

Select Committee on the European Union

Uncorrected oral evidence: Scrutiny of Brexit Negotiations

Wednesday 29 August 2018

2 pm

Members present: Lord Boswell of Aynho (Chairman); Lord Crisp; Lord Jay of Ewelme; The Earl of Kinnoull; Lord Liddle; Baroness Neville-Rolfe; Baroness Noakes; Lord Soley; Baroness Suttie; Lord Teverson; Baroness Verma; Lord Whitty.

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Questions 1 – 23

Witness

I: The Right Hon Dominic Raab MP, Secretary of State for Exiting the European Union.

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Examination of witness

Dominic Raab MP.

Q1 The Chairman: Good afternoon, Secretary of State, Dominic Raab. You are very welcome at your first meeting with the Lords EU Select Committee. I hope that occasionally we have a contribution to make, and we very much look forward to your contribution. If I may say so without loading it with too much editorial, we appreciate the enthusiasm with which you have taken on your new duties since your appointment and we hope that it will bear fruit. We hope that this will be a constructive session about how the negotiations are going and about the difficult issues and matters that we will obviously want to keep under review as they develop.

First, can I briefly get one issue out of the way, as it were? We originally extended an invitation to Olly Robbins, as the Prime Minister's adviser, to come along and appear beside you. We noticed that last month he appeared before two House of Commons Select Committees. We are not in the business of "me too" but we normally expect a similar response and I wondered whether you could comment on why he has declined to appear and how we should take this forward.

Dominic Raab MP: Thank you, Lord Boswell. I thank you and the Members of your Committee for the opportunity to give evidence. I have been looking forward to it for some time and I appreciate that you have all taken time out of the recess.

In relation to the Olly Robbins situation, you will have seen the Written Ministerial Statement. We felt that it was very important to have one track in the negotiations and within Whitehall. The Prime Minister, as ever, leads the negotiations. I deputise for her. We have slightly shifted the Whitehall arrangements, as you will have seen in the Written Statement, and I am working very collaboratively with Olly.

In relation to Select Committee appearances, on the basis of the old adage that advisers advise and Ministers decide, we certainly feel in principle that Ministers should come and be accountable to you and to Committees in general. That is the approach that we intend to take from here on in and it is something that we agreed rather easily at departmental, Whitehall and certainly ministerial level.

The Chairman: Thank you for that, unless you would like to pick up on the fact that there appears to be an anomaly in the practice between the two Houses and your treatment of the two Houses

Dominic Raab MP: I beg your forgiveness for any anomaly. In a way, you will be the prototype or practice ground for the new arrangements, which are the correct ones. I hope that that gives you some reassurance.

Q2 The Chairman: We will reflect further on that and pass on, because there are, in a sense, even more important matters to discuss.

I should like to ask you to give a sit-rep on the negotiations and any

changes of pace that you detect. There is an interesting article in the *Guardian* today. You have met Monsieur Barnier a number of times and have shown your readiness to do so. The article suggests—I am not saying that we necessarily buy it—that he might not be as available to you as you would have liked to have been to him. Can you give us a general flavour of how that is going, what moving into continuous negotiations means in practice and how you see things going forward towards the autumn decision time?

Dominic Raab MP: Thank you. First, in relation to whatever tittle-tattle might appear in whatever newspaper, I shall be over in Brussels tomorrow evening for a long, substantive meeting with Michel Barnier on Friday. I hope that that gives you the facts. On a one-to-one level, I think that we have rather quickly established a good professional relationship and a personal rapport. It is never really about the two individuals, but to the extent that those issues matter, I would say that we have a good working relationship and—it is early days—the beginnings of a good personal relationship. For those who, like Lord Jay, have been in the diplomatic game for much longer than I have, notwithstanding my previous experience at the FCO, these things matter.

In terms of the substance, as Lord Boswell said, we want to see some renewed energy as we enter the final phase of the negotiations, with the October Council and the possibility that matters might creep beyond that. We are bringing ambition, the substance of our White Paper on the future relationship and some pragmatism in going the extra mile and getting the deal that I think is in both sides' interests, and we obviously need that to be matched—it is a negotiation.

In relation to the constituent parts, as has been repeated by both sides in the negotiations, broadly 80% of the withdrawal agreement—it depends on how you measure it—is concluded as text. The outstanding separation issues vary from the precise detail of the dispute resolution and governance provisions to data sharing and administrative procedures, and there are some other issues. I hope to give the Committee some reassurance by saying that most of that is about the detail rather than the principal issues, and I think that the contours of an agreement are there.

On top of the withdrawal agreement, we have agreed the terms of the implementation period. That is important for business certainty and for bringing some finality to the process for the average citizen who looks on and wonders how long it is all going to go on for.

There is also the issue of the Ireland/Northern Ireland protocol. Although we do not have a definitive solution to that yet, the Committee will have seen the proposal from the EU, the proposals that we have put forward and our shared commitment to give effect to the undertakings given in the joint report back in December.

On the future relationship, I would draw on the White Paper in relation to the economic partnership. Yes, we have had questions about that but not

a dismissal of the principal grounds for the new relationship. There has been good progress on security co-operation. We want to make sure that we continue the valued operational security capabilities that we share. There are other issues around governance, which, on our model, would be similar to the governance arrangements that we have for the withdrawal agreement, although there is obviously a difference in the sense that the withdrawal agreement covers citizens' rights, which are a special set of issues.

That is the best overview that I can give you, adding only that I am confident that a deal is within our sights. We are bringing ambition, pragmatism and energy and if, as I expect, those are matched, we will get a deal.

Q3 The Chairman: Thank you. Can I go back to the timetable for a moment? As I understand it, the critical points are, first, the informal meeting with Ministers and the Council formation in Salzburg in September. The original idea was to reach agreement in October on the conclusion of the withdrawal agreement. You have already indicated in a somewhat throwaway line that it might go a bit further than that. Could we ask you to be a little clearer on the timescale, not least because there is the whole issue of legal implementation in the UK with the Withdrawal Bill and with the definitive votes in Parliament and in the European Parliament on acceptance? How is it looking to you at the moment?

Dominic Raab MP: My starting point is the end point in March next year, when we will leave the EU, and I work back from there. You have rightly raised the question of the legislative framework that will be needed to implement any deal that we make. That is the real driver on the UK side, but you also referred quite rightly to the processes and procedures on the EU side. We are aiming for the October Council, but there is some leeway.

The Chairman: Can I also ask about the flavour of the negotiations, at which point I will conclude and let colleagues come in? Understandably, you have talked about your personal interface with Monsieur Barnier as the Commission's negotiator. At what might be called the technical level, the pace, if not of the negotiations but of the discussions, has continued to intensify, with DExEU, other Whitehall departments and their counterparts in the Commission looking at some of the practical implications. That is one issue, but there is a separate issue that is raised from time to time regarding the question of who you are negotiating with. Is there—and what should we read into it if there is—any shift in the focus away from the Commission towards the EU 27 states? Is there any pressure coming from individual EU member states for the Commission to soften its stance? To put it in simplistic terms, the negotiations are now immediate and real and have to come to a conclusion of one kind or another, which means that if a deal is to be found, it has to be found. How is that progressing and by how much are people facilitating that or pressing for it over and beyond the formal positions of the two negotiating parties?

Dominic Raab MP: First, you are absolutely right about the technical teams as opposed to the political principles, which is the way we have framed it. On our side, Olly Robbins is doing a smashing job with an excellent team. He is meeting with his counterparts on the EU side and that work is very intense. They had a limited period off in August, which could be observed to be rare by Brussels standards and shows the commitment on both sides. That is obviously necessary to tee up the intensification of the meetings on the political principles. There is not much point in having those meetings unless the groundwork has been laid.

On the distinction between the Commission, the task force on Article 50 and the other European Union states, we need to strike a deal that we are confident and optimistic we can gain broad agreement on, otherwise it will not be ratified. Naturally, at the bilateral level those conversations are going on. I have met Simon Coveney on the Irish side as well as the French and Swedish European Ministers. However, I want to be clear that from our point of view the central negotiation runs through the team in Brussels and with Michel Barnier and that obviously we want to make as much progress as we can through that channel. Given that, we are 110% committed to it. The negotiations take place through that channel, but when issues are raised by bilateral partners both within and beyond the EU, obviously we want to talk through our position and make it clear.

