited?

Mr Walker: Yes.

Q1771 **Chair:** It is. How exactly would that work? If the alternatives, A or B under the arrangements, are not ready by the time the time limit that the Government have set comes to an end, what would happen? Surely the fall-back has to remain in place unless and until an alternative arrangement is available and workable. Jon Thompson has just confirmed that one of the two options the Government are looking at will not be ready by December 2020, and he is your chief adviser on these matters, is he not?

Mr Walker: He has suggested that some elements of it, under the current plans, would not be. It is right that all Government Departments should be being challenged to ensure that they can bring forward all elements of policy as quickly as possible. With regard to what the Prime Minister has said on this option C, clearly it is not our preferred option. We want to ensure that we deal with this through the future relationship between the UK and the EU. Therefore, it is there in restricted



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circumstances and for a time-limited period only, and that would be to ensure that we can all meet our commitments. On all sides of this process we have made the commitment to not putting up barriers or infrastructure at the border. Therefore, it is important for us to engage and negotiate on that, but we do feel that any such arrangement would be temporary in nature because, as you say, either element can be brought into force to provide for a frictionless approach in due course.

Q1772 **Chair:** This is all very late in the day and it all still seems rather uncertain. Finally from me, there are three very quick questions. When will the withdrawal Bill return to the House of Commons?

Mr Walker: I do not have control over the usual channels that determine these things. I know that there is a business statement tomorrow.

Q1773 **Chair:** Should we look forward to it with anticipation?

Mr Walker: I would be keen to see it return as soon as possible.

Q1774 **Chair:** When will what I would describe as the inexplicably shy and retiring Trade Bill return to the House of Commons?

Mr Walker: Again, that is not a Bill that is being led by our Department.

Q1775 **Chair:** You have no knowledge, fine. Lastly, when will the White Paper promised last week be published?

Mr Walker: In June.

Chair: Splendid.

Q1776 **Stephen Crabb:** Good morning. Could you just briefly clarify what work the Department is doing to help the Government resolve their discussions over the two customs solutions?

Mr Walker: Our Department has been doing a great deal of work on the customs proposals, including the original paper that was published setting out these two proposals. Since then, we have been engaging with businesses and business groups up and down the country, we have been talking, as part of our engagement with member states, about these things.

Q1777 **Stephen Crabb:** Are you providing specific advice to the Cabinet about the merits and the drawbacks of the options?

Mr Walker: Our Department, as with other Departments, is feeding into the Cabinet committee process—we are one of the key Departments on that Cabinet committee. So yes, we are playing a role in supporting the work, but clearly it is a collective decision-making process that we are talking about here.

Q1778 **Stephen Crabb:** Would you say that the collective view among your ministerial team is one of neutrality towards the options at the moment? The Secretary of State is in the group within Cabinet looking at the maximum facilitation option, so is more work geared towards helping



resolve some of the questions around that?

Mr Walker: Our Department is a co-ordinating Department, so we work with Departments across Government on these issues. We have been getting feedback from business groups, member states, a wide range of organisations about the options and we play that feedback into the discussion. That is an important part of our role, but while the policy of the Government is to continue to explore these two options that is also the policy of our Department. The Secretary of State's comments at DExEU Questions last week or the week before reflected that and reflected the fact that both options are still being explored.

Q1779 **Stephen Crabb:** Have either or both of you, Ministers, met with any of the technology companies or other potential suppliers that are trying to knock on the door of Government at the moment and saying, "Look, we have some of the answers to help you fill in the gaps on some of these options"?

Mr Walker: I have met a large range of technology companies as part of my work on market access and that side of things, but it is the frontline delivery Departments—in this case HMRC or the relevant Departments in other areas—that are likely to be having specific discussions on technology.

When we talk about the technological elements, it is important to put on the record that nobody has ever suggested that technology by itself is the solution to this. Technology can make a contribution and would need to make a contribution under both possible proposals being put forward, so it is important that we should look at this as how technology can facilitate the solutions on customs and a range of other issues relating to the border, but nobody has ever suggested that it is, by itself, the whole solution.

Q1780 **Stephen Crabb:** No one around the table here is suggesting that is the case, but clearly technology has a big role to play.

Suella Braverman: I, too, for the record, have met with freight forwarders, people working in the border and port communities and technicians involved in border facilitation and customs.

Q1781 **Stephen Crabb:** In the discussions that you have with these companies, these potential suppliers, do you get a sense that deploying the technology that would be needed to help support some of the solutions is achievable within, say, a three-year timescale, as an idea?

Mr Walker: It is very clear that there is existing technology being used in many scenarios—for instance, I visited the Port of Antwerp—that can be enormously facilitative to large-scale movements of goods and processing things very quickly. I could not say to you that I have had a specific discussion to say exactly how this would be used in this case, because that is not really our focus, as a Department; that is something for the respective frontline delivery Departments working on these issues.



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Q1782 **Stephen Crabb:** Finally, Suella Braverman, you were particularly seized of the need for the Government to be positive and to move quickly on getting on with Brexit when you were a strong voice on the Back Benches. When you came into Government, would you say that you have been encouraged or dismayed by the level of activity going on across Whitehall to get us ready for leaving the European Union?

Suella Braverman: Mr Chairman, thank you very much for the invitation to speak at the Committee. That is a very open question, non-leading, in typical style. I have been encouraged, since my appointment to the Department, by the progress that the Government have made on Brexit and our departure from the European Union. Not only was arrangement secured in December on many issues that were previously seen as insoluble or intractable, on EU citizens and the implementation period, but the Government have put monumental effort into setting out what we think are the array of options within our scope for delivering Brexit. We have triggered article 50, we are now halfway through the withdrawal Bill, and other pieces of legislation that relate to our departure from the EU are in train. I am confident that we will meet our deadline of 29 March next year and I am confident about the progress going forward.

Q1783 **Stephen Crabb:** What would you say to those people who look at some of the discussions currently going on around customs partnership, maximum facilitation or even preparing a contingency plan for a no-deal scenario and who come to the conclusion that, across Government at the moment, there is nothing like the level of activity needed to get us ready for any of those scenarios? What would you say to somebody putting that proposition forward?

Suella Braverman: Having been in the Department for a few months, I would challenge that. There is a lot of activity afoot and, excitingly, we are on to the next phase of the White Paper relating to our future partnership. That will set out again in more detail what we want our end state to look like. There is a tendency to look at the process in the way that you are suggesting, but if we focus on the end state, the ultimate destination is that we will be leaving the European Union, as an independent third country, taking back control of the elements that have been very often talked about and able to embrace the opportunities that flow from Brexit. Once we start talking about that in our White Paper and start getting on to the nuts and bolts of that negotiation, I hope that the sentiment you are expressing will change.

Q1784 **Chair:** Picking up the point that Mr Crabb has just made, how can it be in any way satisfactory that nearly two years after the referendum the Cabinet is still trying to work out what kind of customs arrangements it wants, which is absolutely fundamental to this process?

Suella Braverman: You have to remember that we have had 40 years of intimate integration with the European Union, with myriad laws and regulations. The functioning of our country is tied up with the European Union. We are extricating ourselves from that political union and that



does not happen overnight; it requires time. We need to get it right and I would rather put in the time now and thrash out these issues as thoroughly as possible, with a view to getting it right ultimately, rather than rushing it and regretting it later.

Mr Walker: Importantly on that front, we are seeing a focus on getting frictionless arrangements to support complex supply chains and the flow of goods from both the UK and the EU side in these negotiations. It is very important that we work effectively to come together and create the right solution that delivers for both of our economies.

Q1785 **Mr Whittingdale:** Good morning. Can I explore a little further the mantra that has underlain all the negotiations, which is that nothing is agreed until everything is agreed? When we took evidence from Sir Jonathan Faull, he said to us, "The 'everything is agreed' bit applies to the withdrawal agreement. It obviously does not apply to the unknown future long-term agreement" between the UK and the EU. We were also told that the withdrawal agreement and implementation Bill, once passed, is binding in international law. The Secretary of State has hinted that the "nothing agreed until everything agreed" can still apply, since the Government are considering inserting conditions into the withdrawal agreement and implementation Bill around the financial settlement. Can you tell us what type of conditions might be contained?

Suella Braverman: The principle that nothing is agreed until everything is agreed is sustainable, and it is still a guiding principle in the negotiations. It is contained in black and white in the joint report that was agreed in December. When it comes to looking at the content of the withdrawal agreement, that is an essential aspect of our departure from the European Union. It gives, in the form of an international agreement—of course, not all of it is agreed yet, but a large part of it is—the basis for the implementation period. Extensive safeguards and frameworks for EU citizens, the financial settlement, as you talk about, and Northern Ireland, along with other separation issues, will be contained in it. That is all to be seen against the context of our future framework agreement. Again, that is what article 50 says. Our departure is pursuant to a withdrawal agreement and the framework of our future relationship. That is not an "or"; it is an "and", so those two things go together and they are part of a package.

Q1786 **Mr Whittingdale:** When we come to debate and vote on the withdrawal agreement and implementation Bill, at best we have in front of us a political declaration, which may or may not have detail in it. We certainly will not know what the eventual outcome of the agreement on our future relationship is. To what extent is the Bill going to relate to the future agreement in terms of specific conditions? In other words, will we put into the Bill that we will pay the money only on condition of achieving certain things in our future relationship?

Suella Braverman: You talked there about the withdrawal agreement and implementation Bill and, when that comes to Parliament, what



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Parliament will have before it in terms of the future framework. The Secretary of State has made it clear that he and the Government want to provide as much detail as possible to Parliament relating to the future framework, so that we can all have the chance to make an informed decision upon that future framework. We are already seeing the skeleton of what that might look like with the headings issued by the European Council and the White Paper that will be coming out from us next month.

It will be a political declaration. It will be the starting point for our future framework. That can be, and hopefully will be, very detailed. We have seen political declarations that have paved the way for other treaties and free trade agreements in the past. The Canada free trade agreement with the EU is an example. The Canada scoping group, in 2009, was a precursor, a political declaration setting out the framework in detail of what that relationship would look like, followed by the legal text underpinning that free trade agreement. It is not unusual. We want to ensure that parliamentarians have enough information, so that everybody can make an informed decision.

Q1787 Mr Whittingdale: I want to see as much detail in it as you do, but I want to come back specifically to conditionality. The Secretary of State said to the Lords, "It depends on what conditionalities are in the legal text. At this stage I do not know what they are". Is it still the position that you do not know what they are?

Suella Braverman: The totality of the withdrawal agreement is not yet agreed. There are large sections that are and, on the financial settlement, much of it is already agreed and in green. The withdrawal agreement sets out the basis upon which the financial settlement has been reached, and that is in the context of our future framework. It will be implemented in the withdrawal agreement and implementation Bill. That will give the domestic legal basis for those payments to be authorised and made. If there was going to be a change in circumstances whereby those payments were to stop, that would require renegotiating and looking at what has been agreed when it comes to the financial agreement with the EU.

Q1788 Mr Whittingdale: The Secretary of State has referred to the possibility of conditions. Can I ask whether, in your negotiations for the final terms of the withdrawal agreement, you have raised with anybody in the EU the possibility that our agreement might be conditional?

Suella Braverman: I am not directly involved in the negotiations. There are teams representing the UK that are, and that, I understand, has been part of the discussions, but I cannot confirm that that is part of the agreement.

Q1789 Mr Whittingdale: It has been part of the discussions, but we do not know what the conditions are.

Suella Braverman: Yes.



