

Select Committee on the European Union

Uncorrected oral evidence: Scrutiny of the Brexit negotiations

Monday 18 June 2018

3 pm

Members present: Lord Boswell of Aynho (Chairman); Baroness Armstrong of Hill Top; Baroness Brown of Cambridge; Baroness Browning; Lord Crisp; Lord Cromwell; Baroness Falkner of Margravine; Lord Jay of Ewelme; Baroness Neville-Rolfe; Baroness Noakes; Lord Risby; Baroness Suttie; Lord Teverson; Lord Whitty.

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Questions 1 – 15

Witnesses

I: Robin Walker MP, Parliamentary Under Secretary of State, Department for Exiting the European Union; Shailesh Vara MP, Parliamentary Under-Secretary for Northern Ireland.

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Examination of witnesses

Robin Walker MP and Shailesh Vara MP.

Q1 The Chairman: Good afternoon, Ministers Robin Walker and Shailesh Vara, and others who have been able to come. This is a public evidence session and part of a continuing dialogue, as Mr Walker will know well. On the whole, the Committee and I have found it to be pretty positive. I am pleased, in case one does not say too much that is positive later, that some of your interlocutors also appear to be pleased with the dialogue you are having. We think it is an important part of our remit that nothing that people might feel might be missed out is being overlooked, and that there is proper engagement through the machinery of government with all the interests that you represent and support. You will be aware that it is very varied.

We are delighted that Mr Vara has been able to join you and that there will be a strong emphasis on the island of Ireland, which is something of a King Charles's head for this Committee—not all under my leadership. When I was indisposed last year, we did further inquiries on it, and as you know those are continuing. Perhaps I shall call on my colleagues about that. Equally, there is a wide palette of interest, and your engagement is very much appreciated.

Mr Walker, you indicated that you would like to say a few words to start things off.

Robin Walker MP: Thank you very much. It is a pleasure to be back before this Committee, and I am grateful for the work that you as a Committee have been able to do on these important issues.

As you know, my department leads on the negotiations and works closely with other departments across the Government. I lead for David Davis on devolution matters, including Northern Ireland. As Northern Ireland and Ireland have been a key priority right from the start for our department, we have been working closely with the Northern Ireland Office throughout the negotiations.

In December, the UK and the EU agreed the joint report, which set out a number of commitments, including the commitments to avoid a hard border while maintaining the economic and constitutional integrity of the UK. Since then, we have made it clear that we are committed to turning all the commitments in the joint report into legally binding text. That includes those on citizenship rights for the people of Northern Ireland under the terms of the Belfast Agreement.

In March, the EU published its draft for a Northern Ireland and Ireland protocol to the withdrawal agreement, elements of which the Prime Minister has set out that neither she nor any UK Prime Minister could accept. However, she set out in her letter to Donald Tusk that she agreed the scope of the issues in the protocol. She agreed a programme of work between UK and EU officials, which has been ongoing since March and is still moving forward.

The UK has also now put forward a proposal for the customs element of the backstop that would apply to customs arrangements between the UK and the EU. Our proposal is that in the circumstances in which the backstop is agreed to apply, a temporary customs arrangement should exist between the UK and the EU. It would apply only in limited circumstances, including for instance if there were a delay to the implementation and ratification of the end-state customs arrangement.

The UK and EU negotiating teams continue to engage in intensive discussions on this, negotiating in detail on all the scenarios set out in the joint report ahead of the June European Council. It is important to recognise that we have reached agreement on a number of important areas such as the common travel area, the single electricity market and peace funding, but negotiations continue on a number of other areas.

As the Committee knows having engaged with it before, I also lead for the department on the Overseas Territories and the Crown Dependencies, including chairing the respective joint ministerial councils and inter-ministerial fora for them and the joint ministerial council for EU negotiations on Gibraltar. I am happy to engage on those issues later in your session.

Q2 The Chairman: That is the game plan: to start with the Irish issues and then go to that. May I pick up quickly on what you said about the initial issue, which certainly last week was the most evident and immediate: the backstop? As I heard it, you indicated that this was not the preferred option of Her Majesty's Government and that it would inevitably lead to something else, rather than being a permanent arrangement.

Robin Walker MP: As we set out clearly in the joint report and have said consistently, we think the best way of resolving these issues, and particularly of avoiding a hard border, is to reach arrangements in the future relationship between the UK and the European Union. That is still absolutely the aim of the Government: the so-called option A.

Secondly, we set out that there are some areas of existing north-south co-operation where Northern Ireland behaves differently from other parts of the United Kingdom but where we can work without barriers either between Northern Ireland and the Republic of Ireland or between Northern Ireland and the rest of the UK. Of course, we should explore those areas—the so-called option B—to ensure that we do not put up any new barriers in the arrangements.

Thirdly, we recognise that the joint report committed us to a backstop. The Prime Minister has brought forward a backstop that would address the situation in the event that options A and B could not deliver on our commitment to avoid any hardening of the border. We do not intend that to be the case, but of course we recognise that we made a commitment in the joint report to present proposals on it. That is where the temporary customs arrangement would come into effect.

The Chairman: That is very helpful, but given that the joint report is

now over six months old and things are marching on, I am interested, and I think the Committee will be interested, in the apparent position of the European Union and the UK, as the two parties directly involved in this, having fundamental concerns about each other's proposed backstop text as you have now issued it. There was an immediate rejoinder following our proposal.

Can you fill us in, Ministers, on what happens how? Are both texts still in play in the negotiations? Has anything been ruled out? Could anything be inserted or incorporated if it were helpful to make this a reality, if need be?

Robin Walker MP: Sure. The first thing to say, of course, is that discussions are ongoing. There are continuing meetings on these issues. The Prime Minister was clear that there are elements in the EU's proposed backstop that are unacceptable to us, and we have been very clear in showing that, as per the joint report, it needs to respect the territorial and constitutional integrity of the United Kingdom.

There is also a strong argument that it needs to respect the principle of consent in the Belfast Agreement, so we will continue to press those concerns about elements of the EU's current arrangements. Clearly, therefore, it is not acceptable to create a customs and regulatory barrier down the Irish Sea.

However, there are a number of areas of the EU's proposal that we agree with. We think that Article 2 on the Common Travel Area is an accurate legal representation of the joint report commitment, as is the legal text relating to north-south co-operation—Article 8. The Prime Minister confirmed that we also agree with the scope of issues covered in the EU's version of the protocol, and on the customs elements we have set out our counterproposal.

Of course, there have been noises, different views, on that proposal, as we expect throughout these negotiations, but it is important that Mr Barnier confirmed recently that he has not rejected the UK's proposals—to avoid any confusion between the EU backstop and the UK customs paper, our backstop could not apply to the whole of the UK; in other words, the EU's proposal for a backstop—and then said that this is not a rejection of the UK customs paper, on which discussions continue. We want to make sure that we can continue those discussions and that we reach an agreed solution through those ongoing discussions.

Baroness Falkner of Margravine: It is very interesting to hear your presentation of some of these hurdles. I can understand politically that you are, as the Government, resistant to Mr Barnier's perspective on how to solve this, given that he obviously likes gateau a great deal and likes to eat it a great deal.

I understand the political part of it, but I am not quite clear about your economic analysis of the border down the Irish Sea. Of course it would drive a coach and horses through the UK's constitutional settlement. I get

the politics and the constitutional issue. What I am not clear about is whether you have done any analysis of the implication on the economy of Northern Ireland if that were ultimately what has to come about.

