

# Northern Ireland Affairs Committee

## Oral evidence: [Brexit and the Northern Ireland protocol](#), HC 767

Wednesday 16 September 2020

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Members present: Simon Hoare (Chair); Caroline Ansell; Scott Benton; Mr Gregory Campbell; Stephen Farry; Mary Kelly Foy; Mr Robert Goodwill; Claire Hanna; Ian Paisley; Stephanie Peacock.

Questions 1 - 114

### Witnesses

I: Rt Hon Brandon Lewis MP, Secretary of State for Northern Ireland; Colin Perry, Economy Director, Northern Ireland Office.



## Examination of witnesses

Witnesses: Rt Hon Brandon Lewis MP and Colin Perry.

Q1 **Chair:** Good morning, colleagues, Secretary of State and Mr Perry. Thank you for joining us this morning for what can only be described as a topical session on the protocol and, allied with that, the Internal Market Bill. Secretary of State, good morning. I just wondered: what question does Lord Keen think you were answering at the UQ last week?

**Brandon Lewis:** I have spoken to Lord Keen. I have to say that, in talking to Lord Keen and looking at the specific question that my hon. Friend asked me last week, he agrees that the answer I gave was the correct answer, and it outlined and confirmed the legal advice that was published to you and others by the Attorney General last week.

Q2 **Chair:** So you were answering the question. In a limited way, the proposals do breach international legal agreements.

**Brandon Lewis:** The Government's legal advice from the Attorney General, which was published to you last week, is very clear on this. The answer I gave was a very clear answer to a very specific question.

Q3 **Chair:** Why do you think the Advocate General and the Home Secretary think that you answered either the right question in the wrong way or the wrong question in the right way?

**Brandon Lewis:** We always have to look at what the legal advice is. The Government's legal advice, as the Attorney General set out, is clear. The comments I made last week reflect that legal advice.

Q4 **Chair:** So Lord Keen is wrong. *[Interruption.]*

**Brandon Lewis:** I can hear two people at the moment, sorry.

**Chair:** Yes, I do not know who else is talking. Whoever is talking, could they stop, please? So Lord Keen was wrong.

**Brandon Lewis:** I have spoken to Lord Keen and, I have to say, when he looked at the specific question I was asked last week, he was in agreement with me that the answer I gave was correct to the question I was given. The answer I gave reflects the Government's legal advice, as was published. I believe you as a Committee have a copy of that from the Attorney General.

Q5 **Chair:** We have indeed. Do you think it is a little strange that the Advocate General of Scotland, Scotland's senior Law Officer, could on such a sensitive issue get it so wrong by claiming that you were wrong?

**Brandon Lewis:** You can look at what he said to the Select Committee yesterday. I appreciate he also was speaking on the Floor of the House. On what he said on the Floor of the House, having spoken to him now, he is aware of the actual specific question I was asked by my hon. Friend last week. He is in agreement with me that the answer I gave was



correct. If you look at what the Advocate General outlined to the Select Committee, it is entirely in line with the points I was making last week throughout the UQ and with the legal advice from the Attorney General.

**Q6 Chair:** Call me old fashioned if you will, but I rather had higher expectations of a Queen's Counsel in terms of accuracy.

Many of us on the Committee are slightly at a loss with regards to the difference between the oral evidence that you and Mr Gove gave to the Committee before summer recess and the narrative in the build-up to the Second Reading and the UQ with regard to the Internal Market Bill. Could you tell us how the powers in the Bill, in your assessment, protect the Good Friday agreement? Why does the protocol now suddenly undermine both the Union and the Good Friday agreement, neither of which was apparently, either implicitly or explicitly, in either of your oral evidences back in the summer?

**Brandon Lewis:** If you remember, when we gave evidence in the summer, that was in the context of the Command Paper, which set out the interpretation and the delivery plans we had for the protocol. What we are doing in the Internal Market Bill is entirely in line with delivering on what we outlined in that Command Paper. One of the things that Command Paper focused on, if you remember what I said on the Floor of the House and expressly to this Committee, was delivering unfettered access to Northern Ireland businesses, something we have promised, something we have outlined in the protocol itself and something the Commission, I believe, is focused on delivering.

The Joint Committee's work was focused on working through any issues to make sure that we deliver on the protocol, and that the interpretation and delivery of the protocol work for the Joint Committee. The UK Internal Market Bill looks at the insurance policy, as I outlined last week. It is a safety net that, if the Joint Committee cannot come to a positive conclusion in time, there are the powers there to ensure that Northern Ireland businesses have unfettered access. In terms of the Belfast agreement, it is hugely important that we remember it has to reflect and work for all communities.

That means that we have to ensure there is no border, not just north-south, which of course we will not see. We will continue to protect, deliver for and work within the spirit and wording of the Good Friday agreement. We have delivered on that for decades now and will continue to do so, but also for east-west, to ensure that we deliver businesses unfettered access.

**Q7 Chair:** Turning to the clauses in the Bill, which may be necessary, do you think it would have taken out an awful lot of the heat and worry on both sides of the Irish sea, arguably on both sides of the Atlantic, if the Bill had made clear that the provisions of the Bill would only come into effect as and when the rubric of the Joint Committee had run its course and the rules governing arbitration had been exhausted and had also run their



course?

**Brandon Lewis:** To be fair, that is exactly the point that the Prime Minister was making on Monday on the Floor of the House, where the Prime Minister introduced the Bill. He outlined very specifically that we would be going through those issues. He actually went through that very point. I have to say, I made this point several times throughout the urgent question, where I referred to the fact that this is a safety net. Our focus, our determination and our prime work is to find a proper, positive solution, not just through the Joint Committee but through those wider free trade agreement negotiations.

Q8 **Chair:** I accept both what you said at the UQ and, indeed, what the Prime Minister said in the House on Monday. I do not say this to be provocative in any way, but you will accept that this presupposes that the entire audience has total, unequivocal faith in the words of Ministers uttered at the Dispatch Box. Actually, what people want to see is clarity on the face of a Bill and in statute law. What is your assessment of making manifest the aspirations of Bob Neill's amendment? It amplifies the Lord Chancellor's idea: "In emergency, break glass". What Ministers have said in the House and what the Bill says may very well end up to be the same thing, but that it is not necessarily guaranteed.

**Brandon Lewis:** First, I gave pretty strong evidence last week that I, like my colleagues across Government as Ministers, am straight and answer questions directly. I do not think there can have been any doubt on that over the last week or so.

There is a long tradition and history of the intent of what the Government are seeking to do being important, as you and other colleagues on the Committee will know. Some will have been in this position, whether it is in Committee or at the Dispatch Box. That is why it is important for Ministers to be able to put aims and intent on the record at the Dispatch Box. If there ever is a query in future, it is then possible to look at what was the intent and focus of Government at the time. That is clear. The Prime Minister was very clear on Monday about our determination to do this that way and do it correctly.

**Chair:** He was.

**Brandon Lewis:** In terms of the amendments that have been put down by colleagues so far, the whole purpose of how a Bill works through the Committee stages is for that scrutiny, debate and discussion. That is ongoing, as you will know. When we get to those clauses, as we go through the Committee stage over the next few days, it would be wrong of me to presuppose what the outcome of that will be. It is a matter for the House, which will come to a conclusion on that. We have been very clear as a Government: we want to find a positive solution through the Joint Committee and the negotiations.



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Even if we end up in a situation where we need to use the safety net, we would do that at the same time and in addition to our work with our partners in the EU through the Joint Committee, to find a resolution.

**Q9 Chair:** I take all that, but I quote clause 42 of the Bill: “Power to disapply or modify export declarations and other exit procedures”. Then it goes on and you will know what it says. Given the magnitude and sensitivity of the issue, do you not think that BEIS, which after all is the sponsoring Department of this Bill, not your Department, would have been better advised if it had put there, not verbatim, “Following the end of the Joint Committee processes and any form of arbitration, as set out in the withdrawal Act”? That would have shot the fox before it got out of its hole.

**Brandon Lewis:** It also would have been a situation where you cannot necessarily give full certainty and confidence to Northern Ireland businesses that they will have unfettered access in the way that these clauses do, as an insurance policy. Obviously it would be an absolute last resort, but if everything else fails this insurance policy guarantees them unfettered access.

**Q10 Chair:** If we do not have to use them, there will be some element of fettering, as envisaged in the evidence that was given back in the summer. You have quoted the Prime Minister—

**Brandon Lewis:** No, sorry, I would challenge you on that. One thing we have been clear about from the very beginning, and were clear about in the Command Paper, is that we will deliver unfettered access for Northern Ireland businesses to the rest of the UK market as part of a single customs territory and single market. That is what we want to do through the Joint Committee, in an agreed way with our friends and partners in the EU. I am optimistic we can still do that. I believe all the negotiators will continue to work in good faith to achieve that very outcome. This is simply about having that safety net should everything else fail.

**Q11 Chair:** It would be less fettered rather than unfettered. Given the fact that really at this 11th hour these safeguards are apparently needed, was the Prime Minister wrong to say last October that the protocol was “in perfect conformity with the Good Friday agreement”?