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Q1790 **Mr McFadden:** I would like to continue on this theme and take you through, so that we can understand them, the legalities and the timing of this. The financial settlement was agreed as part of the phase 1 withdrawal deal, and the intention of both the Government and the European Union is to have that, in legal text, agreed as a withdrawal agreement by the autumn of this year. Is that correct?

Suella Braverman: Yes.

Q1791 **Mr McFadden:** Right. The future relationship cannot be agreed until after we have left the European Union in March next year. Is that correct?

Suella Braverman: Article 50 sets out that our departure requires withdrawal agreement and the terms of our future framework. In October, which is the timeline to which we are working, the Government intend to present to Parliament the finalised, agreed legal text on the withdrawal agreement, covering all those phase 1 issues, and the political declaration relating to the future framework.

They are two different documents, in a way, because the withdrawal agreement consists of an international agreement, a treaty-type document in international law, which requires a domestic piece of legislation to give its effect domestically. The political declaration is not a treaty. It is not an enumerated legal text in the same way as the withdrawal agreement will be. Assuming and hoping that the meaningful vote is affirmative of that package, work will then start on bottoming out the legal text in black and white, the letter of that document.

Mr Walker: There is an important distinction to make here. You say that the future relationship cannot be agreed until we have left. I do not think that is quite right. It cannot be ratified until we have left and we are an independent state, a third country, if you like. The challenge, from the EU's perspective, is that it cannot ratify such an agreement, but we would still be and are very strongly making the case that it is in both of our interests to agree as much detail on it as possible ahead of March 2019, because that is in the interests of businesses all over Europe, as well as in the UK.

Q1792 **Mr McFadden:** Sure, but the point I am making is that, legally, this is not a treaty on the future relationship until after we have left, because it is not legally possible to do that while we are still a member. That is correct, is it not?

Mr Walker: That is correct.

Q1793 **Mr McFadden:** Right. Therefore, on the money, is it not the case that we, in Parliament and as a country, will be agreeing the financial settlement as part of the withdrawal agreement before we have a legal agreement on the future relationship. That is correct, is it not?

Suella Braverman: Technically, the legal text of the future framework will not be before Parliament in October when we have this meaningful



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vote. However, the political declaration will be detailed; it will be instructive, and the vote on that will be a definitive vote; it will be a binding vote.

Q1794 Mr McFadden: Let me try again. Is it not the case that we will be agreeing to pay the financial settlement before we have a legal text on the future agreement between the UK and the European Union? Is my statement correct or not?

Suella Braverman: You say "a legal text". Assuming that the meaningful vote is affirmative, the legal text underpinning the future framework will be worked on. The Prime Minister has made it very clear that the offer on the financial settlement is made as part of a broader package relating to and in the spirit of our future partnership, so the two will be connected when we vote in October.

Q1795 Mr McFadden: I am going to try again. This is a factual question. I understand what the political declaration is. Let me try a third or fourth time. Is it not the case that we will be asked in October to vote on the financial settlement before we have a legal treaty before us on the future relationship? Is that factually correct or not?

Suella Braverman: Yes. I do not deny that there will be a legal treaty, which will be forthcoming, on the future framework.

Q1796 Mr McFadden: Therefore, I return to John Whittingdale's question. Given that you have, at the fourth time of asking, confirmed that we will be voting on the financial settlement before we have a legal text on the future agreement, is it the Government's intention and policy to insert into that phase 1 agreement conditionality on payment depending on the content of the future agreement? Is that the Government's policy?

Suella Braverman: The withdrawal agreement text has been nearly finalised and agreed. That contains issues relating to the financial settlement. As drafted, it does not contain aspects that you talk about on conditionality. However, we must remember that nothing is agreed until everything is agreed, so that principle stated in the joint report applies to this whole package of our departure.

Mr Walker: May I—

Q1797 Mr McFadden: Bear with me, Mr Walker. You have just confirmed that there is no conditionality at the moment on the payment, in terms of the legal text of the phase 1 agreement relating to the future relationship. I ask again: is it the Government's policy to insert such conditionality and, if it is, when will that be shown to us as legal text?

Suella Braverman: In the text that is currently marked green, there is not the structure that you talk about. However, in the withdrawal agreement there is agreed a duty of good faith. That is an important aspect of the withdrawal agreement, which obliges both parties to co-operate in a way that means we are working constructively towards a



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future framework that is mutually beneficial and meets our objectives. That is a key principle to the withdrawal agreement, which has been agreed upon.

Q1798 **Mr McFadden:** This phrase, “Nothing is agreed until everything is agreed”, does not really apply here, does it? That is true of the phase 1 agreement, where we have issues such as citizens’ rights, the financial settlement and the Northern Irish border, but it is not really true, because we have a negotiation, legally speaking, in two parts. One part is the withdrawal agreement and the second part is the future relationship. The money is part of the first part and the future relationship, as you have confirmed, is not going to be legally agreed until after we have left.

Suella Braverman: I would disagree with that. Nothing being agreed until everything is agreed is a principle running through the negotiations, because—I do not think this will happen, but if it does—if a future framework is not agreed before the requisite time, there is the very clear possibility that renegotiation takes place and these payments are not made.

Q1799 **Mr McFadden:** But we will have already agreed to pay the money. We will have voted on it as a Parliament and you have just confirmed there is—

Mr Walker: We are voting on it with regard to the future framework.

Q1800 **Mr McFadden:** Please, Mr Walker. You have just confirmed that there is no conditionality written into the phase 1 agreement on this. You just confirmed two answers ago that that is the case.

Suella Braverman: The duty of good faith should not be ignored in this context. It is more than just words and it applies to the attitude and the way in which an agreement on the future framework will be struck. You have to remember the Prime Minister’s words that this is all in the context and the spirit of our future framework. The two are taken together. The two will be voted on together in October. The two will survive or fall together.

Q1801 **Wera Hobhouse:** Can I come in on the spirit of the political declaration and its uncertain status? Does everything that we have discussed here about the financial agreement not also apply to the vexed question of the Irish border or the border arrangements altogether? Will the people in Northern Ireland know by the time we are leaving the EU whether there will be a hard border or what border arrangement there will be? Will businesses know what border arrangements there are going to be? It is the same question, is it not?

Mr Walker: The intention of both sides in the negotiation is to reach agreement on all the issues covered by the withdrawal agreement by October, so the answer to those questions is yes. Beyond that, of course, it is a firm commitment of the UK Government not to create any harder border or any new infrastructure at the border.



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Q1802 **Wera Hobhouse:** Can I hear this again? By October, the people in Northern Ireland, businesses in the UK and so on will know for sure whether there is going to be a hard border or not.

Mr Walker: That is the objective of these negotiations, to secure an agreement by October that covers all the issues in the withdrawal agreement, to turn all the commitments in the joint report into legal text, and that is what we want to bring before the House in October. Beyond that, there are many aspects of this where we have already reached important agreement, such as the common travel area, which is an issue that some people raised questions about at the start of this process, which has been firmly agreed and is in the green text from both parties. Both parties have consistently reiterated their commitment to all the principles of the Good Friday agreement and the Belfast agreement.

That is very important because, when we are talking about all these ongoing discussions on the Northern Ireland-Ireland border, we need to bear in mind that those principles include the principle of consent. We have been very clear, and the Prime Minister has been very clear, that the proposal put forward by the Commission for draft text on the fall-back, which would have created a border in the Irish sea, did not take account of that principle of consent. We need now to make sure that we have an agreement that does.

Q1803 **Wera Hobhouse:** Except currently there is no agreement in the Cabinet about the border arrangement and, in fact, the two arrangements put forward by the Government have been rejected by the EU as not workable. But we will get clarification; everything will be done by October.

Mr Walker: That is the objective of the ongoing negotiations on this front and we are engaging in this week by week. There are talks going on this week on the matter.

Q1804 **Hywel Williams:** Good morning. Can I ask you about the backstop or backstops, whichever you please? Will the backstop on the Irish border apply to the UK as a whole?

Mr Walker: We have set out that there are going to be no borders between Northern Ireland and the rest of the UK, and therefore we need to ensure that the arrangements we have apply to the UK. Our preferred option is to resolve this issue through the whole relationship between the UK and the EU, and that remains the main focus of this. When we are talking about backstops and arrangements in place, I am not going to go into detail on things that have not yet been promoted, but we are very clear that we are not going to have an arrangement that would in any way restrict Northern Ireland's access to the rest of the UK market.

Q1805 **Hywel Williams:** I am accepting your intention to formulate an agreement but, in the hypothetical situation where the backstop would apply, would it apply to Northern Ireland and to the rest of the UK? I am thinking not only about Dublin to Belfast, but about Dublin to Holyhead.



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Mr Walker: As you will be aware, there are different layers of the arrangements that are envisaged in the joint report, and there are some areas where Northern Ireland currently, by agreement of a power-sharing Executive, behaves differently from the rest of the UK and has north-south co-operation, for example phytosanitary measures and so forth. We make sure, as things stand today, that those do not put up barriers between Northern Ireland and the rest of the UK. I am not saying that therefore everything will necessarily be exactly the same across the UK, because it is not currently, but we will ensure that there are no new barriers between Northern Ireland and the rest of the UK, and that the arrangements reflect that accordingly.

Q1806 Hywel Williams: You envisage, therefore, a situation in which there might be two different types of customs arrangements and other arrangements between Ireland and Great Britain and Northern Ireland at the same time. The arrangements in Northern Ireland would be different from those between Dublin and Holyhead.

Mr Walker: No, I have not said that with regard to customs. As the structure of the joint report reflects, there are some areas where there is specific co-operation between Northern Ireland and Ireland.

Hywel Williams: So there will be different arrangements.

Mr Walker: In those areas, we do not currently create barriers within the UK and we have no intention of doing so. We want to ensure that Ireland retains its full unfettered access to the UK internal market.

Q1807 Hywel Williams: I quite understand that there is no intention, but I am just wondering whether, practically, we will be in the situation later on that entering into or exiting from the UK will be different in Northern Ireland from how it is as far as Holyhead is concerned.

Mr Walker: No, we do not see that, and I have met with the Welsh ports to discuss their concerns on these matters. We want to ensure continued frictionless movement within the UK market and between Northern Ireland and Wales. I know that is an important channel for that movement, so we will ensure that continues to happen. I cannot go into a great deal of detail on options that have yet to be presented, but the structure of the commitments of the joint report, which we are determined to meet and determined to translate into legal text, is an important guide in this respect.

The first objective is to secure the arrangements to ensure no hard border through the future relationship between the UK and the EU. The second layer of that is looking at those areas of co-operation between north and south, and making sure that we can maintain those. The third layer is the backstop, and that is what we will be putting forward proposals on in the coming weeks.

Q1808 Hywel Williams: Depending on the arrangements, are you confident that your plans for the arrangements between Northern Ireland and the



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Republic will be as secure as those arrangements between, say, Holyhead and Dublin, or Dover and Calais?

Mr Walker: I am not quite clear on the basis of that question, sorry.

Q1809 **Hywel Williams:** You have a border of over 300 miles with many, many, crossing points between the north and south, and you have one between Holyhead and Dublin and several between the south-east of England and France. Are the arrangements for customs and/or security going to be as good in the north-south situation as they are in the east-west or south-east?

Mr Walker: That would absolutely be our objective. That is why we set out that our first objective in this process is to secure these arrangements through the future relationship between the UK and the EU.

Hywel Williams: So you would tolerate divergence.