Robin Walker MP: Shailesh may want to jump in on this, but the first thing I would say about our commitments to Northern Ireland is that yes, of course, economically they are very important, but first and foremost we have constitutional commitments to the people of Northern Ireland that include the principle of consent in the Belfast Agreement, and we should make sure that we do not do anything in this negotiation that overrides that.

Economic analysis will continue throughout the process. All sorts of economic analysis will be done, and I know that east-west trade is hugely important to Northern Ireland, as of course it is to the Republic of Ireland, and that it is a multiple of the value of trade across the north-south border for both places. We believe, therefore, that it is best to reach an agreement that preserves the no hard border north-south while also facilitating east-west trade both between Northern Ireland and the United Kingdom and between the Republic of Ireland, and indeed our other EU neighbours, and the UK. That has been our consistent approach.

We think that is economically and constitutionally the right thing to do, but I would not necessarily give the two arguments parity. Our commitments under the Belfast Agreement, our commitment to the principle of consent and our commitment to the constitutional integrity of the UK have to come first.

Shailesh Vara MP: I will comment on the reality of what is happening to the economy in Northern Ireland. Exports are actually increasing from Northern Ireland. There is ever-diminishing unemployment there, and Northern Ireland has the lowest unemployment figure in the whole of the United Kingdom. Invest NI has said that more companies are coming into Northern Ireland now, including a company that has moved there from America. Interestingly enough, a company has moved to Northern Ireland from Ireland itself, because it felt that it was important to have access to the UK market. There is a positive message there about how the economy is panning out.

Baroness Falkner of Margravine: Exports to the EU or to the rest of the world?

Shailesh Vara MP: Exports generally.

Baroness Falkner of Margravine: Across to both? Exports to the EU would obviously be affected.

Robin Walker MP: Of course, another point to bear in mind here is that exports from Northern Ireland, and indeed from the Republic of Ireland to the EU beyond the UK, often go through the UK, and there is an enormous benefit to both parties in this negotiation in ensuring that they continue to do so.

Baroness Falkner of Margravine: Except that the Irish Government are putting in contingency plans for shipping directly to the EU, the Netherlands and so on rather than using the UK as a transit hub.

If I may, Mr Walker, I will move on to one or two other things. It seems to me, given your responses today, that the two quite deeply entrenched positions appear to be mutually exclusive at the moment. Given that the Republic of Ireland will be the country most affected economically by the United Kingdom leaving the European Union—it has said so in terms; there is an acknowledgement in Ireland that it will be most affected of all the remaining 27 member states—have there been any attempts by the United Kingdom Government to have bilateral conversations rather than going through Brussels? I just want to get that for the record.

Robin Walker MP: Sure. We have a very strong bilateral relationship with the Republic of Ireland, as you would expect: we are very close neighbours and we have been working together for a very long time. The first EU member state to which our department paid a visit before the formal negotiations were under way was the Republic of Ireland, and in many respects we have had a very positive working relationship with it. That does not mean that we agree on absolutely everything—of course it does not—but there is a recognition on both sides that a good deal between the UK and the EU will be good for the Republic of Ireland and for the UK. Therefore, that is something that we are all working towards.

We need to ensure that the approach to the negotiations allows for that and allows that to be secured in the future relationship. That is why we have always pushed back slightly on the very sequential approach to negotiations that has been set out by the Commission. We are now in a position where we can talk about the future relationship. That is welcome. We want to ensure that we can get as much agreed on that as possible ahead of finalising the withdrawal agreement and the framework for the future relationship in October. That can provide the solution to some of the difficult issues on which there is no obvious agreement between the parties to the negotiation.

What we cannot do, and where we have to respect the Commission's remit and indeed the European Council's decision-making body, is make separate deals with each of the 27 member states. So it is not really a question of a bilateral versus UK-EU; it is a question of achieving the best outcome for the UK-EU negotiation, bearing in mind that we want all our neighbours, including the Irish, to benefit from that outcome.

Baroness Falkner of Margravine: Some of us just think that the backstop should be a conversation between the Prime Minister and the Taoiseach to resolve these rather critical matters that seem to be holding things up.

Robin Walker MP: But that is not what was committed to in the joint report. We have to be honest about the fact that what was committed to in the joint report was an arrangement that would—

Baroness Falkner of Margravine: Finally, do you accept that the UK text could allow the UK backdoor access to the single market without a requirement to meet the other obligations of being in the single market? In other words, we are leaving, yet we are trying to get backdoor access into the single market, which is the claim that you hear from Brussels.

Robin Walker MP: I do not think that is the case. First, the temporary customs arrangement that we have proposed so far is focused on customs rather than on the single market. Of course, there is the acknowledgement that there would need to be a further discussion on regulatory issues, but that is where I refer you to my earlier comments about what the Prime Minister has acknowledged to President Tusk about the scope.

We are not talking about all the rules and regulations of the single market; we are talking only about those that would otherwise result in a hardening of the border. You can look at specific areas such as agricultural products and animal health, on many of which there is already a high degree of north-south co-operation, and industrial goods, which are those that you would want to have arrangements for. It does not mean applying the whole of the single market.

That is why what we have put forward at this stage is focused on customs, which is one of the main barriers that could otherwise cause problems at the border. Clearly our preferred approach is to have a new customs arrangement that avoids friction and avoids creating that kind of blockage.

Baroness Falkner of Margravine: Mr Vara, would it be possible to disaggregate those export figures, EU versus the rest of the world, and send them to us in writing?

Shailesh Vara MP: I am happy to do that, yes, but my point is that it has to be good news for the overall prosperity for Northern Ireland. We can discuss the minutiae, but it is the prosperity of the United Kingdom that we are primarily concerned about.

The Chairman: If you could send us some references, that would be very helpful.

Baroness Armstrong of Hill Top: Good afternoon, Ministers. The joint agreement of December that you have talked about says that "in the absence of agreed solutions, the United Kingdom will maintain full alignment with those rules of the Internal Market and the Customs Union which, now or in the future, support North-South cooperation, the all-island economy and the protection of the 1998 Agreement".

Some of us have spent some time on this and have visited and talked with people involved in the negotiation of the agreement. We have had them here in front of the Committee and have talked to people north and south of the border. Do you think there is, as it appears to some, inconsistency between the Commission's apparent reluctance to consider

extending the backstop to the whole of the UK and a reasonable interpretation of the meaning of the text of that jointly agreed report?

Robin Walker MP: Frankly, yes, I do. It is important that we focus on how we achieve the objectives of that joint report. We therefore need to ensure that we look carefully at those matters—again, I am focusing on the report—that allow us to deliver on our commitments under the Belfast Agreement and avoid any hardening of the border. Therefore, we should not be looking at a switch—“Whole single market, on or off?” We should be looking at the aspects with that focus, and we are keen to discuss those with them.

Also, we are clearly putting forward a proposal that we believe addresses that specific commitment when it comes to customs as a backstop, a way that we are clear is not our preferred outcome. But if this were necessary, it would be there until new customs arrangements could be put into place.

I come back to our preferred option: ensuring that we can address the issues that could, in any way, create non-tariff barriers and the issue of customs arrangements in the discussion between the UK and the EU on the future relationship. That is very much the Government’s focus at the moment.

Baroness Armstrong of Hill Top: What you said at the beginning there is seen by many Europeans as cherry picking, as if you do not want to deal with their position of having a single market and the freedoms and so on that go along with that.