The Chairman: For the record, that enthusiasm and focus on the two parties to the negotiation is reciprocated on the task force on Article 50 side. They want to get it all sorted out.

Dominic Raab MP: Please spell out the question once more. I am slightly reticent about speaking for Michel Barnier.

The Chairman: I understand that. I am just making the point that you have emphasised your enthusiasm to get the whole thing dealt with and to deal with the people whom the EU has appointed and mandated to deal with it—that is, on behalf of the European Union. You then said that there may be a question about individual member states having their own input or exerting their own pressures. However, thinking back to this morning's press report to which I have referred, generally speaking the task force on Article 50 and Monsieur Barnier as the lead negotiator reciprocate on wanting to reach a deal in the way that you have expressed in terms of the British interest.

Dominic Raab MP: If I blinked every time there was a snotty media report, I would never do anything else. The fact is that it was, I think, Michel who described the negotiation as being something that would now move into continuous negotiation. I agree with that. On the basis that you should judge Governments and other political bodies on what they do, not what they say, which is always a healthy rule of thumb, since my appointment I have had three direct meetings with Michel and I am going out on Thursday night to hold a further extended meeting with the Barnier team on Friday morning. I think that we can be judged on our actions and you can judge Michel and his team by theirs, which are

clearly about wanting to intensify the engagement and reach a positive deal for both sides.

The Chairman: Perhaps I may conclude my remarks by saying that, looking at the media reports of the press conference held on 26 July, it did appear that you were both congruent in wanting to move towards a deal and being relatively positive about concluding one.

Dominic Raab MP: Absolutely, that is correct.

- Q4 **Lord Jay of Ewelme:** Welcome to the job, Secretary of State. There is nothing like a tough negotiation to get the adrenalin flowing. I want to ask a couple of questions about Ireland, which from the start and indeed before the referendum seemed to be the most difficult of the Brexit issues, if only because it is not one that can easily be sorted out by clever people around a table without going wrong. I have to say that those concerns have been magnified rather than corrected by visits to Dublin and to Belfast, and most recently to the border. In that context, we were interested in the assertion made in the White Paper that the proposed UK-EU economic partnership “would see the UK and the EU meet their commitments to Northern Ireland through the overall future relationship”. Can you say something about how that would work? The conclusion is that the backstop would not need to be used if it were to work. How would it work and what are the implications, given that on the EU side they seem to think that those arrangements would not be satisfactory?

Dominic Raab MP: It is absolutely right to say that all along the UK’s position has been that, technically complex though it is, the issue of Northern Ireland becomes easier to resolve when we move to thinking about the future state. That has been the long-standing position. That is because of the aim to devise a set of proposals that would minimise friction of any sort at the border, which has a direct read-across. The proposals set out in the White Paper are that a future relationship with the EU would ensure that the backstop solution as part of the withdrawal agreement would not need to be brought into effect.

At the same time—I want to be clear about this because it will be important for the EU side and it is a commitment that we have made—we remain committed to turning all the commitments made under the joint report into legally binding text. The Prime Minister has been clear on that commitment, but also that the EU’s proposals were unacceptable, mainly because of the effect that they would have on the UK common market and the constitutional integrity of the UK. Our counter-proposal on the customs element of a temporary backstop was the temporary customs arrangement. That will ensure that if a customs arrangement with the EU is not in place by the end of the IP, there will be no default customs border between Northern Ireland and Ireland or between Northern Ireland and the rest of Great Britain. What we have in mind is a very specific set of circumstances and the backstop will be time limited. This is an area where a lot of work has been going on at the technical level. I do not yet have the solution to give the Committee, but both sides are committed to giving effect to the joint report. I also want to affirm our

confidence that the proposals that we have set out for the future relationship provide a good basis on which to resolve the issue on a sustainable basis.

Lord Jay of Ewelme: It is always encouraging to hear that technical solutions are about to be found and presented to us, but the gap seems to be between the various technical proposals put forward and the reality on the ground, which is pretty worrying. Under the White Paper proposals, would there need to be some sort of checks on the border and, if so, what would they be? How can you have any sort of physical checks which do not run the risk of potentially quite serious consequences? That is the issue which we find difficult to grasp.

Dominic Raab MP: You juxtapose very well the dry legalism of proposals with their impact on the ground. This is a point that I will continue to make. One of the frustrations on the UK side has been with the legalism of the EU versus the impact that it would have on communities on the ground, both north of the border but also, in fairness, south of it. That should be the starting point, and the end point, of the check as to whether we have a viable, workable solution—it is about the impact that it would have. We have made it clear that we would see no return to the hard border or additional infrastructure. In fairness, Michel Barnier has also confirmed that he is open to new solutions on the backstop. He has said that the backstop that we eventually agree will not necessarily be that which the Commission came up with. He has acknowledged that it can be amended and improved. A lot of technical work is still under way. I shall not give you a solution today, unfortunately, or give away the integrity of the negotiation room. What I can say is that we are both committed, and a lot of interesting technical and innovative work is going on to make sure that we resolve it. Again, I come back to the point that you have made, Lord Jay, which is that it has to work for those communities.

Lord Jay of Ewelme: A final point: there has been a bit of discussion about a possible dual backstop, with a Northern Ireland-specific one and UK one but done on a different legal basis so that it would meet the basic concerns that you and the Commission have. Is that the sort of thing you are negotiating about?

Dominic Raab MP: Again, tempting as it is, I am not going to give away the negotiation room, but we have not ruled out any model. What we have talked about, in the way you have described, are the consequences. We are not going to see a customs border drawn down the Irish Sea; we are not going to do anything which would imperil the Belfast agreement. We want to make sure that the solution works positively for the communities on both sides. We are very mindful of the political and human situation in Northern Ireland.

The Chairman: I shall bring in Baroness Suttie for some related questions in a moment, but perhaps I can add one comment of my own. I am very pleased to hear you talk about communities—I take that as embracing communities of both confessions as well as geographic

location north and south of the border—because the ability of the local communities to go across without let or hindrance, which was curtailed during the Troubles, and the interests of farmers with land on both sides of the border tend otherwise to be overlooked at a time when we are looking at Dublin-Belfast and London-Brussels negotiations. I read what you say as being indicative of a sensitivity towards the actual situation on the ground as well as to that in what might be termed the political debate.

Dominic Raab MP: You are absolutely right that we must have that sensitivity—Lord Jay has made a similar point. This is about real people, real livelihoods and real communities. We have a history, and we want to look forward and not in any way backwards. That is very much at the forefront of my mind, in particular making sure that no section of the communities feels left behind or overlooked. That must be right.

Q5 Baroness Suttie: I want to continue down the line taken by Lord Jay with one very specific question. Would the Government be willing to accept an element of ongoing jurisdiction from EU institutions and the Court of Justice of the EU in Northern Ireland?

Dominic Raab MP: The idea of any jurisdiction of the European Court would be very difficult but, obviously, given the sensitivities on both sides, I want to avoid setting any fresh red lines beyond the clear parameters of the negotiation that we have already set out. I suspect that we will need to come up with something innovative to deal with this situation. While the EU is bound by a legalism which may at times feel frustrating on our side, it has proved rather innovative in the past. I am not convinced that this cannot be resolved; I am persuaded that we can resolve it, but it is unlikely to bring in the jurisdiction of the ECJ in perhaps the way you framed it.

Baroness Suttie: If Northern Ireland were to remain a member of the customs union, would it be included in any international agreements subsequently concluded by the UK?

Dominic Raab MP: Our position on this has always been that we need a UK-wide approach for customs, precisely because you could not otherwise see a way of averting a customs border down the Irish Sea. That would be the subsequent question that you would raise and, as the Prime Minister has made clear, it is not on the cards.

Baroness Suttie: My final question is on the UK-EU mapping exercise. When will you share the conclusions of the mapping exercise on north-south co-operation?

Dominic Raab MP: The mapping exercise has been going well. I need to get a final readout of the timeframes. I suspect we will have a list of follow-up points at the end of this session if Members have done their job correctly. Perhaps I could add that to it, so that I can give you the most recent and up-to-date word on where we have got to.

The Chairman: That is fine. Please regard this as an open dialogue. As

and when things become available that you want to share with us, do so.

Lord Liddle: I have a quick Northern Ireland point: the Commission was very critical of the Government's proposal for a backstop on the grounds that it is temporary. Is it still the Government's position that any backstop would be temporary?