Mr Walker: That would include security co-operation, which should include many of the areas that currently underpin the working of the arrangements between Northern Ireland and the Republic of Ireland. It is no secret that security co-operation is a very important part of that. That is something that we want to see continue, because we believe it is in the interests of all parties.

Q1810 **Hywel Williams:** I go back to something that really struck me, a comment by the former Taoiseach John Bruton some time ago, when he said that with some of the solutions proposed there might be a requirement to have a small amount of "turning a blind eye". I do not know if you understand; I could not quite understand what he meant. Do you understand what he means and do you agree with that?

Mr Walker: We already have a number of areas in which there is specific co-operation between the UK and the Republic of Ireland. Look at the common travel area. Look at arrangements whereby we ensure that the different excise regimes between Northern Ireland and the Republic do not mean that people have to be stopped at the border. I do not think that counts as turning a blind eye, because we take the issue of smuggling very seriously and, as you will know, it is a regular topic of discussion for both the Home Office and the Northern Ireland Affairs Committee.

But even as members of the EU we have managed co-operation on some of these matters, which means that we can take these issues seriously without creating barriers at the border. That is the approach that we should take going forward, recognising that the legal basis for that will be different; it will need to be on the basis of new agreements. We should ensure that we are able to enforce the law, but we should do that well aware that putting up barriers at the border is not the best way of achieving it. That is the position that the UK has consistently taken in these talks.



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Q1811 **Peter Grant:** Good morning to both of you. When the withdrawal Bill completed its passage through the House of Lords, your ministerial colleague Steve Baker tweeted that the amendments in the Lords “challenge not just the premise of the Bill but the UK constitution itself”. Which Lords amendments was he referring to that undermine the UK constitution?

Suella Braverman: Amendment 49 is particularly concerning and essentially amounts to a no-Brexit amendment. It seeks to thwart the Government’s competence to negotiate international agreements on behalf of the country, and it goes against the constitutional settlement by providing that the Government can be directed in how they conclude international negotiations. The Government are negotiating at an international level on behalf of the British people and, yes, they are held to account by Parliament, but the EU is not negotiating with Parliament, it is negotiating with the Government, and this amendment flies in the face of that arrangement that we have.

Q1812 **Peter Grant:** But any such negotiation on behalf of the European Union would have to be agreed by the European Parliament. Some European countries do not allow their Governments to sign off trade deals without explicit consent from their Parliament. It does not undermine their constitution. Given that Brexit is supposed to restore sovereignty to Parliament and not to the Government, why is it that trying to give Parliament a final say on trade deals undermines the constitution, when other countries can survive perfectly well without it undermining their constitution?

Suella Braverman: Yes, of course, our Parliaments are involved in the process and approve or reject final agreements. However, the negotiation is very much within the competence of the Executive and we must be careful not to tie the hands of the Government in exercising that prerogative.

Mr Walker: You have referred to a final say and, of course, it is right that Parliament has the final say. Parliament has to ratify any arrangements at the end of the process, but there is a difference between a final say and directing the process of negotiations. That is the key point here and the key concern with that amendment as it stands.

Q1813 **Peter Grant:** Amendment 26 was introduced by the Government and changes clause 11, which sets out the circumstances in which UK Ministers, through statutory instruments, can legislate on matters that are currently devolved. It requires a consent decision by the devolved Administrations, but that means that if the Scottish Parliament unanimously votes to withhold its consent, that is still enough for the UK Government to go ahead and do it. Is that something that undermines the devolution settlement? Are you comfortable that, if that passes into law, it is compatible with the existing devolution settlement?



Mr Walker: We believe that the amendments to clause 11, which have been developed as a result of negotiations with the devolved Administrations—quite productive and positive negotiations, despite the fact that there are still some differences of opinion with the Scottish Government—reflect and respect the devolution settlement. That is something that the intergovernmental agreement, which was signed by the Welsh devolved Administration, agrees with and accepts. We are seeking consent on these things and there is an important definitional difference between consent and a consent decision: a consent decision can be either way.

The discussion was around areas where it is agreed by all parties that there should be a UK framework. We have alongside this process the framework discussion, where we reached agreement with both the Scottish and Welsh Governments that there would be a requirement for UK frameworks in some areas, and we have mainly reached agreement on specifically what those areas are. In those areas it would not be reasonable for any one constituent part of the UK to have a veto on a UK framework. That is reflected in the intergovernmental agreement, which has been signed by the Welsh Government, which is still very much open to the Scottish Government and Northern Ireland Executive, as soon as one is restored.

The drafting of the revised clause 11 reflects that and there are, attached to that, specific requirements that, if a consent decision were to be to deny consent, there would have to be a debate in the UK Parliament in which the reasons for the denial of consent by the devolved Administration were set out and the UK Government gave their response to those, so that they would be taking account of the devolution settlement.

Q1814 **Peter Grant:** Can I pick you up on something you said earlier in that answer, please, Robin? You referred to difficulties in getting agreement with the Scottish Government. Is it not a matter of fact that the problem is not just with the Scottish Government; the problem is now with the Scottish Parliament? The Scottish Parliament overwhelmingly agreed not to give legislative consent to the withdrawal Bill, and it is not simply the Scottish Government's MSPs who did that; among Opposition MSPs the vote would have been a majority against legislative consent. That is a matter of fact, is it not?

Mr Walker: I am not going to disagree with you about the vote in the Scottish Parliament. That stands on the record. Of course, it is the case, and it has been the case in the past, that a decision to withhold consent can be overruled by a later decision of the Parliament. We would still hope for that, and our door is open, as David Lidington has made clear, to talks with the Scottish Government, and indeed with the Parliament. I was up there giving evidence a couple of weeks ago to try to achieve that consent, because we genuinely believe—and the conversations that we have had on frameworks reflect the fact—that it will be in the interest of



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all parts of the UK to work together to ensure that the statute books function effectively. Legal certainty is important to businesses in every part of the UK—Scotland, Wales, England and Northern Ireland—so we are very keen to continue the conversation; not to see that as a final decision, but to explore whether there is any possibility of moving forward together on this.

Q1815 Peter Grant: Finally, when we start looking at future agreements, for example trade deals, a lot of these will significantly impact on areas of Government that are currently devolved. Potentially, they could also impinge on policy decisions where devolved Governments have differed from the view of the UK Government. I am thinking particularly about the degree to which the private sector is or is not welcomed in direct procurement of health services, where the Scottish Government and, I believe, to a lesser extent, the Welsh Government have chosen a different direction from the UK Government. Given that those agreements potentially could impact on the right of devolved Administrations to choose different policies on the procurement of public services, for example, what involvement will the devolved Administrations have in the negotiation and approval of those deals?

Mr Walker: I am slightly straying beyond my brief here. That is probably a better question for DIT, in terms of future trade deals and arrangements in that respect, but I understand the point you are making. We will continue to engage with the devolved Administrations on all of these issues, to make sure that their concerns are taken into account. In fact, to shift slightly on to a separate topic, I will be chairing the first meeting of a new forum for discussing the future economic relationship with the EU with the devolved Administrations tomorrow. This is a process that we are very keen on, to make sure that we are engaging with the Ministers of the devolved Administrations, to take their views into account. I would hope that will be a model for a process that my colleagues at DIT might look to in the future.

It is, of course, also the case that wherever agreements, arrangements or laws that we are putting forward intersect with the devolved settlement, we will continue to seek consent under the Sewel convention. That is a mechanism that is there to support this process.

Q1816 Peter Grant: My understanding is that within DExEU, Robin, your responsibilities include relationships with the devolved Administrations and, Suella, your responsibilities include the DExEU elements of trade, so I would have hoped that, between you, we could get an answer to that. Taking various of your answers together, even if one, two or, potentially, all three of the devolved Administrations believed that a proposed deal fundamentally undermined the policies they had been elected to implement, with regard to direct public provision of services, for example, are you telling me that the legislation would allow the United Kingdom Government to go ahead with it? They would ask for consent, but if consent was not forthcoming—



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Mr Walker: No, that is not right.

Q1817 **Peter Grant:** Are you telling me that, if consent for such a deal was withheld, the Government would commit to not finalising such a deal?

Mr Walker: No. What we are talking about in clause 11 is specifically around the maintenance of arrangements where there may need to be common frameworks across the UK. This is not about future trade deals. The powers in the withdrawal Bill do not give Ministers or the UK Government any new powers over future trade deals. That would be a question for other legislation, nothing to do with the withdrawal Bill.

Q1818 **Peter Grant:** I am talking about the powers that the UK Government awarded themselves just now to negotiate and finalise trade agreements. If such a trade agreement was seen by devolved Administrations to fundamentally impact on their ability to set the policies that should be devolved to them, are you telling me that in such circumstances the Government would commit not to finalising a trade deal until they had the consent of the devolved Parliament?

Mr Walker: I think we are talking slightly at cross purposes here. I am talking about my Department's legislation, the European Union (Withdrawal) Bill, which does not contain any powers on future trade deals. I think you are asking about policies that belong to the Department for International Trade with regard to future trade deals. It has always been the case that trade negotiations are a reserved area where the UK acts as one. But I would expect every Government Department to take very seriously its responsibilities to the devolution settlement and to ensure that views of the devolved Administrations were taken into account, as currently is the case. Where the devolved Administrations and legislatures have powers to implement and to do things differently, there is no reason why that should not continue in the future.

In the withdrawal Bill and in clause 11, though, we are talking about how we maintain frameworks that currently exist in common across the whole of the UK as a result of the fact that we are all under EU law and, in those small number of areas where it is recognised by all the Governments that there will be a need for a UK framework, how those are maintained. That is a different question from the ones you are asking about future trade deals.

Q1819 **Peter Grant:** Finally, Suella, I will go back to part of an answer you gave earlier on, because it relates to the question we have just looked at. The Government's position is that an individual constituent nation of the United Kingdom cannot be allowed to prevent the UK Government from signing a trade deal if the UK Government think that it should go ahead. That is what you said, was it not? An individual constituent part of the UK cannot veto a trade deal negotiated by the UK Government.

Suella Braverman: When it comes to the international agreements that you are talking about, the agreements with third countries that the EU has, which we would hope, through the continuity approach, to have



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applicable to the UK during the implementation, and then to renegotiate successor agreements with those third countries, for them to have effect in the UK we would need domestic, UK-wide legislation. As with all UK-wide legislation, if it is appropriate, if it touches and affects devolved competencies, the Sewel convention applies and legislative consent motions would be sought. Those are the situations in which dialogue and the mechanism in the conventions would be adhered to.

Q1820 Andrea Jenkyns: Returning to amendment 49 to the withdrawal Bill, does this amendment seriously pose any real risk of delaying and frustrating the Brexit process?

Suella Braverman: Yes. As I said earlier, it can be described simply as a no-Brexit amendment. It is designed to thwart, obstruct, hold up and tie the hands of the Government in a vital negotiation in which they are involved. We are disappointed that the Lords voted for this amendment despite the assurances that were given by the Government. International negotiations rely on the Government being able to negotiate on behalf of the country and Parliament then ratifying those agreements. Our position is that we will not accept that amendment. We expect and hope the Commons will recognise that it is wrong to weaken the Executive in this way and, as we go forward, hopefully we will be free from that amendment.

Q1821 Andrea Jenkyns: Thank you. I completely agree with what the Minister is saying. As you have already stated, historically international negotiation has been the sole arena of the Executive. Is it possible that this amendment could force us to remain in the customs union even after the Prime Minister has said on numerous occasions that we are leaving?