Robin Walker MP: We have respected their position in being clear that the four freedoms of the single market are inseparable. That is why the UK cannot stay in the single market and that is not an option for us as we leave the European Union. Therefore we are saying that we will not stay in the single market but that we will provide backstop arrangements to ensure that elements that are needed to underpin north-south co-operation and our commitments under the Belfast Agreement can be maintained. We are setting out to discuss with them in more detail the difference between the full application of the single market and the four freedoms.

Shailesh Vara MP: Baroness Armstrong quoted the back end of paragraph 49 of the joint report. But the first sentence of paragraph 49 says: “The United Kingdom remains committed to protecting North-South cooperation and to its guarantee of avoiding a hard border”, while the last sentence in paragraph 43 says, “The United Kingdom also recalls its commitment to the avoidance of a hard border, including any physical infrastructure or related checks and controls”. We need to recognise that the Commission has accepted that these are unique circumstances. Indeed, in paragraph 46 it says as much and recognises “the unique circumstances”.

Baroness Armstrong of Hill Top: I recognise and understand all that.

My concern is that there are things that we need to do to maintain the north-south and east-west co-operation but also that this is the only land border between the UK and the EU. There are contradictions in that and at the moment we have no clarity on how the Government are facing them.

Robin Walker MP: I think we have set out clarity in our Ireland-Northern Ireland papers, in the agreements that we have reached so far on issues such as the Common Travel Area and the single electricity market, and in the approach that we have taken on the backstop. We are saying, "This is there if it is needed to ensure that there will be arrangements between the UK and the EU that would avoid the erection of the hard border". Each of those has been an attempt to create greater clarity on the issue.

We need, of course, to reach agreement on the legal text as to how that backstop is covered and how we can ensure that there is the greatest possible scope for options A and B to deliver on all these issues. It is important that we do not underestimate the importance of them both as ways in which to avoid the creation of a hard border that would be in no one's interest.

When Mr Barnier talks about unique circumstances, he is right to do so, but they require creative and imaginative solutions from both sides and for both sides to be prepared to compromise. We certainly understand that and want to ensure that we can move forward with a negotiation that achieves that.

The Chairman: Thank you, Minister. There is a clear message about the need for clarity on both sides, and this is an appropriate cue to move on to the next question.

Q3 **Lord Risby:** It is clearly the Government's intention that we should not remain part of the EU customs union. At the same time, we hear the word "frictionless", which absolutely applies in the context of the two parts of the island of Ireland. Two models have been put forward by the Government. One says that the UK would form part of the EU's customs territory and the other that there would be a new customs territory, comprising the customs territories of the UK and the EU.

Substantively, do the Government have a preference between these two from a practical point of view? As I said, all this is in the context of the fact that the Government have made it clear that they wish to remove the country from the customs union.

Robin Walker MP: What we are talking about here are temporary arrangements. As you say, the UK technical paper sets out our proposal for a temporary arrangement, crucially removing—the outcomes are important here—the need for tariffs, quotas, rules of origin and customs processes. We are focused on the objectives, and having set out two options for discussion with the EU I am not going to express a preference between them. I think it is right to focus on outcomes.

The crucial outcome, which comes back to the point about wanting to avoid a hard border, is that we need a mechanism for avoiding the need for declarations at the border. We think that either of these options could achieve that. That is why we are keen to explore EU negotiators' preference with them and how we can ensure that it is achieved, avoiding the declarations that would create friction and any kind of hard stop in that circumstance.

Baroness Noakes: Following on from this, the Commission has raised issues about the piecemeal application of EU VAT and excise rules and the serious risks of fraud for member states. How are the Government responding to those concerns?

Robin Walker MP: We are certainly happy to discuss with them and go into great detail about how to ensure that we properly maintain excise and VAT rules. We have obviously done so over a long time as a member of the European Union. There are different VAT and excise arrangements in the Republic of Ireland and in Northern Ireland today, which we manage away from the border, and it is important that we have shown that can be done.

We will want to make sure that there are arrangements in place in the future relationship between the UK and EU to allow that situation to continue. Again, our objective should be not to have a check at the border and to have systems to allow for that. An important part of that will be allowing companies to process data between the two territories and ensuring that the things that can be done away from the border are done through the secure exchange of data.

Baroness Noakes: So you would say that the Commission's concerns are capable of being dealt with perfectly satisfactorily.

Robin Walker MP: Yes.

Baroness Noakes: There are deep concerns, though, that cannot be met.

Robin Walker MP: As I say, we are very happy to engage with them on the detail of this, but the UK has a strong record on the enforcement of excise and VAT issues, and we would be very happy to engage with the detail of their concerns to make sure that we can reassure them about our intentions to continue to apply all taxes appropriately.

We already have the precedent, with Ireland and Northern Ireland, of different systems operating on the island of Ireland without the need for stops and checks at the border. I think we all know that in all circumstances there have been issues with smuggling, and they are a priority for colleagues in other government departments to deal with, but they do not require you to put hard stops at the border, and I think most people's objective assessment is that any system of checks at the border would be counterproductive.

Baroness Noakes: Shifting to the proposal that the UK should have the

ability to help to develop the EU rules in part of the backstop arrangement, the Commission has asked how a third country can continue to shape and apply the EU rules without proper EU supervision and enforcement. What is your response to that?

Robin Walker MP: It is a question of raising a key UK concern: that we want some input in that respect while accepting that our status will have changed. We have had this discussion in a number of areas—areas where we have already reached agreement and where we are seeking to reach agreement on the future partnership. Where the UK has a very close relationship with the EU in the future, it wants to be able to have some input, but we recognise that we are not going to have the voting rights of a member state and the same decisive say that we have had to date.

If you look at the green text of the withdrawal agreement, there are already some areas where the EU is indicating that it may want to call on UK expertise in specific areas where the UK has an interest or where it is in the interests of the Union. That sets a useful precedent for discussions of this sort in other areas and for ensuring that we can have that discussion, but we accept at the end of the day that we have to accept the decision-making autonomy of the EU, and we expect the EU to accept the decision-making autonomy of the UK. So it will be a different relationship from the one we have had to date.

Baroness Noakes: What would that input be?

Robin Walker MP: As I say, it could be the use of expertise, sitting on technical groups, participation in certain fora. I cannot necessarily give you an exhaustive list, but those are three areas that come to mind. When we have talked about issues such as our ambition to have associate membership of the EMA, we think there is a huge amount of UK expertise that could feed into that. That is just one example of where we believe we have a lot to offer.

We understand at the end of the day that because we are leaving the EU we will not have the same decision-making place in the structures of the EU as we had before, and we have to accept that, but I do not think that what we end up with here is one extreme or the other. We can ensure that if there are adequate mechanisms for the UK to have some input, that will allow us to maintain a closer relationship than if we were treated simply as a third country.

Baroness Noakes: Lastly, are the Government's proposals for dispute resolution set out in the document entirely consistent with the Prime Minister's Mansion House speech, and could you update us on tensions between the UK and EU positions on dispute resolution, where clearly there is no complete meeting of minds on which should be the dominant influence and how much the EU should be in control?

Robin Walker MP: I think we have always been clear that in our view the dispute resolution mechanisms—we published a whole paper on potential dispute resolution mechanisms in the summer—need to respect

the legal autonomy of both parties, but what we are talking about here is a temporary arrangement whereby we agree to continue to extend the effect, if you like, of EU arrangements. Therefore that is different from the long-term future relationship in which we would want to see more balanced bilateral dispute resolution mechanisms. This is distinct from the areas that we covered in our summer paper on dispute resolution.