Dominic Raab MP: I think that we would need to avoid a situation where the backstop became some indeterminate, indefinite limbo. The risk for the UK side when we come before this House and the House of Commons would be that people would say, "There's no real incentive here to move to the treaty-based future relationship". So it is important that it is finite, temporary and, bluntly, short. I have imparted that, as has the Prime Minister, to our interlocutors.

Lord Whitty: I have two quick thoughts on Northern Ireland. One is on the sequence. As Northern Ireland was put into the withdrawal treaty, is it still the case, if everything has not been sorted, including the backstop for Northern Ireland, that we will not have a withdrawal treaty in time for January or March or whichever time you think is a deadline? Secondly, and more specifically, on the border, some publicity was given to remarks made recently by Mr Rees-Mogg. Can we have your assurance that in no circumstances do the Government envisage individuals being stopped at the border?

Dominic Raab MP: First, you raise a good point about EU law in relation to the backstop. As a matter of law under Article 50, there are constraints on the period for which a backstop could last. Ultimately, that has to be tested, but concerns about the temporary nature of the backstop, to the extent that it derives from the withdrawal agreement, are not purely on the UK side; there is a legal issue for the EU as well. On the broader point, the UK's position and the EU's position is that there is no deal until we have the whole deal. That will include the withdrawal agreement, the protocol on Northern Ireland and a workable and substantive political declaration on the future relationship. I am not going to respond to comments by Jacob Rees-Mogg or anyone else—they can speak for themselves. We have been very clear that, in the event of no deal, we would not return to a hard border or extra infrastructure at the border. Those comments have been echoed on the Republic side as well.

Q6 **Baroness Noakes:** Secretary of State, leaving the Irish problems to one side, I would like to focus on the other outstanding issues in relation to the withdrawal agreement. I have a couple of specific questions to ask you on that but perhaps you could just outline what you regard as the bigger issues to be resolved. You said earlier that it was almost there. What is causing the trouble in not getting to a final position?

Dominic Raab MP: As you know, in June we published a joint statement setting out the progress that we have made in agreeing the draft withdrawal agreement and we described the articles that had been agreed since March. We have locked down the text on the majority of the other separation issues and, taken with the agreement reached in March

on the implementation period, citizens' rights and the financial settlement, that is where the 80% figure comes from. There are some remaining outstanding issues, including data sharing, police and judicial co-operation in criminal matters, and some of the governance arrangements—basically, dispute resolution—but in each of those cases, whenever I look at them again, the contours of the resolution are all there; the principles are broadly agreed, we just need some of the technical detail to get it over the line. But I am confident, subject to the adage that there is no deal until we have the whole deal—and that includes the other components—that agreement on the withdrawal agreement is well within our sights.

Baroness Noakes: Can I press you on this? We have been given the headings of the areas where agreement has not been finalised. Taking data transfers, for example, what is not agreed and is holding up the agreement? At a granular level, what is so difficult to agree?

Dominic Raab MP: Data-sharing proposals under EU law and adequacy notices are rather complex. Again, I am not going to open up the negotiating room on an ongoing basis and give real-time commentary on it because that will distract from the work that we have to do. But I am confident, and our team is confident, that we will get that over the line. Data sharing is very technical, very complicated, and we are trying to make sure that we cover all the potential scenarios in a way that is responsible on all sides.

Baroness Noakes: So there are no political issues involved in getting an agreement on data sharing.

Dominic Raab MP: I do not think that I would describe them as political, although there is a political undercurrent right through the negotiations, but I would not describe them as fundamentally political in nature.

Q7

Baroness Noakes: I will move on to the specifics. The first is in relation to the financial settlement. Assuming that we get the withdrawal agreement ratified in time, will we be paying the full amount of the financial commitment whatever is in the final version of the agreements, including the political declaration as to the future intent? Is that regarded as completely settled or still open for further discussion?

Dominic Raab MP: The way I would describe it is this: we have agreed the financial settlement as set out in the withdrawal agreement and as has been well publicised, but we have always said that there is no deal until we have the whole deal. In relation to the future relationship, clearly if we turned up without a credible set of proposals for the future relationship in the political declaration and without being able to give the reassurance that they were likely to be transferred in a reasonably expeditious timeframe, it would make selling the package as a whole much harder. I think that this is understood on the other side. We will want to make sure that there is a clear linkage and that the deal and the package are viewed as one package. But we expect to get the deal and for both sides to fully implement their obligations under it.

Baroness Noakes: What would be regarded as a less than acceptable outcome in the final package that would cause the UK Government to examine the amount that should be paid?

Dominic Raab MP: What we are looking for in the political declaration on the future relationship is a clear choice of the model for our economic partnership but also for our security co-operation. We have set out in our White Paper an ambitious, innovative and pragmatic set of proposals. We will want to see a level of detail that gives reassurance that this is the choice that has been made and the next step will be putting it into effect. We will want to make sure that there is a clear linkage and a golden thread running through the three components of the deal, that they are linked and that they are viewed, if not sequentially in chronological terms, as part of the overarching bargain, deal and agreement that we come to with our EU partners and friends.

The Chairman: You made some comments on the financial obligations some time ago. If there is no deal—we can debate that, but let us just consider that scenario for a moment—would you accept that there are historic financial obligations that will require discharge and any reduction in the bill will relate to any future obligations that we no longer have to undertake? There is a certain sort of functional consideration there and I wondered if you would like to comment on it.

Dominic Raab MP: I know that Lord Jay will pick me up if, as a former Foreign Office legal adviser, I did not say that Her Majesty's Government and the United Kingdom always pay their dues.

The Chairman: I think that that is quite welcome to the Committee.

Dominic Raab MP: Equally, the financial settlement as it is calibrated in the withdrawal agreement reflects a whole range of considerations, not just the strict legal obligations. If we left with no deal, not only would there be a question around the shape of those financial obligations as a matter of strict law but let us remember that the timing of payments is actually rather important on the EU side—I think that we overlook it on our side—because of the way money is distributed. I do not think that it would be safe for either side to assume that the financial settlement as agreed as part of the withdrawal agreement would then be paid in precisely the same shape, with the same speed or at the same rate if there was no deal. As I said, that would be a peculiar position for the UK to take, because we view the package as a whole.

Baroness Noakes: Do you think that there is any variability in the amount that might be paid in the event of a deal, which may not be as good a deal as the Government would wish?

Dominic Raab MP: Once we get to the stage of agreeing the package with the three components, we will be in the position of signing up to it. With any deal, both sides need to comply with their obligations; otherwise, there are consequences. But if we have reached an agreement

and signed up to it, the financial settlement as set out in the withdrawal agreement would apply.

Baroness Noakes: Whatever is in the final agreement—come what may.

Dominic Raab MP: No, because we would not be signing up to the deal as a whole unless we were satisfied that it was a good deal. There is no “come what may” about it, just to be clear.

Q8 **Baroness Noakes:** Finally, can you update us on the state of the negotiations with Spain regarding Gibraltar?

Dominic Raab MP: There is not much concrete reporting I can give you, other than to say that we are working very closely with the Government in Spain to make sure that we safeguard the position on both sides of the border—in particular, obviously, from the UK point of view, the people of Gibraltar. We will continue with that and we are confident that we can get the right outcome.

Lord Teverson: What do you think is Spain’s agenda on Gibraltar? What is it trying to achieve? Can we meet it in some way?

Dominic Raab MP: I am certainly confident that we can get a solution, but I am not going to start imputing intentions or motivations to the other side in the negotiation. I always find that to be counterproductive. I assume good faith on all sides.

Q9 **The Earl of Kinnoull:** I, too, welcome the Secretary of State. I will bring you back to the 12 July White Paper. What has been your analysis so far of the responses of both EU institutions and member states so far?

Dominic Raab MP: I will start with the joint commitment that we made, echoed by Michel Barnier, to define an ambitious partnership between the UK and EU—in his words, one that has no precedent. We recognise that that is quite difficult for the EU, which is quite a legalistic machine—I say that as a lawyer with great passion for legal principle—and therefore when it has to do things slightly differently it is not a particularly malleable institution. But, as I mentioned, it has done some of its rather more interesting and innovative work when it has been pragmatic about some of these things. It is good to see that on the EU side they are accepting that we will need to do something that is without precedent.