Suella Braverman: The Prime Minister and the Government are clear that we are leaving the customs union when we leave the EU. It is important that we leave the customs union so that we can set our own tariffs, so that we can implement our own trade policy with countries outside the European Union. That is one of the great opportunities. That is one of the reasons why I and, I am sure, you, Andrea, voted for Brexit.

Q1822 Andrea Jenkyns: Are you confident that this will happen; that we are 100% leaving the customs union?

Suella Braverman: Yes, I am very confident that we are definitely leaving the customs union.

Q1823 Emma Reynolds: Good morning. I am assuming that when we get the White Paper in June the Government will finally take a view on which customs arrangement they are going to pursue in the negotiations. Is that correct?

Mr Walker: The White Paper will set out policies on a whole range of issues, including customs, in more detail, so there will absolutely be more information in the White Paper when it comes before you.



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Q1824 **Emma Reynolds:** Okay, that is suitably vague. Can I ask you directly? Will it come down to either saying that the Government are going for the customs partnership arrangement or the max fac arrangement in the White Paper?

Mr Walker: The White Paper will put forward the customs arrangements that the Government think are the most appropriate. I am not able to pre-empt the collective decision making of the Government, but clearly we will make sure that the White Paper sets out, across the whole range of areas that we are going to be discussing with the EU in the future economic partnership negotiations, and indeed the future security negotiations, the UK's position for talks.

Q1825 **Emma Reynolds:** Well, I hope it will come down on one side of the argument; otherwise we are leaving it very late indeed. Well, we already are leaving it pretty late. Is it the Government's intention to produce a text for a common understanding of the so-called fall-back or backstop option for the Irish border, and is it the Government's intention to have an agreement on that at the June European Council? That is what the Irish Government have asked for.

Mr Walker: We are putting forward proposals for that in the coming weeks. As I said earlier, I cannot go into the detail of those, but I can say that we are putting forward proposals and we recognise the benefits to all sides of reaching agreement on this issue so that we can have a finalised agreement by October.

Q1826 **Emma Reynolds:** But the Irish Government want to have progress on the backstop by June.

Mr Walker: That is why we are putting forward proposals in the coming weeks.

Q1827 **Emma Reynolds:** Okay, fine. Suella Braverman, you said recently in the House of Commons that "Smart Border 2.0" was an interesting document, but it did not go as far as the commitment made by the UK, and you specified that that was to not introduce any physical infrastructure at the border. Is that correct?

Suella Braverman: Yes.

Q1828 **Emma Reynolds:** The most developed proposal that we have for maximum facilitation would not avoid a hard border on the island of Ireland. Is that correct?

Suella Braverman: As my colleague has said, there is an exploration and a piece of work going on to identify exactly how technology can be used to minimise friction at the border, and to ensure that we adhere to the guiding principles of no hard border between Northern Ireland and the Republic.

Q1829 **Emma Reynolds:** But "technology" suggests that there will be infrastructure and, therefore, with regard to what you said in the House



of Commons Chamber, it seems to me that if max fac requires technology it necessarily requires infrastructure. Therefore, we could not avoid a hard border with that scenario. Is that correct?

Suella Braverman: No. Technology can be used to eliminate a border, potentially.

Q1830 **Emma Reynolds:** How?

Suella Braverman: That is the work that is carrying on in Government.

Mr Walker: There is a danger, particularly because of that report and some of the things that it focused on, of a misunderstanding when we talk about technology here. When we talk about technology, we are not talking about drones; we are not talking about technology at the border. We are talking about technology that facilitates transactions being reported away from the border. We are talking about arrangements that could be put in place to ensure that technology can facilitate the movement of goods without them having to be stopped and checked.

Some of the things in the border 2.0 report, where it was talking about technological infrastructure at a border, did not represent in any way a position that the Government have ever taken on this issue. It is important, and that was part of the point that Suella was making when she made those remarks, that technology can play an important facilitative role, as we can see in some of the arrangements that exist at the moment in Europe's ports, in ensuring that goods do not have to be held up and inspected if the details of what is in a manifest can be reported away from the border. That can play one part in a multi-layered solution to avoiding any physical infrastructure at a border.

I come back to my comment earlier that I do not think anyone has ever proposed—and I think sometimes, again, in the heat of debate this has been misrepresented—that the solution to the border is purely technological. Technology can play one part, along with a range of agreements.

Q1831 **Emma Reynolds:** I am interested in what you said earlier and want to pick you up on that. Maximum facilitation, it seems to me, relies entirely on technology. You said that technology can only play a part. What else, therefore, is going to avoid the hard border? Surely, if the maximum facilitation relies on technology alone, what you said earlier and what you said just now suggests that the customs partnership—

Mr Walker: It does not and it never did. If you read the Government's customs paper, you will see that it was very clear that maximum facilitation includes a number of different elements including, as proposed, a local trade exemption, including arrangements agreed between the parties to recognise authorised economic operator status. This was never proposed to be a purely technological solution. This is one of the things where sometimes we have these debates somewhat at cross purposes, because people create a straw man of what the other side is



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suggesting. Unfortunately, this has happened in the public debate about both of the options being put forward by the Government.

It is very important, therefore, that the work progresses in a way that can inform the debate with what the proposals are, rather than what the people attacking them think they are.

Q1832 Emma Reynolds: Not all traders will be able to be trusted traders. Therefore, there will need to be some technology, and technology requires infrastructure, regardless of where that infrastructure is.

Mr Walker: Sure, but that infrastructure could be a computer in somebody's office. It does not need to be infrastructure at the border, and we are very clear that the Government are committed to no new infrastructure at the border.

Q1833 Emma Reynolds: I am very sceptical about that. The Republic of Ireland has said that it does not accept the maximum facilitation proposal because it would introduce a hard border on the island of Ireland. That is correct, is it not?

Mr Walker: I do not speak for the Republic of Ireland.

Q1834 Emma Reynolds: Okay. Let me just ask a final question on what happens when the Government finally decide whether they are going to go for a customs partnership or maximum facilitation. Putting to one side—although, this is a significant thing in the whole process—that the European Union, for the time being, has said that it rejects both of those proposals, let us say that the Government go for one of those proposals and one of those proposals is agreed. For the time being, the technology is not there for either of those proposals. If that technology and those arrangements cannot be put in place by the end of December 2020, is it not the case that the UK will have to de facto remain in the customs union and, therefore, apply the common external tariff, and not be able to have any of the free trade agreements that might have been concluded by then in force? Is that not the case if the technology and the arrangements are not in place by the end of the transition?

Mr Walker: It is important that, first, the Government should complete their policy work on this; and secondly, as I said earlier, every Department across Government should be challenged to ensure that the necessary arrangements can be put in place. That work is ongoing and you will see in the customs paper more detail on this.

With regard to the so-called backstop arrangements, proposals will be coming forward within the next few weeks and we recognise the need to reach agreement on this. We have agreed with the EU already, with regard to the implementation period, that the effects of the customs union will continue until the end of that implementation period in 2020. At that moment, they will come to an end and the UK will then be free to bring into force new trade agreements, which it can negotiate in the meantime.



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Q1835 **Emma Reynolds:** I understand that that is what has been suggested. However, if those customs arrangements are, for whatever reason, not ready by the end of the transition, is it not the case that we would have to still apply the common external tariff, because we would not have any other alternative arrangements in place and, therefore, we would have to remain in the customs union and those free trade agreements would have to be delayed somewhat in their entry into force? That is just a factual question.

Mr Walker: You are talking about a hypothetical situation.

Q1836 **Emma Reynolds:** One that senior Government sources say will take place.

Mr Walker: At this stage, we need to progress the talks on translating the joint report into legal text, and that means addressing all areas of that, including the backstop, which we will be taking forward proposals on. We have already reached agreement on the implementation period, which defines the date at which, as well as no longer being a member state, we effectively cease to participate in the customs union. It is important that all Government Departments with responsibilities in this area are ensuring they can meet that deadline.

Q1837 **Richard Graham:** Mr Walker, you were hinting that the White Paper in June would cover not just customs union issues and customs proposals, but other issues to be negotiated, including, for example, security. Am I right to presume that this would therefore include all the issues covered in Michel Barnier's proposed four-pillar structure: security, defence and foreign policy; but also home affairs and policing; the thematic issues, nuclear, chemical, aviation and so on; as well as research and universities; in fact really the full mantle?

Mr Walker: Yes. The White Paper will aim to address the full range of issues on our future partnership, including the future economic partnership, the future security partnership and some of those cross-cutting issues. I am slightly surprised at your definition of that as Mr Barnier's list, because a joint list has been published of the headings for the future partnership by the UK and the EU. It is important that we should address every aspect of that joint list of areas that we want to agree in terms of the future partnership.

Q1838 **Richard Graham:** Absolutely. The reason I referred to it as his thing is that it was in a chart that he showed us some time ago. This was one of the suggestions I made at that time: given the incredible importance of financial stability to all of us in Europe, and the important role the City of London plays for European nations and clients, was there not a justification for having a separate pillar focused specifically on a new architecture for dialogue on government, regulatory and, indeed, market practices, to cover all the financial and business services? Is that something that you believe the Government are likely to pursue?



Mr Walker: Yes. Again, I would point you to the joint list that we published in terms of topics for discussion with the EU. I do not have it in front of me, so I cannot give you exactly the right headings, but you will find those issues are addressed in that. There is a specific financial services heading under that, and there are also areas of cross-cutting co-operation, dealing with regulatory co-operation. These are all issues that we will want to take forward talks on, and therefore they will all be addressed in the White Paper.

Q1839 Richard Graham: Of course, both sides see all these issues as incredibly important for both of us, but there has been a recent incident on the whole issue of Galileo and the future of that project, where, to some extent, trust has been slightly undermined. Is your interpretation of where the European Union is coming from that this is cock-up or conspiracy? Is it a deliberate attempt to try to push us away or a negotiating tool?

Mr Walker: I do not want to say anything undiplomatic, but we were disappointed and surprised by the suggestion that, when so much has been said about security co-operation, the UK's unconditional commitment to European security and the fact that we are and will remain a trusted partner of the European Union in this space, security could be used as a reason to exclude the UK from joint participation in a project to which we have contributed a great deal, including in the security aspects of it, and from which we believe both the UK and the EU can benefit. We hope that the Commission will rethink that approach.

In my conversations with a number of member states recently, I have heard a great deal of shared surprise at the position that has been taken. We would be very keen to make sure that the benefits of future co-operation in this space, and the fact that the UK has capabilities here that offer a great deal to the EU, are fully taken into account. You will have seen the Defence Secretary's statement about the importance of being able to understand how we would use those capabilities in the context that we do not reach agreement on this, and that is sensible contingency planning.

In mentioning contingency planning, we also have to understand that it is taking place on both sides and we need to ensure that that does not get in the way of us striking the right beneficial deals where they can be struck. Therefore, there will have to be a degree of understanding throughout this whole process that there may be decisions taken and things looked at in terms of contingency planning that, on the surface, might look like they are going against a positive discussion. We will both have to have some patience for each other's approaches on that.

Q1840 Richard Graham: Indeed. Thank you. This Committee has also been looking at the importance of citizen rights in the future agreement. While there is a lot that we can do to encourage our own Departments and our own Government to make decisions that enable a simple application and registration process for European nationals here, on the other side of the



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equation it is rather harder, because so often the European Commission says, "This is a national issue; it is not a competence power that we have." Do you believe that there is more that your negotiating counterparty, the Commission, can do to resolve some of these issues, such as British citizens' rights to vote in local elections in Europe, or a single, simplified way of making sure they can move from country to country if their work requires them to do so? Are we simply accepting the Commission line: "This is not really for us to resolve. Go and sort it out bilaterally"?