Baroness Noakes: It is crucial but perhaps time-limited.

Robin Walker MP: Absolutely, and we have been clear about that. The Prime Minister has been clear about that. It is in limited circumstances, which we do not want or expect to arise, but it will need to be time-limited. It is our understanding that the Article 50 process itself, which has focused on the withdrawal of the UK from the EU, generally needs to be time-limited. Of course, some commitments that we are making are not time-limited, and we are very committed to a range of things—protecting people's rights, respecting the common travel area, and so on—that have no time limit on them. But on the Article 50 process itself and areas that are defined under it, the EU would want to ensure that we are also time-limited.

Baroness Noakes: So there is no suggestion that there will be longer-term acceptance of European Court of Justice jurisdiction in relation to Ireland.

Robin Walker MP: No. Obviously in relation to the Republic of Ireland, yes, but in relation to Northern Ireland we are clear that the UK is leaving the EU and that the remit of the European Court of Justice will be in areas that are led by the EU and not over UK law, and that includes Northern Ireland.

The Chairman: It is fairly clear that at some stage the Government will have to make clear their understanding of the application of continuing law in particular areas in the way you have suggested. You are nodding to that, and I am grateful, but that is a bit of friendly advice.

Robin Walker MP: Of course. In some areas we have already done that. If you look at the citizens' rights agreement, we have accepted the time-limited specific application of a role for the ECJ to create a body of law that will be consistent in its interpretation, but we also have to be clear that the UK is leaving the jurisdiction of the ECJ, which means the whole of the UK.

Q4 **Lord Whitty:** Given that there is not yet a meeting of minds in relation to either of the two options, there is disproportionate attention to the backstop arrangement. The Government's view is that it should be time limited, and the Commission's view is that it should be all-weather, which means as long as necessary, I guess. The Taoiseach has more or less said that.

It is possible to reconcile the two? They seem fairly contradictory to me, if I may say so. Is there a way through the argument on the status of the backstop agreement?

Robin Walker MP: I think there is a way through. Our preferred solution has always been to resolve this through the future relationship. We understand that we have to come up with a backstop and we are committed to that through the terms of the joint report. Our determination to avoid a hard border and our focus on protecting the Belfast Agreement in all its parts are all-weather commitments that we will be focused on meeting whatever the situation is.

The customs backstop proposal that we have set out, however, is a time-limited proposal, partly because, as we have just discussed, it comes under the terms of Article 50, and partly because we want to ensure that a customs arrangement is in place between the UK and the EU that facilitates these matters. It is important to focus on achieving that.

Obviously we now have the discussion under way on the future economic partnership. The discussions on the temporary customs backstop have begun, and we are looking forward to making progress on these. We set out in our proposals that there are areas for further discussion in that respect. We need to ensure that those negotiations can move forward so that we can achieve full agreement on the legal text, including the legal test of the backstop, by October.

Lord Whitty: If the principle of it being time limited gets accepted on the understanding that you are moving towards a more permanent solution to the customs arrangements, what is the significance of the expectation of the December 2021 date? Is that compatible with allowing a backstop for long enough to sort out the long-term arrangements, or is it moveable, depending on how the negotiations go?

Robin Walker MP: The Prime Minister set out her expectation that a customs arrangement would be in place by then. We need to be very clear that our preferred outcome is to make sure that customs arrangements are in place before the end of the implementation period. That is why we say repeatedly that we do not envisage the backstop needing to arise but we have committed to respecting the joint report and making sure that we have a commitment to a backstop there. That is therefore what has been set out as a reasonable time limit on that.

As I say, our strong preference is that it will not be required to come into force at all, because we have always been clear that we would rather businesses had to face only one set of changes, or indeed one reassurance that things will not change. In that respect, it is much better to have the future customs arrangements allowing for a frictionless border in place before the end of the implementation period.

Lord Whitty: What I am driving at is that, yes, all sorts of things are desirable—there is a logical sequence that we would probably all like to see—but the term “expects” is not normally found in legally binding agreements or in Euro treaty-ese. If you need a bit of leeway, would the Government be prepared to do it? December 2021 is only a year after the end of the transition period.

Shailesh Vara MP: The backstop is the leeway.

Robin Walker MP: The backstop already represents a significant commitment from the UK Government to go further than we have gone before to meet our obligations under the joint report. I am obviously not going to conduct a negotiation with our EU counterparts live in this Committee, but it is important that we have made that commitment. It is clear that it covers customs and that we want to discuss further some of the other aspects of regulatory issues that relate to the border and our commitments under the various agreements.

The Chairman: But in your understanding, at the moment the date of December 2021 is an aspiration and not a legal commitment.

Robin Walker MP: That date has been set out by the Prime Minister as what she thinks is appropriate for the temporary customs arrangement.

The Chairman: Right, but it is not necessarily enshrined in law, just so I am clear. I think we will pass on from that point.

Q5 **Baroness Brown of Cambridge:** You have already started to touch on regulatory standards. Both the Government and the Commission have commented on the fact that at the moment only half of the requirements, on the customs arrangements, are being discussed.

The other thing in order not to have a hard border is regulatory alignment. The Government's technical note acknowledged that an "approach to regulatory standards will also need to be addressed". I would be interested to hear more about how the Government propose to consider this. Will we see a separate paper on regulatory standards? This is particularly critical, as you have mentioned, because of the animal and food transfers that go across as normal business between the communities in the two parts of Ireland.

Robin Walker MP: There are two important things to touch on here. First, the Prime Minister set out in her letter after the March Council that she agreed with the scope of the issues set out in the Northern Ireland protocol. Since then, officials have been in discussion across them all, but of course there are some regulatory issues—the single electricity market, for instance—on which we have reached separate agreements and arrangements within the green text of the joint report.

You are right that we have put a placeholder, if you like, into our presentation on the customs arrangements, but there has to be further discussion on them. The text quoted earlier from the joint report is important in this regard: we are talking about aspects of regulatory matters that are important in order to avoid creating a hard border or undermining north-south co-operation. That is not the same as the full single market arrangements, and there is a discussion to be had here with the Commission.

You touched on agriculture. On that single epidemiological area in the island of Ireland, we are talking about how to preserve some of those

arrangements. We will be clear that that can be done through option B in the joint report by looking at areas of north-south co-operation that we all agree can be preserved and that have been supported by a power-sharing Executive in Northern Ireland.

We are seeing how we can preserve those rather than taking the alternative interpretation, which is that the whole of the single market has to be in place. That is where it will be useful to take these discussions forward. But at this stage we have presented for discussion and are discussing with the Commission our paper on a temporary customs arrangement.

Baroness Brown of Cambridge: Would that imply having the same sanitary and phytosanitary standards right across the UK?

Robin Walker MP: That is not the case currently. We have a single epidemiological area in the island of Ireland. We also have high but not necessarily identical phytosanitary standards in the rest of the UK. They do not necessarily function in the same area. Despite that, we have no barriers between Northern Ireland and the rest of the UK and we would absolutely want to maintain that. That means that while we do not necessarily have to have an identical approach across the UK, we have to have something that meets our commitment not to put up any new barriers between the UK and Northern Ireland.

Shailesh Vara MP: Yes, and there are other examples. You could be living on one side of the border and get a medical prescription on that side but it would be respected on the other side of the border.

