

Select Committee on the European Union

Corrected oral evidence: Scrutiny of Brexit Negotiations

Tuesday 8 October 2019

10.35 am

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Members present: The Earl of Kinnoull (The Chair); Lord Cavendish of Furness; Lord Faulkner of Worcester; Baroness Hamwee; Lord Kerr of Kinlochard; Lord Lamont of Lerwick; Lord Morris of Aberavon; Baroness Neville-Rolfe; Lord Sharkey; Lord Wood of Anfield.

Evidence Session No. 1

Heard in Public

Questions 1 – 10

Witnesses

[I:](#) Charles Grant, Director, Centre for European Reform; Victoria Hewson, Head of Regulatory Affairs, Institute of Economic Affairs.

Examination of Witnesses

Charles Grant and Victoria Hewson.

Q1 The Chair: Good morning to you both. I see that you are sitting slightly apart. I hope that does not bode anything at all. Thank you very much for coming at relatively short notice for this important evidence session on the UK Government's proposed amendment to the Northern Ireland protocol. It is a public evidence-taking session—we will see whether we can get the sun taken away from your eyes, Mr Grant—so it is being televised. After the session, we will send you a transcript. If you could look at it and give us details of any corrections, we would very much appreciate it.

Because this session is being televised, perhaps you could introduce yourselves.

Victoria Hewson: I am head of regulatory affairs at the Institute of Economic Affairs. I have done quite a lot of research into all the aspects of the Irish border question that we will discuss today, so I am looking forward to taking your questions.

The Chair: Thank you. The sound system is not so good this morning, so I am afraid you may have to speak artificially loudly so that we can all hear you.

Charles Grant: I am the director of the Centre for European Reform and I cover, in broad terms, the politics and economics of what is happening in the European Union. I am obviously interested in Brexit, and although I do not claim to be an expert on the Irish border per se I am certainly interested in it.

Q2 The Chair: Thank you very much. Could you begin by giving us your overall assessment of the Government's proposed amended protocol, its strengths and where you see the problems within it, versus the one that was negotiated by Mrs May?

Victoria Hewson: First, at a very high level, it is a vast improvement on the May backstop. It removes the customs union—or should I say customs unions, plural—aspect, because of course the May backstop entailed Northern Ireland staying in the EU customs union and Great Britain being part of a separate overriding customs union.

The customs union aspects have gone, which, for free-market, free-trade supporters like me, was always one of the biggest problems with the backstop as it stood. Alongside that, the level playing field measures have gone, which again is to be welcomed from the perspective of being able to take control of our regulatory environment and hopefully liberalise it in the pursuit of prosperity.

The consent mechanism—the idea that for the particular regulatory aspect of the new proposals to come into force there would have to be a democratic mandate from the Northern Ireland Assembly—is both a

strength because it introduces an element of democratic accountability that was missing before and, for reasons I will come on to, a bit of a weakness.

Finally, at a high level again, it very much orientates the future relationship away from the direction which the former backstop and political declaration was pointing towards and towards being a free trade agreement, rather than an ultra-close relationship based on either a customs union or another close customs arrangement. For me, those are all positive.

On the weaknesses, it splits the UK single market, as the old backstop did, but this only in regulatory matters. Again, we will get into the detail of how that will work, but it will mean that, if consented to by the Assembly, there will be regulatory differences and administrative requirements for trade between Great Britain and Northern Ireland, which is a downside, let us say, from a unionist perspective and potentially from the perspective of the consumers and the economy in Northern Ireland.

Then, the consent mechanism itself, from a negotiability perspective, will be very difficult. We have already seen that in the response from the EU side; it has not welcomed that at all. Also from a practicality perspective, it is hard to see how it would work in practice, given the state of the Northern Ireland Assembly, or rather the absence of a sitting Executive and the Assembly not sitting either. The consent mechanism has problems associated with it.

The Chair: Thank you. We will get into the details of a lot of that through the session. Perhaps, Mr Grant, I could ask for your overview.

Charles Grant: Sure. I guess the main problem with Mrs May's deal was that it worked for the EU but not for the House of Commons. The main problem with Boris Johnson's proposals is that it could perhaps work for the House of Commons, but it certainly does not work for the EU, and it will not work for the EU in anything like its current form.

There are a number of problems with the proposals. First, they are very complex, baroque proposals; they are quite hard to understand. I have not seen the legal text because it is not available to the public, but if you read the summary and the Explanatory Note you will see that some of the key provisions, particularly how the customs arrangements work, are left for later. He is asking the EU to sign up to this deal while the details are worked out later, which from the EU's point of view is unsatisfactory.

In terms of actual the substance, the EU has at least two or three serious criticisms of it, which I do not see being overcome. One is that it compromises the integrity of the single market, because whatever form the customs controls take—it is not entirely clear—away from the border, that is an invitation to smugglers and fraudsters; it makes life easier for them than is currently the case. Indeed, there is no example I am aware of anywhere in the world of customs checks being carried out away from

a border itself, so this would be a new, innovatory idea which the EU believes will be open to fraud.

