

Committee on Exiting the European Union

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

Thursday 5 September 2019

Ordered by the House of Commons to be published on 5 September 2019.

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Members present: Hilary Benn (Chair); Mr Peter Bone; Joanna Cherry; Stephen Crabb; Mr Jonathan Djanogly; Richard Graham; Peter Grant; Wera Hobhouse; Stephen Kinnock; Craig Mackinlay; Mr Pat McFadden; Stephen Timms; Mr John Whittingdale; Sammy Wilson.

Questions 5021-5158

Witness

I: Rt Hon Michael Gove MP, Chancellor of the Duchy of Lancaster.

Examination of witness

Witness: Michael Gove MP.

Q5021 **Chair:** Can I welcome you back, Mr Gove, as a distinguished former member of this Committee? As you will be very familiar, we have lots of ground to cover, and therefore I think every single member of the Committee wants to ask you something. As succinct answers as possible would be much appreciated. We are very grateful to you for coming this morning and responding to my request to appear before us in the first week back.

Before we begin, can I just ask you: do you feel comfortable about the expulsion of your former colleagues, some of whom you served in Cabinet with until very recently, because they take a different view from the Prime Minister on the wisdom of a no-deal Brexit?

Michael Gove: First of all, thank you for the invitation to appear, and for your kind words. I would say two things. The first is that the Prime Minister was very clear that the decision over whether or not to vote on the procedural motion earlier this week would be treated, in effect, as a matter of confidence. The Prime Minister was very clear that his analysis, which I share, was that allowing that procedural motion to pass and the Bill, which of course stood in your name, to pass would undermine the Government's negotiating freedom and our capacity to get a good deal.

I completely agree with that analysis, but no one can be anything other than saddened when good colleagues, good Conservatives, good parliamentarians find themselves not just in a different Division Lobby but also, because of the consequences of the decision that they have taken, no longer in receipt of the Whip. It is, of course, a cause of personal sadness to me.

Q5022 **Chair:** Is it true that you have been calling for their reinstatement?

Michael Gove: No; I have made the point to—

Chair: No?

Michael Gove: No; I have made the point in public, and I take the opportunity to repeat it again, that the Prime Minister was very clear, and the consequences were very clear, but it is also the case that I want to ensure that we can have an opportunity to ensure that every Member of Parliament who acts in good conscience has an opportunity to have their views respected.

Q5023 **Chair:** Okay. On "The Andrew Marr Show" on Sunday you declined to confirm whether the Government would abide by legislation to stop a no-deal Brexit on 31 October and you said, "Let's see what the legislation says."



HOUSE OF COMMONS

Michael Gove: Yes.

Q5024 **Chair:** Well, you have now seen it, so can you just confirm that, assuming the Lords passes the Bill, the Government will comply with it? A simple yes or no will do fine.

Michael Gove: Yes.

Q5025 **Chair:** Excellent—that's good. Now, on Operation Yellowhammer, on what date was the copy of the report leaked to *The Sunday Times* produced?

Michael Gove: It was produced over a variety of months. The final copy was presented to a Cabinet Committee in the first week of August, on 2 August.

Chair: The 2nd of August.

Michael Gove: But it is important to bear in mind that, while there were some elements of it that were presented for the first time to the relevant Cabinet Sub-Committee on 2 August, much of the contents, in particular those that relate to assumptions about trade flows at the border, were based on work that had been generated months earlier.

Q5026 **Chair:** But by definition, if the document was dated 2 August—and it appears that that is the copy that *The Sunday Times* got—it could not have been leaked by former Ministers who left office in the week beginning 22 July, so can you explain why No. 10 briefed that it was?

Michael Gove: I have no knowledge of that No. 10 briefing.

Chair: You have no knowledge.

Michael Gove: Obviously there has been speculation in the newspapers, but I have no knowledge of that specific briefing.

Chair: Well, we all read it in the newspapers.

Michael Gove: Indeed.

Q5027 **Chair:** Philip Hammond took grave exception to it, which is why he wrote to the Prime Minister on 24 August.

Michael Gove: I quite understand why my constituency neighbour and friend Philip would have written as he did. It seems to me that there is no evidence to suggest, whoever leaked it, that it could have been Philip.

Q5028 **Chair:** Right. Is it still a possibility that it could have been other people who had been serving in the Government prior to the current Prime Minister's election?

Michael Gove: It would be wrong for me to speculate, but I cannot see how that could have happened.

Q5029 **Chair:** Exactly; that is very helpful. Why did you say on 18 August that it was an old report when it was dated, as you have just confirmed to us, 2



HOUSE OF COMMONS

August?

Michael Gove: Because most of the material within it long predated the presentation of the report on 2 August. In particular, I think it was important to recognise that, with that report having been presented to the Committee, we said as a Committee that it is vitally important that we test the assumptions within it and that, rather than being presented with a set of assumptions that were framed under the preceding Government—Theresa May’s Government—we now need to test all those assumptions. In effect, it was a document that reflected decisions that had been taken in that Government, which I of course served in, but a new set of assumptions and tests had to be applied to the document.

In a way, it was the handover document from the old Government to the new, outlining the work that had been done under the old Government, much of it very good, but which we wanted to test. To present it in two ways—as both the considered, definitive position of the new Government and also, as some sought to do, as a base-case scenario—would have been wrong.

Q5030 Chair: But there are two separate things. One is assumptions about what is going to happen, based in large part on what others will do and which the Government do not control, such as French customs officials. We will come to that point in a moment. Are you saying that the Cabinet was presented with a document on 2 August that contained a lot of out-of-date assumptions?

Michael Gove: Again, to be precise, the Cabinet was presented with a document with a series of assumptions, recommendations and analyses that had been compiled under the previous Government. Some of that work was presented for the first time, but the work had been ongoing under the previous Government. There was then an opportunity for this Government to test that.

One thing I am very keen to do is to make sure that the basis on which certain judgments are made is widely understood, widely shared, and communicated fairly and in a way that gives people all the context that they need. We may go into a more developed discussion about some of the figures and some of the assumptions in that document and how they might change and how they have been generated, but I think it is important to say that the presentation at that moment led people to understand that this was a live assessment that the Government, at that point, endorsed in every particular.

I think it is also important to stress that the coverage at the time—I do not make a complaint about it; having been a working reporter, I know that you operate at pace and do not always have access to perfect information—also suggested that this was somehow a base-case scenario, and comments by distinguished external figures gave succour to that analysis.

Q5031 Chair: I want to come on to precisely that point. In the same interview on 18 August, you described what was in Operation Yellowhammer as



HOUSE OF COMMONS

"absolutely the worst case". Those were your words. Is that the wording used in the report?

Michael Gove: It is a reasonable worst-case scenario.

Q5032 **Chair:** So in the report it says "a reasonable worst-case scenario"?

Michael Gove: Absolutely.

Q5033 **Chair:** That's what it says. Does the report use—at all—the phrases "base case" or "base scenario"?

Michael Gove: No.

Chair: No, okay. That is very clear.

Michael Gove: I think it was important to state that, because in the reporting—again, I make no criticism of the reporter—it was stated in *The Sunday Times* that there was somehow a worse scenario; an even bleaker picture designated "Black Swan". Without wanting to go into why that idea emerged, I felt it was important that there was no worse-case scenario that existed in any Government document beyond that which Yellowhammer contemplates.

Q5034 **Chair:** Fine; that is very clear. Does the document contain a reasonable best case, or a reasonable in-the-middle case?

Michael Gove: No.

Chair: Okay, it doesn't.

Michael Gove: It is important to explain the purpose of the Yellowhammer document. It is not the case that Yellowhammer is a set of predictions about what the Government consider, or indeed what independent analysts consider, to be the most likely outcome. It exists much in the same way as other documents that constitute part of the national risk register exist: in order to ensure that—as I am sure those who served in government will appreciate—in the event of a set of factors coming into play that create problems for the Government, we can work out what the mitigations are. The use of "reasonable" is in order to ensure that there is a rational basis for that judgment; that it is not, as it were, science fiction. However, it is a worst-case scenario against which we can plan, so that, were the worst to materialise, we could in advance seek to mitigate its impact.

Q5035 **Chair:** Okay; that is very clear. Last Sunday, you said that there will be no shortages of fresh food. As you will be aware, the British Retail Consortium put out a statement saying: "It is categorically untrue that the supply of fresh food will be unaffected under a no-deal Brexit." Could you tell the Committee why the British Retail Consortium, which actually imports food and distributes it to supermarkets, is wrong?

Michael Gove: I cannot know exactly why the BRC chose the words that they did, but I do know two things that I think are material and relevant. The first is that you were kind enough to invite Andrew Opie of the BRC to



HOUSE OF COMMONS

give evidence yesterday, and he gave welcome clarity. I think it is the case that when people talk about shortages, certainly in headline terms, they imagine empty shelves and they imagine that the standard range of choice—broad choice—with which we have all become familiar will somehow be reduced. They imagine a situation similar to the one that might occur in a dreadful extreme weather event or after a fuel crisis or whatever. The point that Andrew made—I worked with him at DEFRA and I have the highest regard for him and for others—is that they are talking about likely disruption. Indeed, there is the potential for disruption, and we may go on to exactly how likely that is. He said that we can talk about the categories of fresh food that may be likely to be affected by that, and that it will affect fresh food in various ways—availability, shelf life and potentially cost pressure.

The point that I made, or sought to go on to make, in that interview is that in the event of a reasonable worst-case scenario, what we are likely to see is the price of some food commodities rise and the price of some other food commodities fall. You will be familiar, as the Committee will, with the fact that economists use a term like “scarcity” to describe the fact that a constriction in supply at a given time might lead to prices increasing, but in common parlance “scarcity” sounds as though we are living in a world where we cannot get what we need. I think it is appropriate to draw a balanced distinction.

The second point I would make about the British Retail Consortium is that they quite rightly want to ensure that the Government does everything possible not just to mitigate the consequences of any no-deal scenario but to secure a deal, because that would be in the best interests of their members and, indeed, all of us.

Q5036 Chair: Okay, but you do accept that November is the time of year when we are heavily dependent on importing certain types of fresh food, and therefore it is going to be a particular challenge, because of the timing of a no-deal Brexit, if it happens on 1 November.

Michael Gove: I absolutely accept that there are specific challenges at different times of the year. There is no good time of year to leave the European Union without a deal.

Chair: I agree.

Michael Gove: However, we have to be ready for those consequences. There were specific challenges had we left on 29 March or in April, which reflected the import and export flow into this country. It is also the case—again, just to put it in context—that because 1 November occurs shortly before the retail event that has become widely known as Black Friday and also shortly before Christmas, there is an additional pressure on warehousing space. In the interest of being fair with this Committee, I would say yes, there are flows of certain fresh foods that are greater at that time, just as there is greater pressure on warehousing space, but there are also lesser pressures at that time of year.



HOUSE OF COMMONS

Q5037 Chair: That is very helpful. Can I turn to one issue about exports? Obviously, we export a lot of food—that was your former responsibility as DEFRA Secretary. As you know, after 1 November, in the event of a no-deal exit, pallets transporting goods, including food, from the UK to the EU will have to be heat treated or fumigated to comply with ISPM 15. The Freight Transport Association told us yesterday there is a shortage of such pallets. Is that correct?

Michael Gove: There has been in the past. Action is being taken to deal with it. Both DEFRA and the Forestry Commission have talked to the wood packaging materials sector, dating back to the time when I was DEFRA Secretary. The sector is engaged, it is aware of the potential risks of no deal, and it is taking steps to mitigate those risks by improving the processes both to increase treatment capacity and to increase its stock of those pallets that are ISPM 15 compliant. The wood packaging materials sector is communicating its position to all its members and also to EU counterparts.