Also, in my most recent two press conferences with Michel Barnier he has used the language of wanting to have an arrangement which, at a theological level, if I may call it that, respects the autonomy of the UK and the EU but which looks to forge a relationship based on collaboration and co-operation. That is precisely the paradigm which on our side we adhere to and which is mapped out in the White Paper. We have certainly had a series of questions with task force 50, back and forth, on practical implications, but from my point of view, when people are questioning the practical questions or the pragmatic considerations, they are not ruling out the model as a question of principle. So that is useful.

Beyond the Commission we are also engaging widely with member states in the way I have described, because we want to make sure that there is clarity about our proposals, while respecting that the negotiation track runs through Brussels and Michel Barnier's team. I think that I mentioned that I met with Nathalie Loiseau, Ann Linde of Sweden and Simon Coveney, and there is a lot of interest as well as some questions. There is also a recognition, which is positive from the UK perspective, that we have made not only an interesting set of substantive proposals, but clearly ones that have involved political compromises and pragmatism. That is the reason you are hearing from me at this Select Committee rather than from my predecessor. Therefore some of the pragmatism that is necessary to reach an agreement needs to be matched on the other side. I am always reluctant to speak for anyone else, but given that it is in the public domain I thought that it was positive that the Latvian Foreign Minister, Edgars Rinkēvičs, told the "Today" programme in August that the Chequers plan constituted good ground for trying hard to reach a deal. The Danish Finance Minister also talked about the White Paper's setting out realistic proposals for good negotiations.

So in the round, for sure there are still some hard yards to do on the future relationship, but it has had a reasonably positive landing, we are getting a lot of constructive engagement and, as I said, a lot of talk about the practical considerations rather than in-principle dismissal. That is valuable from our point of view.

The Earl of Kinnoull: Thank you, that is helpful. A lot of follow-up questions spring to mind, but I will put just two to you. First, the Committee was in Brussels around 16 July, which was exactly when the House of Commons passed its amendments on the Taxation (Cross-border Trade) Bill. In various meetings, and in particular with Michel Barnier, the issue of the amendments came up. The interlocutors were concerned that the amendments themselves as a chunk—and particularly in the case of the customs one—stood in the way of the Government being able to get their vision as seen in the 12 July White Paper to a successful conclusion. What would you say to that?

Dominic Raab MP: We had some questions on that but, fortunately, now we are in August, a month later, we have had the opportunity to clarify that none of those amendments will undermine the vision or the model in the White Paper. Also, for all the din you get around parliamentary votes, whether in the House of Lords or the House of Commons, it was quite a good opportunity to reinforce the fact that we do not just have a Conservative and Unionist Government but a unionist Parliament. On all the amendments that would have risked the concern that we have around a customs border on the Irish Sea, Parliament clearly supported the Government's position. So you have a unionist Parliament as well as a Conservative and Unionist Government. That is another illustration of the opportunity that we have taken over the following month or so since you were there in July, to explain both what is happening in the House of Commons but also why the White Paper is calibrated and configured in the way it is.

The Earl of Kinnoull: That is also helpful, thank you. My final probe is in respect of what the 12 July White Paper had to say about a common rulebook—a sort of epithet phrase that is used several times. Could you tell us more about what that means in practice and about how it differs from simply adhering to an EU rulebook?

Dominic Raab MP: I am grateful to take that opportunity. The free trade area that we envisage would involve a common rulebook for goods, and effectively we make an upfront choice to agree, by treaty, to align with the EU rules on goods and agri-foods. There would also be a common rulebook with the EU on state aid, which will be enforced, none the less, by the Competition and Markets Authority here in the UK—that is a good illustration of some of the institutional changes that we will need to make on our side to get ready for life outside the EU. Parliament would have oversight over the incorporation of those rules in the UK's legal lock, with the ability to choose not to incorporate. But of course that would have countervailing consequences for the arrangement as a whole and I am sure that Parliament would want to look and think about that seriously.

The mechanism that backs that up is the facilitated customs arrangement. As I think you will know, the idea is for the UK to apply the UK tariffs and trade policy for goods intended for the UK and the EU's tariff and trade policy for goods intended for the EU. Obviously, the remittance formula and mechanism would need to be agreed reciprocally with our EU partners. I hope that that gives you an overview.

The Chairman: Perhaps I should for the record declare that I still have farming interests. We have seen, for example, the agri-food position in the island of Ireland as well as in the UK. It is one thing to look at the existing *acquis* of common rules, but presumably it also implies—although the details might not yet have been worked up—that there will have to be some future dialogue about changes in the EU rulebook, in which we will have at least some kind of input to be able to say that this is something that we could map across quite easily into UK conditions or that it might prove difficult for us.

Dominic Raab MP: I think that there is inclusion of the scope for technical engagement before the conclusion of those rules. Equally, as a whole, the rulebook in this area has not changed as fluidly as in other areas, so it has remained relatively stable. But yes, that is also under consideration.

Q10 **Lord Teverson:** I want to follow up on the rulebook. First, on compliance with the rulebook, a lot of those rules are made by the EU agencies. Part of the White Paper said, particularly for the chemicals, aviation and medical agencies, that we still wanted to participate. I know that this is part of the future agreement rather than transition. I chair a Committee that looks at the environment and deals with the chemicals side. Not just the industry but the whole of that sector, including consumers, was very concerned that we should remain part of REACH, but obviously those regulations are made by the European Chemicals Agency. Has the EU shown any sign that we could retain our membership of those, given the

fact that we will effectively exit them during the implementation period? Has there been any softening of that view so that we might be able to retain our membership, or is that yet to come?

Dominic Raab MP: Some of the details are yet to come, but there is certainly an acknowledgement that the EU institutions, including the ones that I am more familiar with, such as Eurojust and Europol, have all sorts of association partnerships with third countries. Of course, they can range and vary in terms of the levels of intensity and how close they are to the benefits of membership, particularly in some of the sectors that you have described. Again, I read the comments of Michel Barnier about coming to an unprecedented partnership as a recognition that if we are going to have a bright future relationship, once we get beyond the divorce stage—for want of a better expression—when we start looking forward to the brighter future, we will need to be a bit more innovative about some of the regulatory co-operation that we will have, and not just in the areas that you have described. So there is a recognition.

Lord Teverson: I just described the ones that were in the White Paper, plus Eurojust and Europol.

Dominic Raab MP: And on financial services and in some of those areas we will need to make sure that we have the right regulatory partnership. I think that there is an acknowledgement on both sides that to strictly adhere to what has gone before will not get us to the optimum kind of relationship that we are both looking for. Quite what the contours will be is difficult to decide and you can understand the sensitivities from the EU's point of view. As the UK negotiator, I understand that myself.

Q11 **Lord Soley:** I take it from that answer that you accept that the rulebook will be a process rather than a precise outcome on a particular date, with a beginning and an ending. With that understanding, there still has to be a pretty good hard core fairly early on if there are not to be major problems on trade. I wonder what your timescale is here. Do you envisage that common rulebook being more or less in place quite early on during the implementation period or even beyond it?

Dominic Raab MP: We devised the EU Withdrawal Act precisely to take a snapshot of EU law at the point of departure and to make sure that it was replicated in UK law to avoid any changes in the rules. I think that what you are really seeing in this area is an up-front commitment to staying aligned in the future, subject to the technical engagement that I was asked about and subject to parliamentary oversight of that, respecting the sovereignty issue. I am less concerned about that aspect. I think that we will be ready on day one in relation to the common rulebook. The sensitivity will be in making sure that we retain the sovereignty of Parliament but recognise the consequences of departing significantly from it.

Lord Soley: But will there not need to be changes in the rulebook?

Dominic Raab MP: As I said before, it has proved relatively stable over time but that is why we need to make sure that, when there are changes

and variations, we have some input into them so that our EU partners and friends understand what the UK equities are—albeit we will not be part of the decision-making process as we would be as an EU member. At the same time, we have to make sure that we have the ultimate parliamentary lock, while being mindful in this and the other place that that will have consequences for the broader agreement. Those are all parts of the contours of what we agree. They are all deliverable but they involve a compromise, and this is the big compromise that we are making.

Q12 **Baroness Noakes:** You have mentioned the consequences a couple of times. The consequences are that the arrangement with the EU would fall apart if we chose to diverge from the so-called common rulebook, which is actually the EU's rulebook.