That is the EU's main concern. Its second concern, as Victoria said, is the level playing field provisions. Again, I do not think that is a deal breaker. If, as some Tories say, the UK really wants to be a Singapore-on-Thames, the EU cannot prevent it doing that if it is outside the EU. However, it certainly creates ill will and will lead to a less generous FTA on the EU side in the future relationship. I have no doubt, having talked to a number of Governments about this, that if we ask for a Canada-style FTA but without any level playing field provisions on social, environmental and consumer rights and other issues like state aid we will get a less generous deal than Canada, because the EU is scared of Britain becoming a Singapore-on-Thames on its frontiers.

The third, main, and to me most important, problem with these proposals is the effect on the Good Friday agreement and the Northern Ireland peace process. The view of almost everybody in Dublin—and quite a lot of people in Northern Ireland, including the police service there—is that if you have infrastructure for controls, even if it is away from and not directly on the border, checks and the need to verify compliance with the rules in the border area, that is an invitation to terrorists to resume their terrorism.

More important than that is that one reason why the peace process in Northern Ireland has worked well over the last 15 or 20 years is because republicans living in Northern Ireland were convinced that, although they had not achieved the united Ireland they dreamed of, they were almost in a united Ireland because there was in effect regulatory union between the north and the south and there were no visible borders of any sort to worry about.

They were convinced that they almost had what they wished for, and I think that many people worry now—certainly the Dublin Government do, and the EU follows the wishes of the Dublin Government on this—that having different regulatory alignment, in customs at least, between the north and the south of Ireland, and having physical infrastructure somewhere to police the customs border that will be created, is undermining much of the good that has been achieved over the last 20 years with the Northern Ireland peace process.

The Chair: Thank you very much. Again, we will get into the detail of that. Perhaps as a start I will turn to Lord Kerr and ask him to ask his question.

Q3 Lord Kerr of Kinlochard: You have both taken us into this area, but could you sum up your assessment of the reaction of the Irish on the one hand, and of the EU as a whole on the other, to the proposals, and do you think that they provide a basis for an agreement on the 17th European Council?

Victoria Hewson: I think it is fair to say that the EU reaction has not been positive, especially when the Irish Prime Minister got out in front and said that he did not consider it a workable basis on which to proceed with negotiations. Until the Taoiseach made his statement, there had been some indication from other member states that they might be open to looking at it, but obviously without Irish buy-in, other member states are at the moment falling in behind Ireland.

Clearly the Taoiseach, in particular because of the operation of the Benn Act, currently considers that it is worth sticking to his firm position that Northern Ireland must stay in the EU's customs union. From his point of view, because of what looks to be a mandatory extension, it is worth it for Ireland to hold to that in the hope or expectation that a general election might happen or that parliamentary mechanisms might be used that meant either a second referendum or revocation.

At the moment, for Ireland it is worth holding out to see how that all pans out in the coming months. There is really no incentive for Ireland to move. The same goes for the other EU member states, although perhaps to a lesser extent. The Benn Act has had a serious impact on the viability of any proposals that the British Government might have put forward.

Charles Grant: I disagree to some degree with Victoria on that. I accept that the Benn Act is a factor, but it is a fairly minor one. When I talk to people on the EU side, they say that it is true that it removes the incentive for them to compromise, but that implies that there was a compromise that would happen quite easily without the Benn Act, which I do not think was the case. The fundamental differences of substance are so great that, even without the Benn Act, I think there would still be no significantly greater willingness on the EU side to move towards to the current UK position.

An interesting question for historians perhaps would be whether, if the British Government had come up with a scheme the other way around so that Northern Ireland stayed in the EU's customs union but was out of the single market for goods and farm goods, the EU would have had to accept it?

I think it might have done, because it regards customs as neuralgic; customs is almost existential for the EU in many ways. It believes that it is very hard to disentangle customs controls from other sorts of controls. It uses its customs controls to police various other sorts of control; for example, single market controls. If the British Government had said, "Look, we'll leave Northern Ireland in the EU's customs union, but we want the right to diverge in regulatory terms, which would create some need for controls or checks for compliance with EU rules and regulations away from the border", the EU would possibly have found it harder to say no.

However, the way the Government have done it—because the DUP, and I guess the ERG too, was so concerned about customs—prioritising the

freedom for Northern Ireland to have its own customs regime has produced a no from the EU.

I see no prospect of the EU giving in on this between now and the end of the month. As Victoria said, it is really all about Irish politics. So long as Leo Varadkar stands firm, the EU will not cease to back Ireland to the hilt. That is my reading of things. The trouble from the British Government's point of view is that Varadkar thinks that it is in his political interest to stand firm.

The way he sees it, as far as I understand it, a no-deal Brexit is of course bad for Ireland, but he can, and will, blame the British—everybody will blame the British—and the controls that will have to be put up on the border will not last for very long either. The EU believes, rightly or wrongly, perhaps wrongly, that the British will come back and beg for a deal after certain amount of time in the chill of no deal.