It is also important to stress that, as the Committee will be aware, broadly, of the hauliers who operate between the UK and the EU, just over three quarters come from the EU, carry goods into the UK, then collect goods in the UK and take them back. Almost by definition, those themselves will have the appropriate pallets as they come into the UK, because they will be EU compliant at that point.

Q5038 Chair: That is very helpful, but it does not quite answer the question. Are there enough pallets that comply with ISPM 15?

Michael Gove: The specific question there goes to a broader point. I can be asked—any of us can be asked—“Will there be enough of x or y in any available scenario?” It all depends what one means by “enough”. One of the things about any market scenario is that the Government can obviously seek to ensure that the market operates as effectively as possible, and we can seek to ensure that traffic and freight flow as quickly as possible. Having been alerted months ago to this situation, we have taken every step in order to deal with it—

Q5039 Chair: It doesn’t sound to me from those two answers, Mr Gove, that you know the answer to the question, “Are there enough?” Now, you would accept—because you have put out guidance; the Government has itself—that there could be quite serious consequences for consignments of goods that turn up in the EU not on a permitted pallet, which could ultimately lead to the destruction of the consignment, because that’s the advice that you have given.

So, can I ask you one more time—and if you don’t know the answer, it’s fine; just say, “I don’t know”—are there enough of the required pallets? Yes or no?

Michael Gove: The thing I would challenge is that it’s perfectly possible to ask a question that appears reasonable but that contains within it an assumption that is impossible to objectively verify.

Chair: Well, that was a wonderful Sir Humphrey answer.



HOUSE OF COMMONS

Michael Gove: Thank you.

Chair: But I think, as they say, we'll take that as a no—you can't answer that question. Now—

Michael Gove: You can take it in any way you think appropriate.

Q5040 **Chair:** I will. Now, what is your expectation about the most likely delay for lorries travelling from Dover to Calais—the most likely?

Michael Gove: In what sense? The most likely cause of delay?

Chair: No, no—the most likely delay in terms of time.

Michael Gove: Oh, time. Again, this is something that we are constantly revising. If it is the case that by 31 October, in the event of a no-deal scenario, every business is aware of what it needs in order to export, then there should be no delay.

Q5041 **Chair:** Right. I asked you on Tuesday, and I didn't get an answer then, whether it is true that the Government has seen an analysis done for the Department for Transport in the last fortnight. It was reported by, I think, Sky News that in the worst case the average delay for lorries and freight at Dover would be 1.5 days, and in the best case a wait of two to three hours. Can you just very simply confirm that the Government have received that analysis?

Michael Gove: Not quite. The first part of—

Chair: It hasn't quite received it, or the reporting of it is not quite an accurate description of what was in it?

Michael Gove: The latter.

Q5042 **Chair:** Right. So what did that report say about the average likely delay, in between the best and the worst?

Michael Gove: It didn't.

Chair: It didn't? Okay.

Michael Gove: I'll tell you what it did say, again in the spirit of openness. It is the case that the 1.5 to 2.5 delay scenario is drawn from the reasonable worst-case scenario that we did have in the original Yellowhammer document.

Chair: Fine.

Michael Gove: Now, we are seeking to test that and we will publish of course—I hope in full—the workings behind that.

On the specific point, the best-case scenario, if everyone understands what it is that they need to do, is that there will be no delay. But it is the case that if a lorry were to arrive and were not to have the necessary documentation before it left the UK, it is estimated that it could take up to two hours, in order to ensure that that lorry then had the documentation



HOUSE OF COMMONS

to complete its journey. But it may well be the case that that lorry or that consignment is met, or recognises that it doesn't have that documentation, well before it gets to the short straits.

Q5043 **Chair:** Okay. We were told—just for information—yesterday by our witness, who formerly worked in HMRC, that the French authorities had told HMRC that trucks without the correct paperwork will be held for between two and eight hours. Is that your understanding?

Michael Gove: They will be held. I can't make a specific judgment about how long, but I can tell you a little bit more about that process, for the benefit of the Committee.

Q5044 **Chair:** Okay. Finally from me, we were told yesterday that Calais has space for 300 lorries to be put in a red lane for inspection because they haven't got the right paperwork. Can you just tell us what happens when all those spaces are full?

Michael Gove: It's an amber lane, not a red lane—a distinction perhaps without a difference. But I think it's—

Chair: We were told yesterday it was a red lane, but I'm glad for the correction on colour.

Michael Gove: It is, again, important. The key thing is that having visited Calais last Friday, it is the case that if lorries have the appropriate documentation, they can travel through clearly.

Chair: I know that, yes.

Michael Gove: If they do not, they will be kept at that point and then they will either be returned to the UK, in order to ensure that they are compliant, or it is the case that while there they can use customs agents or freight forwarders to ensure that papers that appear not to be compliant can be rendered compliant, and they can then move on.

Q5045 **Chair:** Which doesn't quite answer the question: what happens—because this is a practical problem of flow—when all 300 spaces are full?

Michael Gove: Then they're full.

Q5046 **Chair:** They're full? Fine. What does that mean for lorries that are on ferries? They can't get off, can they?

Michael Gove: It all depends on whether or not they have the documentation required.

Q5047 **Chair:** Will that checking be done in Dover to prevent lorries that can't get into the 300 spaces because they are full, or that will be returned, from actually making the journey?

Michael Gove: They will be done before that. This is the important point. Another important point is that it is our intention to ensure that the minimum number of lorries arrive at Dover without appropriate documentation, and one of the things that we are seeking to do through



HOUSE OF COMMONS

our business information campaign is to explain to hauliers and businesses what they need to do in order to be compliant. The French authorities and the European Commission are helping to ensure that the three quarters of hauliers who come from the EU also know what it is, so that they can be compliant.

It will also be the case that we will be making sure across the United Kingdom that hauliers are told what it is that they need to be compliant, and not to get on the ferry if they are not. It will also be the case that we have legislative powers as the result of a statutory instrument that we are passing, to ensure that if a lorry is not compliant and it is—I was about to use the word “intercepted”, but that is too strong—stopped by the relevant authorities, it can be sent back or fined. We are doing everything possible to ensure that you do not have lorries arriving at the short straits and then making the journey that are not compliant for the reasons that you have outlined.

Q5048 Chair: The truth of all of this is that no one, including your good self, can actually know what is going to happen after 1 November. Would that be a fair assessment?

Michael Gove: The future is known only to the Almighty.

Chair: Well, he is not a witness before the Committee today.

Michael Gove: Not today.

Q5049 Mr Whittingdale: Can I come back to the Yellowhammer documents? In December of last year I, together with our Chairman and one or two other members of the Committee who are members of the Privy Council, went to the briefing of Privy Counsellors on the consequences of a no deal. The briefing looked remarkably similar to the Yellowhammer document that *The Sunday Times* published. You have explained that a lot of Yellowhammer was based on work carried out some considerable time earlier. To what extent has the analysis contained in the document presented to Cabinet in August changed from the analysis presented to us in December of last year?

Michael Gove: It is a very good question. In essence there have been three different iterations so far of the assumptions about what is likely to happen at the border, and they have been revised; they are based on two essential processes. One process is a survey of business readiness. We cannot know exactly how ready every business is, but surveys are carried out and businesses can say, as a result, “Yes, we are broadly ready. We know what is required.” So that is one set of statistics.

Then another set of statistics is the DFT’s work, and algorithm and so on, on what is likely to happen on the roads leading towards Dover. They are put together and they assume what a worst-case scenario is. Now, by definition, if it is the case that the Government take steps which ensure that business can become more ready, then one part of that equation—one variable in that equation—becomes better overall; and we are now in another iteration, taking account of the fact that more work has been done



HOUSE OF COMMONS

not just since November but, of course, since August, to help prepare business.

We will publish what those figures are in due course, but you are absolutely right that the assumptions that were made in November and the assumptions with which we were presented in August were similar. There was an exercise specifically in June to revise them. They were not revised very materially then. They are being looked at now. So in that sense you are absolutely right; there would have been a familiarity in what you saw in the newspapers and what you were presented with several months ago.

Q5050 Mr Whittingdale: Thank you, but, as you say, in the intervening period work should have been done that meant, hopefully, that the analysis was less depressing, if you like, than the one made in December. Yet *The Sunday Times* reported that we were less well prepared to leave on 31 October than we had been on 29 March.

Michael Gove: I can understand why it said that and I think that relates to the point that the Chairman made about pressures on warehousing, particularly, and also the nature of the flow of certain fresh foods. But overall as a Government we are more prepared, and it is also the case that third parties are more prepared. Without wanting to take his name in vain, when the Governor of the Bank of England appeared in front of the Treasury Committee yesterday, he made the point—he is also obviously concerned about the consequences of no-deal Brexit—that it was undoubtedly the case that overall we were better prepared now than we were before.

Q5051 Mr Whittingdale: Can I ask about the intervening period between the analysis we saw and Yellowhammer's publication by *The Sunday Times*? The previous Chancellor of the Exchequer said—or was quoted as saying—that he did not want to spend money on preparing for no deal until it was absolutely clear that that was a likelihood, and he did not regard it as one. It was also reported that civil servants who had been involved in no-deal preparations previously were sent back to their Departments at Easter. In the period between then and your taking responsibility as Chairman of what we understand is now called the XO, was any progress made to prepare for no deal?

Michael Gove: Yes, but I think it is important to put it in context. Your broad analysis is right. Again, entirely fairly, when Philip was Chancellor he thought that no deal would be bad for the economy and also felt that it would be wrong to spend money and give everyone the impression that no deal was now a principal option, because that would lead, in his assessment, to business pausing certain decisions and an effect on the currency market. He did not want it to become a self-fulfilling prophecy, as it were.

Money was made available—some £4 billion—to help Departments prepare in the run-up to 29 March. Then in the immediate aftermath of 11 April, and the extension being granted to 31 October, surge capacity that would



HOUSE OF COMMONS

have gone into Government Departments in order to prepare for departure on the 29th or the 11th, returned to their home Departments. Then there was a period, obviously, of political change, during which preparations were maintained and Departments, including my own—I was in DEFRA at the time—sought to ensure that we were ready for whatever decision a new Prime Minister might want to make. As soon as the new Prime Minister came in, preparations were significantly accelerated, including with the allocation of another £2 billion.

Q5052 Mr Whittingdale: So during your period as Secretary of State for the Environment were you able to access all the money that you wanted to use for a possible no-deal preparation, which we were told the Treasury had put aside?

Michael Gove: Yes, specifically for the things that we needed at DEFRA, pretty much, but there were other frustrations that I had. I do not want to be unfair, and we are all governed by collective responsibility in Government, but there are always lively discussions. It was not that I felt that we did not have enough money in DEFRA; it was that there were other things that I felt could and should have been done in order to prepare us that were not being done.

I will take one example, which is the issuing of EORI numbers—the numbers that businesses need in order to export. My argument at the time had been that rather than taking a passive approach, whereby we invited businesses to register, we should proactively register every business, both because it would make life easier for them and also as a wake-up call to them to get ready.

Q5053 Mr Whittingdale: One of the principles on which the Yellowhammer analysis is based is that the UK will be treated essentially as a third country by member states post our departure. Have we managed to achieve any bilateral deals with individual member states?

Michael Gove: Yes. There are several things. The first is that the European Commission has put certain arrangements in place on a unilateral and time-limited basis, but they have done so in order to ensure the free flow of passengers and goods as much as possible. Secondly, there have been conversations with member states, for example about the rights of UK residents in those states: everything from their access to healthcare to their ability to vote in local elections and so on. There have been discussions and as we get closer to the possibility of leaving on 31 October, so the appetite amongst member states to ensure that appropriate arrangements are in place grows.

Q5054 Mr Whittingdale: Can I ask you about one specific aspect that has caused this Committee quite a lot of concern? That is the arrangements for the transfer of data between the UK and the rest of the European Union. How close are we to getting an agreement that we will have recognition of data adequacy in the event of there being a no-deal Brexit?