**Brandon Lewis:** No, the Prime Minister was absolutely right, as he was at the Dispatch Box on Monday. What we all knew, and what the Prime Minister was referring to in talking about the protocol, is that the protocol itself was always subject to being ironed out through the Joint Committee—that phrase we have heard over the last week or so—in terms of the interpretation and delivery specifics of the protocol.

We were always very clear, and this is part of what we were being clear about with our partners and friends in the EU from the beginning, that we must all ensure that we defend the great gains from the Good Friday/Belfast agreement. That includes ensuring that we have Northern



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Ireland as part of our UK customs territory, so we do not have a border east-west. Part of that is outlining, as we do in the protocol, the unfettered access. The protocol itself outlines the fact that both we and our EU partners must ensure that we do not see disruption for communities in Northern Ireland. Part of that is ensuring that we deliver unfettered access.

Q12 **Chair:** In that case, clause 42 and others make the Prime Minister incorrect last October. Might he not have been better to say that the protocol has the potential to be in perfect conformity?

**Brandon Lewis:** No, the Prime Minister was right. He was working on the basis of believing in the good-faith approach of the negotiators from our friends and partners in the EU. We are still optimistic that we will get to that conclusion and resolution through the Joint Committee and the trade negotiations. All we are doing in this Act is simply taking an insurance policy and safety net to make sure that businesses in Northern Ireland that are trading with Great Britain as part of the United Kingdom have confidence that they will have unfettered access, and that we protect Northern Ireland as part of the United Kingdom customs territory.

Q13 **Chair:** Your response to our “Unfettered Access” report states that the protocol, and I quote again from your own words, “risks undermining the peace process”. Why did the Government sign up to it then, if it runs the risk of undermining the peace process?

**Brandon Lewis:** The protocol itself was always subject to the Joint Committee working through the details of delivery. We want to ensure that nothing in the protocol undermines the peace process or the Good Friday agreement. Part of that is ensuring that we have unfettered access to Northern Ireland and that there is no border east-west, in the same way that we have always worked. We are determined to ensure that there will be no border north-south either. This is about ensuring that we follow the spirit and the words of the Good Friday agreement.

Q14 **Chair:** Like you, I followed with pretty close attention, last autumn and in the early part of this year, what people were saying. I recall no Minister of the Crown saying that, unless all the balls of the protocol fall in the way we want, we have signed up to something that would then run the risk of undermining the peace process and threatening the unity of the United Kingdom. I remember no Minister saying that or, indeed, intimating it. Is my memory playing me false?

**Brandon Lewis:** We have outlined through the Command Paper and in our manifesto last year how we wish to interpret and set out to deliver unfettered access to Northern Ireland as part of the protocol, within the realms of the protocol. I still have confidence that we will be able to do that in good faith with our friends and partners in the Joint Committee. That is the right way. That is where our focus is. That is what the Chancellor of the Duchy of Lancaster is working on at the moment.



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Indeed, they continue to meet to work through that and reach that positive outcome.

Q15 **Chair:** The Bill would be better if it made clear that the processes set out in the Act for dealing with these matters would need to be exhausted before the clauses were even thought to be implemented or, to use Robert Buckland's phrase, the glass in an emergency thing would then need to be broken—yes or no?

**Brandon Lewis:** Sorry, I do not quite follow what you are asking. If you are suggesting that you think the Bill would be better framed that way, that is a matter for you. The Bill outlines the safety net that we want to put in place should it be needed but, as the Prime Minister outlined, that is not something we are looking to do. It is not something we want to do. I am optimistic that, through the free trade negotiations and with the Joint Committee work, we will be able to get a positive resolution so that we do not need to look at getting to that point in the first place.

It is absolutely right that the Government should, as the Prime Minister has outlined, ensure the integrity of the United Kingdom's customs territory. We have that safety net in place to give businesses in Northern Ireland the confidence and certainty they need about having unfettered access to the GB market.

Q16 **Chair:** The point I am making is that a lot of the heat, steam, anxiety, fear and threat that the word of the United Kingdom is going to be broken in an international treaty would not have materialised if the Bill made clear that the clauses would only come into effect at the end of the arbitration process, having reached an unsatisfactory conclusion as far as the UK Government were concerned. None of these problems would then have existed.

**Brandon Lewis:** I will just make the point that that is exactly what I outlined on the Floor of the House on Tuesday last week, and what the Prime Minister outlined on the Floor of the House in his own speech on Monday.

Q17 **Chair:** That is a given, but we are dealing with a section of the Northern Irish community who effectively do not recognise or do not wish to recognise the authority of the United Kingdom Government. Given the seriousness and fragility of Stormont and the Good Friday agreement, this seems to be a rather clumsy elephant trap that the Business Department, probably by accident, has created, which could easily have been avoided. I am going to turn to Ian Paisley, who never falls into an elephant trap.

Q18 **Ian Paisley:** Secretary of State, you are very welcome to the meeting this morning. It is nice to see you. I must say, I welcome the Bill that is in front of Parliament, but like most people I wonder what provoked the Damascus road experience. It is very welcome, but was there something that determined that the Government needed to make this change that we have now seen in the Bill?



**Brandon Lewis:** I am afraid you were breaking up a bit, Mr Paisley. I think I got the gist of the question you were asking. As the Prime Minister outlined, through the work of the Joint Committee and the negotiations, it has become clear that there is a possibility that the EU may not be looking to conclude those in a way that allows us to be absolutely certain, at this point in time, that we can guarantee to Northern Ireland businesses through the Joint Committee, because it has not concluded yet, the unfettered access that we have always outlined that we would want to seek to deliver. We outlined that in the Command Paper.

In terms of the legislation and timetable for Parliament, this is the last piece of legislation where it would be practicable to put this safety net in place, have proper scrutiny through both Houses and be in place in time for January, when we will have finished the transition phase, so that businesses have that confidence and certainty. Our focus is still on securing that agreement through the Joint Committee.

Q19 **Ian Paisley:** The term “undermining the peace process” can be regarded by some people, and is used by some people, in quite a pejorative way. I noticed in the news this morning that our Foreign Secretary is in the United States of America talking to American political representatives about trade. I assume he is going to bring as much pressure as possible to support the peace process by continuing trade, not by erecting a blockade of US-UK trade.

**Brandon Lewis:** As a Government, we believe free trade is a positive thing. It is why we want to secure a free trade deal with our long-standing allies and partners in the United States, as well as securing a good free trade agreement with our friends and partners in the EU. Free trade is a positive thing for the economy, here at home, across the United Kingdom and globally.

Q20 **Ian Paisley:** Will he make the point, though, that blocking trade between America and the United Kingdom would do more to damage the peace process than tinkering around with the protocol?

**Brandon Lewis:** Free trade can drive prosperity and economic growth, which are factors in ensuring peace around the world. Obviously, we all want to make sure that we continue to deliver on the huge gains that Northern Ireland has seen through the peace process. I want to ensure that Northern Ireland’s economy has the ability to come out of covid with a turbo-boost in growth, to the benefit of all people in all communities in Northern Ireland. Being able to have good, positive trade is part of that.

Q21 **Ian Paisley:** Finally, am I right to assume that you have received zero security reports that there is a heightened risk of a breakout of terrorism as a result of what the Government are doing?

**Brandon Lewis:** We would never and I would never comment on a security brief, I am afraid.

Q22 **Ian Paisley:** You could reassure the public that the idea that there is



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going to be a breakout of terrorism as a result of what is happening in Parliament is nonsense.

**Brandon Lewis:** I would not comment on any security briefings, in the sense of the security situation, in that format. I would say that it is important we all remember the huge gains from the Good Friday agreement, the peace process in Northern Ireland, why that matters, and the economic growth and opportunity that has delivered for Northern Ireland for the last two decades. We want to see that continue and turbo-charge it to ensure that we get more and more people into good, exciting jobs in the future for the benefit of all.

Q23 **Mr Goodwill:** Secretary of State, it is clear that when you delivered that bombshell at the Dispatch Box it was not an off-the-cuff remark or a slip. You actually read something out there that had been written down for you. Who actually wrote down those words? Was it Dominic Cummings or somebody in your Department?

**Brandon Lewis:** I read out something specific because I wanted to ensure that, in what I said, I was giving the House a straight answer, in line with the legal advice that the Government have had, which is the same as we published to the Committee.

Q24 **Mr Goodwill:** Was it a lawyer or No. 10?

**Brandon Lewis:** I am afraid I am not going to comment on who inputs to advice that comes through to Ministers. I wanted to ensure, and we all wanted to ensure, that we gave the House a straight answer. My learned Friend asked a very straight question. It is an answer that is absolutely in line with the legal advice that the Attorney General published, which the Committee has.

**Mr Goodwill:** We will read into that what we will. Thank you very much.

Q25 **Stephanie Peacock:** Could you tell us in what limited way the Government intend to break international law?