Mr Walker: There is a mixture of different issues contained here. On some issues, we were very clear—for instance in citizens' rights negotiations—that we would like to have taken things further, and we will look at the opportunities. If we take onward free movement, for instance, which you mentioned, the Commission was clear in its arguments that this is something for the future relationships rather than the withdrawal agreement and, therefore, we will come back to it. On others such as voting rights, it was clear, as you say, that this was a member state competence.

There is a mixture of different issues within that bracket of citizens' issues, but we have been very clear that we would like to go further in all of those areas, and we will seek, therefore, through the future relationship, to address those where we can, and through bilateral conversations where we cannot. Those bilateral conversations often fall into the remit of my colleagues in the Foreign Office rather than necessarily our Department. On voting rights, we are very clear that we would like to protect the voting rights of UK citizens wherever possible, and we have agreed with the Commission that we can explore that on a bilateral level.

Q1841 **Mr Djanogly:** I would like to come back to points made by Peter Grant and Andrea Jenkyns in relation to the so-called amendment 49—Viscount Hailsham's amendment—dealing with parliamentary approval of the outcome of negotiations with the European Union. It was clear that the Lords in their deliberations were wanting the Commons not to have a binary decision, in effect, and that there should be input. I was looking at a Commons Library blog, as you do. At one point it says, "Through these amendments, Parliament could make it clear that it wishes to steer the directions of these negotiations, not unlike how the European Parliament carries out its information and veto functions vis-à-vis the Council and the Commission in EU international relations".

I understand the Ministers' concerns here: first, in relation to precedent, undermining the Royal Prerogative and, as Ms Braverman mentioned, in relation to tying the hands of Government. I understand that. But what would the Ministers say to the charge now being constantly repeated in the media that Government delay, wrong starts and misdirection have in effect led to a scenario where Parliament feels the need to step in and should step in to save national embarrassment?



Suella Braverman: I reject the premise in your question. The Government take Parliament's role in scrutinising legislation relating to our departure from the EU very seriously. That can be reflected by the involvement of both Houses when it comes to the relevant legislation. That scrutiny improves the quality of legislation and acts as a healthy constraint on ministerial and governmental power.

There is a clear role for Parliament in our departure, and that will be reflected not least in October when we are planning to present the package to Parliament. Parliament will have that approval or rejection power. That is a binding vote that Parliament will have. That will be very definitive in many ways. There is no greater involvement of Parliament in that process. That is a culmination of much involvement by Parliament in the legislative process relating to our departure.

Mr Walker: There is a distinct difference between parliamentary scrutiny and Parliament having its say on the process, as it will do and as it will continue to do, and directing the Government in negotiations. We feel that amendment 49, as it stands, crosses that line. Therefore it is important that we should continue to engage with Parliament, as we will no doubt through many more Select Committee appearances. It is 35, if we include today, so far from Ministers in this Department. That is something that we should continue through the process. We will continue to have debates in the Commons and the Lords.

But a line has to be drawn somewhere. After all, this legislation is designed to ensure that we leave the EU with continuity, certainty and control, not to direct the negotiations or define a particular direction or instruction for those negotiations. When proposals like that were put forward in the Commons, we have seen that they were firmly rejected. That happened through the passage of the withdrawal Bill through both Committee and Report stages. That should be taken into account when it comes to consideration of Lords amendments.

Q1842 **Stephen Kinnock:** Good morning. I just want to focus on the period between Parliament approving the withdrawal Bill—assuming we do—in October, and when we leave the European Union in March 2019. The Secretary of State has said that he thinks very substantial progress can be made on the future relationship negotiations during that period. Is that really realistic, given that the European Parliament will not be voting on the withdrawal agreement until February 2019?

Mr Walker: Yes, it is realistic, because it is in the interests of all parties, of businesses and citizens in both the UK and the EU, to have the clearest possible definition of that future relationship by the time we enter into the implementation period. From my conversations with both European parliamentarians and member states, there is a growing awareness of the importance for businesses and citizens in their countries of knowing what the arrangements will be for trade and market access to what will be Europe's No. 1 export market. There is a real mutual interest in making



progress on this. That is part of the case we will be making in our White Paper.

Q1843 Stephen Kinnock: The institutional reality is that the European Commission will be changing in 2019 and there will be European parliamentary elections. Neither the Commission nor the Parliament will be interested in engaging in discussions with the United Kingdom and potentially tying the hands of the newly created institutions following the rotation. Is the political and institutional reality not that, in essence, no progress on the future relationship will be made at all until probably October 2019, when there is a new Commission?

Mr Walker: I would rather turn that around to say the current Commission is highly ambitious with regard to resolving as many issues on this as possible. As part of its legacy and its record, it will want a healthy agreement with the UK. For the European parliamentarians I meet, this is also an issue they want to see real progress on in this Parliament. Elections will give them an added focus.

This has always been the issue. Right from the start of this process, we have seen the clear understanding that, now the UK has triggered article 50, the European institutions want to ensure that we are out in time, so as not to complicate the European elections for 2019 by having seats that need to be available for UK MEPs, which then go away. That is something we are all agreed on. When people have to go to their electorates, they will want to explain that the EU will have a successful future trading relationship with one of its closest allies and biggest trading partners. We should look to the opportunities in that institutional change you talk about, rather than assuming it will be a problem.

Q1844 Stephen Kinnock: Once the vote has gone through here in Parliament, in effect, as my colleague Pat McFadden has said, we have signed off on the £35 billion to £39 billion, so that piece of leverage has gone. What contingency plans are the Government putting in place for the fact that, once that has happened, the European Union will really start to transfer us into the status of a third country and therefore reduce our leverage massively in the negotiation process?

Mr Walker: Clearly there is contingency planning, and there continues to be contingency planning going on across Government for all outcomes of this process. But our central scenario, which we see becoming more likely as we progress the negotiations, is one where we reach an agreement, not only on the withdrawal agreement but on the future relationship, which we believe is in the interests of the UK and the EU.

Q1845 Stephen Kinnock: Do you accept that, once the withdrawal agreement, particularly the budgetary elements of it, is signed off, our leverage in negotiating the future relationship is massively reduced, along with new institutions coming in?

Mr Walker: As we have discussed at great length already, the process of signing off the withdrawal agreement, having a meaningful vote in



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Parliament and then writing into legislation the withdrawal agreement and implementation Bill will have regard to the framework for the future relationship. We want to get into as much detail on that framework as possible. We also believe, as the Secretary of State has said, that more work can be progressed on the future relationship between agreeing that framework and the moment at which we leave the EU.

Q1846 Stephen Kinnock: I have one final question. Which part of the Commission will be leading on the negotiation of the future relationship post 29 March 2019?

Mr Walker: Our focus should be to get progress on the future relationship before 29 March 2019. It is speculative to talk about what happens after that.

Q1847 Stephen Kinnock: The assumption would be that we would be dealing with the Directorate-General for Trade, as any other third country.

Mr Walker: At the moment, our focus is to deal with the Commission we have in front of us, to deal with taskforce 50 and to make progress not only on the withdrawal agreement but on the future relationship. As the time passes, I believe there will be increasing pressure from European institutions and European electorates on both the Parliament and the Commission to make progress on these issues as well.

Suella Braverman: Interestingly, you had a witness before your Committee a few weeks ago from the Centre for European Reform. She made it clear from the European perspective that there is an immense amount of willingness and desire on the part of the EU to get on with this and to strike an agreement, not only by finalising the withdrawal agreement but on the future framework. She used the phrase "Brexit fatigue", and said that they have turned a page and want to move on as well. There is really no desire for us to prolong this further than necessary.

Stephen Kinnock: No, it is really just a question of leverage, where the leverage is and when it starts to disappear.

Q1848 Jeremy Lefroy: I would like to ask a question about when the European Union (Withdrawal) Bill will have passed all its stages and received Royal Assent. Obviously, we do not know the timing of that, but what is your assessment of the ability of Parliament to do everything the Bill demands, which is basically to have a statute book next March that is in order for our leaving the EU? Is there sufficient parliamentary time? What arrangements have been made? What discussions have been had through the usual channels about that?

Suella Braverman: You are talking about the withdrawal Bill currently going through Parliament. As Minister Walker said, that will return to the Commons as soon as possible. We want to get Royal Assent as soon as possible. Thereafter, there will be statutory instruments that are required to go through, flowing from the withdrawal Bill. Again, that is a question



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for the usual channels, in terms of timetabling and the allocation of time for that to occur.

The withdrawal Bill ensures that we have continuity, control and predictability when it comes to the legal status upon our exit from the European Union, the snapshot of EU law, which then becomes retained law. In many ways, because of the implementation period, which will take effect next March, when we will be operating broadly according to the same rules and regulations as the EU, much of the withdrawal Bill can take effect after the end of the implementation period.

Q1849 Jeremy Lefroy: It was my understanding that all this work would have been done by the end of March, whatever the content of any agreement in October—obviously, we very much hope that we get one—and there could then be some kind of stalling mechanism so that these would only take effect after the transitional period, but all the parliamentary work would be in place by the end of March. Is that still the case?

Suella Braverman: Yes. Some of the powers in the withdrawal Bill, for example the correcting power, will be needed as soon as possible this side of exit day.

Mr Walker: There is work going on across Government to ensure that we have the pipeline of secondary legislation that will be required under clause 7 of the withdrawal Bill to ensure our statute book is ready. There are also conversations going on with the devolved Administrations to ensure that they are kept informed on this and that we are working together so that can be done within the timeline. It is very important that we are prepared for this, because there is going to be a lot to get through. Of course, within that, we need to allow time for the new sifting mechanisms that have been agreed, so that those can take effect.

Q1850 Jeremy Lefroy: There is not a lot to get through; there is a huge amount to get through. Has anybody in Government done a critical path analysis as to how this can actually be effected, working back from the end of March next year? It seems to me to be getting increasingly difficult. Is there an assessment on that?

Mr Walker: That work is going on in co-ordination between our Department and the Leader of the House's office.

Q1851 Jeremy Lefroy: Is it possible to have that information?

Suella Braverman: There has been an assessment. Minister Baker gave evidence to the Procedure Committee about the consequences of the withdrawal Bill from a parliamentary point of view. It is not possible to give a definitive figure on the number of statutory instruments that would require parliamentary work, because much of that relates to the outcome of the negotiations, but there is an estimate of 800 or so EU exit-related statutory instruments, as set out in the White Paper at paragraph 69, being made under the European Union (Withdrawal) Bill, with the



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remainder being made under existing powers that have been taken into new primary legislation.

Q1852 **Jeremy Lefroy:** Is there any proposal in the near future to inform Parliament of the extent of work that is going to be required in the next few months, given the pressure that is going to put on parliamentary time and the need to hold the Government to account in many other areas?

Suella Braverman: I am sure that the extent of work that is awaiting us will be made very clear.

Q1853 **Sammy Wilson:** Can I take you back to one of the earlier answers you made in relation to the budget and the money that we have committed to the EU? The first line of defence seems to be that nothing is agreed until everything is agreed, but of course, if the withdrawal agreement is in a legal document, it is agreed and legally binding. The second argument is that there is a duty of faith in the withdrawal agreement, although I do not see that term mentioned anywhere in the withdrawal agreement. If the Government wished to challenge the approach the EU was taking in negotiations over the future trade arrangement, how would that duty of faith be legally challengeable? It is a very woolly concept.