Michael Gove: I am pretty confident that we would be granted adequacy. There are jurisdictions that are currently outside the EU but are Crown



HOUSE OF COMMONS

dependencies—Jersey, Guernsey and so on—which have data adequacy. I cannot see any reason why we should not. There is a definite risk, however, of a gap after we leave and before we get an adequacy rating, but for any company that needs to get personal data from the EU into the UK, there is information on the Information Commissioner's website about how to make sure you have standard contractual clauses that, in effect, mean that you can carry on with the free flow of data as before. Data adequacy is a great thing to have—it relieves businesses of a particular worry—but businesses can take proactive measures to ensure that, even in the absence of data adequacy being granted, data can flow freely. Mitigation measures can be put in place.

Q5055 Stephen Crabb: Good morning, Minister. If somehow the deal that the previous Prime Minister negotiated with the EU came back to the House of Commons, would you vote for it?

Michael Gove: Yes.

Q5056 Stephen Crabb: You would—okay. There are plenty of our colleagues who say that they have moved on and that the deal is dead. The Prime Minister keeps saying to me that he is determined to get a deal. As somebody who stuck by the previous Prime Minister and wanted to get that deal through, and as somebody who understands how incredibly difficult all this is and the complex variables that are in play, in your mind's eye can you see a landing zone for a revised deal with the EU?

Michael Gove: Yes, I can. I voted three times for the deal—I know you did as well, Stephen—and it was a compromise. I have said often on the Floor of the House and in newspaper articles that it was a compromise. There were parts of that deal that I did not like. I had a particular concern about the backstop for a variety of reasons. The Prime Minister's view that we can surgically excise the backstop means, to my mind, that the deal that he would secure as a result of that would be better. Although I would happily support, and did happily support, Prime Minister Theresa May's withdrawal agreement, I believe that our new Prime Minister is in a position where the deal that he hopes to secure would be a material improvement.

The second thing that the Prime Minister wants to do is to make sure there are changes to the political declaration that make it clear that we want to be outside the single market and the customs union, and that we want to have a best-in-class FTA. Again, that was always my preference from the beginning. I was prepared to compromise in order to make sure we left. Good people can differ about what a good deal looks like, but I believe that the Prime Minister is making a request of the EU that, while significant, is eminently achievable. Some people have speculated that the Prime Minister wants no deal above all. I absolutely do not believe that. I know how hard he is working to secure a deal. Had he wanted to deliberately engineer a no-deal outcome, he would have asked for far more than he has asked for.

Q5057 Stephen Crabb: Do you believe that there is a genuine negotiation



HOUSE OF COMMONS

currently happening with the EU about a revised deal?

Michael Gove: I know that there is. I know that the energy that is being deployed by the Prime Minister, by my friend and colleague Stephen Barclay and by David Frost is significant, and that work is being done at pace in order to engage with the Commission and Ministers.

One thing I would stress is that, although I sit on the committee that discusses aspects of the negotiation—XS—I am not involved in them. I am not involved in the frontline. All negotiations and all work with other EU member states to get a deal is done by the Brexit Secretary, the PM and David Frost. The only contact that I have with other member states is purely about preparations for exit. When I go to Calais, I am not talking about what the future shape of a deal might be; I am simply there to look at the amber lanes in the lorry park.

Q5058 **Stephen Crabb:** At any point over the summer, have you felt uncomfortable that the rhetoric from the new Prime Minister is shutting down space that could be available for a potential compromise with the EU? In other words, is he backing himself into a corner that the EU cannot help him get out of?

Michael Gove: No, I do not think so. The Prime Minister reminded the House of Commons yesterday, and reminded MPs in a meeting, that at the end of the Biarritz summit, the German Chancellor requested of the President of the Council changes to what had been agreed to make sure it could pass the House of Commons and the PM could be confident about it.

There is another thing. Those of us who voted throughout for the withdrawal agreement have to acknowledge and recognise that the only proposition that actually ever commanded a majority in the House of Commons was the proposition put forward by Sir Graham Brady, which is that the withdrawal agreement should pass, but with alternative arrangements for the backstop. Although that is, in the Prime Minister's view, the Government's view and my view, a wholly desirable and achievable outcome, it also has the merit of being something that the House of Commons has already said that it would accept.

Q5059 **Stephen Crabb:** Finally, can I ask about one specific area that is covered in Yellowhammer? You will be familiar with what Yellowhammer says about risks to UK fuel supplies and specifically the risks to the UK domestic refining sector created by the proposed tariff regime under a no-deal scenario. Given the importance of UK oil refineries, particularly in certain constituencies around the country, are you minded to look again at the draft tariff regime that the previous Government put together?

Michael Gove: These are sensitive issues, but I think it is important to recognise that the Government put forward a draft tariff schedule. We have been looking at every aspect of it, with a bias towards keeping it as it is but looking at every issue in the round. That is one thing. Separate to that, we also recognise the importance of those six refineries across the UK to fuel distribution and to industry overall, and we are giving serious thought to making sure that we can, whatever the circumstances and



HOUSE OF COMMONS

whatever the future, help to support them come what may in playing their critical role in providing jobs in locations across the country and fuel for British industry.

Q5060 **Stephen Crabb:** So we should not consider the previous Government's statements on potential tariffs under no deal as the final word on this.

Michael Gove: They are not the final word. We will be confirming shortly what alterations, if any, take place, but there is a bias towards keeping things as they are, overall.

Q5061 **Chair:** Thank you very much. Can I ask how shortly, in terms of timescale?

Michael Gove: I would hope that they would be published certainly before Parliament returns on 14 October. My preference is sooner rather than later.

Q5062 **Stephen Kinnock:** Thank you very much, Minister. We know that the withdrawal agreement was rejected three times, which then gave rise to the cross-party talks. The cross-party talks—very serious talks—went on for a period of around six weeks and from them a number of commitments and, if you like, concessions were announced by the Prime Minister, reflecting what Labour had been asking for, which was more clarity about the future relationship—on the customs union, on dynamic alignment, on environmental and consumer rights and so on. As you know, that was branded as the withdrawal agreement Bill, but that new package was never published. Do you think that that withdrawal agreement Bill should now be published by the Government, as it would be a helpful stepping stone, if you like, for finding the basis for a deal?

Michael Gove: The more informed the debate is, the better. Having sat in on some of those talks, I know that there was a sincere attempt by many in them to find common ground. I think that some of the people who were involved in those talks are no longer in government, so I think out of politeness, before making plain everything that may or may not have been discussed, I would have to make sure that conversations were had with those who were involved in those talks who are no longer in government, because I would not want them to feel that there was any discourtesy to them. I should stress that, as you know, this was an attempt to find compromise. Following on from the point that I made to Stephen, there were some aspects of what we were proposing in those talks that made me deeply uncomfortable, but I felt it was important to try to see if we could find a way through. People will form their own judgment about the good faith of the individuals involved and about the merits of the package that came up, and I would not want to try to influence people on that, but if we can help this Committee and Parliament know as much information as possible so they can come to an appropriate judgment, that is something I would like to do.

Q5063 **Stephen Kinnock:** Thank you very much; that is very helpful. Perhaps we may be able to follow up on that, Chair—that is something we can discuss.



HOUSE OF COMMONS

I want to move on to how the negotiations would work with the European Union in the event of a no deal. The legal basis would of course shift from article 50 to article 218. On 31 August, Michel Barnier wrote, "In case of 'no-deal', all the UK's financial and other obligations from its past EU membership will continue to exist, as well as obviously the international obligations it has to protect the Good Friday Agreement, in all its dimensions." The message from the European Union is clear that even in the event of a no deal, the divorce items under the withdrawal agreement and article 50 are still in play and no discussions, no mini-deals, no FTA talk and no future relationship talk can possibly take place until those items are agreed. Do you agree with that analysis?

Michael Gove: I absolutely agree that that is the position that Michel Barnier has taken, and that he is faithfully reflecting the mandate that the Council has given him. I will say just a little bit extra for clarity—please cut me off if I am going into too much unnecessary detail. The EU has made it clear that it regards three things as central before we can move on to a future economic partnership. The first is citizens. I believe that everything we have done in domestic legislation will mean that EU citizens in the UK have all their rights, and that those are guaranteed—you can probe that in a second, if you want. The second thing is financial obligations. The financial obligations that were agreed as part of the withdrawal agreement are dependent on that withdrawal agreement existing. In the absence of a withdrawal agreement, I think people agree that there would be obligations that the UK has to the EU, but the precise nature of them—the size of them—is open to debate. The third area is maintaining the Belfast/Good Friday agreement. The backstop that exists in the current withdrawal agreement was a sincere attempt to resolve some of those issues, but there are other ways in which those issues can be fairly resolved as well. The broad analysis that you have is a fair one, but of course the negotiating mandate that the Council gives the Commission can always change. You are also right to say that the article 218 process requires a degree of acceptance by individual member state Parliaments of anything that is agreed, which the article 50 process does not.

Q5064 **Stephen Kinnock:** Thank you. Just one final question. Focusing specifically on the Northern Ireland piece in all of that, the European Union has made it clear that everything has to be done to protect the Belfast/Good Friday agreement. If we leave without a deal, it would be done under an article 218 process, but, by definition, would take much longer because it would surely fall under the category of a "mixed agreement", and would therefore require ratification by 28 member state Parliaments. In the meantime, what measures could be put in place to discuss alternative arrangements? You would not be doing that in a transition period under article 50; you would be doing that in a third country. We would be a third country at that point, so how would we manage that process?

Michael Gove: You are absolutely right. It is the case that, in the event of a no-deal exit, there are particular challenges that are more acute in Northern Ireland than elsewhere. Again, I do not want to apportion blame in any way, but we have said that, in order to ensure that the spirit and



HOUSE OF COMMONS

the letter of the Belfast/Good Friday agreement are abided by, we will maintain a common travel area. The only checks that we would impose would not be at the border but would be absolutely mandated by international law. At the moment, we don't know—this is not a criticism, just an observation—the precise requirements that the Commission would have of Ireland as a member state. We would like to have more conversations, both with the Commission and with the Republic of Ireland, about what one might do in the event of no deal, before we then move to whatever a new agreement might be. Unless I am misunderstanding your question, it is the case that there are additional challenges posed—absolutely.

Q5065 **Mr Bone:** Chancellor, you said in earlier evidence that you would vote for the previous deal if it comes back to the House.

Michael Gove: Yes.

Q5066 **Mr Bone:** I assume there is no chance of the current Prime Minister bringing that deal back. He said it's dead. But we now have a situation where we have an alternative Government on certain days—the Chairman's Bill came through that method. If there were a, say, SO24 that led to the agreement being brought back—it is not Government policy—would you still vote for it?

Michael Gove: No. I hope, without wanting to go too far down a hypothetical route—my preferred option is the deal that the Prime Minister has set out. If that were impossible—in a world where we could not pursue it, it was completely off the table and it could not happen—and the choice was between staying in the European Union, leaving with that deal or no deal, I would leave with that deal. But we are not in that world now. The Prime Minister is putting forward, and I believe can secure, a better deal than that which was secured by the last Government. There is a hierarchy. We all have our hierarchy of our favourite outcomes. One of the problems has been that in the House of Commons we have not yet reached a point where we can all agree. I think we all—or most of us—can agree on the Prime Minister's proposition because, as I mentioned, it is the one thing that has secured a majority in the shape of the Brady amendment. I hope that is helpful. I am not trying to suggest that we should bring it back, despite strong arguments that have been made persuasively for such an outcome by some colleagues. My view is that the Prime Minister's deal is preferable, but I want to be honest about why I voted as I did in the past.

Q5067 **Mr Bone:** I think I understand what the Chancellor is saying. He is saying that if the alternative were staying in the European Union, he would vote for Mrs May's deal.

Michael Gove: Exactly.