The bottom line here is that we already have agreements that work between Ireland and Northern Ireland. The essence is to build on them, and given the political will that is eminently possible. We need the desire to recognise that we already have something in place rather than try to create something. It is a question of building on that.

Baroness Brown of Cambridge: If I may press you, are we likely to see a paper on the regulatory standards soon?

Robin Walker MP: I am afraid that I cannot pre-empt any papers that we have not yet published. However, we have put forward a serious and significant proposal on the temporary customs arrangement. In it there is the acknowledgement that other regulatory issues will need to be discussed. We want to take the discussion forward on that proposal.

Lord Teverson: You have twice mentioned the single energy market, which is key in Ireland when it comes to dependency. Can you clarify what you see as the agreement on that?

Robin Walker MP: The UK and the EU have agreed to seek to preserve the benefits of the single electricity market to make sure that it can continue—

Lord Teverson: So it is an agreement to seek that. I am just trying to

understand that. Fine.

Robin Walker MP: I am afraid that I do not have the exact text in front of me, but I think there is broad agreement on this area, and everybody I have discussed it with agrees that it is something to pursue. I am happy to clarify.

Lord Teverson: That would be very helpful. Thank you.

Lord Whitty: You emphasised the need for agricultural and phytosanitary alignment of the regulatory structure between the two parts of Ireland. You also referred to regulatory areas that support the north-south agreement. What other areas would you put in that category?

Robin Walker MP: The Common Travel Area is obviously in a slightly different space, but what supports that is important. One thing we have undertaken as part of this exercise is the mapping of areas of north-south co-operation. There are a large number of those, and some are underpinned by EU law, which would remain in place, while others are not. The others are matters of practical co-operation. We will set out in more detail the full range of the areas in which we seek to preserve co-operation.

To go back to the Belfast Agreement, there are a number of key areas defined in it for north-south co-operation, which we are committed to by international law as well as by their implementation in the Northern Ireland Act. That is not the limit of the areas that we want to preserve this in, which is why the mapping exercise has been useful. We have committed to sending it to the Exiting the European Union Committee as soon as it is finalised and agreed with the Commission. I am happy to make sure that it also comes to your Committee at the same time.

The Chairman: Thank you.

Q6

Baroness Suttie: As far as I understand it, two Cabinet sub-committees have been tasked with examining in more detail the two proposed models for future customs co-operation: maximum facilitation and customs partnership. Can you say a little about what progress has been made by these two sub-committees and when you think the Cabinet will reach a conclusion on its preferred future customs co-operation model?

Robin Walker MP: I am being asked questions significantly above my pay grade there. I obviously do not sit in either the Cabinet or the sub-committees, but I will say that it is right that there are two Cabinet sub-committees working on this, and my Secretary of State is taking part in one of them, as I believe Shailesh's Secretary of State is. I understand that they are both continuing their work and have met on a number of occasions, including in Northern Ireland to hear from a number of stakeholders there. But I obviously cannot pre-empt decisions made at Cabinet level, so I cannot tell you exactly when those decisions will be taken.

I think we all recognise the importance of focusing on getting an outcome that achieves the Government's three objectives here: to ensure that we have customs arrangements between the UK and EU that are as frictionless as possible; to ensure that we meet the manifesto commitments of both the Conservative Party and the Labour Party at the general election to have an independent trade policy; and to ensure that we can meet all our commitments on the border and north-south co-operation. That is the aim of both those committees, and it is right for the Government to do the detailed work to ensure that they can put the best possible solution forward.

Baroness Suttie: Can you say how often they have met? Do they meet weekly?

Robin Walker MP: I do not have that information, but I know that they have both met on a number of occasions. I will happily ask the appropriate people.

Baroness Suttie: Given that the EU appears to have rejected both options, is an alternative—another option B—being drawn up, other than the backstop?

Robin Walker MP: Clearly, both options are being worked on and developed, so it is not fair to say that the EU has rejected them. During a negotiation, concerns will be raised about one another's positions on a range of things. We understand that and will respond to it appropriately. It is right that the UK should present a proposal on customs that facilitates frictionless trade, which we believe is in the interests of the UK and the EU. It is also right that we have to meet our commitments under the joint report. That is where option C, the backstop element, comes forward.

I am keen to ensure that what we present as the UK's customs option crucially meets the considerations on the Irish border and the aspiration of British businesses, which is to trade with the minimum friction with the EU and the wider world. Having an independent trade policy is an important element of that. Clearly, the temporary customs arrangement as proposed would include some restrictions on that independent trade policy. That is one reason why we are clear that it should be only a temporary arrangement.

Baroness Suttie: Can you confirm whether David Davis proposed a 10-mile trade buffer zone along the Irish border? If he did, has that suggestion been rejected?

Robin Walker MP: No, I cannot confirm that. I think that was media speculation.

Baroness Suttie: Finally, on these options, you have explained clearly why you cannot speculate—it is above your pay grade, et cetera—but it would be fair to assume that it has to be agreed and our position adopted well in advance of the October deadline.

Robin Walker MP: Yes, evidently. Of course we have committed in the EU withdrawal Bill to publish a report on customs arrangements in advance of that October deadline. Personally, I also hope that the much anticipated White Paper will include more detail on customs. That would be useful for everybody. We are certainly taking forward our work in this area at pace.

Q7 **Lord Teverson:** Perhaps we can get on to one of the successful areas of the negotiation so far, the Common Travel Area. It is very important and I certainly make the most of it when I get the opportunity. If that has all been agreed, we are interested to understand the Government's analysis of the practical impact of Brexit and the fact that there will be a border within the Common Travel Area. Does that mean that there will need to be changes?

On the agreement, I noted that although the Republic of Ireland is not part of Schengen it still has to meet the needs of freedom of movement for EU citizens within the Republic. Do things have to change there in the future?

Shailesh Vara MP: The common travel area agreement between Ireland and the United Kingdom was there for decades before either of us joined the EU. Paragraph 54 of the joint report makes it clear that the European Commission recognises specifically that we can continue with that arrangement. That has been agreed by Ireland and the UK, and indeed by the Commission.

We propose that the existing reciprocal rights that we have should continue—rights to study and to work, rights on social security, public services and so on. There is no intention whatever to change any existing rights that people have. This will continue as it did before we joined the EU.

Lord Teverson: Perhaps I may come back to the single energy market. It is completely integrated, as are the people who operate it. Say there is a problem in Northern Ireland with an energy facility of some sort and the people who have to fix it are based across the border. If the van driver is an Irish citizen but the person who fixes it is a Czech citizen, what happens then?

Shailesh Vara MP: At the moment, we do not have any controls on the border between north and south, and that will continue. But anyone who wishes—

Lord Teverson: So there is no problem with non-Irish EU citizens working in Northern Ireland?

Shailesh Vara MP: If anybody is to come into this country across that border, clearly they will need the relevant visa requirements. That has always been the case. It is also the case at the moment that if anyone whose country is not a member of the EU comes in through that border, they would be required to have the relevant credentials to be in Northern Ireland—to stay, study, work or whatever. It will be the same situation.

Lord Teverson: So the Czech person would have to get out of the van at the border.

Robin Walker MP: No, that is not the case for an American or anyone from a third country crossing the border at the moment. There are no checks in place and we have no intention of putting such checks in place—that is checks with a “ch” rather than a “Cz”.