Suella Braverman: A duty of good faith is contained in many legal documents. Let us use the joint report as the starting point. The settlement on the financial payment is to be set and put forward on a condition of an overall agreement relating to our future framework under article 50. As I said before, the two are to be taken together. There is going to be continuous regard to how our future relationship is concluded. That includes the agreement on the implementation period. When it comes to the duty of good faith, it essentially means that the agreement in the joint report that the future framework is highly relevant to any payment that has been agreed is to be part of the discussions. That cannot be ignored.

There will be a withdrawal agreement that contains the basis for the financial payment, which we plan to be completely agreed by October. Then there will be the political declaration on the future framework. If there is a change in circumstances, there will always be the opportunity to renegotiate and assess whether that is a legal basis that we want to continue. The two cannot be divorced and they are essentially taken together.

Q1854 **Sammy Wilson:** I find that difficult, because the EU clearly does not see that duty of good faith as being sufficient to ensure the outcome that it wants. When it came to the issue of the Irish border, it imposed a condition in paragraph 46 and again in paragraph 49. Rather than leave it up to the Government of the UK to negotiate in good faith, it said, "Look, what happens in the discussion on future trading arrangements does not matter; this has to happen."

Given the enormity of the commitment the Government are making on



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behalf of taxpayers in the United Kingdom, we have not put that kind of condition into a document that is going to be legally binding. Is there not a case at this stage to insist on the same kind of conditionality being attached to the financial arrangement as the EU and the Irish Government have insisted be attached to the Northern Ireland part of the report?

Suella Braverman: You raise a very valid point, and I am sure it can be taken into account. The text is coloured green. The withdrawal agreement is not completely agreed, so it is difficult to comment on what the final effect of it will be. There is still negotiation going on, and your comments are noted.

Mr Walker: As we discussed, the withdrawal agreement does not come into any form of legal force until it has been approved by Parliament. Parliament will have to have regard to what has been agreed on the future relationship in that sense. That should provide an important part of Parliament's decision-making process. That is one of the reasons we will be saying to our EU counterparts, "We need to show real progress on the future relationship, so that we can make the case to Parliament as to why the withdrawal agreement should be approved."

Sammy Wilson: Of course, it will still be an unequal arrangement. Even if there is a political document saying what progress has been made on the future trade arrangements, it can still be reneged on. It can still be changed. Circumstances can still alter. Once we have agreed a legally binding document, we cannot go back on it. The EU wants assurances about the things which are important to it. I cannot think of things that are more important to taxpayers in the United Kingdom than committing £40 billion to a body that has so far in negotiations acted in bad faith. We have had the example of the Galileo project, where on one hand they are saying they want security co-operation but on the other hand they are saying, in a fit of pique, "We are going to close you out of an arrangement that enhances European security."

Could I come to my second point? That is on the Northern Ireland-Ireland border. It has been made unconditional that, regardless of what happens with the negotiations and the future trade arrangements, the EU and the Irish Government want a commitment that there will be full alignment to ensure there is no border between the Irish Republic and Northern Ireland. It is ambiguous as to how that will be achieved. The EU and the Irish Government have made it quite clear that they see Northern Ireland being treated separately from the rest of the United Kingdom. It could be interpreted that the United Kingdom as a whole maintains that full alignment.

But we were told in evidence previously that, if the Government wished to have that interpretation accepted, they could not simply decide in future to keep the whole of the United Kingdom in alignment; that would have to be negotiated now with the EU. What is your interpretation of how we maintain that full alignment if the future trade arrangement has



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not resolved the issues around the Irish border?

Mr Walker: Here, we are talking about our very firm commitment, which is shared by all parties, that we should not have new physical infrastructure there and that, therefore, we need to reach the necessary arrangements to ensure that does not become the case. In the joint report, we set out the approach to doing that. Our preferred option, and everyone's preferred option—indeed, the Taoiseach has said it is his preferred option—is to do that through the future relationship between the UK and the EU as a whole.

We understand, within that, that in some areas—this is option B—there is already sign-off for arrangements between Northern Ireland the Republic of Ireland to be in place for a power-sharing Executive, and those can help in this process. Option C is to have a fall-back. We will be putting forward proposals on that, but not ones that in any way create barriers between Northern Ireland and the rest of the UK, because that is unacceptable, and it should be unacceptable to any Government of any political colour in the UK.

Not only would it go against our commitment to the Union itself, but it would breach the terms of the Good Friday agreement or the Belfast agreement. When people pay attention to those terms, they should pay full attention to the importance of the principle of consent within that.

Q1855 **Sammy Wilson:** I do not share your view of the good faith of the Irish Government, I have to say, given that all suggestions put forward by the Government, even positive, thought-out suggestions, have been dismissed almost out of hand within 24 hours. Co-operation, which the previous Administration were engaging in, has now been stopped under the current Irish Administration.

Let us assume that my view of the Irish Government is correct: that is, they are determined to do the work of the EU, to try to thwart all the technical or administrative solutions the Government are putting forward. Is it your understanding, as we have been told in this Committee, that the withdrawal agreement then has to be looked at again, to ensure that the United Kingdom as a whole—it is not an option I want to see—maintains regulatory alignment in order to avoid the border issue?

Mr Walker: I do not want to pre-empt discussions that have not taken place. I would point you to the fact that we have not yet reached agreement on this part of the text. These are issues that we take seriously; we take our responsibilities very seriously with regard to the United Kingdom as a whole. We will ensure there are no barriers created between Northern Ireland and the rest of the UK. We will be leaving, as the whole of the UK, the customs union and we will have an independent trade policy for the whole of the UK.

Those are the commitments I can make to you at this stage. As we go through the whole of this process, it is very important that we ensure we are meeting all our commitments, and those include the commitment that



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Northern Ireland should absolutely remain part of the United Kingdom and be treated fully as part of the United Kingdom, so long as the consent of the people of Northern Ireland is there for that to be the case.

Q1856 **Sammy Wilson:** This is my last question. Last week a former Irish ambassador, one of the people who actually wrote the Belfast Agreement, Ray Bassett, was speaking here in the House of Commons. He indicated that the current approach to negotiations with the Irish Government were bound to fail, because, as long as the Irish Government felt there was some willingness by the Government of the United Kingdom to allow the EU to lay down a red line on this particular issue, there would be no serious negotiations.

In fact, his argument was that it should be made quite clear that there will be no arrangement that keeps the United Kingdom in the customs union and, once that red line was laid down and made clear to the Irish Government, they would start looking seriously at how they could co-operate with the United Kingdom Government on ensuring not just no border between Northern Ireland and the Irish Republic but, in his view much more importantly, no border between the Irish Republic and Great Britain.

What steps can our own Government now take to get that message over to the Irish Government, rather than continually pandering to the idea that the border between Northern Ireland and the Irish Republic is as important as they say it is, when we all know that it is a very minor border in relation to total trade?

Mr Walker: When we are talking about total trade, you are right to say that east-west trade is hugely important, both from the perspective of Northern Ireland selling into the rest of the UK but also from the perspective of the Republic of Ireland selling to and through the UK. It is right that, in terms of the long-term negotiation on the future relationship, our interests are heavily aligned with reaching a deal that provides for frictionless access of goods to and through the UK. That is something that ought to be in the interests of every EU member state, but none more so than the Republic of Ireland. On the common transit convention and issues such as this, which we will be looking to negotiate, they will be making the same case as we do.

Suella Braverman: Mr Wilson, you said you could not find the article of good faith. It is clause 4(a) in the withdrawal agreement.

Q1857 **Stephen Timms:** Can I pursue a little further the question of conditionality on the financial commitments in the withdrawal agreement? Ms Braverman, you have told us that there has been some discussion in the negotiations about conditionality. What would Ministers like the financial commitments in the withdrawal agreement to be conditional on?

Suella Braverman: It has been made clear in the joint report that the financial settlement is conditional on a future framework agreement. The two are taken together.



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Q1858 **Stephen Timms:** If in the autumn we have a political declaration about the future framework, are you saying that the financial commitments would be conditional on ultimate agreement of a legal text for the future arrangement?

Suella Braverman: We will agree the withdrawal agreement, which includes the obligations in international law. Assuming that is approved by Parliament, we will then enshrine that in domestic legislation, which provides our own legal framework for those payments to be made. Running alongside that, not only will that be following the approval of the political declaration of the future framework, in which we will be informed of the clear direction in which the EU and the UK are moving in terms of our future relationship, but there will be work progressed on detailing the legal text to form the body of the new treaty that forms the basis of our framework. Those two exercises will be going on in parallel. That is another example of how it would be very difficult to divorce the two issues.

Q1859 **Stephen Timms:** But there will be an international agreement, which is clearly binding on the UK, setting out our financial obligations. Are you saying that the international agreement will say that our meeting those financial obligations will be subject to later agreement of the legal text on the future relationship?

Suella Braverman: The legal text, as it is drafted, does not make that reference as of today. It is not all entirely agreed. We can only really comment on the content of that entire agreement once it is all agreed.

Q1860 **Stephen Timms:** Would Ministers want the international agreement spelling out our financial commitments to make it clear that our meeting those commitments will be dependent on a legal text for the future relationship?

Suella Braverman: As I have said, in the joint report the connection between the two has been made. Once we get to the meaningful vote, we will be able to see exactly what that future framework will look like and to vote on the withdrawal agreement as a package. Then we go into the domestic legislation.

Q1861 **Stephen Timms:** Yes, but our difficulty will be that, at that point, we will not have a legal text for the future relationship. My question is this. Do Ministers envisage that our financial commitments will be subject to the later agreement of the legal text for the future relationship?

Suella Braverman: Once the withdrawal agreement is agreed, approved by Parliament, ratified via the CRaG process and then implemented through the withdrawal agreement and implementation Bill, it becomes binding on the UK. As you say, the actual legal text of the treaty for the future relationship will be staggered at a later date.

Q1862 **Stephen Timms:** It will be later. Yes, but my question is this. This is a legally binding international agreement. Will it state that our financial



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obligations will be subject to agreement of the legal text on the future relationship, which will come sometime later, as you say?

Suella Braverman: As it is drafted, it does not state that at the moment.

Q1863 **Stephen Timms:** I know, but is it Ministers' intention that when we have this international agreement it will say that?

Suella Braverman: The Secretary of State has referred to conditionalities. I cannot pre-empt what is going to be in the final content of the entire agreement. That may well be in there, but it may well not be.

Mr Walker: The other important point, which you have already referred to, is that when Parliament takes its vote on this coming into force and decides whether this is the right approach, it will be taking into account the framework for the future relationship. That is one of the reasons why I have been impressing on our EU counterparts, and indeed on all the member states we are discussing it with at the moment, the importance of that being a very comprehensive framework with as much detail as possible, because that will be an important factor in the passage of this agreement.

We believe we should have an agreement that everybody will want to support, but it is down to the progress that can be made in the negotiations as to how strong the case for that agreement will be.

Q1864 **Stephen Timms:** Yes. We will have to sign up to financial obligations at a time when we have a declaration, which might be quite detailed, about the future, but we will not have a legal text. Who knows what will happen between the declaration and the finalisation of the legal text? I am wondering whether Ministers want the financial commitments to be conditional on agreement of the final legal text for the future relationship.

Suella Braverman: It is very important that we ensure that what is contained in the joint report is reflected by any final package.