Q5068 **Mr Bone:** Even if that was against the policy of the Prime Minister because we may be forced to stay in the European Union after 31 October because of the Chairman's Bill. It is quite possible, as we have seen, to get that previous agreement brought back through other means in the House. Surely that cannot be your position, Sir.



HOUSE OF COMMONS

Michael Gove: I am not sure how it could be brought back.

Q5069 **Mr Bone:** I think Mr Kinnock might have some views on that. I will leave that point because I wanted to ask about something else. If there is—as is possible—a general election called on Tuesday next week, and the House dissolves shortly after, the Act of Parliament will be there that says we will ask for an extension. That is clear. But it is not in our gift to get that extension—we have to have the European Union agree to it. As the Minister responsible for no-deal planning, what will you be doing while Parliament is dissolved? Will you continue with preparations in case the European Union does not grant an extension? Will you just be off around the country campaigning?

Michael Gove: The former.

Chair: Okay. I think that the line of questioning that Richard Graham wants to pursue follows directly on from that of Peter Bone.

Q5070 **Richard Graham:** That is very kind, Chairman. Chancellor of the Duchy of Lancaster, the points you made earlier were extremely helpful because they are consistent with what you have said over a long period of time—that you greatly prefer a deal over no deal. The new Prime Minister said that it is a million to one against no deal.

Chancellor Merkel called for alternative proposals on the backstop to be put within a month. What progress do you think has been made, and how likely is it that any further progress could be made during a general election, not least considering the European Commission might take the view that it needs to wait for the outcome of the general election before continuing negotiations?

Michael Gove: My hope would be that we will secure progress in the ongoing talks before the October Council, and will secure an agreement at the October Council. Despite the thoughtful and tempting questions from Peter, Stephen and yourself, Richard, I cannot anticipate every aspect of the future. What I can do, as my principal job, is to prepare for our exit, support the Prime Minister in his efforts to get a deal and acknowledge that, in the straightforward choice between staying in the European Union—i.e. no Brexit—and no deal, no deal would be preferable for me, which is the Government policy as well.

Those are the broad parameters. Within that, there are a number of potential hypothetical scenarios that people can put, but it is difficult for me, when thinking about all these hypotheticals, to follow—though yours is impeccable reasoning—all the way through and then say, “And then we would do X.” We are talking about a fast-moving political situation. But I will try my very best to give you the principles by which the Government will steer and which I agree with.

Q5071 **Richard Graham:** Thank you, and I understand that, Minister. None the less, you would accept that some people would say, looking at the timing of likely events, with the likely calling and timing of a general election, that if a general election happens two days before the European Council



HOUSE OF COMMONS

meeting in mid-October, it would be extremely hard at that stage suddenly to produce a deal out of a hat that resolves the backstop conundrum. Therefore, I would love to ask you a question, bearing in mind that you abstained last night on my amendment, which called for a vote in Parliament on Monday 21 October on whatever deal was then available—whether the original deal negotiated by the Theresa May Government or the withdrawal agreement Bill that was negotiated between parties but never yet, but will be soon, published, or some new deal that the Government produces. That could be done through an amendment to the Queen's Speech, which will presumably happen on Monday 21 October. In that scenario, would you agree that it would be important for Parliament to have the chance to vote on a deal, whatever that deal was—old one or new one—before proceeding to a default position of a no-deal exit from the European Union? That is, we are agreed that we must leave, and we are agreed on the date—if that is conceivably possible—but do you agree that it is right that Parliament should be able to vote on a deal?

Michael Gove: I will say three things: first, that decision is ultimately a matter of collective responsibility and above my pay grade; secondly, my colleague and our friend Andrew Bridgen was on the radio this morning saying that the last two days have seemed like two weeks in political terms; and thirdly, it is perfectly legitimate to say, "If x, then y, and would that lead you to do z?"—absolutely legitimate—but at this stage, I would not, and I do not think anyone else in my position would, want to be a hostage to fortune by definitively saying, "I will definitely do that."

Again, for illumination, I just want to go back to the Chairman's earlier question about when I was asked by Andrew Marr what I might do. I wanted to see what the legislation was to make sure that it was compliant with existing statute and compliant with existing law. It is perfectly possible for someone to say, "This is a Bill that we are presenting," but that may create all sorts of particular challenges and issues. I did not want to state definitively, until I saw all the facts in front of me, what I thought the wisest course would be. Anyone who knows me, however, could infer from everything I have said in the past that I have a strong commitment to the rule of law. Anyone who knows me would infer from everything that I have done that I believe that the Prime Minister's deal is the best deal and we should do everything possible to get it.

Q5072 **Richard Graham:** And you stand firmly by your previous remarks that there is no good time of year to leave the EU without a deal.

Michael Gove: I do, but it is also the case that however challenging aspects of no deal are, this Government are working harder than ever to mitigate them. Ultimately, in a choice between staying in the European Union and leaving without a deal, it is definitely better to leave, albeit without a deal, because that honours the democratic mandate of the British people. We said that we would honour the vote of the referendum; we have to do that. Of course, it is the case that we can all have a judgment about the scale or the height of the bumps in the road and the extent of the dislocation of leaving without a deal, but we are a strong,



HOUSE OF COMMONS

resilient country and we can get through that, and there are all sorts of opportunities for life outside the European Union that we could take, which would ensure that we would prosper.

Q5073 Richard Graham: May I ask one small, tiny question, if the Minister would not mind? Personally, I would accept all of that, but is there a risk that Conservative candidates in the next general election will be asked to sign a bit of paper that says, "I sign up exclusively to leaving the European Union without a deal"?

Michael Gove: I don't think so. It doesn't seem at all likely to me.

Q5074 Mr McFadden: Can I take you back to your initial exchange with the Chairman about his Bill? Both you and the Prime Minister have said—you today and the Prime Minister over the last couple of days—that you will obey the law. Can I tease that out a bit? We now know what that Bill says. It is expected to complete its stages in the House of Lords possibly by tomorrow—who knows? Now that you have seen it and we know what it says, does that mean complying with the terms of that Bill, which, in certain circumstances, calls on the Government to ask for an extension to the article 50 period?

Michael Gove: The Bill has not yet completed its passage. We will see. An amendment was passed last night that raises other issues. Again, my view is that properly constituted statute passed in the right way places an obligation on the Government that believes in the rule of law to obey that statute. That's my view. Beyond that I wouldn't want to go, because I could only either fuel speculation or lead people to say, "Oh, he's quibbling," or whatever. I don't want to quibble; I want to stick at it.

Q5075 Mr McFadden: How do we reconcile that with the Prime Minister also saying that it has to be 31 October, "do or die"? He has said that a number of times and yesterday, at Prime Minister's questions: "I will never allow that"—that is, an extension beyond 31 October—so how do we reconcile a statement by you that Governments obey the law, and if the law says whatever it says then Governments must abide by it, and a statement by him that he will never apply for an extension beyond 31 October?

Michael Gove: Well, it's a fair point, but I will not get into that speculation.

Q5076 Mr McFadden: How are we to make sense of these two statements? They do not make sense; they cannot be reconciled.

Michael Gove: We could have a long conversation about the many ways in which they might be reconciled, but it's not for me to get into that conversation.

Q5077 Mr McFadden: There are reports in some of the press today that the Prime Minister might even resign rather than do that. Is that a possibility?



HOUSE OF COMMONS

Michael Gove: I don't think the Prime Minister has any intention of resigning. He was elected in a leadership election, in which I took part. He won that leadership election, and he won the argument in that leadership election. He has assembled a strong team and made significant progress, both in dealing with our European partners and with an exciting domestic agenda—which if you would like me to run through, I shall—so, no.

Q5078 **Mr McFadden:** If he does not get the general election that he wants, he will have to face up to the irreconcilable statements that I have put to you. In the next few weeks, if the Bill is passed, he will have to face up to either complying with it or changing the statement he has made that he would never apply for an extension.

Michael Gove: These are fair points for reflection, but again, to return to my role, that is to prepare for our departure on the 31st, which is the current legal default. I will do everything I can in order to mitigate any challenges and to maximise any opportunities from that. The broad political position that I take I have had the opportunity to outline. I absolutely accept the clarity of your questioning on these points, but they are not questions that I feel I can answer in my role.

Q5079 **Mr McFadden:** Let me ask you one on a slightly different point, which is your direct responsibility for no deal. If we leave the EU on 31 October without a deal in place, is that a lasting stage? Is that something that could continue for some years, or is it an end point?

Michael Gove: It is theoretically possible that it could continue for some years, but I don't believe it is an end point. It is theoretically possible that the UK could continue to trade with the EU as a third country on WTO terms for some time. It is also possible that some of the other arrangements that are part and parcel of EU membership would fall away and not be replaced but, following on from the point that Stephen Kinnock made, I think most people—certainly I do—whether or not we moved quickly to negotiations under article 218 or other conversations occurred, do not expect us to be in that situation forever. Perfectly legitimate arguments have been made by respectable and thoughtful economists that WTO terms might be an advantage, strictly in economic terms. My own view is that seeking the best possible free trade agreement with the European Union is in both our interests, ultimately. In the same way as we want to have free trade agreements with Australia, the United States, New Zealand and others, so we should seek to have a free trade agreement with Europe. It is also the case that because of other interests—security, education, science and so on—we should seek to have agreements in those areas as well.

Q5080 **Mr McFadden:** So no deal is not an end point?

Michael Gove: Again, without wanting to go back to my earlier question, no deal is never an end point in the sense that the EU will change and the UK will change, but I think you are absolutely right to hone in on the fact that if we leave without a deal, it brings a degree of assurance and certainty in some areas against which we can plan, but it is also the case

that conversations can then go on about how we can build a better relationship in the future.

Mr McFadden: Thank you.

Q5081 **Mr Djanogly:** Minister, tens of thousands of small UK businesses are not VAT-registered and will need to get an economic operator's registration and identification number before 31 October. What is the Government doing to ensure that they do so?

Michael Gove: Those businesses that are below the VAT threshold?

Mr Djanogly: Yes.

Michael Gove: We are communicating through the business information campaign that we launched earlier this week in order to say to every business that exports to the EU that they need an EORI number. As you will appreciate, we do not know the precise number of businesses that are in that position. Given where the VAT threshold is, it is not a massive number of businesses, but we want to make sure that every business in this country has what it requires in order to be ready. The EORI number, if you do export to the EU, is a necessary but not sufficient tool to continue exporting.

Q5082 **Mr Djanogly:** I understand that some 240,000 businesses will require the EORI number. Do you know how many have applied for it so far?

Michael Gove: Yes. I think we know definitively that around 150,000 businesses are VAT-registered and trade with the EU, but not beyond it. Of the number of businesses below the VAT threshold—

Q5083 **Mr Djanogly:** You don't know.

Michael Gove: We cannot know perfectly; it is an informed guesstimate. Of the 150,000, we had north of 60,000 who had registered, and then we authorised that the additional businesses that had not yet registered should receive the number automatically, so they should now all have or be in the process of getting that number.

Q5084 **Mr Djanogly:** Can you clarify whether businesses will need both a UK and an EU EORI number in the event of a no-deal Brexit?

Michael Gove: It depends on whether or not they export from the UK into the EU, or both export from the UK into the EU and from the EU into the UK. If your company exports from the EU into the UK so that your goods are on the market here, you will need an EU EORI number.

Q5085 **Mr Djanogly:** The Government advice online is that EORI numbers will not be necessary for moving goods from Northern Ireland to Ireland under no deal. Does the EU share that view?

Michael Gove: The EU has been reticent about a number of aspects of what may happen, in the event of a no deal, between Northern Ireland and the Republic. That is for reasons that are understandable, given its

own internal politics. We would obviously like the EU and the Republic of Ireland to be in a position where they can say more.

Q5086 Mr Djanogly: But you can't say any more at the moment as to how you will move that forward.