Dominic Raab MP: I think what you would risk in the first instance is triggering the dispute resolution provisions and, in the last instance, proportionate counter measures, which could lead to the suspension of material aspects, if not the whole, of the deal. That is why the parliamentary lock is in place. But if you ended up with a set of rules that were not aligned, that would of course have significant consequences for the rest of the agreement.

Baroness Noakes: So it is an illusory parliamentary lock.

Dominic Raab MP: No, it is a lock with consequences, depending on the nature of the rules and quite how equivalent they are and so on. That is why you need to have consultative mechanisms through the governance arrangements which incorporate all the dispute resolution considerations, making sure that there is some engagement beforehand. We are trying to make sure that we have a mechanism in place to iron out any of the easy creases and to depoliticise and resolve amiably, in order to preserve the future relationship, any of the more significant issues. That is the big choice that we have impressed on the EU, and I am reasonably confident that we will deliver on it. Arbitration rather than the lopsided ECJ jurisdiction ought to be the model for governing disputes. Obviously, when it comes to points of confrontation, we will need to be mindful of the EU principles that inform that interpretation. We will want clear and consistent interpretation on both sides. However, I think that the arbitration mechanism is incredibly important for making sure that we have a fair and not a lopsided way of resolving disputes, precisely because both sides will want to manage our future relationship and not just deal with ad hoc tensions as they arise.

Baroness Noakes: Since we have to adhere to the EU rulebook, is there any practical possibility of our entering into free trade agreements with other countries which would require a departure from the EU rulebook?

Dominic Raab MP: Yes. One very clear advantage is that we will have control over our tariffs.

Baroness Noakes: There would be no regulatory terms, which is what

would generally happen in a lot of free trade agreement negotiations.

Dominic Raab MP: But you are talking about the regulatory aspects, which would be predicated on the common rulebook, whereas there is a whole range of other aspects, including services, where we would have far greater freedom, notwithstanding the provisions that we want to include on services with the EU. Then you would have tariffs, which for the most part are reasonably low but not always. There are wide areas of agriculture and industrial goods where the tariffs are substantial, so that gives us quite important leverage for those free trade negotiations. You may disagree but we have had quite positive comments from other quarters and a lot of interest. We are trying to come up with a pragmatic approach that retains the level of frictionless trade that we have at the moment and also helps us to deal with the Northern Ireland issue but gives us the ability to strike new trade deals with other growth markets of the future, from Latin America to Asia. That is what this balance as a whole strives to achieve.

Q13 **Baroness Neville-Rolfe:** Thank you for comments on agencies, from which I take some comfort. I think that you should add the European Food Safety Agency to your list because, if you think about horsemeat and other things, in the future we will need to have collaboration. I want to keep probing on the facilitated customs arrangement. You have kindly outlined your approach but perhaps you could talk a little more about how they will work, including the frictionless element that you have touched on, and explain what incentive there is for the EU—not only the Commission but the most important member states—to enter into such an agreement and move this agenda forward.

Dominic Raab MP: The UK applies the UK's tariffs and trade policy for goods intended for the UK and the EU's tariffs and trade policy for goods intended for the EU. In practical terms, that means that where a good reaches a UK port and the destination can be robustly demonstrated by, for example, a trusted trader, the UK tariff will be paid if it is destined for the UK and the EU tariff if it is destined for the EU. Where a good reaches the UK border and its end destination is not robustly demonstrated at the point of import, the higher of the UK or EU tariff will be paid. If it is later identified as coming under the lower tariff jurisdiction, it will be eligible for repayment, which is where the remittance formula and remittance mechanism agreed with the EU come into play.

Why would that be interesting for the EU? I think that in lots of these areas the EU and UK interests are intertwined. They are certainly intertwined on the commercial side. The EU trade surplus with the UK brings a very powerful overarching dynamic, which means that many EU continental exporters to the UK want to continue selling in as frictionless a way as possible.

Also, let us not forget that it is not just about businesses. In the whole debate about the EU, when we talk about the economic partnership, we talk a lot about businesses. That is incredibly important and I welcome the really positive and constructive engagement that I have had with

businesses since the Chevening event that we put on in the first week of my appointment. Many of the businesses have been positive in their response to these proposals.

We should also bear in mind what this means for consumers. In my view, capitalism is fundamentally there to serve consumers and not just businesses, and this will be very important for them as well. Keeping frictionless trade and the tariffs and barriers to trade as low as possible is incredibly important to consumers, whether here or on the continent.

Baroness Neville-Rolfe: I think there is a lot of truth in that. Michel Barnier stated, "The EU cannot—and will not—delegate the application of its customs policy and rules", et cetera, because we would not be subject to the necessary governance structures. How do you get round that?

Dominic Raab MP: He was quite careful with his choice of words. I am certainly not paid enough to be the interpreter of the lead negotiator in the EU but I understand the practical concern that the EU has. It cannot abdicate, delegate or give us the power to police its borders. I am not sure that he was seeking to rule out anything and I am pretty clear that, in our mind, we are not seeking that through our set of proposals. Our set of proposals would want to respect the autonomy of the EU. Indeed, they have been configured in a way that strives to do just that. So we will try to work through some of those practical questions which I understand have been raised by Michel Barnier and his team.

Q14 **Lord Whitty:** One striking thing about both the Chequers approach and the EU approach is a differentiation between goods and services. You seemed earlier to say that that was a certain advantage for the UK economy, but a lot of those sectors do not see it in that way and have general concerns about things such as intellectual property and mutual recognition of qualifications, data and so forth, and some very specific concerns about their own sectors—this ranges from lawyers through to ballet dancers.

Dominic Raab MP: Is that ballet or belly?

Lord Whitty: Both, actually. I wonder what you think Monsieur Barnier means when he says that, as far as the EU is concerned, the services sectors will be operated autonomously by both sides. Elsewhere, he says that they will be under the jurisdiction of the host state. That is not the same thing as being under the jurisdiction of European rules, because, for a member state, European rules would trump the member state's rules, but they would not for a third party. Some in the services industries are extremely concerned about these things, as are consumers of such services—you rightly emphasised consumers just now—for example, of the health service and health service facilities within Europe. I do not quite understand why both sides seem to differentiate in respect of the non-appliance of the common rulebook to services and the common rulebook for goods and agri-food.

Dominic Raab: To answer that directly, it is because, with cross-border services, you are not affected by frictions at the border in the same way as you would be with goods. That impacts on the trading relationship, but it also has a read-across to the position in Northern Ireland.

Lord Whitty: But not on regulations.

Dominic Raab MP: I understand. More broadly, we have proposed in the White Paper an ambitious and mutually beneficial set of arrangements. There are some detailed proposals on digital—which you mentioned—financial, professional, business and other services. We have also said that we would need safeguards to protect service suppliers and investors from unjustified barriers or discrimination. There would be mutual recognition of professional qualifications under our model. Of course, on financial services, we are looking to build on the EU equivalence regime currently in place, which is quite a patchwork in its current form. We are looking for something more ambitious than that. Finally on services, for the EU as it is configured now, the single market in services is far less well developed and complete than it is in goods and some of those other areas. That is also grounds for drawing the distinction that we have done.

Lord Whitty: Just on financial services, the reaction to the Chequers proposition has been quite differentiated within the financial services. Some have thought it a good way forward and some have been highly critical. What is your balanced view of the reaction in the financial sector?

Dominic Raab MP: As I have learnt in this debate, there will always be negative voices—it does not matter how positive the outcome. We had the meeting in Chevening. We had an overwhelmingly positive response to the White Paper proposals. Of course, there were one or two dissenting voices, and those are magnified in the media. That is fine, but this is a sustainable, credible model for an enduring relationship. Some of the bigger financial services providers are already looking at whether they need a subsidiary, however small, to circumvent all these risks. Some of that is already taking place, but the ultimate acid test is confidence in the City and the UK as a broader provider of financial services. Again, actions speak louder than words, but if we look at the global financial centres index put out by Z/Yen, we see that London is still top. There is no EU financial centre in the top 10. Ultimately, if we ended up with some of the worst-case-scenario outcomes that some people have suggested, so that the EU would take this as an opportunity—by the way, I do not believe this—to try either to hive off large areas of the work done in London or to punish the City, the only winners would be the other global centres in the top 10, such as Tokyo and New York. In my experience, there is quite a lot of recognition of how intertwined our financial services are with the continental economy, which is why I think that such concerns—I am not going to use the word fearmongering—at least in some quarters have been over-exaggerated. We have rather interdependent financial services with the rest of the continental economy. That is why I think we will come ultimately to a sensible arrangement. At least on one estimate, £1 trillion of UK financial services investment goes into the continental economy.