Q1865 **Stephen Timms:** Let me put another view to you. Is it really credible that we will sign up to an international agreement spelling out financial obligations but potentially a year later say, "Actually, we do not want to meet those obligations"?

Suella Braverman: We will have entered into an international agreement. If, as you say, a year later Parliament or Government did not consider that the article of good faith had been adhered to or there was no future framework, this issue would be reopened at the international level. Those two are connected, because the joint report states it.

Q1866 **Stephen Timms:** By that point, it will be a binding international agreement. We will not be able to reopen it.



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Suella Braverman: It is always in the gift of a Government to reopen and negotiate at an international level.

Q1867 **Stephen Timms:** But Britain is not a country that reneges on its international legal obligations.

Suella Braverman: Exactly, yes. That is why the withdrawal agreement that we agree will be binding in international law and subsequently in domestic law. We are not going to renege on agreements we have made in law. Any change in circumstances would justify a renegotiation, to make it a legal situation.

Q1868 **Stephen Timms:** A moment ago, you said to the Committee that a year later, yes, we could reopen it.

Suella Braverman: Yes, we could return to a negotiation and ensure there is a legal basis for any new settlement that might be envisaged.

Q1869 **Stephen Timms:** I cannot understand from that answer whether you are saying that we would regard ourselves as bound by the commitment in the withdrawal agreement, or you are telling us that we could reopen it a year later if we felt we needed to.

Suella Braverman: It would involve a renegotiation of a treaty, because we would have treaty obligations under the withdrawal agreement. If we thereafter, at a future date, felt that those obligations were no longer valid, that would require not a unilateral breach of our obligations but a renegotiation at the international level, to provide a new legal basis for any renegotiated arrangement. That would be the only way.

Q1870 **Stephen Timms:** The EU would say no. It would not reopen it.

Suella Braverman: It is very difficult to make predictions about what might be happening more than a year from now. We are very confident that, by October, Parliament will be in a position to be informed about what we are voting for. It is very important that we all have as much information as possible on what that future arrangement looks like, because, as you say, we have agreed to make a financial settlement, which is obviously a lot of taxpayers' money. That is not going to be made lightly. It has to be made in the context of a future framework, and that is exactly what the December report says. That is what the Government's position is.

Q1871 **Chair:** We are struggling to understand. Can I just ask the question again? Is it the Government's policy to seek to make the payment of the moneys that have been agreed as part of the withdrawal agreement conditional on what is in a future trade agreement or agreements, or not? What is the Government's policy: yes or no?

Suella Braverman: The joint report states the Government's policy.

Q1872 **Chair:** What is it?



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Suella Braverman: That states that the financial settlement has been put forward by the UK on the condition of an overall agreement within article 50 on the future framework.

Q1873 **Chair:** I am not asking about overall agreement on article 50; that point is well understood. The question I am asking is whether it is the Government's policy to make the payment of those moneys conditional upon any treaty or treaties that are negotiated once we have left the institutions and that are done on a legal basis. Is it the Government's policy to seek that: yes or no?

Suella Braverman: There is the joint report, as I have said, which uses the wording that I have set out. But it is not in the legal text of the withdrawal agreement.

Q1874 **Chair:** With respect, that relates to the withdrawal agreement, and we understand that point. My question is about whether it is the Government's policy to seek to make the payment of the moneys agreed in the withdrawal agreement conditional upon the subsequent treaties on the future relationship: yes or no.

Suella Braverman: The wording in the joint report refers to the future relationship as part of—

Q1875 **Chair:** The answer is either yes or no. Which is it?

Suella Braverman: According to the joint report, the financial settlement is to be made on the condition of an overall agreement including the future financial framework. That is set out in the joint report. As I said, the withdrawal agreement text does not include that wording as such.

Chair: The answer is yes or no.

Mr Rees-Mogg: Can I come in on this?

Chair: Yes, if you want to answer for the Minister.

Mr Bone: You are answering for the Minister.

Q1876 **Chair:** No, on behalf of the Committee I am trying to get an answer.

Suella Braverman: Nothing is agreed until everything is agreed, of course. We are going to be voting on it all together. We will all know, as the Secretary of State has said—and this is how it will be perceived—what we are getting for that money. It is a lot of money that is being paid. There is also a future framework being negotiated. We will be looking at it all in the round together.

Q1877 **Mr John Whittingdale:** Can I very quickly come back? When I raised this with you originally, at the start of this session, I quoted to you what the Secretary of State himself has said on the record: "It depends on what conditionalities are in the legal text. At this stage I do not know what they are". That clearly suggests there will be, but we have not worked out precisely how it will work. Is that the position?



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Suella Braverman: Yes. It is not contained in the withdrawal agreement text, but we have the joint report wording, which says it is “conditional” on the withdrawal agreement and the future relationship.

Q1878 **Mr John Whittingdale:** But it will have to be contained, as he says, in the legal text. He does not yet know what it will say, but he says it depends on the conditionalities in the legal text. That is the Bill.

Suella Braverman: Those are his words, yes.

Q1879 **Craig Mackinlay:** I am sorry to add to the pain on this one, really. We have two statements that go to the core of this. There is the classic mantra, “Nothing is agreed until everything is agreed,” and then we have article 50, which is very light on saying much at all. But the phrase from article 50 is “taking account of the framework for its future relationship”. Those two are the linked mantras we are working towards.

Come October, we will have the WAIB. I am looking for your advice here, on what I should do as a parliamentarian. We will have the political declaration, hopefully at a similar time, that says how the sunny uplands are wonderful, our relationship will be great and whatever. There will be a different view on what that should say, depending on your view of the EU and our departure from it. But how robust can or should that political declaration be for someone like me to say, “Yes, I am willing to spend £40 billion of taxpayers’ money, because I trust the duty of faith and I trust sincere co-operation”? How robust can that be for me to say, “Yes, I will go along with that. I trust the EU; I trust the Government”? What would you do? What would be your signal that this is good enough?

Suella Braverman: It all depends on the level of detail we have in the political declaration. We have made clear that we want as much as possible, so we can go into this with our eyes wide open and understand exactly, as far as possible, what that future relationship will be like. The negotiating teams are working on the detail of what that political declaration might contain in October. The Secretary of State has made it clear on several occasions that he would not be content to present Parliament with a formality or something that is not substantive. It will be important, because of the money issue, that people have information.

Q1880 **Craig Mackinlay:** Let me just stop you, because we are covering similar ground. We are going to have a different Commission next year; we are going to have a different Parliament, because there will be elections over there. The political declaration could be somewhat changed in the passageway to finality because of changes in Europe. The trouble with WAIB is that it will be an Act that codifies a treaty, so it is not like any old other Act, where we can say, “That is no longer very relevant. We can change those bits.” Say there is the £40 billion in there, and the political declaration gets somewhat moved over the year ahead. We cannot then revert to that Act and say, “We are going to take the £40 billion out and it is now going to be zero,” or £10 billion or whatever we think the deal is worth, because you are then unwinding a treaty. It is not as easy as a



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normal Act.

That is the conundrum. We have enigmas wrapped up in conundrums here through this whole process. That is my concern on this. It has to be really robust, because otherwise the words, "Nothing is agreed until everything is agreed", are pretty flimsy and I do not think article 50 will be being upheld. But that is my concern at this stage. Are they reasonable statements to make?

Suella Braverman: Your concern is well made, and it will be imperative that the Government present a robust framework that commands confidence, precisely for the reasons you state.

Q1881 **Craig Mackinlay:** We have got ourselves into this conundrum, because I do not think there is another way out.

Suella Braverman: You are right to say that, once we sign the withdrawal agreement between the EU and the UK, and it goes through the ratification process, it is a binding legal obligation on the UK. That will be international law, to which we are subject. The only way we can go around that is to renegotiate that treaty at international level.

Mr Walker: You make the case very well for why, in order to have the agreement approved by Parliament, we need to make rapid progress now in the talks on the future economic partnership. We need to be able to show the benefit of those at the time when we are having this vote in October. That is a case that needs to be heard by our negotiating counterparts, and indeed the member states of the European Union, which also want to reach a deal here. For obvious reasons, with regard to the current MFF, but also with regard to their future economic prosperity, they want to reach a deal.

In that regard, you are absolutely right to say that we need to be able to come to Parliament with a very clear agreement on what the future relationship looks like, in order to meet the terms of article 50 itself and, therefore, to be able to reassure Parliament. In that respect, it is absolutely a useful point that we will make sure is relayed.

Q1882 **Seema Malhotra:** Thank you for coming to give evidence to us today. Could I just seek a clarification? Again, I did not intend to take this any further, but I would like clarification about the meaningful vote and what that is now going to be in the autumn. I understand that we will be voting on a motion that will come forward from the Government, and I understand that that motion, on the basis of what the Secretary of State has said before, will be amendable. If amendments are not passed, we vote on the original motion. It is not clear at the moment whether, in that original motion, there will be any reference to conditionality, because Parliament will need to know what it is voting on. Will you be making reference to any conditionality in what you bring to Parliament?

Suella Braverman: You are right in that there will be a motion to both Houses of Parliament, and that is what will be voted on. We are hopeful



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and confident that Parliament will approve the withdrawal agreement, which will be in the body of the legal text agreed between the EU and the UK, and the framework of the future partnership.

Q1883 **Seema Malhotra:** I appreciate that. The issue for me is not whether it is passed. It is an important process point, because it is important to know whether Parliament is going to be clear on what it will be voting for.

Suella Braverman: I cannot tell you what the precise wording of that motion is going to be, but it will essentially be an “approve or reject” motion, and that will be the effect of it on the package of the deal.

Mr Walker: Before that meaningful vote, Parliament will have access to the full text of the withdrawal agreement, as agreed. Not 100% of that text is yet agreed, but by the time we bring forward that motion it should be.

Q1884 **Seema Malhotra:** I suspect that we will come back to the issues we have discussed today. Can I ask again for clarification on what will happen if the deal is voted down, if the motion is not passed?

Suella Braverman: We are very confident that it will be approved by Parliament, as we hope.

Q1885 **Seema Malhotra:** For every vote, there is a plan for what happens if it is not voted through. In the event that it is not, what happens next?

Suella Braverman: The deal will fall, and we will leave without a deal. That is the effect of rejecting the deal.

Q1886 **Seema Malhotra:** It is still the Government’s position that we will leave with no deal.

Suella Braverman: We want the withdrawal agreement and the future framework deal to be approved by Parliament, and we want to leave on those terms.

Q1887 **Seema Malhotra:** Could I ask whether the Government have received any legal advice on the legality of leaving with no deal without an explicit vote of Parliament?

Suella Braverman: I do not know whether there has been any legal advice on the question of the legal basis. I have not seen any myself on the issue that you raise. But the position is this. It is law in the UK that Article 50 is triggered and that has a time limit. As stated in article 50, we will leave at the end of March 2019. We want to leave with a withdrawal agreement and the future framework, but if that is not approved by Parliament article 50 still stands, and that legal basis continues.

Q1888 **Seema Malhotra:** If there is some question about the legality of some of these points and, as has been raised today, about any potential conditionality, where we have not seen what those conditions might be, there is also an option for the potential extension of article 50, to help



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resolve any of those issues. There is more than one other option.

Suella Braverman: Article 50, as far as it is part of UK law, has its endpoint on 29 March 2019. That is on the face of the law, and we are not working to a timetable that involves extending article 50. That is the fixed timetable, and we are confident that we can meet that.