Michael Gove: Every business that exports to the EU, including businesses that export to the Republic of Ireland, would be well advised to get an EORI number. We are issuing EORI numbers to every company, as I mentioned: every organisation that is in that position that is VAT-registered.

Q5087 Mr Djanogly: You spoke about the assessment of delays going from the UK to Calais—actually, in the UK—but I want to ask about from the other side, the French side. Yellowhammer set out various planning assumptions. One was that, “France will impose EU mandatory controls on UK goods on Day 1 of No Deal and has built infrastructure... On Day 1 of No Deal, 50%-85% of HGVs travelling via the short straits may not be ready for French customs. The lack of trader readiness combined with limited space in French ports to hold ‘unready’ HGVs could reduce the flow rate to 40%-60% of current levels within one day.” So what is your planning assumption now of how French customs will react?

Michael Gove: That is a helpful question that gives me an opportunity to revisit an earlier point that the Chairman made. In the Yellowhammer document, it says, “What is our base scenario?”, as in, “What do we expect will be unalterable facts, or facts that we know are givens?” So the base scenario is: if we leave, then we are a third country trading on WTO terms, and the base scenario is also that the EU will impose, for example, sanitary and phytosanitary checks. That is the base. These are facts that, until either the EU or the French state changes them, are the basis on which you can then make a judgment about what a likely or reasonable worst-case scenario is. It's important to distinguish between the two: the base, the agreed facts, which are unambiguous; and the reasonable worst case—looking at those facts, what we think, given the state of preparedness, is a scenario against which we should judge.

Having visited Calais last Friday, it's clear to me that, at the moment, the EU will require all vehicles that arrive at Calais to be compliant both in SPS and in customs terms. However, without wanting to depart from that fact, it is also the case that French politicians—Xavier Bertrand, who is the president of the Hauts-de-France region, and Mr Darmanin, who is the equivalent of Rishi Sunak in the French Government, both said that they wanted to be as pragmatic as possible. I don't want to get anyone's hopes up unnecessarily, but it is the case that there is a political willingness on the French side. If that political willingness results in a change to how those checks will be applied, the base scenario will change, because those specific facts will change.

To go back to your point about the 40% to 60%, that was based on an assessment both of trader readiness and of traffic flow. If you get a higher level of trader readiness, that worst-case scenario can be changed.



HOUSE OF COMMONS

I am sorry to go on at such length, but it's important for me to try to be as transparent—well, to be transparent with the Committee, because people, for understandable reasons, sometimes say base, worst and all the rest of it. I am trying really to put it all in context, so that people can recognise again—to go back to it, in a nutshell, no deal means significant challenges, but we are seeking to mitigate them.

Q5088 Mr Djanogly: I understand, Minister, that in relation to France, you can't say, "This is what is going to happen." I fully understand that. I think what people will want to know is that you have got the processes in place with the French and the relationships in place with the French, so that when these things that you are saying could be—so that we can adapt, and move quickly. Perhaps you could just explain a little bit about what is set up between the UK and France so that we can move quickly when we have to adapt.

Michael Gove: The fruits of the visit last Friday were that Mr Darmanin said that the French and the UK Government would co-operate in advance of 31 October to model and deal with the testing of systems in the event of a no-deal scenario. I had the opportunity to visit the new berths and booths that will be used in order to make sure you have the maximum flow of lorries. I had a chance to see the French system, which means that if everything is compliant well before you reach the port of Dover, you can have absolute confidence that your consignment can go through. I also saw the fact that there was a specific slip road, as it were, for fish and shellfish, which arrive in Calais to go straight to Boulogne, where the border inspection post is for the Boulogne market, so they can be freshly sold. So the French have done a lot, and we have committed to staying closely in touch to see what more we can do in order to mitigate any problems that arise.

Q5089 Chair: Can I just check one thing? You used the phrase "base scenario" a moment ago. I did ask you at the beginning of this session whether the words "base case" or "base scenario" appeared in the Operation Yellowhammer report, and I think you said no. Do you want to revisit that?

Michael Gove: That was the reason why I mentioned it—that there is a difference between base scenario and base case. I will try to explain again.

Q5090 Chair: All I need for the moment, because you explained it in answer to Jonathan, is this. The words "base scenario" do appear in the Yellowhammer report—

Michael Gove: Yes—

Q5091 Chair: So you are correcting what you said earlier.

Michael Gove: Absolutely.

Chair: That's fine. That clarification is very helpful.

Q5092 Joanna Cherry: Good afternoon, Chancellor. Stephen Crabb asked you whether there are genuine negotiations going on between the United



HOUSE OF COMMONS

Kingdom and the European Union, and you said that you knew that there were and mentioned that David Frost, the Secretary of State for Exiting the European Union and a third person, from the Prime Minister's office, were involved.

Michael Gove: No, the Prime Minister himself.

Q5093 **Joanna Cherry:** The Prime Minister himself. Can you tell us who the EU counterparts are that are involved in these negotiations?

Michael Gove: Yes. Obviously, the counterparts for the Prime Minister will be the Heads of Government of the EU member states. My understanding—I am not involved in those negotiations—is that the role that had been played in the past in negotiations by certain members of the Commission has now been taken on by Stéphanie Riso. And it is the case that Secretary of State Barclay's principal interlocutor would be Michel Barnier, until that changes. But it is of course the case that, by definition, David Frost, as the Prime Minister's sherpa, will talk to the sherpas in other member states. Those could be people in the Prime Minister's office in the Republic of Ireland or in Spain. Of course, Steve has visited other EU member states on a very regular basis and he will talk to a range of politicians there. For example, when Steve visits the Irish Republic, will talk to the Tánaiste.

Q5094 **Joanna Cherry:** So Michel Barnier is involved in negotiations with the United Kingdom at present? Is that your position?

Michael Gove: No. I think it is the case that a web of negotiations go on, but if one is talking about the—I was about to say titular—the real equivalents, the opposite numbers, let me give you a case in point. My direct opposite number in the House of Commons is Jon Trickett, but it might well be the case that, in the course of the conversations that we have, that I will have a conversation with Keir Starmer or Sue Hayman about particular aspects of my portfolio in which they have a legitimate interest.

Q5095 **Joanna Cherry:** But as I understand it, the previous negotiations were conducted either by the Secretary of State for Exiting the European Union or by the previous Prime Minister with Mr Barnier. There are no such negotiations going on at the moment—no negotiations between the Prime Minister and the Secretary of State for Exiting the European Union and Michel Barnier? Is that correct?

Michael Gove: Most of the time, the negotiations that went on when Theresa was Prime Minister were conducted by representatives of taskforce 50 and, while Michel Barnier was of course the Commission's principal negotiator, many of those negotiations were carried on by a very talented Commission official called Sabine Weyand with Oliver Robbins, who was the Prime Minister's Europe adviser in the Cabinet Office. Nothing is precisely identical, but essentially the role that Oliver Robbins played is now being played by David Frost, and my understanding—although I am not involved in these conversations—is that Sabine Weyand is moving on and is likely to be a DG in Ursula von der Leyen's new Commission, and



HOUSE OF COMMONS

that the role that was played by Sabine Weyand will be played by Stéphanie Riso. I think that is right, but if I have got any of that wrong, I will write to let you know.

Q5096 Joanna Cherry: But are there any negotiations going on directly with Stéphanie Riso?

Michael Gove: Again, I am not involved, but my understanding is that David Frost has been talking to people in the Commission and Stéphanie Riso is, I believe, his principal interlocutor.

Q5097 Joanna Cherry: Talking to people in the Commission is very different from conducting negotiations. I am trying to establish who the counterparts are in the negotiations to which you have referred.

Michael Gove: There are teams on either side, and I don't know the full composition of either team.

Q5098 Joanna Cherry: Yesterday, at Prime Minister's questions, the right hon. and learned Member for Beaconsfield asked the Prime Minister why it has proved impossible, in the course of the current legal proceedings in Scotland, in which I am a petitioner and a number of parliamentarians and the Government are the respondent, to find any official or Minister prepared to state that the reasons for the prorogation were to pave the way for a Queen's Speech. The Prime Minister did not answer the question. Are you prepared to answer that question?

Michael Gove: Again, all I can say is that: a) I am aware that there is a live proceedings at the Court of Session; and b) there will have been legal advice that the Prime Minister and others will have received that I have not seen. I wholeheartedly support the Prime Minister's decision, but I was not involved in the prior decision-making process, so it would not be fair for me to say anything in that, because I have made mistakes in the past, but I would be blundering into legal territory where I would not provide any clarity for anyone.

Q5099 Joanna Cherry: Is it true that both Nikki da Costa, the Director of Legislative Affairs, and Mark Sedwill, the Cabinet Secretary, have refused to sign witness statements for the Scottish proceedings for fear of having either to perjure themselves, or to tell a truth that would be damaging to the Government?

Michael Gove: I have absolutely no idea. I have not asked either of them about that, so I widna ken.

Mr Bone: On a point of order, Sir. I am just wondering whether we are straying into an area that is before the court and we should not be doing that in the circumstances.

Chair: I have not heard anything that is disorderly. As Joanna has pointed out, these issues were raised in the House yesterday and the Speaker did not rule them disorderly. I don't see why they could be disorderly today. Please carry on.



HOUSE OF COMMONS

Q5100 Joanna Cherry: I have been advised, Chancellor, by a number of reliable sources that the key figures in Number 10 and the Government are communicating about the real reasons for prorogation through unofficial channels—that is to say, personal emails, WhatsApp and burner phones. To your knowledge, is that true?

Michael Gove: No. A “burner” phone?

Q5101 Joanna Cherry: That is a phone that is quite often used by a drug dealer, and which cannot be tracked. They are phones which cannot be tracked by the authorities or the courts because they are used once and then thrown away.

Michael Gove: All news to me.

Q5102 Joanna Cherry: If you were asked to provide an affidavit to the courts about the reasons for the prorogation—that is obviously evidence or testimony sworn on oath—would you be prepared to do so?

Michael Gove: I wasn’t involved in the decision. I supported it when we were told about it, or rather when the strategy was outlined to the Cabinet and the reason behind it was outlined. I don’t imagine that I could provide more information that was material other than that which the Cabinet had. But, again, one of the things I would say is that when dealing with these issues, as a Minister, I would always want to have the advice of the Attorney General about what I should or shouldn’t do, because I want to follow the ministerial code, adhere to the rule of law and take his advice.

Q5103 Joanna Cherry: When was the Cabinet advised of the plan to prorogue Parliament?

Michael Gove: I think the date is in the public domain. I cannot recall it off the top of my head.

Joanna Cherry: Can you confirm that date for us in writing after this evidence session, please?

Michael Gove: Yes.

Q5104 Craig Mackinlay: Chancellor, as you will be aware, there are a number of little side deals and mini-deals making things flow from both sides, which the European Parliament has agreed. I suggest that after today you have one other job, which is the mutual recognition of pallets. I would hate to see Brexit abandoned because of pallets.

Michael Gove: I think we are probably okay on the pallet front, notwithstanding the point that the Chairman made.

Q5105 Craig Mackinlay: Yes. I would love to see the arrangements on the Polish-Belarus border and whether they are that bothered about pallets, but we will put that aside. Let’s just go back to the food issue, because this is part of the fear that we have been hearing: high food prices, delays and shelves looking like something out of a Cuban supermarket—which I have visited. I do not actually believe any of it.



HOUSE OF COMMONS

Let's look at particular producers in a particular country that is really reliant on UK exports, namely Spanish producers. Often, they produce out-of-season cucumbers and lettuces. That is very much short-dated. Obviously, they produce citrus, which we do not produce for ourselves. It is quite interesting to note that the EU external tariff on cucumbers is 12.8%. I don't actually know of any other country that we import from that is not an EU country, so I don't suppose that many of those tariffs were ever raised.