Lord Teverson: I was not talking so much about checks and Czechs. Let us change it to a Romanian. I am not trying to be clever here. This is a serious question, because these economies are integrated and such situations will mean people of mixed nationality crossing the border who will then carry out work in the United Kingdom. They are not visitors but working. I am trying to understand what the rules are about that.

Robin Walker MP: The withdrawal agreement already covers frontier workers who are doing that in an established way. That is quite important in the context of Gibraltar, which we will come to later, so it already covers those groups.

Of course, some of these things relate to the future economic partnership and relationship between the UK and the EU, but if you look at the areas of discussion that we have already agreed with the EU you will see that labour mobility is one of them. That does not mean the European free movement directive will continue to apply in the UK; it will not. We will no longer apply those rules in the UK, but it means that sensible arrangements can be put into place. That comes to your point in that in situations where people provide a service across the border, we want a system to facilitate that.

Shailesh Vara MP: It works both ways. You gave the examples of someone coming across and electricity, but there are people from Northern Ireland who may also wish to cross over. That would benefit Ireland, so it is in the interests of both sides to make sure that there is an agreement in place at the end of this Brexit process.

Lord Teverson: Have we learned any lessons from the success of the Common Travel Area that can be applied to other parts of a broad agreement with Ireland?

Robin Walker MP: Yes, I think there are. At the start of this process there were concerns in some quarters that the EU would say, “That cannot be applied”. The Republic of Ireland has actually done a very good and active job of getting out and explaining to other member states why it is so important and why it is right to respect it.

We have also made that case and are very pleased that there has been agreement across the 27 that this is a unique set of arrangements that deserve to be respected and maintained. Lessons can be taken from that in looking at what else we could agree on that can help to facilitate the commitments of both countries to the peace process and to avoiding a hard border.

The single electricity market is one more element of that, and the agreement that we have reached on funding is another important area. Initially, we set out the position that peace funding is important and we want that to continue in some form. That was added to in the joint report with the Interreg elements, and discussions have been able to move forward on it. We should take all these as positives and seek such arrangements wherever we can to ensure that both parties can meet their various commitments.

Baroness Armstrong of Hill Top: Given the concern which the Government have been expressing about migration, how will you stop trafficking and illegal migration if you have free movement in Ireland?

Shailesh Vara MP: We already have measures to deal with that generally. For example, somebody cannot come here if they are looking for employment. They need to prove that they have the right to work here, and if they are looking for accommodation that they are allowed to be here.

Baroness Armstrong of Hill Top: That would be done on this side of the Irish Sea.

Shailesh Vara MP: It is done in the same way as it is done right now for an American coming through the border, as we said earlier. There will certainly be nothing on the border, but other measures have been put in place to tighten up on illegal immigrants.

Baroness Armstrong of Hill Top: Such as?

Shailesh Vara MP: As I have said, if you want to get accommodation you need to prove that you have a right to be here and to give the landlord that documentation. If you want to work here, you need to give your potential employer the relevant details to show that you have a right to work in this country. The criteria are there, but you need to have a visa to come into this country.

It is important to recognise that we should not be talking about creating problems where there are none, given that we already have that scenario and that a non-EU person has been able to come in—you suggest that might happen in future—when they have been able to do so for the past 43 years.

Robin Walker MP: It is also important that some of the things that you talked about—people smuggling and such issues—are illegal acts for which there needs to be security co-operation between the UK and the Republic of Ireland. We have set out in our security approach that we want that co-operation to continue.

It is absolutely right that we should work on these things together. We should be able to share and exchange data on people who may pose a risk in some circumstances. All those things are possible without undermining the Common Travel Area.

Baroness Brown of Cambridge: Since the single electricity market has reared its head again, would the implication of Northern Ireland and Ireland being in that market mean that they would both be covered by the EU Emissions Trading Scheme?

Robin Walker MP: That is a very good question. I cannot claim to have the answer to hand, but I think we recognise that, where the single electricity market holds sway, arrangements need to be in place to ensure that it continues to function in the same way. There would therefore need to be an acceptance that regulatory elements will have to be in place. If I may, I would like to write to you on that specific question.

Baroness Brown of Cambridge: That would be helpful. Thank you very much indeed.

Q8 **Lord Jay of Ewelme:** In the home affairs sub-committee that I chair, we have been doing work on the implications of Brexit for our membership of EU institutions such as Europol and the European Arrest Warrant. Given the likelihood—or possibility, whichever way you want to look at it—that we will not be able to be members of such organisations, or a member of the European Arrest Warrant, as we are now, how can the Government ensure that police and judicial co-operation continues and successfully prevents cross-border crime?

I know from our recent conversations with the Chief Constable of the Police Service of Northern Ireland in Belfast that it is seriously concerned about this. We have also had conversations with representatives from County Donegal and Derry in Northern Ireland. They too were concerned. This is a concern in Northern Ireland. How satisfied are you that this is not a serious problem?

Shailesh Vara MP: The European Arrest Warrant has certainly been very successful. Because of that, we have extradited some 10,000 serious criminals to other countries. Likewise, 1,000 or so serious criminals have been brought back to be dealt with in this country, so it is not be underestimated.

We hope, first, that the close co-operation between the security services and the judiciary on the border will continue. I am confident that it will. But we would also like to see, as the Prime Minister has said, a specific, bespoke UK-EU security treaty. The three key areas that we would like to see in that are: practical co-operation, co-operation between law enforcement agencies, and the exchange of data through databases. It is certainly in everyone's interest that we continue close co-operation, and given the importance of this subject I would like to think that that will be forthcoming.

Lord Jay of Ewelme: There was quite a lot of hoping and liking to think in that answer. I know from recent evidence that we have had from the Home Office that there has been one hour of discussion on security matters so far. How far have we got on all these fairly fundamental issues?

Robin Walker MP: These are very important issues, which is why the future security partnership is a key part of the overall partnership that we want to establish with the EU. You are right that we are at an early stage in the discussion on the whole future partnership. Clearly, we would have preferred to reach it earlier, but we are pushing ahead with an ambitious approach to the future security partnership. That is partly because all the evidence that we have heard, in member states as well as from UK law enforcement agencies, is that there is a very strong interest in continuing co-operation in this area. To reiterate what Shailesh said, we think that when people take a long, hard look at this they will recognise that it is in the EU's as well as the UK's interest for these mechanisms to continue.

Shailesh Vara MP: I will make this the last comment on this, given that the other issues include Gibraltar.

Throughout the session so far we have heard almost scepticism, as when Lord Jay referred to hope and so on. I gently say to everybody that this is a negotiating process in which each side sets out its stall. What they set out and what they say they will reject has already not proved to be the case. We have already agreed some 75% of the issues, and if one looks at those one finds that where the parties were at the outset is considerably different from where they have ended up. So, yes, we can be hopeful and not be dissuaded because of robust words of a hopeful nature by one of the parties.

The Chairman: Thank you. It is always nice to end a line of questioning on an optimistic note, and we will note that.

Lord Jay of Ewelme: And recall it, as necessary.

The Chairman: I hope you understand that our role is to be a candid friend—candid but not, I hope, unfriendly—to your process.

Shailesh Vara MP: Absolutely. You could not be anything but, Lord Chairman.

The Chairman: We are all right so far, and as you rightly said, Mr Vara, we have concluded our questions on Ireland for the moment. Please feel free to demit yourself now or stay and support your colleague as you wish.

Shailesh Vara MP: I am happy to stay, if I may.