**Brandon Lewis:** We do not. We are very clear. We have no intention to do that in any form. I have to say, the question is based on a false premise. We are seeking, through the Joint Committee and the free trade negotiations, to find a positive outcome and solution for our country, all businesses across our country and our friends and partners in the EU, which works for everybody. All that this Bill does is put in place that safety net and insurance policy, should we need it.

Q26 **Stephanie Peacock:** Does the Government's approach break the ministerial code? Specifically, was there ministerial direction given in relation to this Bill?

**Brandon Lewis:** No, it does not break the ministerial code. That is why I gave a very straight answer to Parliament last week, in line with the Attorney General's position. The Attorney General's position is clear and outlined. For us, this is about having a safety net, as the Prime Minister



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outlined on Monday, that is appropriate to protect people and businesses across the United Kingdom and, in terms of unfettered access, particularly those businesses in Northern Ireland that we have promised it to.

Q27 **Stephanie Peacock:** Was there ministerial direction given in relation to this Bill? Is that a yes or a no?

**Brandon Lewis:** What do you mean by ministerial direction, sorry?

**Stephanie Peacock:** Say that again. Sorry, you have broken up.

**Chair:** The Secretary of State was asking what it meant.

Q28 **Stephanie Peacock:** Have you made a decision that overruled the advice of your officials?

**Brandon Lewis:** No. As I outlined, this position is absolutely in line with the legal advice that the Attorney General put down.

Q29 **Chair:** Colleagues, I am told that, if we reduce our volumes, the feedback will decrease. In part, Secretary of State, it may be because you are in quite an echoey room as well.

Could we turn to the Attorney General and try to conjoin Mr Goodwill's question and Ms Peacock's? You are an experienced Member and Minister of the Crown, Brandon, held in great esteem and affection across the House. The assertion that we may break international law is a very serious one for anybody to make, particularly a Minister at the Dispatch Box. It is a perfectly legitimate question that Mr Goodwill has asked as to who authored that phrase. Which of the Law Officers wrote it?

**Brandon Lewis:** You had the advice from the Attorney General. The Attorney General's advice, which was published to the Committee, is clear. That is from the Attorney General's office. My understanding is that it was agreed by all the Law Officers.

Q30 **Chair:** The Attorney General seems to be slightly in two minds about this. According to Jessica Simor QC, at the Bar Council annual general meeting this week the Attorney General declared that the ministerial code was not enforceable. You declared at the box that the Government were going to break the law if necessary. The Attorney General says no. What was the advice of the attorney before the Urgent Question?

**Brandon Lewis:** I am not quite sure I really understand the question being asked. The Attorney General's advice, which is agreed with all the Law Officers, is the advice that was sent to the Committee. It is the advice I was aware of and why I answered the question on Tuesday. I answered it in line with the Attorney General's legal advice. That is on the record for anybody to see.

Q31 **Chair:** The Attorney General effectively tells us that international law would not be broken and your response at the box tells us that it will be. When did the attorney's advice change?



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**Brandon Lewis:** No, I am sorry. My answer at the Dispatch Box on Tuesday was in line with and absolutely endorses the legal advice and legal opinion given by the Law Officers, as published to the Committee. The legal position on the UK Internal Market Bill and Northern Ireland protocol was sent to the Committee.

Q32 **Chair:** Is the ministerial code enforceable?

**Brandon Lewis:** I am not an arbitrator of the ministerial code. My understanding is that the position I took at the Dispatch Box and that Ministers have taken in this Bill is not a breach of the ministerial code. I am not the arbitrator of that, so I am not the right person to ask.

Q33 **Chair:** You are right; you are not. That is the Cabinet Secretary. My question was not whether it was or was not a breach of the ministerial code. I am merely asking for your advice as a privy counsellor and a Minister of long standing whether, in your judgment, the ministerial code is enforceable.

**Brandon Lewis:** Yes, the ministerial code is enforceable, but I am not the arbitrator of that, so that would be a matter for others, I am afraid.

Q34 **Chair:** Somebody might have a word with the attorney, who now telling the Bar Council that the ministerial code is not enforceable, a rather eccentric position for a senior Law Officer of the Government to take.

**Brandon Lewis:** Again, Mr Chairman, I am not the Attorney General to the Government and that is why I have said several times that I am not the person to answer a question specifically about the ministerial code, because I am not the arbitrator of the ministerial code.

**Chair:** Very usefully, you have answered the question and you are right. The ministerial code is enforceable as an abstract. It would be helpful if the Attorney General was made aware of that, if she is telling the Bar Council annual general meeting that it is not.

Q35 **Stephen Farry:** To pick up the last point, Secretary of State, given that we had an extremely senior civil servant resigning last week in the context of the legal advice, was there a ministerial direction given by the Attorney General in relation to her own staff?

**Brandon Lewis:** As I said at the Dispatch Box last week, I wish the civil servant who left well. It is not somebody I know. I am not privy to the Attorney General's office. The Government have taken a decision about the policy direction we are going to take and we want to ensure that we are following through with our partners in the EU on the trade agreement in the Joint Committee. The Attorney General's legal advice, as agreed with the Law Officers, sets out the Government's position and gives the legal advice behind it. I cannot add anything to that.

Q36 **Stephen Farry:** Moving on to something that was said in the introductory questions, can I ask the Secretary of State whether he has actually read the Good Friday agreement?



**Brandon Lewis:** Yes.

Q37 **Stephen Farry:** Well done for avoiding that bear pit, first of all. Secondly, could you share with us what your understanding is of what the Good Friday agreement actually means and entails?

**Brandon Lewis:** The Good Friday agreement is about ensuring that we are respecting and delivering on that peace process. We talk about the spirit as well as the words of the Good Friday agreement. We have the pillar about ensuring that we have no border north-south, but it is about respecting all communities, which also means communities that value the relationship east-west, and the economy of Northern Ireland. All those who have read the Good Friday agreement, and others who have had much longer experience than I as part of that peace process, understandably have very strong views about ensuring that we are all respecting that process.

Q38 **Stephen Farry:** Would you accept that the current interpretation that the Government are projecting is at odds with the majority view of people in Northern Ireland and, indeed, those who negotiated the Good Friday agreement?

**Brandon Lewis:** No.

Q39 **Stephen Farry:** We would beg to differ on that one, certainly as someone who was part of that process. The Chair is very strict on short questions, so this is the final question for now. In terms of the attitude towards the Joint Committee, do the Government view the Joint Committee as a means to implement what is already agreed in the protocol, or is the Joint Committee a means to renegotiate the protocol?

**Brandon Lewis:** It is about ironing out those issues that were set to be interpreted and how we deliver on the ground. We set out in the Command Paper, which was widely positively received in the summer across the board, our intention of how to deliver unfettered access, which we still seek to do through the Joint Committee. Indeed, the safety net that the Bill will put in place is delivering on exactly what was set out in the Command Paper, I would argue.

Q40 **Stephen Farry:** So it is an issue of implementing what is already agreed, not trying to rewrite it.

**Brandon Lewis:** There is a range of things in the protocol that were subject to the Joint Committee to finalise and iron out, in terms of both delivery and interpretation. One thing we have been very clear about from the beginning, which the EU acknowledged, is the ability to deliver unfettered access to Northern Ireland businesses and to retain Northern Ireland's place integrally within the United Kingdom customs territory.

Q41 **Chair:** Before we move off this particular issue, which is probably the most germane this morning, Secretary of State, to the best of your knowledge, if we get to having to utilise the arbitration process set out,



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and the arbitration process does not arrive at a position that the UK Government would necessarily have authored itself, will Her Majesty's Government abide by the decision taken by the arbitration process?

**Brandon Lewis:** If I follow the question correctly, and apologies if I have not, we are starting to get into hypotheticals. You have known me long enough to know that I have always felt it is unhelpful and dangerous to get into that. The problem with answering your question in a much straighter way, as I would like to and I am sure you would like me to, is that, in any situation like this, the technicalities and nuances are multiple. They are complicated and small things can have a very big impact. To get into a hypothetical of what possibly may happen is an unhelpful and dangerous place to be. Our focus is on not getting into that place in the first place and getting a positive outcome from the Joint Committee and the negotiations.

Q42 **Chair:** You are right; it is a hypothetical question. But one would always hope that a country that abides by the rule of law, having entered into an arbitration process, would accept the ruling. There are not many people in prison who really want to accept the ruling of the judge. They do so because that is the way justice works.

**Brandon Lewis:** It is even better to avoid being there in the first place.

Q43 **Chair:** For other countries potentially negotiating important free trade agreements with us, when they come to negotiating the arbitration process in a free trade agreement, what confidence will they have that the Government would abide by the decision of an arbitration process in a free trade agreement, hypothetically?

**Brandon Lewis:** I have to say, again, as you said, it is hypothetical. I would be tempted to answer that to an extent. I think they would be confident in our position, not least of all because, even if you take the current situation with the protocol, we as a Government will continue to act in good faith and negotiate in good faith.

That is evidenced by how we have delivered, just this week, on the work on the SPS checks. The DEFRA Secretary has written to DAERA and that work is progressing on the SPS live animal checks. We have introduced the trade support scheme and the work around that, totalling some £350 million, including the IT work on top of that scheme. We have made a very clear commitment, even within the protocol, that we are looking to ensure we have a safety net for, to prove to people that we are a country that works in good faith to deliver on our agreements. We will continue to do so.