Let's just think of that Spanish lettuce or cucumber grower. He has a regular market with one of the major UK supermarkets. By default, he obviously has not got a market elsewhere, otherwise he wouldn't be selling to us now. You can't suddenly increase the consumption of cucumbers in Germany to make up for any that he is not selling in the UK. I would have thought that it would be within our will—should we so wish—not to apply the EU external tariff on cucumbers. I believe that we can do that instantly and temporarily, subject to WTO approval. But given that our demand would be for a 0% tariff on Spanish cucumbers, even if we were a third country, I cannot imagine the WTO would complain about that, because at the end of the day that is its *raison d'être*.

Let's just analyse this Spanish grower. He'll have a local haulier that does a regular run up to Britain. So, we have taken away the tariff. The man wants to sell to us because it is a regular market, which he is reliant upon. The haulier does a regular run, which he is reliant upon. Given that at Dover we are not going to start stopping that lorry—though it is within our gift—and taking it apart, any more now than we would in the future, where is the higher food in that process? Because I am struggling to see it.

Michael Gove: That is a brilliant and very helpful analysis. The one challenge is the one that the Chairman identified earlier, which is that if it is the case that lots of lorries from the UK, carrying our exports, were to get to Dover but not have the documentation, and were then to go over and be held up, the flow back on to the ferries coming to the UK would be—the pipe would be narrower as a result. If you had that big time, you could potentially have delays as the Spanish lorries, while they are desperate to get on, have to wait until the British lorries are sent back. That is why we are doing everything we can to make sure that UK hauliers, EU hauliers and UK companies know what they need. If they have what they need, there is no reason why there should be disruption. That is why the best-case scenario is no delay at all.

Q5106 **Craig Mackinlay:** I should imagine that that Spanish haulier— I know the haulage business. It operates on very skinny margins across the whole of the EU. There will be desperation, because that lorry will have to get back to Spain and then perhaps haul over to Germany. There would be outrage, and the whole logistics industry of the whole EU would be affected, if the French, for whatever reason, created that bottleneck at Calais and Dover.

Michael Gove: Again, three quarters—it is actually slightly more than that—of hauliers who operate in the UK come from the EU, principally, but



HOUSE OF COMMONS

not exclusively, from countries such as Poland and Romania, so the EU and its member states have a shared interest in keeping things going. Even if, for some reason, there was inefficiency at Calais, which I do not imagine there would be, I think one would find that Spanish vegetable growers, Polish hauliers and Romanian exporters would all be saying, "Please, please, please can we make sure that this operates more effectively?", absolutely.

Q5107 Craig Mackinlay: I go back to something you covered in great detail, which was very helpful: the EORI numbers. People who have not quite complied with everything, who might have to go up the amber lane in Calais— I have been involved with the Operation Brock meetings that south-east MPs and the appropriate Ministers have on a regular basis. We had one yesterday, and it felt that there was more of a sense of readiness before 29 March than I sensed yesterday. That blockage seemed to be HMRC, in arranging pre-clearance sites. They did not seem to have got those really bound down just yet, with the number of staff that they will need to run those. It felt that everything had been rather candied in aspic for six months, and that they are suddenly getting used to it again. Using the facilities of your Department, can you please put a rocket under HMRC, to make sure that they do what they need to do at this time. What is your experience of how they are managing at the moment?

Michael Gove: You are absolutely right: this is a matter of profound interest to Kent MPs and Kent residents, so I completely understand why you want to raise it. You are right that we need to make sure that we are operating as quickly as we can. There should be six transit sites—five in Kent and one in North Weald, in Essex. Things are absolutely on track for four of them. Two have fallen slightly behind. However, that does not mean that they are totally off track. We should have assurance in the next few days that everything is on course with them. All the appropriate steps are being taken now by HMRC in order to make sure that those transit sites are up and running and ready for October 31.

To be fair, no one has been more energetic in seeking to make this happen than Jim Harra, the current No. 2 at HMRC. He and his team have been working incredibly hard to deliver. Whatever—what's the word?—reasons for a certain delay that there might have been with HMRC in the past, which was nothing to do with HMRC but with decisions made elsewhere, the political decisions have now been made and HMRC staff are working incredibly hard to deliver.

Q5108 Craig Mackinlay: To pick up on something that Peter Bone raised earlier, we have been on different sides of this, and you were willing—with reluctance or otherwise—to accept the Theresa May deal, but I was not, under any circumstances. Have you ever understood the basis of the £39 billion as part of that deal? I have done my own calculations. We are part of multi-annual financial framework until the end of 2020, so I can sort of see a moral basis for that, because we were round the table when it was negotiated and all the rest of it. However, I have really struggled to get to that £39 billion. Have you analysed it for yourself, and are you



HOUSE OF COMMONS

comfortable with it, given what the House of Lords own report said a couple of years ago—that in international law there is perhaps nothing to pay?

Michael Gove: I have had a look. I cannot claim to have had the closest look, in comparison with some in the Treasury. I think it is certainly the case that if we leave without a withdrawal agreement, there is a legitimate case for saying that the amount that we would give would be less than previously thought, and that the way in which we would pay might be different from that which had been conceived. These are negotiating matters for the PM, the Chancellor and Steve Barclay to decide, but it is perfectly intellectually legitimate and respectable to say that, in the absence of the withdrawal agreement having been signed, you can kick the tyres on those figures.

Q5109 **Craig Mackinlay:** Finally—you are far more of an expert on constitutional procedural matters than I am—this No. 6 Bill, which we had great fun with yesterday afternoon, could become the law of the land by tomorrow afternoon. Say there is a general election on the date we would prefer—15 October—and the Queen’s Speech does not come around until about the 21st. It would be very troublesome for the Prime Minister to have that No. 6 Bill in his pocket, and to have to comply with it, when he goes to the Council of Ministers meeting on the 17th. Would it be possible for a new Parliament to repeal that before he goes to that meeting? Otherwise, that meeting becomes something of a waste of time.

Michael Gove: It would be possible for a new Parliament to repeal it. I don’t know about the timescale.

Chair: That is very helpful.

Q5110 **Wera Hobhouse:** Good afternoon, Chancellor. I am an EU migrant, as is well known, and for obvious reasons I stay very close to organisations who represent the 3.4 million EU citizens. I assure you that the hurt that has been caused in that community over the last three years is immeasurable. Will you accept that there is a high human cost for all the EU citizens who have been living in limbo for the last three years, and who continue to do so, due to all the flip-flopping of this Government?

Michael Gove: I completely accept that there has been uncertainty for some and disappointment for others at different points over the course of the last few years, but let me take this opportunity to reinforce, as I had the chance to in the House of Commons, that EU citizens who live in the UK are our friends, our neighbours, our family members, and we must do everything possible to safeguard your and other EU nationals’ rights in this country.

The settlement scheme that has been put in place is designed to do exactly that. Broadly, 1 million people have been granted status so far—some full settled status; some pre-settled status. Without wanting to make any criticism of any other EU member state, the guarantees that the UK has given EU citizens are more certain and more generous than those offered by a significant number of EU member states to UK nationals. That



HOUSE OF COMMONS

is why I asked in the House of Commons two days ago whether member states would be able to reciprocate. The position across member states varies, and there are political constraints in different member states, but I would also say that, right at the very beginning of the negotiation process—indeed, in the immediate aftermath of the referendum—I was one of a number of politicians, including our current Prime Minister, who said that there should be no circumstances under which the position of EU citizens in the UK should be rendered uncertain or made a bargaining chip.

Q5111 Wera Hobhouse: I would say it is worth reiterating that the uncertainty is caused by this country wanting to leave the European Union, not the other way around. I am a British citizen and have been for many years, so I am sort of okay, but the feeling of being in limbo continues, no matter what this Government say. The Home Office published a new paper on EU citizens yesterday. What will EU citizens arriving after 31 October 2019 have to do to be able to stay and work in the UK?

Michael Gove: They can apply for European temporary leave to remain. That will mean that, that application having been granted, they have all the freedoms and access to services, and the ability to work and study, that one would expect.

Q5112 Wera Hobhouse: But how will border control officers, employers or landlords be able to determine whether those who turn up with their European passports arrived after the 31st or have been living in this country for many years?

Michael Gove: I encourage everyone who has been living in this country for many years and who would like to apply for settled status to do so, because their presence here is valuable. It is a relatively straightforward process, although there have been one or two administrative hiccups.

Q5113 Wera Hobhouse: But how will a border officer distinguish between those who have settled status and those who have come here after 31 October? How will they do that?

Michael Gove: There wouldn't be any need for the border individual to do so. There is a distinction between someone who can say, "I've been here for a number of years and this is the evidence," and we can look at the evidence—"Wonderful, settled status can be granted," and we are reassured—and the way in which until we have a new immigration Bill in place, someone coming from the EU would come to this country. We are not imposing visa or other requirements, but we are saying that if someone who comes from the EU wants to ensure that they have the capacity to remain or potentially to go on to a route towards citizenship later, they should apply for European temporary leave to remain.

Q5114 Wera Hobhouse: You will have heard the story of my constituent who has actually been living here for over 30 years and applied for settled status and wasn't granted it—only pre-settled status. So the whole operation doesn't seem to work very well. Will you confirm again that the in-limbo situation for the EU citizens, whether they are here or coming after 31 October, is very high?



HOUSE OF COMMONS

Michael Gove: No. I absolutely take the point, and as with any system, any computer system owned by Government or by the private sector, there will inevitably be occasions where an individual who has put in a properly constituted application—for whatever reason the system may not respond to that appropriately. When that happens, that is wrong. We should move quickly to put it right, but it is the case that if people have the appropriate evidence of their residency here over that appropriate period and they are EU citizens then the granting of settled status, or pre-settled status, should be relatively straightforward.

It is the case, as I say, that a million people out of the 3.4 million have applied for status. The overwhelming majority who have applied have been granted status. There are one or two reasons why they might not be granted, potentially to do with past criminality, and there might be a reason why someone is not yet granted that status to which they are entitled, which may well be that the evidence that they present, for whatever reason, hasn't been presented in the right way or hasn't been processed in the right way; but overall I think that the offer is generous, the intent is sincere and the operation of the system has been driven by civil servants and Ministers who are absolutely determined to make it as efficient as possible.

Q5115 **Wera Hobhouse:** Can I tell you this? The system doesn't work. My constituent had his settled status not accepted. The Home Office was meant to ring him last Monday and it didn't; but I leave it here.

Michael Gove: I apologise to your constituent for the distress that they may have faced, and will of course raise with the Home Secretary the specific case in order to make sure that we work with—

Q5116 **Wera Hobhouse:** There will be thousands like him and only because he is a high-profile case now the Home Office is doing something about it. There will be thousands and thousands living in limbo.

Michael Gove: The numbers are in question but I do take your point.

Q5117 **Chair:** I have just had whispered in my ear a suggestion. Is there or could there be an MPs' hotline to raise these particular cases? We have been waiting to take evidence from a Home Office Minister but one has not been identified as available before the Prorogation. Is that something you could take back?

Michael Gove: I certainly will.

Chair: That is very helpful.

Q5118 **Stephen Timms:** Can I go back to a couple of points that we have already covered? We took evidence yesterday from the Freight Transport Association, which told us that long delays at Dover for trucks wanting to go to Calais were inevitable if we left the EU without a deal on 31 October. Are you confident that they are mistaken about that?

Michael Gove: I don't think they are inevitable, but they are a material risk.



Q5119 Stephen Timms: The reason they explained to us that it is inevitable is really two things. One is that, as the Chair said earlier, there are 300 spaces in the lorry park at Calais, which lorries will have to go through if they go into the amber lane. Secondly, a significant proportion of the trucks coming to Dover will not, initially at least, have full customs documentation. I think we have talked about 40% to 60% being the Customs expectation. Absolute minimum, we were told—this was the HMRC view as of June—is that at least 20% will be turning up without adequate documentation; so I think it is 10,000 trucks a day, isn't it? So you have got 2,000 trucks a day going through that amber lane into the 300 spaces. So what will happen, we were told, is that once the 300 spaces are full the Calais authorities will stop further ferries coming from Dover and then the lorries will back up along the motorway. So that is the account they gave to us why they think long delays are inevitable. What's the flaw in their argument, from your point of view?