The Chairman: We move on seamlessly, with the very timely return of Baroness Neville-Rolfe, to her question on Gibraltar, which she and I—and Lord Woolmer, formerly of this Committee—visited recently, as you know.

Q9 **Baroness Neville-Rolfe:** Mr Walker, I want to explore your understanding of the Spanish ask on Gibraltar in the context of Brexit. Has there been a change of attitude since the change of Spanish Prime Minister in early June? Do the Government expect negotiations with the Spanish Government to lead to a bilateral agreement before October this

year? If not, how can we ensure that Gibraltar can be covered by the transition period, given the Spanish claim that it holds a veto on the question, albeit that relations between Gibraltar and Spain seemed to be in a good place when we visited Gibraltar, partly thanks to your work with the Administration there?

Robin Walker MP: Thank you. This is an extremely important area. We are clearly very early in the life of a new Spanish Government and it is important to reflect on that to see how we can engage there appropriately. I understand that our Foreign Secretary has been in touch with their new Foreign Secretary over the weekend and that positive messages have been exchanged in both directions. But it is very early days and we are waiting for the appointment of significant members of that Government, who will probably have some say in this process.

It is also important to reflect that the text of the withdrawal agreement, including that on the implementation period, is currently drafted in a way that means that it covers Gibraltar. We are clear that that is our position: that it is covered in the withdrawal agreement and the implementation period, and that it should also be covered in the future relationship.

We recognise that the Spanish have a different view, particularly with regard to the future relationship, and we are engaging with all member states on practical issues relating to our withdrawal. The conversation that we are having with the Spanish includes practical issues relating to Gibraltar.

What we will never do is to have a conversation about sovereignty over the heads of the people of Gibraltar and without their support. We are absolutely committed to keeping Gibraltar engaged and involved through this process. A number of meetings have taken place that have included representatives from Gibraltar, which is useful, but I stress that these are to deal with practical issues rather than theoretical or sovereignty-related issues.

Baroness Neville-Rolfe: Can you perhaps give us a bit more of an idea of what those issues are and whether they could be affected by the Spanish deciding to take a less constructive view?

Robin Walker MP: As you said, the indications that we are getting from speaking to colleagues in Gibraltar and across government are that a constructive approach is being taken on this area. The new Government recognise the benefits of being able to co-operate for the region, which is important in that respect.

I cannot go into the detail of discussions that have gone at an official level, but there are clearly some areas where ensuring that the border continues to operate effectively is very important to a large number of frontier workers who, as I said earlier, are covered by the withdrawal agreement. It is important that we should make sure that we can deliver on that.

It is clear that Gibraltar's economy makes a significant contribution to its immediate neighbourhood and to that of Andalusia and beyond. Ensuring that we can achieve arrangements here that work for both parties will be crucial, but we have not yet had any formal meetings with the new Government. It is really too early to talk about the detail of any shift there.

Lord Risby: In the joint ministerial discussions that you had at the beginning of June, you set out the ambition to have a post-2020 framework of working together. One key element of the Gibraltar economy is financial services, and it is very important for them to have a sense of continuing mutual access between the United Kingdom and Gibraltar. Can you comment on this in the context of the next few years?

Robin Walker MP: Sure. You are absolutely right that in the JMCs that I chair with Gibraltar this is a key priority, understandably from the Gibraltarian perspective. At our joint ministerial council in March, we announced a series of measures to secure the strong, historical and valued relationship between the UK and Gibraltar. They set out how we can collaborate closely on a range of areas such as the environment, online gaming, financial services, market access, transport and university tuition fees.

On financial services, the Treasury has undertaken to do some work to ensure that the law is updated so that Gibraltarian market access can be maintained in the UK. Of course, we also want to ensure that appropriate regulatory standards are achieved, and there is dialogue going on on that front. I think the Gibraltarians are happy with the progress made so far on that, but we will also want to use the time available to ensure that there is the highest degree of regulatory alignment between Gibraltar and the UK, allowing us to maintain the strong financial links between us.

Lord Risby: Given the central importance of financial services to the viability of the economy of Gibraltar, what you said about regulation is very important. Frankly, if there were a change of view by Spain, it always alights upon this area, so I am grateful for your clarity on that.

Robin Walker MP: That is absolutely right. Gibraltar has also taken a number of important steps on transparency, on which we can reassure all our EU counterparts. It is important that we acknowledge the work that they have done on that front.

The Chairman: You referred to the cross-border machinery. When we visited, we were lucky enough to meet El Grupo Transfronterizo, which was very helpful. The more it is possible to emphasise the mutual interest across the border, the better.

Given that we now have a new Administration in Spain, although you said that you had not yet met them, and that as I remember it—I may be wrong—they were the initiators of the Cordoba agreement, which has never been implemented, is there a chance of getting that agreement back into construction and into use?

Robin Walker MP: With regard to the exact position of the new Administration, we need to wait until that Administration have been fully formed and we have had those discussions with them. But the UK's long-standing positions on a range of issues, including the Cordoba agreement, are clear. We believe that it was a good agreement and want to ensure that, as we continue to discuss with Gibraltar our preparations for EU exit, we look into all the opportunities for the shared economy in Gibraltar and Andalusia to prosper.

Lord Whitty: One aspect of Gibraltar that a general softening of the Spanish Government's line may not include is control of the airport. Even while we, and therefore Gibraltar, have been members of the EU, that airport has been known to hold up overall agreements.

In today's paper, there is talk of the EU holding up the aviation agreement. Are you prepared for the possibility that agreement on aviation might be stymied by a failure to agree on the airport in Gibraltar?

Robin Walker MP: Clearly, we want to avoid that. The Cordoba agreement, which was just mentioned, related to use of the airport without a change in sovereignty. It is obviously important that Spain made it clear, under its previous Government, that it had no intention of pursuing its sovereignty objectives through these negotiations. We welcomed that because we are clear that we are not going to negotiate sovereignty.

However, where there are issues relating to shared safety concerns and shared potential economic benefit, we think it is worth having a discussion. The very strong feedback that we get from a large number of member states is that the ability to work together on aviation safety issues is of great importance to the whole of Europe. Again, we have been clear that we believe we can have a collaborative and helpful approach on them. I have seen for myself the current arrangements under which Gibraltar's airport needs to be able to work with its Spanish neighbours, because if the wind is blowing in the wrong direction you cannot land there and you get diverted elsewhere.

The Chairman: We nearly did.

Robin Walker MP: We will absolutely recognise the importance of resolving and reaching agreement on these areas.

Q10 **The Chairman:** Perhaps I may turn to the Crown Dependencies, and without any necessary preference between the different interests you have expressed field this one, at least to start with, not least because we are keeping an eye on the clock for you both.

In introducing this, I could make the point that the Crown Dependencies obviously have an interest in the CTA with both parts of the island of Ireland. I take it that they are being kept fully in touch with any discussions, developments or problems you have on that.

Robin Walker MP: Yes.

The Chairman: However, I will pass on that, because it was not my main concern. I really want to ask whether you can update us on Brexit-related discussions with the Crown Dependencies and their separate machinery for consultation. What are the main concerns that they have brought forward to you in those discussions?

Robin Walker MP: Okay. I have a little list of things that I can run through on that front if it would be useful.

First, you are absolutely right with regard to the Common Travel Area. The Dependencies are also participants in the British-Irish Council, at which I and the Secretary of State for Northern Ireland will be on Thursday. We will have the opportunity to catch up with them there.