Q44 **Chair:** One would hope that that would be the case. I do not think that is the view of very many people in the international community and the business world at the moment. I do not think the seriousness of the damage that could potentially inflict upon the reputation of the UK as a country that abides by the rule of law is, as yet, properly understood throughout Government. The obvious answer is that the UK will always



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abide by international arbitration, end of, hypothetical or otherwise. It is worrying that that answer cannot be given.

**Brandon Lewis:** Our history shows that we do.

Q45 **Chair:** Our history does, but we are more concerned with our present and our future. We cannot rest on our laurels of always having done something and presuming that everybody else will presume we are going to continue doing it. It is that old biblical phrase: by their deeds shall ye know them, not necessarily by their words.

**Brandon Lewis:** We have continued to deliver our work on the protocol, the very issue we are talking about. Just this week, we have continued to work on that with the work around Larne, Belfast and the ports for the SPS checks.

**Chair:** Secretary of State, to be clear, I have no reservations at all as to your personal commitment to these processes. I have known you long enough not to even begin to question that. It is the wider audience and the wider group that inform these things.

Q46 **Claire Hanna:** Secretary of State, twice in the last six months, last week and on 18 March in relation to treaties arising from Stormont House, your Government have announced that they intend to break international law as regards Northern Ireland. On both occasions, you have been the messenger for that. Do you understand why people cannot trust your Government? Do you have any handle on the anxiety, the unease and the instability your Government is creating every day in Northern Ireland, which is a fragile society?

**Brandon Lewis:** I disagree with the entire premise of what you have just outlined. In our written ministerial statement on 18 March, we set out that we want to deliver on the principles of Stormont House. At no point have I put forward legislation that does anything otherwise. We continue to talk to people in Northern Ireland on a whole range of issues, including those in the UK Internal Market Bill. These clauses will deliver and are entirely in line with what we set out in the Command Paper, which was positively received. We want to ensure there is a safety net and insurance policy. We can give that certainty to Northern Ireland businesses.

Q47 **Claire Hanna:** I will refer to what the Chair said about perception. I am glad to hear that you have read the Good Friday agreement. I wonder whether you have also read the political declaration that accompanied it in 1998, which was signed up to by the Governments and the parties. It talks about democratic and agreed arrangements, respectful democratic process and the primacy of the rule of law. Are you confident that your Government's behaviour adheres to those principles?

**Brandon Lewis:** Yes.

Q48 **Claire Hanna:** Your judgment is interesting. What discussion did you have with the Irish Government and the various parties leading up to the



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introduction of the Bill?

**Brandon Lewis:** I had discussions with various colleagues across Government, talking to our partners and friends in the EU, and the Irish Government, which is part of the EU that we are negotiating with. I myself was in conversations with parties in Northern Ireland and have been consistently throughout the process.

Q49 **Claire Hanna:** Which parties did you consult and were they aware of the Bill you were bringing?

**Brandon Lewis:** It is a UK Government Bill, of which we published to the House the introduction on Wednesday last week. In advance of that, I have spoken to the leaders of all parties in Northern Ireland.

Q50 **Claire Hanna:** You had spoken to all parties about the Bill that you were going to introduce.

**Brandon Lewis:** Yes.

Q51 **Claire Hanna:** Interesting. The Member for North Antrim told the BBC that he had been engaged in extensive negotiations with the Government since January. Is that a factual assessment?

**Brandon Lewis:** I cannot answer for the Member for Antrim but, as I say, on a regular basis, I speak to the leader of your party on a whole range of issues, so I have no doubt that colleagues have been talking to Members and parties on a whole range of issues around the protocol and the delivery of it for some considerable period of time.

Q52 **Claire Hanna:** I can say with confidence that my party was not briefed about the breach that you are intending to bring.

We have spoken a lot about perception. Given that Brexit, we are told, is about trade and about global Britain, what is your assessment of the impact that this move has had on the respect that people have for the United Kingdom and its viability as a partner that follows the rules and, indeed, a partner that, as a small trading nation after Brexit, will be subject to those rules? How do you think it has gone down with your future trading partners?

**Brandon Lewis:** As we leave the European Union, people will look to us as a globally outward-looking country that continues to be a champion for free trade. We have a good, strong history of free trade. We have been a good partner for countries around the world, as we have seen with the free trade deal that has been secured with Japan, and I hope we will see others follow through. I know that the Department for International Trade's Secretary of State is working hard on that and having very good negotiations and conversations with partners around the world. We have huge opportunities for our country as we leave the European Union and, of course, one of the things we have sought to secure and deliver is that Northern Ireland businesses will be able to benefit from those free trade deals as we go forward.



Q53 **Claire Hanna:** Given that this is, ostensibly, about supporting businesses, can you tell me about any major businesses or any business associations that have come out in support of your new proposals?

**Brandon Lewis:** As I say, our proposals deliver on what we outlined in the Command Paper, which is widely supported across the business community in Northern Ireland and across business representative organisations as well.

**Claire Hanna:** You said you had the support of businesses.

**Brandon Lewis:** Sorry, Claire, let me just finish. One of our officials, Colin Perry, has been working on some of these issues with businesses as well.

**Colin Perry:** Part of your question was around businesses and engaging with businesses. The Secretary of State has talked about his engagement with political parties and the Executive in Northern Ireland. Alongside that, we have had a long-running and long-standing set of engagements with a broad range of both businesses and business representative organisations across—

Q54 **Claire Hanna:** I understand that, but have any of them endorsed what you have done in the last two weeks?

**Colin Perry:** That includes meeting quite a wide range of businesses—

Q55 **Chair:** Sorry, Mr Perry. The question was very clear. It is not how you have engaged but, as a result of that engagement, whether anybody has endorsed it. That is the question that Ms Hanna has asked and I think it deserves an answer.

**Colin Perry:** In terms of what the Secretary of State has set out about the importance of unfettered access, with the wide range of conversations we have had, businesses recognise the importance of and welcome the steps that we have taken around unfettered access.

Q56 **Claire Hanna:** Sorry, if there was an answer in there, I did not get it. Have any of the businesses or business representatives that this is supposed to protect or enhance endorsed what you have done?

**Colin Perry:** The conversation that we had was to inform them of the steps that we have taken in the Bill, but there has been a broad acceptance of and a welcome for the steps we have taken to support unfettered access in the way that the Secretary of State has set out—

**Claire Hanna:** You say there has been a broad welcome for this. Could you—

**Chair:** Sorry, Claire, let Mr Perry just finish his sentence.

**Colin Perry:** I was saying that, in our conversations with businesses around the Internal Market Bill, they have recognised the steps we are



taking to try to deliver unfettered access, and they welcome that, in line with the principles that were set out in the Command Paper in May.

Q57 **Claire Hanna:** I must have missed those public statements from those businesses and business associations, and I hope that that is something that maybe you could share with people, because I do not think that that is being heard. Actually, I think it is a misrepresentation. That is all from me, Chair.

**Chair:** In fairness to Mr Perry, having been accused of a misrepresentation, I am going to give him the courtesy of addressing that point.

**Colin Perry:** I am certainly not wishing to misrepresent businesses. What I said was that, in the conversations we have had with businesses since the Command Paper was published in May, there has been a positive reaction to the steps we are taking to try to deliver on unfettered access to support economic growth across Northern Ireland.

Q58 **Chair:** Given that Mr Gove and the Secretary of State took on board, in our last oral hearing with them, the need for certainty for business, if a businessman calls you up today and says, "For what am I now preparing: east-west, north-south, a bit of both, the protocol, the Bill?"—and that is before we ask British businesses what they are preparing for—what advice would you give them?

**Brandon Lewis:** To be fair, we have said from the beginning that we want to ensure that we give businesses certainty as soon as possible. The Bill has not completed Parliament yet, so we cannot give them that certainty yet. We want to give them certainty, so, for Northern Ireland businesses, that unfettered access and certainty around that. We would like to give it to them by getting that secured, and the agreements all secured for the free trade agreement, at the Joint Committee. We all appreciate business wants certainty.

Having been in business, and having talked to businesses in Northern Ireland and elsewhere over the last few weeks, I know businesses want certainty as early as possible. We are all working to deliver that with our partners in the EU as well, working in good faith to try to get that position. We want to do it as soon as possible. We all appreciate that life is difficult for businesses when you are getting close to the end of the year, and we want to be able to do that as soon as possible.

Q59 **Chair:** What is the timetable for the Bill to get Royal Assent?

**Brandon Lewis:** I am not a business manager, so I am not the best person. I am not in a position now to answer you on the timeline for the Bill flowing through both the Commons and the Lords, I am afraid.

Q60 **Caroline Ansell:** Good morning, Secretary of State. I wanted to ask questions around preparations for the protocol and to put to you that, in the wake of the announcement of the Bill, reports suggest that there has



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been something of a slowing in important work on border infrastructure. Do you believe that there is a risk that this safety net strategy could, in fact, undermine preparations for the protocol?