Q1889 **Seema Malhotra:** Could you come back to the Committee on the point of whether you have received legal advice on the legality of—

Mr Walker: We do not comment on legal advice, so we cannot really come back to the Committee with a commentary on legal advice.

Q1890 **Seema Malhotra:** No, but I am just wondering whether you have received any legal advice on leaving with no deal without there being a vote of the House.

Suella Braverman: As I said, I have not received any legal advice on that issue.

Q1891 **Seema Malhotra:** Could I ask a further question? This is unrelated. We received evidence last week from the Campaign for Science and Engineering, the Wellcome Trust and others. They raised their concerns about what could happen if we leave the European Medicines Agency. Could you clarify the Government's current position on the European Medicines Agency?

Mr Walker: The Prime Minister set out in the Mansion House speech that she believes there is a very strong case for the UK to have a new association with the European Medicines Agency and that she believes that is in the interests of both the UK and the EU. We will be setting out some further information on that in the White Paper.

I regularly engage with those same organisations as part of the Higher Education and Innovation Group, alongside BEIS Ministers, to talk about the potential for future co-operation with the EU in other areas, such as the successors to the Horizon programme. We have made a very positive case for engagement across all those areas, which are of key interest to a number of scientific groups. The UK has a huge contribution to make, if we can reach agreement on these things.

Q1892 **Seema Malhotra:** What would that mean in terms of alignment of our regulatory standards? Would there be 100% alignment?

Mr Walker: In terms of the arrangements in place, that is a decision both for the negotiations on the future relationship and for future UK Parliaments. The Prime Minister has been very clear that future UK Parliaments will have the final say on what the law should say, but they might want to take into account where we have reached market access arrangements within the EU and, if we have specific relationships with specific agencies of the EU, we will need to take account of the role of the EU institutions with those agencies. Those are things that she set out in the Mansion House speech. This is subject to further negotiation.



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Q1893 Seema Malhotra: Could I just ask this final question, then? The point made to us, which was a very serious point, was that, if we do not have the same regulatory regime, pharmaceutical companies will go to the largest regimes to get their drugs licensed, and that may well mean the European Union and America. That could lead to quite a delay to British people receiving new drugs and treatments. Has that representation been made to you?

Mr Walker: We have had representations from across the health sector and the pharmaceutical sector.

Seema Malhotra: But on that specific point?

Mr Walker: That is why the Government have taken the position they have, with regard to seeking a close association with the EMA. We take account of those views and that evidence, and we believe this should be an objective of negotiations. When it comes to concentrations of talent and focus, we should not underestimate the fact that the largest single health organisation within the EU is the NHS. We have a huge amount to offer in this respect, and that is why I think it is a very constructive proposal that the Prime Minister has put forward here.

Q1894 Seema Malhotra: It sounds like it has not been completely agreed. There is still a risk, from what we are being told, of there being a delay in treatments being offered and being available to British people through the NHS of a minimum of six to 12 months or, as we heard, even up to two to three years.

Mr Walker: We are talking about a hypothetical scenario here, which is not the objective the Government have set forth for the negotiations. We want to achieve an agreement that we believe should be in the mutual interest of both the UK and the EU, in order to keep working very closely together on these issues. In my engagement with both member states and European counterparts, I hear an interest in exploring that. We are at a very early stage of the negotiations, so I cannot tell you what the outcome will be, but this is an area where there is a lot of common interest in being able to work together. We should not underestimate the contribution that the UK brings on these issues.

Q1895 Mr Bone: I am very grateful to the Ministers for all their answers, the information, the work that is going on to get an agreement with the EU, and the fact that the Prime Minister is working very hard on that. But there is no guarantee that the other side will agree to something that we find acceptable. We have already heard that under article 50 we will come out without an agreement. I am really looking forward to this White Paper. Will it have a section explaining what will happen and what work has been done in case we come out without a deal?

Mr Walker: That is not the objective of this White Paper. The White Paper is focused on the future partnership that we are seeking with the EU. There is work going on across Government on contingency planning



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and that side of things, but this White Paper is focused on the partnership we are seeking.

Q1896 **Mr Bone:** Minister, you say this is going on and we know the Chancellor has authorised the spending of money on it, but we hear very little about it, Sir. It is very difficult for parliamentarians to scrutinise that side of it if things go wrong, in terms of not getting an agreement. For instance—I refer to the Register of Members' Interests—I was in the travel industry and I dealt with flights between America and the United Kingdom. We are told, or it is implied, that if we come out without a deal those flights will just stop because there are no agreements. What work is going on? Is there any work, for instance, being done on that?

Mr Walker: Yes, there is work being done on that. The Department for Transport is leading on those issues, but, as a Department, we co-ordinate. My colleague Minister Baker is leading on that work. There is a tension here. You are making the right preparations and putting things in place, but, as I referred to in my reply to Richard Graham earlier, you do not want all the contingency preparations that are being worked on to interfere with the process of our negotiation and to create the impression that we are negotiating in any way in ill faith. Therefore, there is a degree of confidentiality, you will appreciate, that needs to be maintained on those. But there is work going on in every Whitehall Department on these arrangements, and I believe that a number of agreements have already been reached with regard to third countries and flight arrangements.

Suella Braverman: As Mr Walker says, there is a lot of work going on. It is not our objective, but a responsible Government need to prepare for outcomes. The money speaks very loudly, in terms of the £3 billion that have been allocated by the Treasury to all Departments for Brexit planning. But legislation has also been commenced to set up the framework and the possibilities for our no-deal scenario, whether that is the Nuclear Safeguards Bill, the Haulage Permits and Trailer Registration Bill, the Sanctions and Anti-Money Laundering Bill. They will all set up frameworks that can be triggered in the event of a no deal.

Lastly, the Department for Transport, as it has recently stated, is working closely with many Departments, and with ports and logistics bodies, to develop contingency plans, particularly around Dover, to ensure that in the unlikely and undesirable event of no deal there is capacity and provision to prevent any kind of Operation Stack issue.

Q1897 **Mr Bone:** Mr Chairman, we are hearing news here that we really did not know too much about. Can I put this to the Ministers? If I was in a negotiation—and in the past I have negotiated with Governments, when I was in private business—I always told them that I could walk away from the potential deal. I remember one with the Welsh Development Agency. I was in one of their buildings, and I got so fed up with the negotiations I slammed my briefcase down and said, "That is it; there is no deal." Immediately they agreed to everything I wanted, opened the next door



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and there was a huge buffet laid on for all of us. Surely that is quite a useful negotiating position. The more we hear about what you just talked about, the more likely the EU is to agree, is it not?

Mr Walker: I do not want to comment on the availability of buffets at the Welsh Development Agency, but you make a valid point, which is why we have always taken the approach that the UK is able to say that no deal is better than a bad deal. Through the progress that has already been made, through the agreement we have reached on citizens' rights, through the 75% of the text of the withdrawal agreement that has been agreed, through the agreement on an implementation period in March, we see increased likelihood of a good deal and a deal that will work for both the UK and the EU.

When you give examples on issues such as flights or transport arrangements, they are very good examples of where that sort of worst-case scenario would not be in the interests of anyone. It would not be in the interests of the UK; it would not be in the interests of the EU. It is sensible to focus on getting the right deal here, while making sure that we do the necessarily contingency planning. That absolutely continues at pace, and I know my colleague Steve Baker would be happy to engage with you on some of those issues.

Suella Braverman: You mentioned international agreements and successor agreements. Recently, earlier in this month, the US and the UK concluded a civil nuclear safeguards agreement, which is to take effect in the unlikely and undesirable event of no deal, if Euratom ceases to apply.

Q1898 **Sir Christopher Chope:** About 40 minutes ago the Government published their response to the Foreign Affairs Committee report of 12 March 2017, so it is some 14 months late. The response was to the recommendation that the Government should require all Departments to produce a no-deal plan, outlining the likely consequences in their areas of remit and setting out proposals to mitigate potential risks, because, as my hon. Friend the Member for Wellingborough has just said, such preparation would strengthen the Government's negotiating hand by providing credibility to its position that it would be prepared to walk away from a bad deal.

Can I ask whether Departments produced such no-deal plans and, if not, why not? How much of the £3 billion allocated by the Chancellor for spending on scenarios including no deal has so far been allocated to particular Departments?

Mr Walker: Having not yet seen that particular response, I am loth to comment on it in detail. Every Department has been involved in contingency planning of this sort. There is a structure across Government to monitor and manage that. With regard to the financial element of what you said, it would probably be better for us to write to you or to ask the Treasury to write for you on that front.

Q1899 **Chair:** Very finally, I have a couple of quick questions. The CRaG process



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will apply to the withdrawal agreement, we understand. Can you give a commitment to this Committee that the Government will schedule a vote once it has been laid within the 21-day period so that Parliament can vote on it?

Suella Braverman: As you know, we have committed to holding a vote on the package, the meaningful vote.

Chair: Yes, I understand that.

Suella Braverman: Then the withdrawal and implementation Bill will go through the regular process, and the international agreement will be subjected to the CRaG process. That requires the Government to place a copy of any treaty subject to ratification before both Houses for a period of 21 days. In the event that there is no resolution against it, that is the sign from Parliament that the Government can go and ratify the agreement. That is the process.

Q1900 **Chair:** Indeed, yes. If there is a resolution against it, will the Government commit to the holding of a vote? That is all.

Suella Braverman: They will abide by the terms of the CRaG process.

Q1901 **Chair:** As I understand it, it does not make automatic provision, hence my question. Will the Government schedule a vote in the circumstances that there is a resolution praying against it?

Suella Braverman: There will be many opportunities for voting and scrutiny.

Q1902 **Chair:** With respect, that is not the question I am asking. I am asking a question about CRaG. Will the Government commit to scheduling a vote in the circumstances that the treaty is prayed against?

Suella Braverman: The way it works, and the way CRaG and the statute lays it out, is that it is laid before Parliament, and unless there is a resolution against ratification—

Q1903 **Chair:** No, I do understand that. I am asking what is going to happen if there is a resolution. Will the Government schedule a vote?

Suella Braverman: The Government will issue a statement as to what they consider to be the position to be, and they will consider what the requirements are.

Q1904 **Chair:** You cannot give a commitment at this stage.

Suella Braverman: No.

Q1905 **Chair:** That is fair enough. Secondly, do you know whether the UK will continue to have representation on the Court of Auditors during the transition period? It is going to play an important role in the money issue that we have spent quite a lot of time today discussing. Do you know the answer?



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Mr Walker: This question came up in DExEU questions, and I know the Secretary of State undertook to look into it.

Q1906 **Chair:** That is fine. If you could drop us a line, that would be really good.

Mr Walker: We can perhaps follow up on that, yes.

Q1907 **Chair:** Finally, will DExEU as a Department continue to exist after March 2019?

Mr Walker: That is a very good question.

Chair: It is one in which you have great interest, yes.

Mr Walker: We all serve at the pleasure of the Prime Minister, and I look forward to finding out. But, at the moment, we are focused on the role we have in negotiations in the meantime.

Q1908 **Chair:** So no decision has yet been taken on the future of the Department and what role it might play in the future partnership negotiations, as opposed to any other Department.

Mr Walker: We have a lot of work to do on those future partnership negotiations, which has already begun and will be continuing over the period up until March 2019. In terms of the structure of Government and the nomenclature of Government Departments, that is well above my pay grade.

Chair: That concludes the session. On behalf of the Committee, can I thank both of you for bearing with us? As I did say at the beginning, we had a lot of ground to cover, and we keep our word as a Committee.