People would need to think very seriously about the impact of trying to choke that off, not just on businesses but on the consumers who rely on them in the EU.

Q15 Lord Crisp: Let me follow that up with two more specific points about services. One is about health. The White Paper states that the Government wish to see reciprocal access to healthcare continue, but says nothing about how this will be achieved. How seriously are the Government taking the interests of consumers within the health system?

Dominic Raab MP: It is always a balance, and this is probably one example, between wanting to give as much detail as possible but without hemming ourselves in so as not to be able to come up with innovative arrangements. If you mean in relation to things such as the EHIC card, those are very much under discussion; they are advantageous to both sides. I am reasonably confident that, with goodwill on all sides, we can come up with a set of solutions that will be good for healthcare consumers in the way that you described.

Lord Crisp: Let me ask the related question about the financial services, which you have already touched on. Monsieur Barnier has said that, “future market access will be governed by autonomous decisions on both sides ... not only at the time of granting equivalence decisions, but also at the time of withdrawing such decisions”. Again, a whole series of practical questions arise there. I have heard people in the City ask how we will ensure co-ordination so as not to affect market stability when people make such decisions. You said something earlier about getting the right regulatory partnerships. How do you see that working? Do you see new institutions or arrangements needing to be established?

Dominic Raab MP: Again, without giving away too much more of the detail beyond the White Paper, what we clearly need are mechanisms and arrangements between the two sides to be able to discuss proposed changes before they hit the statute book on either side—I suspect that prevention is better than cure in the vast majority of cases. When changes are made that create particular, specific problems, we need a mechanism in the governance arrangements to handle them sensitively, to resolve the particular dispute but to try to depoliticise it so that it does not upend the broad relationship. We do not want a situation where it has a more tectonic impact on the relationship, given how broad and far-reaching it will be. The challenge that we are both engaged in is to come up with enough detailed and sensitive institutional arrangements to make sure that we can resolve disputes and preserve the relationship. From my experience of international law, that is the acid test. Arbitration is obviously the ultimate model for achieving that, but we probably want a process of dialogue well before then. I sense that is what you are reaching for.

Lord Crisp: That is the point that I was making—prevention applies both in health and in the financial area, as you say.

Dominic Raab MP: I agree with that.

Q16 Lord Liddle: Secretary of State, to go back to the facilitated customs arrangement, if I may say so, I thought you were very complacent in your answer about how other EU member states would react to this proposal. The customs union is a foundational entity of the European Community. It was established in 1958, it took 10 years to bring into effect, and it is absolutely foundational. The British Government are proposing, in effect, that Britain should have the right to have all the benefits of frictionless trade from being in the customs union while at the same time having the ability to vary the tariffs and quotas to have an independent trade policy. Why should an EU member state agree to this arrangement? It means allowing into Britain goods at lower tariffs than the EU would apply, and having increased quotas of agricultural products which are seen as a threat to the maintenance of the common agricultural policy. Why should an EU member state agree that these goods can come freely into Britain and then use Britain as a back door for access to the EU? What detailed assurances are you able to offer our partners that that would not in practice happen?

Dominic Raab MP: The obvious advantages of this, which are mutually beneficial, are the ones that I have already mentioned in relation to frictionless trade avoiding the hard border in Ireland. The interests of business in the EU are also paramount; they exported £259 billion-worth of goods to the UK in 2017. To come directly to your question, this is a cup half-full/half-empty issue. The EU says to the UK, "You'll be treated as third party in the future relationship", and we say, "We understand that, and that is inevitable as a result of departing from the EU". Can you name a single non-EU country that has ever come to free trade agreement negotiations and offered to be bound by a common rulebook on goods and agri-food in the way we have? They would be cock-a-hoop in Brussels if, during the Canadian or South Korean negotiations, or whatever others, an offer like that had been made by a non-EU country. Are you aware of any single example of where a third country has made that offer to the EU?

Lord Liddle: We are doing it to try to make sure that our current industry is not destroyed. That is the real reason, is it not, or one of the real reasons? We are begging for this, because without it we know that we will suffer grave industrial consequences. That is the position, is it not?

Dominic Raab MP: Lord Liddle, that is hyperbole. We do not beg and I certainly do not beg.

Lord Liddle: Are you saying that in the absence of a customs partnership or a customs union, there would be no problems for vital sectors of our manufacturing industry, despite the statements of the leaders of those industries?

Dominic Raab MP: I am sorry; I think there is a gap between saying that there would be no issues and saying that it would be a disaster or that they would all be destroyed.

Lord Liddle: But—

Dominic Raab MP: Let me answer the question. We have proposed this model because we think it gives the right balance between preserving our trade flows with the EU but also giving us the ability to strike other free-trade deals around the world. We think this is the best approach. There are other options which, as you will know, have been considered, and equally, we have set out our proposals for no deal even as we strive and are confident of reaching a deal. Britain will be in a good position to thrive come what may, but it is certainly true that this is the model that allows us, in our view, the smoothest transition in the short term.

Lord Liddle: But you have given no indication of how it would work.

Dominic Raab MP: We have. I have tried to answer all your questions as faithfully as I can. If you have any follow-up ones, I am happy to address them now or write to you later.

The Chairman: Thank you. At this point let us come to Baroness Neville-Rolfe.

Q17 **Baroness Neville-Rolfe:** I want to share this thing that troubles me. If Chequers for goods in particular does not work, how do we move to Canada-plus-plus or some slightly different arrangement so as to avoid a no deal? Is there a plan B as you edge forward? That is the worry of a lot of people who are observing this. They look at Chequers in good faith, and you are moving ahead and trying to get a deal. If you do not get that deal, the failure is no deal, which we will come on to talk about. Can you edge towards something more like a Canada plus?

Dominic Raab MP: In theoretical terms, you always have the possibility. But we are focused overridingly on the White Paper model, which we think delivers the best outcome, not just for the UK but for the EU, and, as I said, I am reasonably confident that a deal is within sight. But I appreciate that—and we will make sure, as best we can—that we want to avoid a no deal scenario. Equally, as you will have noticed, we are intensifying our preparations for that so that we are ready, whatever the outcome, for the negotiations. But I take on board the points you have made.

Q18 **Lord Soley:** I will turn to security and data sharing. I will try to contract it slightly by saying that I take it that we can assume that the UK Government will no longer have a governance role in respect of European Union agencies and data-sharing systems post Brexit. Is that a fair assumption?

Dominic Raab MP: It depends what you mean by that.

Lord Soley: I mean, quite literally, that we will no longer have a governance role—we will not be part of the governing system, will we?

Dominic Raab MP: Again, I will have to press you a little, because it depends what you include within governance. But we will not be a member of the EU in any formal sense at all.

Lord Soley: And we will not have a role in the security systems of the EU—in deciding what they are. We might have a role in co-operating with them and getting some agreement on how we do that, but we will not be able to determine the rules.

Dominic Raab MP: I think that is broadly correct.

Lord Soley: Thank you. Can you tell me what progress has been made in agreeing the terms of an adequacy regime for data after the end of the implementation period and whether there are any outstanding matters? It is about the adequacy of the terms of the adequacy regime.

Dominic Raab MP: We are making good progress but I cannot yet report back on the precise detail.

Lord Soley: Let me press you on an area that concerns everyone: the European Arrest Warrant. At the moment, the situation is that the British Government assume that the European Arrest Warrant will not be available, either to the UK police or to police in Europe after we leave the European Union. That is correct, is it not?

Dominic Raab MP: May I just take a half-step back? In relation to the adequacy notice you mentioned earlier, you were talking about the data sharing that would be part of the withdrawal agreement. I want to be clear that my answer referred to outstanding issues with regard to data sharing in the withdrawal agreement, not, for example, some of the other data sharing under the criminal justice part of the future relationship PNR, Prüm, and all the rest of it.

Lord Soley: There is an overlap, as you will be aware, but you make a fair point on clarity.

Dominic Raab MP: There is. In relation to extradition, we will not be a formal member of the EU, but you have seen some relatively positive signs and remarks from the EU side about the fact that we want to retain a fast-track system of extradition. Of course, in many respects, the challenge is for the EU side. If it is going to treat us as a third state in the future relationship agreement, various other constitutional provisions of different member states will come into effect, because they often insist on greater safeguards than would be applied if you were an EU member state. But none of that will involve a return to some of the older, pre-existing extradition arrangements. I think that on both sides we would say that on the principles of making sure that we can continue fast-track extradition, albeit that it will not be the same as membership, that is one of the positive areas.