**Brandon Lewis:** No, I hope it does not and I do not think it will, because we are still not just looking to reach an agreement as our talks continue with the EU, but we are, as we said, fully committed to implementing not just the withdrawal agreement but the Northern Ireland protocol. We have already been taking very practical steps around that, as I said, including introducing the new SPS checks between Great Britain and Northern Ireland. Literally just this week, an agreement on that has been secured between the Department for Environment, Food and Rural Affairs here and DAERA and Minister Poots's team on the Northern Ireland Executive. We are also introducing the new procedures with the trader support scheme for Northern Ireland, so that work is still ongoing and it will continue at pace.

Q61 **Claire Hanna:** Secretary of State, your colleague Kit Malthouse spoke in quite an alarmist fashion about Tesco not being able to stack its shelves in Northern Ireland. Of course, we had the language around a blockade. At Second Reading in the House the other day, the Prime Minister did not specify which clause in the Bill related to transportation of food from Britain to Northern Ireland. Which bit does that?

**Brandon Lewis:** Sorry, did you say Great Britain into Northern Ireland?

**Claire Hanna:** No, from Britain to Northern Ireland.

**Brandon Lewis:** Yes, that is what I am saying: Great Britain to Northern Ireland. As the Prime Minister outlined in his opening remarks on Monday, we want to do what we can to ensure that we have a really smooth flow from Great Britain into Northern Ireland. We have said "unfettered" for Northern Ireland to GB. That is why, in terms of the flow from GB to Northern Ireland, we have already implemented our agreement with those SPS checks for live animal products. Through the Joint Committee, we want to secure good, free-flowing access for products going from Great Britain into Northern Ireland that are not at risk of going to the EU single market and customs territory. We respect their position on that and we want to find a resolution to that, and that work is ongoing through the Joint Committee. The Prime Minister has outlined that that is something that we want to achieve as well.

Q62 **Claire Hanna:** Sorry, the audio is not great here. My point is that there was a lot of bluster about blockades and about keeping the shelves stacked in Northern Ireland, but this Bill does not say much about transportation of food from Great Britain to Northern Ireland, so it is not relevant.

**Brandon Lewis:** It is relevant to the wider issue and ensuring that Northern Ireland remains an integral part of the United Kingdom and has a good, free flow. It is something that we want to secure through the Joint Committee and that was the Prime Minister was outlining from the



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Dispatch Box on Monday as part of that wider picture and context for where we are. The clauses in the Bill, in terms of unfettered access, absolutely refer to Northern Ireland being able trade unfettered with Great Britain, from NI to GB.

**Q63 Mr Goodwill:** Secretary of State, you have chosen to publish the Bill now, while the negotiations in the Joint Committee are still ongoing. Do you think that will make those negotiations more difficult or is it designed to up the ante and bring pressure to bear on those negotiations?

**Brandon Lewis:** I appreciate that there has been a fair bit of conjecture around this. My personal view is that the negotiators on both sides are very capable of being focused on the negotiations and not being distracted by coverage of this. As I have outlined before, the simple fact for us is to ensure that there is proper time for parliamentary scrutiny and legislation to go through the House of Commons and the House of Lords in time to be completed before the end of the year, which is important before the end of the transition period. This was the Bill and the time where this had to be put down. That is reasonable and the negotiators will continue to work in good faith to get a positive resolution for both the EU and, from our side, the UK.

**Q64 Mr Goodwill:** Could you maybe give us a flavour of the degree of granularity that those talks have reached? There is a spectrum of risk, from a truckload of goods arriving from Belfast that is definitely going to the south; other items may be going to be processed or manufactured; or other items may well be sold on a retail basis in Northern Ireland but then bought by somebody from the south and personally imported. At what stage of negotiation have you got to in that particular process?

**Brandon Lewis:** The negotiations are absolutely alert to the intricacies of trade between Great Britain and Northern Ireland, both east-west and west-east, as it were. I am not part of the Joint Committee or the free trade negotiations, so it would be wrong of me to prevaricate or guesstimate exactly what conversations are happening in any given committee. That would be a matter for people doing those conversations. As I say, I am not privy to those and I am not part of those negotiations.

**Q65 Mr Goodwill:** Could I suggest that maybe you should ask to get updates on that? That process will be very important in terms of whether you press the nuclear button for implementing the clauses in the Bill that everybody is so concerned about.

**Brandon Lewis:** We make sure we are up to speed with progress, and it is right to let the negotiations get on with that work. We come back to the key point with this, which is that we want to exhaust all those measures before ever thinking about having to implement some form of insurance policy or safety net. This is about if everything else is unsuccessful, but our focus and our determination is on securing a positive outcome through that Joint Committee and negotiation work. I am optimistic that we will be able to.



Q66 **Stephen Farry:** Secretary of State, you have already mentioned that this is about implementing the protocol. If we have a situation where we need trust and good faith to get the most out of those negotiations, how do we do that, if there is a threat or an indication that the UK may breach agreements while we are trying to find and build trust with the EU to get liberal interpretations of the protocol?

**Brandon Lewis:** We are not. We are negotiating in good faith. We are delivering and determined to deliver on the withdrawal agreement and the Northern Ireland protocol. This is simply about, as I say, having that safety net, should we need it, but our focus is on going through that process. As I have indicated, just this week we continue to do just that by delivering on the work—

Q67 **Stephen Farry:** How can you negotiate in good faith if you are potentially threatening to break what has already been agreed? How would the European Union give us any favourable concessions at this stage, if that is the attitude that the Government are taking?

**Brandon Lewis:** The attitude we are taking has been focused on delivering on the Northern Ireland protocol and the withdrawal agreement. We have continued to do that, and demonstrably, not just with the SPS checks but the announcement of the £200 million trader support scheme and £150 million of IT project work to support that. We have been pretty clear in our determination to deliver on that and to do so very much in good faith.

Q68 **Stephen Farry:** What happens to the protocol if we have a breakdown in the negotiations within the Joint Committee?

**Brandon Lewis:** We are seeking to conclude the Joint Committee in a positive way. You are tempting me into hypotheticals again, but that is not what we are looking to do. We are looking to complete this in a positive way and we are continuing to deliver on the agreements that we have made.

Q69 **Stephen Farry:** If this goes wrong in terms of those discussions in the Committee, do you accept that we could end up in a situation where this is a self-defeating approach and we see new barriers and the maximisation of processes across the Irish sea?

**Brandon Lewis:** No. The work that the Joint Committee is doing is to ensure that we have a good flow of trade, both east-west and west-east, as well as north-south. That is in the interests of everybody and is what we want to achieve through the negotiations as well as the Joint Committee work for the Northern Ireland protocol, to give businesses certainty of unfettered access.

Q70 **Stephen Farry:** I am trying to reach an understanding as to what happens if the negotiations break down, through either the Joint Committee or the future relationship negotiations. Clearly, there is a risk that that is going to be the case, so what happens to the protocol in that



context and the various checks that may flow from that?

**Brandon Lewis:** We are delivering on the protocol now in terms of SPS checks and we will continue to do that. What we are setting in place in this Bill, should we get into a situation where it is needed, is an absolute safety net and insurance policy for Northern Ireland businesses to know that they have unfettered access and can continue to trade as part of the United Kingdom's customs territory. That is an entirely appropriate and correct thing for the Government to do.

Q71 **Stephen Farry:** Do you accept that, given that the protocol was designed to be the bare minimum to avoid a hard border on the island of Ireland, if there is a default—for example, if the UK Government follow through with clause 42 of the Bill—that would create a pressure and tension that could see a return of some degree of checks on the land border in Ireland? What do you see as the consequences that will flow if that is, indeed, the case?

**Brandon Lewis:** No.

Q72 **Stephen Farry:** How does the European Union otherwise protect the integrity of its single market and customs union?

**Brandon Lewis:** As I say, we are working through the Joint Committee, because that is an issue around products going from Great Britain to Northern Ireland. That is a matter for the Joint Committee that it continues to work on. It is something we are doing in good faith and I am sure we will come to a positive conclusion. We are absolutely not going to have borders north-south. That would be completely inappropriate and something we have consistently been clear about. To be fair, so has the EU. That is not something that anybody is going to be doing.

Q73 **Stephen Farry:** I am struggling to grasp how we have a situation where, if there is a default on the protocol, there is not then a consequence that flows from that, given that the protocol was designed to—

**Brandon Lewis:** As I say, we are determined to deliver on the Northern Ireland protocol.

Q74 **Stephen Farry:** At this stage, Secretary of State, with respect, every answer you have given today is that everything is going swimmingly with the protocol, and that, with good faith and trust, everything will be fine. When we hear what the European Union are saying in reaction to what the Government and, indeed, you announced last week, there is a disconnect between the two analyses here.

**Brandon Lewis:** I appreciate that you have an opinion. That is not necessarily my opinion, and my opinion is that the negotiators will continue [*Inaudible*]. We have been very clear that we want to deliver on not just the withdrawal agreement but the Northern Ireland protocol. We continue to do that. The Chairman earlier on made the point about being judged by our actions. Our actions back that up through the work we



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have done in delivering on that protocol, including this very week between DEFRA and DAERA.