As your Committee is aware, we are working closely with our friends in the Crown Dependencies to ensure that we get a deal that works for the whole British family. I have written to congratulate the new Chief Minister of the Bailiwick of Jersey, John Le Fondré, and I will have an update on EU exit-related discussions following the BIC and the sixth quarterly meeting with Chief Ministers on 2 July 2018.

Over last summer, I visited Jersey, Guernsey and the Isle of Man to meet the Chief Ministers. We have an overall programme of technical level round tables, combined with extensive engagement from our officials and Ministers, to demonstrate that we are focused on achieving the best deal not just for the UK but for British jurisdictions, including the Crown Dependencies.

HMT and HMRC are leading work with the Crown Dependencies to determine how our post-exit customs relationship will work in future, with the shared objective of retaining the status quo for the treatment of goods flowing between the UK and the Crown Dependencies. Powers to enable the UK to give effect to a customs union with the Channel Islands have been included in the Taxation (Cross-border Trade) Bill, specifically Clause 31, which would enable the Government to give effect to a customs union with another country or territory.

The Department for International Trade has also been in active discussions with the Channel Islands on the extension of the UK's WTO membership to include them, noting that the Isle of Man is already covered in that respect. We intend to consult them further on their involvement in future trade deals.

Other discussions that we have had with the Crown Dependencies have focused on readiness and legislative preparations. They have to conduct their own legislation in this respect, which can take different times in different jurisdictions. Jersey, for instance, has already passed its withdrawal Bill, but the States of Guernsey have theirs yet to come. It obviously needs to go through three different legislatures, which is one of

the challenges in this process in which we are keen to work with and support them appropriately.

The Chairman: If I may reverse the order of questions, since you raise that specific point, is your department or the Government Legal Service here providing support to the Jersey and Guernsey lawyers on technical and legal co-operation? I appreciate that it is part of their definition and that they are proud that their legal systems are not identical to ours, but are you having friendly discussions about legal concepts and the means of expressing things?

Robin Walker MP: We are, absolutely. You will know that just as the Foreign Office leads on the Overseas Territories, the Ministry of Justice leads on the Crown Dependencies. There is already a degree of expertise there in that relationship. Our Bill teams have also been talking to them to ensure that they are informed on the detail of the legislation that we are proposing so that they can look at where it needs to apply in their own legislation.

Of course, their relationship with the EU is only in those areas covered by the UK's membership in terms of Protocol 3. The relationship is not identical to that of Gibraltar, for instance, or other Overseas Territories; it is distinct and reflects the unique constitutional relationship between the UK and the Crown Dependencies.

The Chairman: It fits in here to say that on the proposed backstop arrangement, which we have discussed extensively already, there is specific text saying that it is expected that the arrangements would also apply to the Crown Dependencies. Is that more or less the formulation that they would seek, and is it likely to be acceptable to the EU, given the caveat that you have already given about Protocol 3?

Robin Walker MP: Obviously I cannot speak for the EU at this stage. We are presenting this, but we think it reflects their interest in preserving the movement of goods. We also recognise that there are strong cultural interests for Guernsey and Jersey in being able to sell into European markets, as they have done since our accession to the EU.

The Chairman: My final, more general, question is this. Almost independently of the specific negotiations, what discussions have you been having with the EU regarding the future position? Will the upcoming White Paper on the UK-EU relationship—I appreciate that you cannot give it to us today—at least address the ongoing interests of Gibraltar and the Crown Dependencies? This is the point that you have rather felicitously made in the past about the British family.

Robin Walker MP: Yes, we intend to reflect in the White Paper the understanding that the relationship with the British family is complex and that there are a range of arrangements within it. We are of course at a very early stage in the negotiations on the future partnership with the European Union. I cannot say that this has been a significant part of it, but I think that the White Paper will set out the UK's ambitions for that

future relationship, which absolutely should include the interests of the Crown dependencies or Gibraltar where they form part of those ambitions.

The Chairman: Thank you. We appreciate your attention to these areas, which brings us seamlessly to the final line of questioning.

Q15 **Lord Jay of Ewelme:** This is a brief question about the Overseas Territories. I was very interested to hear about your travel programme, but I guess that Pitcairn and Tristan da Cunha probably still await you.

Robin Walker MP: I might need a longer-lasting ministerial role to get out there.

The Chairman: They do write to us.

Lord Jay of Ewelme: We have had recent discussions with representatives from Anguilla and last week from the Falkland Islands. Clearly, they have concerns of their own, Anguilla with its neighbours and the Falkland Islands with the export of squid through Spain to the EU. I just really wanted an assurance given that although they seem awfully small from the centre, these issues are terribly important to the territories concerned. Are they being properly taken into account in the various consultations that you are having with them?

Robin Walker MP: We have a joint ministerial council for the Overseas Territories, which I attended with Lord Ahmad from the Foreign Office last week. We discussed many of these issues there. I absolutely recognise that that issue is very important from the perspective of the Falkland Islands economy; we discussed it with the Falklands' representative last week.

We were able to update on a number of issues. With the Overseas Territories, part of the usefulness of this process has been to get a number of Government departments to engage on some of the key issues of concern to them in quite a productive way. We were able to discuss the issue of British Overseas Territories passport holders and their access to Schengen. On Anguilla, our understanding and that of the Home Office is that it is not reliant on our membership of the European Union; movement between Anguilla and its neighbours is dependent not on our free-movement arrangements but on local arrangements.

I think there was also a broad welcome from the Overseas Territories for the fact that the implementation period will provide for their businesses and citizens and maintain their access during that period. Clearly, they also have their ambitions for the future relationship. As I say, we will try to make sure that those are also reflected where appropriate in the White Paper.

Baroness Neville-Rolfe: We had a very lively session with the Overseas Territories, chaired by Baroness Verma. One thing they were concerned about was that in leaving the EU there would be less access to regional aid and R&D support. Can you comment on that and how one might

ensure that they do not lose out too much in their development plans?

Robin Walker MP: We have also discussed this with them and we understand those concerns. Clearly, we will want to address our future relationship with the EU with regard to development in the upcoming negotiations. There is also a recognition that the UK and the Overseas Territories have responsibilities with regard to their development and environmental issues. We will want to continue to be able to support them in that regard in the most appropriate way.

This is an area of useful discussion. DfID too continues to engage in these forums regularly. We want to ensure that we have the most appropriate mechanisms for looking after the interests of the whole British family and that in areas where we have been able to show real progress, such as on marine conservation zones and working on some of our global environmental commitments, we can do that together.

The Chairman: Owing to your concision and business-like attitude, we have two minutes left. Do any colleagues want to ask a final point? If not, Ministers, do you wish to add anything?

Robin Walker MP: No, just our thanks to your Committee for all the work you are doing. We look forward to continuing to engage with the process.

The Chairman: Thank you. We are very grateful to you both for coming. You have explored some of the difficult issues, both technical and political, adhering to the Irish border and all that it reaches in a way that is very helpful to us.

Minister Walker, you have also assured us by your clear enthusiasm that the interests of other parts of the British territories and the British family will not be overlooked in these discussions. We very much value that. We are obviously looking at the constitutional issues but also at the practical ones, with which you have to wrestle every day and try to do so in a constructive spirit.

I therefore conclude by expressing the thanks of the Committee and saying how much we look forward to continuing the relationship in what is bound to be a rather demanding period for you, if not for us. Thank you.