Michael Gove: There's no flaw in the argument; it is a worst-case scenario. But the two things that I would say—

Q5120 Stephen Timms: Sorry—why is it “worst-case”? That's what I'm trying to understand.

Michael Gove: Because there are at least two things that can be done to alter the assumption that 20% of lorries will arrive at Dover without the necessary documentation. And they are making sure that hauliers and firms know what is required, and take action to make sure that they have that documentation, and the number of people getting ready is increasing, as the Bank of England—in a very different context—acknowledged yesterday. Then the second thing is, even for those who are not compliant, doing everything possible to ensure that they don't actually reach Dover. And that's one of the reasons why, for example, the Department for Transport has introduced statutory instruments this week, in order to ensure that people who are heading towards Dover who are not compliant can be turned away until they are.

Q5121 Stephen Timms: What is the current HMRC assessment of the minimum proportion of trucks turning up at Dover that will not have adequate documentation?

Michael Gove: That is exactly what we're seeking to do at the moment. One of the things that I mentioned earlier, right at the very beginning when we were talking about the assumption underpinning Yellowhammer, is that there are two things: trader readiness; and traffic management. What we are trying to do is to deal with both of those: get a higher level of trader readiness, and have a more sophisticated form of traffic management. And that, we hope, will reduce the incidence.

However, the one thing I would say is that we have always got to plan for a reasonable worst-case scenario. So, it is perfectly possible to say, “On the basis of everything we know, the chances of a worst-case scenario appear to be diminishing, but we have still got to prepare for that worst-case scenario”. And then the other thing is that we can also say, “Even if



HOUSE OF COMMONS

that worst-case scenario materialises, we don't think it will be quite as bad, because of these other factors."

So, one of the things that I want to do is to share with this Committee and with Parliament as much as possible about the way in which we make these judgments, as much as possible about the judgments that exist, and as much as possible about the mitigations that we are putting in place, so that you can hold me to account for saying, "x or y intervention will clearly make it better. You've said that you should be doing it. Why aren't you doing more of it?"

Q5122 Stephen Timms: Can I just press you on this point about the HMRC assessment, because we were told yesterday that in June the HMRC assessment was that—I think—40% to 60% of trucks turning up at Dover won't have the full documentation? Absolute minimum—20%. What is the current HMRC assessment for those figures?

Michael Gove: It is being revised at the moment, but you are absolutely correct—that was the judgment at June.

Q5123 Stephen Timms: So that is the most recent HMRC assessment, is it?

Michael Gove: I'm not sure it's the most recent. I think that there have been three iterations, and I'm not sure if that was the second or the third. But I will come back to you, because it is being revised at the moment.

Q5124 Stephen Timms: You see, why it seems inevitable is that if you have 2,000 lorries going into 300 spaces in Calais, we've got a problem, and the problem will be very clear on both sides—

Michael Gove: Oh, completely. But one of the many merits of Yellowhammer, and of this work, is that when you see a problem coming, you can try to take steps to deal with it. Now, those steps may be ineffective or they may be highly effective; I very much hope it's the latter. But you are absolutely right that the haulage industry, HMRC and others have correctly identified what the challenge will be if mitigation is not put in place. Mitigation can be put in place and it's my responsibility to try to do everything possible to do that.

Q5125 Stephen Timms: So you can certainly see why the Freight Transport Association is saying that long delays are inevitable?

Michael Gove: I can see why they are worried, and the one thing that I would say is, "Unless mitigation takes place".

Q5126 Stephen Timms: There is no sign that we have seen of that mitigation taking place at present. If there is an update that we can be given, that would be very helpful.

The other thing that I wanted to ask you about was something you said earlier about data adequacy. You recognised that if we leave the EU without a deal, there will be a period after 31 October when we do not have a data adequacy dissemination. How long would you expect that gap to be before we get one?



HOUSE OF COMMONS

Michael Gove: It's difficult to know. On the one hand, one would hope that it would be relatively rapid, because, as I say, Crown dependencies have data adequacy even though they are outside the EU. On the other hand, the EU machinery has often been slow in granting data adequacy in the past. The third thing, as I think Jo Cherry will know, is that, because of the Schrems judgment and other factors, this is a politically charged area within the EU. All that having been said, companies can take steps in order to reduce the concern—

Q5127 **Stephen Timms:** No, I understand. But when you say "relatively rapid", what would count as "relatively rapid" in your view for getting this sorted?

Michael Gove: Oh, weeks.

Q5128 **Stephen Timms:** You would hope that we would get a data adequacy determination within weeks?

Michael Gove: I can't know. That's the thing, because it's a sovereign decision of the EU. I can make the argument. I can explain why I think it is in everyone's interests. Other people who are involved in the negotiations can make that case. Things may move, but my responsibility, I hope, towards this Committee is to offer a view of what I hope could happen but also to be clear about what may happen.

Q5129 **Stephen Timms:** You made the point earlier that the alternative is for companies to introduce standard contractual clauses. You will know, I am sure, the evidence from techUK that larger businesses, on the whole, have done that and smaller businesses haven't, because it is quite a costly thing to do, to renegotiate all your contracts with your business partners and so on.

techUK has been surveying its members in the last few weeks and has found that amongst smaller businesses 53% have taken no active steps to prepare for no deal, mostly because they are unable to predict the implications of no deal. You would recognise, wouldn't you, that on the whole small businesses will not have these standard contractual clauses and they will face very serious difficulties?

Michael Gove: That is a very fair analysis. I would say two things. First, it is the case and you are right that, as a general rule, larger businesses are more ready than smaller businesses, but the process of agreeing the standard contractual clauses can be done relatively quickly. There is guidance on the Information Commissioner's website and guidance on the new [gov.uk/brexit](https://www.gov.uk/brexit) set of pages about how to do so. Again, if action is taken promptly by businesses in the next few weeks then these clauses can be put in place.

Q5130 **Stephen Timms:** But it is a lengthy and complicated process to renegotiate all your contracts with lots of different business partners. It is not a simple exercise.

Michael Gove: It need not be. Again, it is unlikely to be the case; I would be grateful for the evidence. It's not the most pleasant way to spend some



HOUSE OF COMMONS

of your time if you are businessperson—I freely grant that—but it is not an insuperable obstacle.

Q5131 Stephen Timms: One final question, if I may, Chair. The Government have been giving business readiness grants to some organisations, such as techUK and other business support organisations, so that they can support their members in their preparations. At the moment, those grants are due to run out on 31 October. There would be a strong case, wouldn't there, for continuing those grants—particularly if we leave with no deal on 31 October—into November and beyond, in order that those organisations can continue to support their members through what is likely to be a difficult period?

Michael Gove: Yes, and indeed expanding them.

Q5132 Stephen Timms: Is the Government going to be expanding them?

Michael Gove: At the moment we are reviewing a range of measures that we can take in order to further enhance business readiness.

Q5133 Peter Grant: Can we go back to your comment about the Prime Minister's view that we can surgically excise the backstop? The Prime Minister wrote to Donald Tusk on 19 August, saying that the UK can no longer "continue to endorse the specific commitment in paragraph 49 of the December 2017 Joint Report." In effect, that tears up the agreed Joint Report of December 2017, certainly the parts of it that relate to relations between the UK, Northern Ireland and the rest of Ireland. Other than ongoing discussions with the Democratic Unionist Party, what discussions were there with anyone else in Ireland before the UK announced its intention to resile from that agreement?

Michael Gove: I have been involved in the Cabinet Committee that deals in the broad terms of the negotiations, but I haven't been involved in those negotiations, so that's more properly a question for the Exit Secretary, the Prime Minister or the Foreign Secretary.

Q5134 Peter Grant: What reaction have you had from the Government of Ireland to that letter?

Michael Gove: I personally haven't, but I am looking forward to going to see the Tánaiste and other representatives of the Irish political parties and others at the British-Irish Association in Cambridge this weekend.

Q5135 Peter Grant: Would it be your expectation that they would welcome that backtracking with open arms? Would you expect them to have concerns about it?

Michael Gove: I wouldn't want to speculate about the views of politicians in another jurisdiction for whom I have enormous respect. They will speak for themselves.

Q5136 Peter Grant: Minister, your Cabinet colleagues are only too happy to speculate in the Chamber about the way in which politicians in other countries will suddenly keel over and give the United Kingdom everything it wants. That seems to be what the leave campaign has been saying for



HOUSE OF COMMONS

the last five years.

Would you understand if the Irish Government, and indeed political parties and others in Ireland, felt let down, or even insulted, that the United Kingdom should unilaterally announce its intention to withdraw from this agreement? That agreement, incidentally, was made only with the explicit approval of the DUP to begin with. The DUP vetoed the original version of that, and it had to be changed. Would you understand if various interested parties, in both the Republic of Ireland and Northern Ireland, felt they had been let down, or even that it was extremely discourteous for the United Kingdom to take a decision to unilaterally withdraw from that agreement without bothering to tell anyone on the island where it is most applicable?

Michael Gove: I am sure that politicians in the Republic of Ireland and from different traditions and parties in Northern Ireland will have views and will communicate those views. As I say, I want to work pragmatically with politicians on both sides of the border in order to deal with the consequences if we leave without a deal, and in order to ensure that, when we get a deal, we can work in the interests of all the citizens of these islands. I won't criticise any politician who may want to make a particular argument, not least because I am not involved in those negotiations.

Q5137 Peter Grant: The letter eventually makes specific proposals—as far as I can see, the only specific proposals the UK has made to the EU. One is from the Prime Minister: “that the backstop should be replaced with a commitment to put in place such arrangements as far as possible before the end of the transition period, as part of the future relationship.”

The commitment that the UK wants to resile from is in paragraph 49 of the joint report: “The United Kingdom remains committed to protecting North-South cooperation and to its guarantee of avoiding a hard border. Any future arrangements must be compatible with these overarching requirements.”

There is no difference between the commitment that the UK wants to withdraw from and the commitment it now seeks to make, apart from the fact that the original agreement of 2017 gave explicit consequences should these alternative arrangements either not work or not exist. Is it not the fact that all the UK is asking to do is to make the same commitment that they made in 2017 and failed to keep, but to drop any consequences of failing to keep to their promises?

Michael Gove: I don't think so, no.

Q5138 Peter Grant: So what are the consequences if the commitment the Prime Minister proposes in his latest letter is not kept? Perhaps I can help you. An almost identical commitment was made in 2017. The contingency if the UK failed to honour that commitment is what came to be known as the backstop. I put it to you that the United Kingdom seeks to make the same commitment that it has failed to keep over the last two years, but is asking the Europeans, and the Irish in particular, to drop any safety net, any protection and any guarantee of continued compliance with the



HOUSE OF COMMONS

Good Friday agreement in the event that the UK continues to do what it has always done and fails to comply with the commitments.

Michael Gove: I now get to the nub of your question. It is certainly the case that those who designed and argued for the backstop believed that the provisions of the backstop were a way of protecting the gains since the Belfast agreement was concluded. However, the backstop, as designed, is not the only way to ensure that the Belfast agreement is met.

Indeed, there are sincere advocates of the Belfast agreement who have expressed their concerns about the provisions contained within the backstop as it stands. No one would suggest that either Lord Murphy of Torfaen, Lord Alderdice or Lord Trimble were anything other than sincere advocates of peace; Lord Trimble of course received a Nobel peace prize for his role in helping to conclude the Belfast agreement. However, Lord Trimble has written and outlined his concerns about the way in which the backstop is not the perfect way to maintain the principles and the letter of the Belfast agreement. People can legitimately differ from Lord Trimble, but nobody could say that Lord Trimble was an unrespectable or marginal figure in the debate about how we can best ensure that the Belfast agreement is secured.