Lord Soley: Let us be clear about some of this. The Schengen Information System means that we will continue to share information so that the police in Europe and in the UK will know when the police want to

arrest someone in another country who is a citizen of the UK or, conversely, of the EU. What they will not be able to do after we leave in March is to arrest that person using the European Arrest Warrant. The Government already indicated that they know that and that somehow or other there will be a gap between the time we leave and the time we bring in any other rules about extraditing a person to one jurisdiction or the other. Is that right?

Dominic Raab MP: On the EU side, in fairness, there is a certain legalism which is inherent in the institutional paradigm and its perspective. That is not to be critical. I think that if you want to negotiate with the EU you have to understand that. We need to make sure that we navigate in a way which respects that, but my approach has been that we want to optimise the operational protection that we provide to our citizens.

It seems to me that it would be an abdication of our primary responsibility if that was not the first and foremost consideration. I think there is every reason that across data sharing and the joint police work we do through Eurojust between investigators, prosecutors and judicial processes around the EU and across the gamut we can maintain the highest level of operational co-operation. However, you are right that there are some areas, particularly those attached to data sharing and free movement, where we will come up against some of those legal considerations. My view and our approach is that we need to focus on maintaining operational capability because it benefits the UK as much as the EU. I think you can see that. I would not want to politicise this because we have always said that Europe's defence is the United Kingdom's defence, but if you look at the past five years and some of the counterterrorism co-operation that has gone on and some of the links—such as, to give just one, that between Brussels and Birmingham—you can see why on both sides we would want to maintain that operational capability. I think it would be a shame if dry legalism was to disrupt that. I am not sure that citizens on either side would thank us for that.

Lord Soley: I am with you 100% on that. However, that is not the issue. The issue is that when you are sharing that information—I am sure that that will go on, which is why I mentioned the Schengen Information System and the exchange—I am very clear that you will not be able to arrest someone who is wanted in either of those jurisdictions. When you say you are not sure what that is, I was getting some of that from the Government document on the future relationship. In paragraph 46 it states that the absence, in effect, of the European Arrest Warrant will have to be addressed during the implementation period. The clear conclusion of that is that there will be a gap between coming out of the EU and reaching an agreement. What I am after here is whether enough thought is being given to how we can have an agreement—maybe it has to be a separate, fast-moving treaty—to get a European Arrest Warrant equivalent for when we leave the EU rather than at some stage further down the implementation period. We will have very serious offenders in the UK and the EU who cannot be picked up by the police, even though

they will have the information to do so.

Dominic Raab MP: I certainly agree that we want to put in an alternative proposal as soon as possible, and I agree with you that the White Paper is saying that there is a challenge there. We will be focused on addressing it, so I hope at least I can give you that reassurance that we are aware of the issue. I do not think it is quite as insurmountable, with good will on both sides, as you are, with respect, suggesting.

Lord Soley: But it is a legal issue and you cannot arrest.

Dominic Raab MP: There are lots of legal issues around this. Of course, we have previously had issues with the European Arrest Warrant which we have raised with the EU and ironed out through domestic implementing legislation. Of course, on extradition, the safeguards and triggers that apply will need to be enshrined in law. I certainly accept that.

Q19 **Lord Soley:** I would like to pursue that, but I think time means I should simply now ask you: do you think the Commission will continue with its objection to Britain being part of the Galileo project?

Dominic Raab MP: Well, as you have seen in recent days, we will be ready for all eventualities. We will be prepared if that position does continue, but I hope good sense will prevail on all sides and that in those areas where there is a mutual interest we can continue to co-operate. That would seem to me to be a positive long-term perspective for the future, and we are committed to that, but you are right that it depends on good will on the other side as well.

Lord Soley: Is it a fair assumption to say that because of Britain's very advanced position with the second largest, second most-advanced aerospace industry, the real challenge comes from France and that France sees a real opportunity here to benefit its also advanced aerospace industry by making sure that Britain is excluded from the Galileo project?

Dominic Raab MP: I am sure that in lots of these sensitive areas there are economic and political considerations at member state level as well as at Commission level, but I am not going to be drawn on commenting on particular member states because I am focused on the positive and the mutually beneficial outcomes that will work for both sides, including all our friends north—south—of the channel. I am glad I corrected myself.

Lord Soley: Are you hopeful that the Commission will move on this, or is that too difficult to say at this stage?

Dominic Raab MP: Hopeful, confident, expectant—I do not know. I think there is a dynamic to these negotiations that means that we ought to be making some progress over coming weeks and months as the package as a whole starts to look appealing on both sides, so that some of the more intransigent and dogmatic positions fall away.

The Chairman: I am conscious of the time, as Lord Soley has already mentioned. There are three topics we would like to address, albeit briefly, and you can always come back to the Secretary of State if that is easier.

Q20 **Lord Teverson:** I am going to ask about a no-deal outcome. In your opening remarks you said that personal relationships are important in these things. I agree, and I feel you will get on better with Mr Barnier than your successor—predecessor! You know what I mean. You will not have a successor; I am sure it will be the end of DExEU by the time you have finished your role. On the no-deal side, the Government are clearly preparing for no deal. The technical papers came out recently. I am interested in what circumstances you think might cause a no deal and how likely they are.

Dominic Raab MP: In relation to your comments about my predecessor, I want to pay tribute to him as not only is he an old friend of mine who got me into politics when he lifted me from my days at the Foreign Office to become his chief of staff when we were in opposition, but when I pore over the detail it is very clear to me that we have made substantial progress to get the withdrawal agreement into the shape it is in and to get the implementation period over the line. I want to be on record about that.

Lord Teverson: May I just clarify that I am a board member of the Marine Management Organisation, which is one of the bodies that will have to deal with a no-deal situation in the fisheries industry?

Dominic Raab MP: In terms of what would be likely to trigger a no-deal scenario, it could be at negotiation level, diplomatic track, at member state level or at the European Parliament. There are any number of potential considerations. Equally, at this stage we cannot anticipate what is more or less likely to be the trigger. The most important thing is that we have a sober, sensible, risk-based assessment of what the challenges would be, avoid, mitigate and manage them as best we can, and make sure we are having a sensible conversation with the public about risks that can be managed and residual risks that would remain, and that that is done in context. Actually, I think that, having started to engage in the public-facing work we are doing in the technical notices, there is a lot of reassurance that can be provided. That is not to suggest that there will not be risks—I have been very clear about that—but we will be able to manage them and mitigate them as best we can. Roberto Azevêdo put it rather well, saying that it would not be a walk in the park but that it would not be the end of the world. Equally, there is a lot of detailed work going on. My focus, as I hope you will see, is overwhelmingly on intense final negotiations because we want a strong deal and a good outcome. That is why I am going back out to Brussels tomorrow evening and we are picking up the intensity of the negotiations. With the no-deal scenario, as difficult as it is to anticipate what precisely could be the trigger for it, there is a range of possibilities and we will be ready for all of them.

Lord Teverson: I fully accept that there is good faith on both sides to get that agreement, but what are those triggers? What is the range of possibilities?

Dominic Raab MP: I am sorry, I thought I touched on this. It could be at the diplomatic level—in the negotiations, theoretically. It could be at member state level when it comes to approval. It could be at European Parliament level. There are all sorts of trigger points. Normally, by hook or by crook, when there is good will on all sides and where there are the contours of a positive deal, you get there, but I do not think we can be cavalier about the risks. Rather than that, what we want to do is be responsible about it. The responsibility of any Government at this stage would be to build up the two years' worth of preparation that we already have on the legislative side, on the staffing side and on institutional capacity to make sure that we are ready for it. In a way, the technical notices, although they have gathered a lot of media and public attention, are actually the beginning of the public-facing work that we are doing, because we have got to the stage where we need to be talking to businesses, NGOs, public bodies and citizens about the kinds of things that, with the lead time that they would have, they need to be lending their minds to. But that should not detract from our focus. Our top, overriding priority is to get the good deal that I am confident we can get.

Lord Teverson: You said that we had about 80% of the withdrawal agreement. Would you say that there was a similar percentage risk on making a deal or not making a deal of 80:20?