Q75 **Chair:** Secretary of State, can I ask you to comment very briefly as to whether this is still the view of the Government, as they expressed in their response to our unfettered access inquiry just last Friday: “The Government is extremely confident that the EU is working in good faith and shares our desire to avoid these serious consequences”?

**Brandon Lewis:** Yes, and I outlined that at the Dispatch Box last week.

Q76 **Mr Campbell:** You are very welcome, Secretary of State. The most pertinent problem we have on our Committee is that we are responding to what we hear you say at the Dispatch Box, but, in the total absence of knowing what the EU negotiating position has been over the past weeks and months, we do not know [*Inaudible*] the issues of the past week or so. In terms of the—

**Chair:** Gregory, I am not sure the Secretary of State can hear you. I am certainly having some trouble. Could you just turn your volume down on your device?

**Mr Campbell:** Is that any better, Chair?

**Chair:** Yes, certainly as far as I am concerned. Brandon, is that better for you?

**Brandon Lewis:** Yes, it seems better.

**Chair:** Sorry, Gregory, do you just want to restart your question?

**Mr Campbell:** We have a disadvantage on the Committee, Secretary of State. We know exactly what you said at the Dispatch Box, but we are totally unaware of the negotiating position of the EU that brought us to the point of you coming to the Dispatch Box. Setting that to one side, the Environment Minister in Northern Ireland, my colleague Mr Poots, is in a difficult position at the moment, where he has been caught between two difficult positions: what work does he do, for example, at the port of Larne; what work should he have done; and what work can he do now in the absence of certainty in preparation for 1 January? Can you give any definitive and positive advice about what he should be doing in the next 10 weeks?

**Brandon Lewis:** Yes. Thank you, I was able to hear that fine. I will let Colin touch on this, but I think that issue has been resolved. That is an issue that the Department for Environment, Food and Rural Affairs and the Secretary of State for DEFRA have been working on with Minister Poots, and I believe that, in the last 24 to 48 hours, that has been resolved, so that they are now clear about the work they need to do. It is a very good example, as I have been saying earlier in this Committee meeting, of the Government continuing to demonstrate that we are delivering on our commitments in the withdrawal agreement as well as the protocol.



**Colin Perry:** The Command Paper back in May talked about sanitary and phytosanitary processes. There has been active and ongoing engagement between DAERA in Northern Ireland and the Department for Environment, Food and Rural Affairs in Whitehall to deliver on processes that are as light-touch as possible but are consistent with the protocol. It was also referred to by the Prime Minister in the House this week, when he talked about creating the SPS processes required by the protocol, and those are progressing, such that we are looking to deliver the processes and infrastructure required to deliver those processes at places such as Larne, as the Secretary of State outlined.

Q77 **Mr Campbell:** If I could just get clarity on that, is any of the work that may be required, at the port of Larne and elsewhere, going to impede unfettered access, east-west or west-east?

**Brandon Lewis:** In terms of Northern Ireland to Great Britain, no. In terms of Great Britain to Northern Ireland, we have always said there will be limited checks on certain products, SPS checks on live animals goods, and that is exactly what this is about. This is, as I say, delivering on the commitments we have made in the withdrawal agreement, and that will apply.

Q78 **Mr Campbell:** Moving on from ports to airports, is it possible for you to take up the issue with HMRC? I am led to believe that, now that international flights are beginning again, looking forward to 1 January and beyond, and the protocol or whatever emerges beyond that, Dublin has yet again another advantage over Belfast in terms of returning international passengers and the accessibility that they have when they arrive. Can you raise that so that Belfast is on the same level playing field as Dublin, for example?

**Brandon Lewis:** I am sorry.

**Colin Perry:** Mr Campbell, both the Secretary of State and I are struggling to hear the question. It might be better if we contact you separately on this.

**Chair:** We are grateful. Let us turn to the dulcet tones of Scott Benton.

Q79 **Scott Benton:** Good morning, Secretary of State. I welcome the steps the Government have taken to uphold the integrity of the United Kingdom through this Bill. You have partly answered this question already in answers to Robert Goodwill but it is an important one to get on the record. How do you think the Bill, as published at the moment, will affect the likelihood of being able to strike a free trade deal with the EU by the end of the transition period?

**Brandon Lewis:** I am very optimistic that the negotiators on both sides will be working to secure a deal that is good for the United Kingdom and for the EU, and something that is beneficial to our friends and partners, with whom we want to have a good trading relationship. I am very optimistic about those negotiations and I do not think this will distract



those professional people from working through those negotiations, on both sides, in good faith, to get a positive outcome for everybody.

- Q80 **Scott Benton:** Speaking of trade discussions and negotiations, do you think the intervention by senior Democratic politicians in the US, suggesting that they could withhold a trade deal with the UK because of this Bill, is particularly unhelpful at the moment and does absolutely nothing either to foster good relationships between our two countries or, indeed, to preserve the peace agreement in Northern Ireland?

**Brandon Lewis:** We have a long history of a fantastically special relationship with our friends and colleagues in the United States. I have regularly spoken to our friends and colleagues in the United States while I have been in this role, including since the announcement last week. I hope we will be able to secure a very good trade deal both for ourselves in the United Kingdom and for the USA.

I absolutely recognise that many of our friends and colleagues in the US have very passionate, strong views around the island of Ireland and Northern Ireland, and were party to the work of and feel very passionately about the Good Friday agreement, rightly so. It is an agreement that has stood the test of time and delivered peace and prosperity in Northern Ireland. I understand that.

I hope that, as we go through the process of this Bill and can articulate, as we normally would through a Committee stage process, the purpose and the intent that the Prime Minister outlined on Monday, our friends in the USA will see that we have the best interests of everybody in the United Kingdom, including those who live in Northern Ireland, absolutely at heart.

- Q81 **Chair:** Without wishing to sound too much like a film, Mr Raab goes to Washington tomorrow, I understand, so doubtless he will hear first-hand from Nancy Pelosi and, indeed, others on these issues.

**Brandon Lewis:** One of the things that the Foreign Secretary has said, as have I, to our friends and colleagues there, and I would say to anybody, is that we are determined to continue to protect and deliver for the Good Friday agreement and all the benefits that it has shown Northern Ireland, and to rigidly support that going forward, in the same way that we are focused and determined to deliver on the withdrawal agreement and the Northern Ireland protocol.

**Chair:** I have just noticed that Wikipedia describes "Mr Smith Goes to Washington" as a political comedy drama. I hope that the Secretary of State's visit is none of those things. Let us turn to Mr Paisley.

- Q82 **Ian Paisley:** The Prime Minister previously advised businesses to tear up declaration forms and other documents. As you know, there is a long list of potential forms that businesses could be burdened with: import declarations, entry summary declarations, exit and security certificates, export health certificates, phytosanitary certificates and certificates of



origin. How can we, as a Committee, best advise the business community on how to proceed under the terms of this new Bill? Should we now prepare that none of these documents will be required to do business, that it will be completely burdenless and that these documents will all be removed?

**Brandon Lewis:** I recognise, in Northern Ireland and anywhere, the desire for businesses to have absolute certainty for what will and will not be required in January. As we leave the EU, there will be changes to businesses across the United Kingdom that are trading with the EU, and we want to make sure that we are helping them to be prepared for that. We have said from the beginning that we want to deliver unfettered access for Northern Ireland businesses to the whole of the UK market. I will be upfront: there will be some changes, particularly for businesses trading from Great Britain into Northern Ireland. We have just been talking about the SPS checks as an example of that, and we have the trader support scheme going in place for Northern Ireland businesses.

The Joint Committee work continues and we are all keen to see that come to a positive resolution as quickly as possible, so that we can give that certainty to businesses. I know, from the business engagement forum meetings I hold, as well as the direct engagement I have had with businesses on pretty much a weekly basis, more than once a week, throughout the last few months, that businesses want that certainty. I am keen to get it for them as soon as possible but we are not quite there yet.

Q83 **Ian Paisley:** Will the issue of unfettered and frictionless trade be equal in terms of GB to Northern Ireland, and then Northern Ireland to GB, with the exceptions that are already in place? Is the intention under this to make sure that all those potential restrictions that have been talked about are now removed?

**Brandon Lewis:** You are quite right. From Northern Ireland to GB, we want to ensure complete, unfettered access. For goods going from GB to NI, there will be some changes, such as the SPS checks, and we are working with our partners in the EU to ensure that, for products that are going into the EU from GB through Northern Ireland, although it is a very limited amount, there is a proper structure and process for that. We are working on that through the Joint Committee, and I am hopeful and optimistic that that will come to a positive conclusion. We have to let the Joint Committee do that work.

Q84 **Ian Paisley:** I know that businesses will appreciate getting absolute clarity on that very quickly, and I think the Bill will go some way towards doing that. Finally, what state aid conditions will Her Majesty's Government be modifying or disapplying?