Q5139 **Peter Grant:** One final question, if I may. I think this Committee has raised doubts on at least two occasions—one of them when you may still have been a member—and reported that we could not see how the Government's previous red lines, which are still there, could be compatible with the requirements of the Good Friday agreement. The Prime Minister is now asking to replace the backstop with a "commitment to put in place such arrangements as far as possible"—not now, not by 31 October, but "before the end of the transition period". Clearly, if he thought those arrangements existed today, he would say, "We'll put them in place today." So the Prime Minister is accepting that suitable arrangements do not exist today and will not exist on 31 October. If we leave without a deal on 31 October, there are no arrangements in place to make the management of the border in Ireland compatible with the Good Friday agreement, are there?

Michael Gove: It is a huge question.

Peter Grant: A simple answer would be yes or no.

Michael Gove: It is the case that contained within the question are certain assumptions about what the Belfast agreement does or does not require, which are contested.

Q5140 **Peter Grant:** So is it your contention that it is possible for the United Kingdom to leave the EU without a deal on 31 October and that everybody who matters in Ireland will accept that the Irish border is continuing to operate entirely in keeping with both the letter and the spirit of the peace deal? Can I say that it might be worrying to people in Northern Ireland if you cannot give a definite yes to that—



HOUSE OF COMMONS

Michael Gove: I think the key point there is that it is not for me to determine who is—

Peter Grant: You're the Minister for no-deal planning.

Michael Gove: It is not for me to determine who is everyone who, in your terms, matters in Ireland. The second thing is that, again, the history of politics in Northern Ireland and the Republic of Ireland is one of open debate over the course of the past decade or two about how the Belfast agreement can be built on and the shape of the institutions that can underpin peace. It is an important, live and sensitive debate and, while I completely understand the argument behind your line of questioning, which is very respectable, these are delicate matters that would require a more detailed and thoughtful response than a simple yes or no.

Q5141 **Sammy Wilson:** Minister, one of the groups of people who matter—though probably not to the Scottish National party—in Northern Ireland is the Unionist population.

Michael Gove: Indeed.

Sammy Wilson: As we know, that is the majority population in Northern Ireland. Of course, in protecting the Belfast agreement, one of the central points of the Belfast agreement is the principle of consent.

Michael Gove: Exactly.

Q5142 **Sammy Wilson:** And the withdrawal agreement as it currently stands does not coincide with the principle of consent because it would change our constitutional status. I am glad that the Government are actively looking for a way round.

However, there is good news about the Irish border, the free flow across the Irish border and the honouring of that part of the Belfast agreement in that co-operation can continue across the border, because the Irish Government—I think the Taoiseach yesterday—indicated that they are now conclusive that they will not be putting any checkpoints along the border, but will have other means of monitoring trade across the border. What discussions have you had with the Irish Government about the practical ways in which they intend to do that—especially since they have made it quite clear that they intend to collect tariffs on goods that come from Northern Ireland into the Irish Republic?

Michael Gove: You put your finger on a number of important points. The first is that across the Unionist community, including people who vote for parties that are described as non-aligned, but who are supporters of the Union, there has been concern that if the backstop were in operation, there would be laws operating in Northern Ireland that Northern Ireland's elected representatives could not alter. That creates a particular problem with the consent principle in the Belfast agreement, never mind any other principles. Not everyone agrees with that, but it is a widespread view, certainly among the Unionist community and not restricted to one particular party. That is an important point to acknowledge.



HOUSE OF COMMONS

The second point is that there is a tension, as you quite rightly point out, between the EU protecting the integrity of its whole single market—which would, if you took it at its most rigid, mean checks at the border—and the Irish Government’s absolute desire, which I applaud, to avoid checks at the border.

Now, in this current role, I have not talked to representatives of the Republic of Ireland Government about what might happen in the event of a no-deal situation, other than a cordial and friendly meeting with the ambassador a couple of weeks ago. To be fair to the Republic of Ireland, detailed negotiations have to go through the Commission. Members states have accepted that. It was the case that in my previous role, I talked to Michael Creed as Minister about certain specific questions that relate to food. I hope it will be the case, without going into negotiations, that we can have more conversations with the Republic of Ireland—not just with Ministers, but with others operationally—about making sure that we can achieve the situation that we would both want, which is the minimum amount of friction.

Q5143 Sammy Wilson: This is the point that I find a bit strange. I hope that you will push this in your meetings with the Irish Government. The Irish Government are insisting that they want to have as normal relationships between Northern Ireland and the Irish Republic, and as normal relationships on trade between Northern Ireland and the Irish Republic, as possible. If they have already—presumably they have if they are making announcements of no border posts—got in place, are putting in place or are planning to put in place means of monitoring trade across the border, which ensure that free flow without points, do you accept that the very least they can do is to share with our Government how that will operate, so that in turn that can then be shared with exporters from Northern Ireland and the Irish Republic, so that they will know what to expect? It seems rather strange to me that you are saying that the UK Government are still in the dark as to what the arrangements will be.

Michael Gove: The more co-operation the better. We know less than we would like, and that is partly because of the Commission’s way of operating, rather than any individual decision by any politician in the Republic.

Q5144 Sammy Wilson: So that will be an issue. Can I just ask you about another issue about cross-border trade? The Irish Government have said that they intend fully to collect all taxes on trade across the border. The tariff regime that the Government have published to date would have no taxes being imposed on goods coming from the Irish Republic into Northern Ireland. Of course, that does cause some concern to the agricultural industry and other industries in Northern Ireland. On the one hand, the goods we sell to the Republic will be taxed, and some at a quite high rate, while the Republic will have free access into the Northern Ireland market without taxes. In the review of the tariff regime, will the Government be addressing that issue, especially if the Irish Government are saying that it is perfectly possible and they have means of collecting those taxes across the border without causing any infrastructure to be



HOUSE OF COMMONS

put in place?

Michael Gove: I am conscious of those arguments. We have no intention of collecting tariffs on goods going from the Republic of Ireland to Northern Ireland, but I should also say that if we did leave without a deal, we would have tariffs on east-west trade—I would not want to see this—and that would definitely have a significant effect on the Republic of Ireland's agri-food sector. In the event of no deal, I think the Republic would bear that in mind.

Q5145 **Sammy Wilson:** If it is the case that goods can enter Northern Ireland—albeit, if they leave Northern Ireland, they will be taxed—that places producers in Northern Ireland at a disadvantage. Have the Government any plans to compensate Northern Ireland producers for the fact that there will be a part of the United Kingdom where there can be the free flow of goods with no tariffs imposed on them, and therefore Northern Irish producers would be placed at a disadvantage to producers from the Republic?

Michael Gove: Absolutely. We are giving extra consideration both to the specific needs of the agri-foods sector of Northern Ireland and the wider Northern Ireland economy. We are very conscious of that.

Q5146 **Chair:** Just a couple of final points from me, Mr Gove. Did I hear you correctly? You said a moment ago that no tariffs would be collected on goods moving from the Republic of Ireland to Northern Ireland.

Michael Gove: Yes.

Q5147 **Chair:** But you said they would apply if they were moving, say, from the Republic of Ireland to Holyhead.

Michael Gove: Yes.

Q5148 **Chair:** How is that allowable under WTO rules?

Michael Gove: It is the case that there is a specific exemption that is allowable, and the Attorney General has advised the Government that the specific factors that pertain in Northern Ireland could mean that we could have an exemption for a period.

Q5149 **Chair:** Does that exemption have to be applied for, or can we just apply it unilaterally?

Michael Gove: I would have to return to explain to you in detail, having revisited the legal advice, exactly the provision that applies.

Q5150 **Chair:** If you could write to us, that would be jolly helpful.

Michael Gove: Yes.

Q5151 **Chair:** Is the Government planning to introduce direct rule in Northern Ireland in the event of no deal?

Michael Gove: We are trying as hard as we can to do everything we can in order to restore the Executive in Northern Ireland.



HOUSE OF COMMONS

Q5152 Chair: I know that, but what about in the absence of an Executive? You did say to Sylvia Hermon, in March of this year, that “the current situation, with no Executive, would be difficult to sustain in the uniquely challenging context of a no-deal exit... That would include the real possibility of imposing a form of direct rule.” Will that be necessary if the Executive is not re-established?

Michael Gove: It is a possibility. I think it’s important to say that Northern Ireland civil servants are doing a fantastic job, and there is guidance that enables them to act with a fair degree of discretion, but it is the case that the Northern Ireland civil service and others would want to have ministerial direction in certain circumstances. But I won’t go into what those circumstances would be now, because these are necessarily sensitive matters.

Q5153 Chair: Is it the case that parliamentary authority for the civil service to take decisions in relation to Northern Ireland runs out in the middle of October and would have to be either renewed or replaced by direct rule in order to provide the ministerial input you have just referred to?

Michael Gove: Again, it is my understanding that the terms of the EFEF Act are such that there would need to be some method of renewing that authority or, indeed, some method of replacing it with ministerial direction, yes.

Q5154 Chair: Are you going to publish the Operation Yellowhammer report?

Michael Gove: What I hope to do is more than that. What I would like to do is to make sure that we have Yellowhammer, once we have done the proper revision and the kicking of the tyres, alongside a publication that details the actions that the Government has taken to inform people of the consequences and allows people to see the mitigations that we have put in place, so people can make a proper judgment about the changes they need to make, what Government has done, whether that’s enough and whether it meets the need outlined in a reasonable worst-case scenario.

Q5155 Chair: Can I ask a specific question? Will that include an assessment that has been made of capacity at Portsmouth—Portsmouth in particular—in the event of no deal, and the extent to which that might affect medical supplies?

Michael Gove: Yes, and it’s a very—I was going to say it’s a very good point, but all your points are good. What I mean is that it’s a very important point because previous Yellowhammer scenarios had not looked at ports other than the short straits in the degree of detail required. The border delivery group have asked specifically for that, and without pre-empting what the content will be—absolutely.

Q5156 Chair: Does that suggest that there are concerns about capacity at Portsmouth?

Michael Gove: No, it suggests that—in fact, it doesn’t suggest; it is the case that we wanted and officials wanted to be even more robust and to ask some questions. I won’t editorialise, but the information about



HOUSE OF COMMONS

Portsmouth will be there. People will have an opportunity to make a judgment about it. It is in my view, in this case, not the case that what is revealed gives us any additional cause for concern.

Q5157 Chair: But since we don't know what your cause of concern was previously, that doesn't help us enormously.

Michael Gove: The cause for concern was that Portsmouth was a priority port when it came to making sure that medical supplies arrived in the UK. Obviously, and as I think I said in the House, our first aim is to ensure minimum friction at the short straits—secondly maritime freight, and thirdly air freight, if necessary.

Sammy Wilson: Chairman, can I ask just one further question, following on from those questions?

Chair: If it's related to Northern Ireland, Sammy, yes, very quickly.

Q5158 Sammy Wilson: Can I just ask you this, Minister? In the light of what the Chairman has asked you about the consequences of no deal, and if there is no existence of the Assembly, if you do intend to continue with the situation where tariffs will not be collected across the Northern Ireland-Irish border and you do intend to put some compensation arrangement in place to support producers who will be affected by that, what will be the mechanism for devising and administering that compensation scheme if you are saying that, currently, civil servants in Northern Ireland do not have the powers to do that? Will it be done on a national basis or does putting that in place require direct rule?

Michael Gove: It need not require direct rule for additional funding to be put in place, but there are constraints on what civil servants can do. There are also things that the UK Government can do to supplement what the Northern Ireland civil service does.

Chair: That is very helpful. Mr Gove, thank you very much for coming today. You have been very generous with your time—we appreciate it—and, typically, you have answered all the questions that have been put to you. We may see you again; it depends on what happens.