Dominic Raab MP: No, I am not going to put it in percentage terms, but I am stubbornly optimistic.

Lord Teverson: Okay. Briefly, on Ireland, would that mean that there would still be the same commitment on the border if there were no deal? How would that work?

Dominic Raab MP: We have made it clear that we will not see any reversion to a hard border. We would not put additional infrastructure at the border. The Irish Government made a similar commitment and I understand the EU considerations around this. But we would not.

Lord Teverson: I will briefly go through a couple of things because of the time. As you said, you put out a notice recently, although of course the EU put out its technical notices quite a long time ago. This is not a criticism. They are quite general. They make references to other areas, people and organisations. But it does not give an idea of scale or impact assessment. Do you not think that that is a weakness when people are trying to understand the implications of these things?

Dominic Raab MP: Well, the primary focus of the technical notices is to give information and guidance to the businesses, NGOs, public bodies and citizens as to what they need to think about and do, because there are things that the Government need to do and things that the various different stakeholders that I mentioned need to do. They are supposed to

be signposts. For that very reason, there is supposed to be clarity, both to signpost the elements of risk and, secondly, to show what you need to do about it. Actually, we have had a lot of positive feedback. The CBI was quite positive about it. In the speech that I gave, in the Q&A, there was quite a lot of positive feedback. This is the worst-case scenario, but having engaged and explained what you need to do in order to avoid, mitigate or manage risk and to have had a lot of positive feedback—none of it picked up by the press, of course—we felt that we had laid the foundations for the second and third batches of technical notices that we envisage. But, broadly speaking, what we put out in the first batch is around a third of the total that will come out. In some of those areas that you have described, I would say that there is more detail coming.

Lord Teverson: Personally, the area of no deal that I worry about the most is not the withdrawal agreement, but the final agreement. We have an implementation period of 21 months. Everybody whom I have spoken to outside the Government believes that it is impossible to make an agreement, particularly as it will obviously be a mixed agreement, within that timescale. Do we have the cliff edge in 21 months rather than on 29 March?

Dominic Raab MP: No, I do not think so. I do not think that the EU would have agreed that, if it was as undeliverable as you suggest. What is important, in order to make it deliverable, is that there is enough substance and clarity in the political declarations as to what choice of model—whether it is the economic model or on security co-operation—so that it reads as a direction to the UK and the EU to proceed to the treaty base arrangements that will be needed for the future partnership. The key is going to be avoiding fudge and having some clarity, and as I mentioned before, the link between the withdrawal agreement and the future relationship via the political declaration. Those elements will be important. If those agreements are there, the treaty-based end result is deliverable.

Q21 **Baroness Verma:** You said that the papers do not always pick up some of the good news stories. But last week you said that EU citizens would not be turfed out in the event of a no deal and that the UK had a moral obligation to move swiftly to ensure that EU nationals are not forced to leave in that scenario. It would be interesting to hear an elaboration on that because it is excellent that you have made that commitment. I also urge you to encourage your colleagues to talk about the value that EU citizens do bring to our nation. On a final note, would you see, under a no-deal scenario, a big drop in our GDP?

Dominic Raab MP: You have wrapped up a number of different issues in very elegant fashion.

Baroness Verma: I know, I am sorry.

Dominic Raab MP: First, in relation to where we will end up, I am confident we will get the right deal. By the way, the issue of turfing out was put to me as a question by Ben Wright of the BBC, almost as

elegantly and cannily as you did, Baroness Verma. I was just repeating his words and making it clear that of course there would be no wholesale turfing out. We would move, in that unlikely and regrettable situation, to secure the legal position. I cannot give any more on the detail. But what I can say is that EU nationals in this country have been here working hard and part of their communities. I have been down to Kingston Hospital in my own constituency to talk to them directly to say that we value them and say that we want them to stay, and that that is not just a rational statement of our reliance on their contribution but what we feel in our hearts about them. I am happy to continue saying that because it is how I feel and it is how I think the vast majority of people feel about the role and contribution that the EU makes. It is certainly this Government's position.

Baroness Verma: And on GDP?

Dominic Raab MP: I am not going to get into the forecasting business. That is inherently fluid. But I am confident that, yes there might be some short-term risks in managing the way that I have described, but obviously the best outcome for the UK would be to leave with the deal and I am confident that our best days lie ahead of us, come what may, irrespective of the outcome of the negotiations. But the optimum must be for us to get that good deal with the EU. As I said at the outset of this session, I am confident that that is within our sights.

The Chairman: Two more questions.

Q22 **Lord Whitty:** We have not heard much about no deal for transport. Several months from tonight, in the event of no deal, what will happen at our ports and airports?

Dominic Raab MP: To some extent it will depend on what the EU does, but you will have seen in the technical notices the preparations that we have put out to make sure that we have the right contingency plans in place. Operation Brock has been talked about; you will know the details of that. Other practical and logistical arrangements have been put in place. The point that I would make is that, more generally in this area, particularly on the logistics of transport between the UK and France, we have dealt with these issues and challenges before. We had the French industrial action at Calais in 2015 and the Spanish harvest failure, which created issues in terms of supply of goods and the impact on trade. While I am not suggesting that the worst-case scenario of no deal and the rather vindictive approach that some impute to the EU—although I never do—would not create a difference in terms of scale, we have processes in place to manage this. We are preparing far enough in advance to be as best placed as we can be to mitigate the short-term disruption and make sure that we can then move on and take the advantages of Brexit.

Q23 **Lord Liddle:** Thinking about the withdrawal agreement and the accompanying political declaration, you have suggested that you want something detailed and specific and therefore very substantial. Are we talking about something that is five pages or 100 pages, like the July

White Paper? What is envisaged?

Dominic Raab MP: I am not sure we would want 100 pages. I am not sure that putting a page number on it would be the right approach. What is important is that it is clear and specific enough that we are not talking about options for negotiations, but we are clear on the choice of model and therefore that it reads as a direction for the UK and the EU to get on with it—that we are really implementing heads of terms for an agreement. Then the issue is not really these more theological questions but more about detailed implementation. If we get to that stage, some of the concerns about the deliverability timeframe will be managed down. Likewise, the linkage between the withdrawal agreement and the future relationship, as set out in the political declaration, will be important. We will look at making sure that it is very clear that that is one package.

Lord Liddle: Do you recognise that with the politics, both in the member states and when you look at domestic politics here with the divisions over what shape Brexit should have, there will be a lot of pressures the other way to have a declaration that is as vacuous and ambiguous as possible?

Dominic Raab MP: From the UK's point of view, people will ask why we would sign up to vacuous—your words, not mine—or opaque commitments when we have a granular and detailed set of obligations in the withdrawal agreement? I think that is understood on both sides, in order to have some balance. We keep saying on both sides that there is no deal until you get the whole deal. We will need a degree of detail and some clear choices have to be made in the political declaration. Indeed, I have had that said to me from the other side as well. One reason is, as wonderful as the Brexit process has been on all sides, that we want to move on to be able to think, deliver and work on the implementation of the positive new relationship, which is the light at the end of the tunnel. I sense that that is the same for the EU as for the UK. We do not want Brexit to be a thorn in the side of our relationship for any longer than is strictly necessary. That is why it is important that the political declaration has enough specificity and detail and enough sense that choices have been made to move us on and to turn the corner on some of the more negative sides of the inevitable outcome of the Brexit vote.

The Chairman: Secretary of State, in response to the first part of Lord Liddle's question, you used the words "clear and specific". It will not have escaped your attention, nor members of the Committee, nor those listening in, that you have for 100 minutes answered questions at some intensity and with a degree of clarity that we have found very helpful, even if there are—and of course there will be—continuing differences between individuals as to their exact views on the subject. We are very grateful for your attendance this afternoon. The normal courtesies will be observed. We will make sure that your office has a transcript for correction. I noted in correspondence that you have already undertaken to respond on one specific—EU/UK discussions on the mapping exercise in the island of Ireland. We would be grateful for a response on that or anything else that occurs to you and, in the light of these discussions, a continuing dialogue with you and your colleagues as we take this difficult

process forward. We are extremely grateful for your attendance and we look forward to maintaining that relationship for a possibly limited but certainly intense period in the future. My colleagues and I will now have a short deliberative session. Thank you.

Dominic Raab MP: Thank you very much, Lord Boswell. I look forward to engaging with you in the future.