**Brandon Lewis:** As you know, the state aid conditions that we have put in the Bill are set out in the Bill. It provides provisions to ensure that there is no legal confusion about the fact that, while Northern Ireland will



remain subject to the EU state aid regime for the duration of the protocol, Great Britain will not be subject to EU rules in that area, so it gives that ability to be clear about that and the certainty for businesses around that.

**Q85 Ian Paisley:** Yesterday in the House, I raised the point about freeports. As you know, Belfast and Foyle have both applied to become freeports. Warrenpoint and Larne are probably looking on eagerly too at an opportunity that that could create. Would the current protocol prevent the United Kingdom Government allowing those freeports to exist in Northern Ireland?

**Brandon Lewis:** I have to say, Mr Paisley, I have not seen the specific question or the answer you had on the Floor of the House yesterday. I will have a look at that and come back to you. I am very supportive of all the work that the range of places are doing around the potential for a freeport as part of that ability to level up and see the economy grow in Northern Ireland. I am looking forward to working with the different areas in Northern Ireland on the opportunities that that may offer.

**Q86 Ian Paisley:** Again on the state aid issue, if there are going to be state aid advantages as a result of us leaving the European Union, as I believe there will be, and if we are still stuck with some of the trading conditions that the European Union will apply to Northern Ireland, will Northern Ireland have the best of both worlds and be able to apply for state aid assistance from the UK and for European aid and assistance that pertains there, or will we be ruled out from receiving any European state aid?

**Brandon Lewis:** If I have followed that correctly, we are clear that the state aid rules in the protocol are focused on aid that affects trade between Northern Ireland and the EU, so it should not affect aid where the company has only the most peripheral connection to Northern Ireland. It is about ensuring that we respect that position and are clear that Great Britain will not be subject to EU rules in this area. More widely, there is a very valuable point to make that Northern Ireland's economy has huge opportunities as we leave the EU, and I hope we will be able to deliver on that for the benefit of everybody, in all communities, in Northern Ireland.

**Q87 Claire Hanna:** In setting out the framework of the Bill and the powers relating to the internal market beyond Brexit, what is your thinking around the devolved powers? You have spoken about opportunity, and I know that Ian has just said the same [*Inaudible*] in terms of the decisions that are made for England and that devolved powers will not have the opportunity to change in terms of different regulations.

**Brandon Lewis:** I do not follow the question. Maybe I missed some of what you were saying there, Claire.

**Claire Hanna:** For example, in "New Decade, New Approach", it talked about restoring powers in devolved Government, yet this Bill, in numerous clauses, appears to take powers from devolved Governments. Is it your understanding and your vision for devolution, after this Bill is



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through and after Brexit, that the devolved Administrations in Northern Ireland, Scotland and Wales will still have the same powers that they do now to set rules for their own internal markets?

**Brandon Lewis:** Quite the opposite: this Bill devolves powers to the devolved authorities. Some of the power that used to sit within the competence of the European Union will be moving back, once we have finished the transition period, to UK competence. Some will come from the EU back into the UK Government; some will be moved directly to the devolved authorities, as we have outlined before. The UK Internal Market Bill is about putting that structure in place that means the whole of the UK internal customs union and single market has the free ability to trade, such that we do not see restrictions on goods between different parts of the United Kingdom. That is absolutely right and it puts in place that framework for the benefit of businesses and communities around the whole of the United Kingdom.

Q88 **Claire Hanna:** For example, if there is a trade deal that does something that is not in line with the wishes of the people in Northern Ireland, and if it opens up health services, for example, to private interests, or, indeed, the old chlorinated chicken, do you acknowledge that this Bill removes the ability of devolved authorities to prevent that in their own markets? It takes back control, but it hands it to London and not to Belfast, Edinburgh or Cardiff.

**Brandon Lewis:** It is important that the UK Government can ensure that connectivity for the whole of the United Kingdom market, for the benefit of all businesses and communities. Let us also be very clear: you have got caught up in some of the falsehoods that have already been clarified and made clear as falsehoods by the relevant Departments around your point on the NHS and chlorinated chicken. We have hugely high standards here in the UK, often better than many places around the world, which is what makes us an attractive country to do business with. People know that a UK product is a high-quality product.

Q89 **Claire Hanna:** Unfortunately, the SDLP and others tried to get commitments against degradation of food standards and opening up of public services on the face of previous Bills, and your Government refused to accept them. Can I just acknowledge that you accept that this Bill will remove the power of devolved authorities to prevent those damaging regulations within Northern Ireland?

**Brandon Lewis:** No. This is about the UK Government being able to ensure that we have a good, strong United Kingdom customs union and single market, and one that will continue to have some of the highest standards, if not the highest, for food products and other products in the world.

Q90 **Claire Hanna:** It is also about Northern Ireland not being able to make its own decisions.



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**Brandon Lewis:** It is about Northern Ireland being an integral part of the United Kingdom and being able to benefit from trading with Scotland, Wales, Birmingham and Manchester.

Q91 **Stephanie Peacock:** Would the EU be entitled to trigger the withdrawal agreement's dispute settlement process as a result of this Bill?

**Brandon Lewis:** We are still working through the withdrawal agreement, negotiations for a free trade deal and the Joint Committee in terms of implementing the protocol, so that does not quite apply in that way.

Q92 **Stephanie Peacock:** So you do not have a yes or no answer.

**Brandon Lewis:** I just do not see that as a relevant point, in the sense that we are still in the free trade agreement negotiations and delivering on the withdrawal agreement and the protocol. The Bill does not deviate from that.

Q93 **Stephanie Peacock:** If the EU did feel that it could do that, what do you think the outcome of that process would be?

**Brandon Lewis:** It is not relevant, so it is not about "if". We are not doing that. We are continuing to negotiate the free trade agreement, work through the Joint Committee and deliver on both the protocol and the withdrawal agreement, as we have outlined, including the actions we have taken on the SPS checks this week.

Q94 **Chair:** The Attorney General is the senior legal counsel to the Government. What advice has she given? Notwithstanding whether it would or not, could the EU trigger the dispute settlement as a result of the Bill?

**Brandon Lewis:** I have not had that conversation with the Attorney General on the basis that we are not in a position where we are doing anything other than continuing to deliver on the withdrawal agreement and on the protocol. As I say, that has been self-evident through the actions we have taken just this week to continue to deliver on that and invest in that work.

Q95 **Chair:** The attorney has given no advice to Cabinet as to what the EU could or could not do legally in response to this Bill as it currently stands.

**Brandon Lewis:** The Bill as it stands is about the UK Government. It is not about the negotiations we are having on the free trade agreement and the protocol per se, because we are still in those negotiations and the Joint Committee. We continue to deliver on it.

Q96 **Chair:** The relevant clauses would seek to override the protocol. Surely, the attorney has advised the Cabinet, prior to publication of this Bill, as to how, under law, the EU could—not would—respond.

**Brandon Lewis:** The Attorney General's advice to Government is as published to you, which you have a copy of. We continue to act to deliver on the withdrawal agreement and the protocol, and work through the



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Joint Committee. Again, that would get into hypotheticals, which I just do not see as a relevant avenue.

Q97 **Chair:** She is silent on that point.

**Brandon Lewis:** That is because we are not in that situation. Nothing that we are doing at the moment is in breach of the negotiations on the protocol or the withdrawal agreement.

Q98 **Chair:** I appreciate that and I am not a lawyer, but I rather understood that lawyers would advise what tools were available to the other party in discussions. It seems to me that we have an Advocate General for Scotland who answers incorrectly as to what you were answering, and an attorney who does not give the fullest of advice to the Cabinet as she is discharged to do.

**Brandon Lewis:** As I say, the Attorney General's advice is clear and is published. The question being asked is not about the current situation. It is an irrelevant situation, because we are continuing to deliver on the withdrawal agreement and the protocol.

Q99 **Chair:** With all due respect, it is relevant. The attorney has set out a document that we have, "HMG Legal Position: UKIM Bill and Northern Ireland Protocol". That addresses it from the UK Government's end of the telescope, which is perfectly understandable, but is it not negligent that the opinion does not say what it is open to the EU to do, if it so wished? It positions in its silence, does it not, the EU as a toothless party with no recourse to the law?

**Brandon Lewis:** No, not at all. The Attorney General's legal advice is around the position of the Government's legislation, and that is entirely right, proper and clear. It is inappropriate for me to comment on the Government legal advice but it is also clear to me that, in terms of our relationship with the EU and what action the EU may take, should we end up in that position, that is not where we are. The Attorney General's published advice refers to the legal position of this Bill and is absolutely clear about that. In terms of the EU's position, again, you are tempting me into hypotheticals, because we continue to work on the withdrawal agreement and the protocol in good faith.

Q100 **Chair:** I take all of that and all that you say is perfectly legitimate. I do not criticise the attorney for the advice that has been put into the public domain. Let me couch my question maybe in a way that you can answer without saying what it is. At what point has the attorney set out to you, as Secretary of State for Northern Ireland, and/or the Business Secretary, the Minister for the Cabinet Office, the Prime Minister or, indeed, Cabinet as a whole, how the EU could respond today to the publication of this Bill? Whether it chose to do so is immaterial. Has she set that out clearly for Cabinet to take into consideration?

**Brandon Lewis:** I am not going to go into the detail. I have never, in my career, gone into the detail of—



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Q101 **Chair:** I do not want you to go into the detail but merely to confirm whether she has or not. I do not want to know what she said but whether or not she has done it.

**Brandon Lewis:** I am not going to comment on the legal advice that the Government get, and especially the advice for discussions in and around Cabinet. I would say that the position of the EU is to continue these negotiations, which it has been doing since the publication of the Bill last week, and continue with the Joint Committee, which it has continued to do. We all continue to work and act in that focus with good faith.

Q102 **Chair:** I am not asking you to comment on what the advice was but merely to confirm, yes or no, whether the advice on that matter was given.

**Brandon Lewis:** I have answered that and I do not see that I can give any further comment.

Q103 **Chair:** The Committee will have to draw its own conclusions on that.

**Brandon Lewis:** The only conclusion that would be appropriate to that is the fact that it would be inappropriate to comment on the legal advice that Government are getting and on conversations and discussions that are held by and in the Cabinet. We are very clear about the legal advice from the Attorney General, which has been published, and our position with the EU, which I have outlined through the Committee today.

Q104 **Chair:** We are not asking what the advice is. Clearly, that has to come under client privilege, and it would be a motion of the House under a motion to force the disclosure. All we are seeking comfort on is whether the senior legal adviser to the Government advised the Government as to how, under law, the EU could, if it so chose, respond to the publication of the Bill.

**Brandon Lewis:** I cannot really add anything to what I said earlier.

Q105 **Chair:** You could answer the question with a yes or a no.

**Brandon Lewis:** I have answered the question in the sense that I am not going to comment on Government legal advice or the discussions that we have in Cabinet. I never have done, and am not about to start, tempting as it is, here with this Committee. We are always, in Government, with colleagues, discussing the options to make sure that we get the best outcome for the United Kingdom and that we continue to do so in a way that is focused on delivering a positive outcome with our partners in the EU, in good faith, through the negotiations.

Q106 **Mary Kelly Foy:** Good morning, Secretary of State. We know that you are not prepared to talk about security, but can you confirm that both the Police Service of Northern Ireland and the Garda are being fully involved? Did the discussions that you have had take place before and after the publication of the Bill?



**Brandon Lewis:** The Garda is not part of Northern Ireland. I have no locus with the Garda; it is the police force in the Republic of Ireland. The Police Service of Northern Ireland continues to focus on its work in Northern Ireland. They have evidenced how phenomenally well they do that in the last few weeks with the work that they have taken on, and will always continue to work in the best interests of the safety of people in Northern Ireland and the communities they serve.

Q107 **Mary Kelly Foy:** Do you not think the Garda should be involved at all in these discussions around security?

**Brandon Lewis:** I am not going to comment on security discussions that any of us have. The Garda is the police force of the Republic of Ireland. It is not part of the UK. I have no locus, as a UK Secretary of State, over the Garda, and I would not presume to.

Q108 **Chair:** Secretary of State, in response to a question from Mr Farry, you said that there would be no border, as set out in the Good Friday agreement. I am afraid that this is a hypothetical question, because we are in the realms of the hypothetical. Hypothetically, the clauses of the Bill, which will then be an Act, come into effect because the arbitration system has failed or the Joint Committee has failed, and, therefore, we have to defend the integrity of the UK single market from illegal imports from the EU single market. The same is the case in reverse for the EU against the EU. This ties in with Mary Kelly Foy's question with regard to security. Anything north-south can clearly lead to an increase in smuggling and the profits thereof, which then have a security implication. How are you shaping in your mind how the policing of this new north-south customs border is delivered and implemented? How does it manifest itself?

**Brandon Lewis:** First, Chair, I am sure you are aware, but it is probably worth being clear, bearing in mind the last question, to all colleagues on the Committee. I am sure many, if not all, are aware of this. The PSNI and Garda work together and communicate, as has been evidenced quite recently. That is not a matter for the Secretary of State. As I say, the Garda is a matter for the Republic of Ireland, and the PSNI has its independence as well, although it works with the Department of Justice, in one sense. They work and communicate together.

I see no reason for there to be—and we will not have—a border on the island of Ireland. There is no intent, no plan and no desire, and no way will we have a customs border on the island of Ireland.

Q109 **Chair:** How do we protect our internal market?

**Brandon Lewis:** We have been clear that we want to ensure unfettered access. That is right for the UK. We are working through the details of that in the Joint Committee. I am going to leave that for the Joint Committee to work through in a positive way, as I believe it will, hopefully to a free trade deal. Going beyond that would be, as you say,



tempting me to go into hypotheticals, which I am reluctant and reticent to do.

Q110 **Chair:** You are the Secretary of State for Northern Ireland. There has to be worst-case scenario planning for something that could kick into effect on 1 January, and we are fast approaching 1 October. There must be some thinking as to how HMRC, Border Force, customs agents and the like police, patrol and implement protection of the customs unions between the two single markets.

**Brandon Lewis:** As I say, nobody is going to be creating a customs border or patrols of any sort—and we are clear about that—on the island of Ireland. I believe that, by 1 January, the work of the Joint Committee and the free trade agreement negotiations will conclude in a way that means that there is, hopefully, certainty for businesses as well as ensuring that that is not an issue. I am not going to get drawn into hypotheticals beyond that.

Q111 **Chair:** The Government's Bill takes a choice of having a free and unfettered trade arrangement east-west and west-east, so by definition it then has to be policed north-south.

**Brandon Lewis:** The Bill is clear that it is unfettered access from Northern Ireland to GB. As I said earlier on in the Committee, the work of the Joint Committee continues for the GB to NI part. There is a difference. Our focus is to deliver on that through the Joint Committee in an agreed way with our partners in the EU.

Q112 **Chair:** When does HMRC knock on the door of your office, or No. 10 or No. 11, and say, "Ministers, this is the arrangement. We have to protect the UK single market. The EU needs to protect its single market. We are in different customs arrangements. We do not have north-south free trade"? When would you expect them to do that and to ask for funds in order to make it real?

**Brandon Lewis:** I am not going to be tempted into speaking or presuming for HMRC. As we have seen in the past in the conversations and the comments from Michel Barnier, looking at ensuring good, sensible and flexible approaches—I think "flexibility" was the phrase he used—around concluding the negotiations and the work on the Joint Committee that the Chancellor of the Duchy of Lancaster is having with his opposite number, we will be able to do that in a way that delivers good, sensible trade across the United Kingdom and with our partners in the EU. That will ensure that we continue to benefit from all the work that has been going on over the last few months in that process.

Q113 **Chair:** I am sure that there is nobody on the Committee who does not share that aspiration, but what is the date pencilled into your or the Government's diary as to when that aspiration ceases—

**Brandon Lewis:** I am not being drawn into hypotheticals beyond the work that we are doing in the Joint Committee and the free trade



agreement in order to deliver a more positive, certain outcome for businesses in Northern Ireland and for our friends and partners in the EU, including the Irish Government.

Q114 **Chair:** Secretary of State, do you and the Government accept that business is virtually on its knees as a result of covid? It needs certainty and assurance. We are mid-September now. We leave the European Union, kit and caboodle, on 31 December of this year. The window of describing legitimate questions of operational ability as hypothetical is a tiny, tiny window, which is about to close, surely.

**Brandon Lewis:** As I said pretty much at the outset of the Committee meeting this morning, I absolutely understand, and business has made very clear to us—I make no bones about this—the desire and need for certainty as early as possible. We have to look at this in terms of the package and the whole range of work that has been going on over the last period. We published the Command Paper to give business some confidence and certainty about what our plans were. We published the guidelines the week before Parliament broke for the summer recess, which was, again, positively welcomed by business. We outlined the trader support scheme for business, the SPS checks and the work we are doing between DEFRA and DAERA. All of these are parts of it.

I fully accept that there is not yet a complete picture and there are still parts of that picture that we need to get in place. That is the work the Joint Committee is doing. We want to do that at pace. We want to get to a positive conclusion. I am optimistic that they will and I recognise that businesses want that as soon as possible. I recognise that they want that very soon, and the teams—both our partners in the EU, to be fair, and our negotiating teams—are working at pace to try to achieve that for business. I absolutely accept that that is something that business wants and needs, and we want to deliver that as soon as possible.

**Chair:** Secretary of State, we are going to have to call time there. Could I thank you and Mr Perry for your attendance this morning? Can I also apologise, because I should have mentioned this in the opening remarks? Can I thank you and, therefore, the wider Government for the timely way in which you have responded to our “Unfettered Access” report? That was very helpful and we are grateful to you for that. You will have taken that, from across the parties, there are still questions and concerns about the direction of travel, but we are seized that you are seized of the vital importance of getting this right for the communities of Northern Ireland, the preservation of peace and the protection of the Good Friday agreement. On that note, Secretary of State, can I thank you very much indeed for your attendance?

**Brandon Lewis:** Thank you for your time.