On the other hand, if Varadkar were to accept the British proposal and have the withdrawal agreement without the good old Irish backstop that he is fond of, he would be dead politically, because he would be greatly criticised by all the opposition parties in Ireland and would not win the election that is looming. Politically, it is a no-brainer for Varadkar to stand firm, whatever the Benn Act says or does not say.

Lord Kerr of Kinlochard: On that theme, the *Spectator* blog last night carried what looked to me like an authentic communication from No. 10 on what No. 10 officials—I assume this is Mr Cummings—expect to happen, stating: "As things stand, Dublin will do nothing, hoping we offer more, then at the end of this week they may say 'OK, let's do a Northern Ireland only backstop with a time limit'".

Does that strike you as a plausible prediction of what is going to happen this week?

Charles Grant: I have no reason to think that it is plausible—I am not privy to Mr Varadkar's innermost thoughts, of course. If in the last resort there is some desire for some compromise to keep everybody happy, the time limit may come back on the agenda. There has been musing about it in EU circles for some time, but I have never heard anybody in the Irish Government say that that they would be prepared to live with that; it is more other people in the EU occasionally saying, "Well, could we possibly live with the time limit? It is very, very long". I see no reason to believe that, this week, the Irish or anybody else would propose a time limit. In the very long run, like months and years ahead if we need to resolve Brexit, that issue may come back.

Lord Kerr of Kinlochard: According to the *Spectator*, Mr Cummings said that we would of course turn down that offer if the Irish put it.

He went on to say that the European Council would be about the question of an extension and delay, and that, "the next phase will require us to set out our view on the Surrender Act. The Act imposes narrow duties. Our

legal advice is clear that we can do all sorts of things to scupper delay ... We will make clear privately and publicly”—in the European Council—“that countries which oppose delay will go the front of the queue for future cooperation—cooperation on things both within and outside EU competences. Those who support delay will go to the bottom of the queue”.

The *Spectator* adds: “This source also made clear that defence and security cooperation will inevitably be affected if the EU tries to keep Britain in against the will of its government”.

Do you think that such blackmail would be likely to work? Would the European Council—let us say, Mr Orban—refuse the necessary unanimity for extension if the conditions set out in the Benn Act were to arise and the Prime Minister were to be about to break the law by not writing the letter?

Victoria Hewson: I would demur from the use of the phrase “blackmail”. What was suggested there was in an off-the-record briefing, so I have no idea whether it is government policy. Such steps are really not so different from those taken by the EU against the UK in banning member states from discussing operational matters with the UK to try to address issues that might arise if there were to be no deal, so I am not sure that “blackmail” is the right word for that. “Prioritising the UK’s own interests” is probably a better way to describe it.

Would it be effective in persuading the EU round? I doubt it, because previous suggestions by the May Government to that effect had little or no impact. Then again, perhaps that is because they knew that the May Government were never serious about following through on those things. If there is a bit more seriousness of intent behind it, it may make a bit more difference. Again, the question of a time limit comes into play, because if there is no seriousness and no deadline, it is very hard to say that there is any incentive to move on any of these things.

I will comment briefly on the time-limit question. It seems to me that agreeing a time limit on a Northern Ireland-only backstop would be an excellent result for Ireland, because there is no way a time limit would ever be operable; it would become the permanent situation. Let us be very clear: implementing the backstop as it stood under the May withdrawal agreement was very disruptive in splitting Northern Ireland from Great Britain.

Enacting a separate customs union within a customs union is a big step. The idea that businesses, politicians and citizens would go through all that cost and disruption only to back out of it again for another, as yet unknown, relationship in four or five years is unthinkable. That is why the British Government would not agree to that, and rightly so.

Lord Lamont of Lerwick: The other day, Mr Varadkar said that there were only five answers to the question of the Irish border. One of them was a united Ireland, another was Ireland joining the UK, and there were

three others, all of which have been explicitly rejected or seem incompatible with the British position.

I am beginning to think that it is almost impossible to find common ground between the Republic of Ireland and Britain. Listening to Charles Grant, I was reinforced in that belief. I can accept that the Taoiseach may be politically boxed in, but I wonder whether the arguments that Charles was making logically make sense. The absence of a hard border should not be confused with there being no border at all. It is a fiction that there is no border. There is a border, and it has consequences in VAT, corporation tax and excise duty when you cross it. Checks are carried out away from the border. What is proposed is incremental—perhaps it is a big increment—and builds on what is practice already.

Charles said that the British Government's proposals would destroy the single market, but we do not regard the checks carried out on VAT, corporation tax or excise duty as breaking the integrity of the single market. He said that any infrastructure would be a breach of the integrity of the single market, but the Government have made it quite clear that there would be no extra infrastructure of any kind. He talked about any infrastructure being an invitation to terrorists to attack, but checks would be carried out at the premises of companies. Are we really saying that the existence of companies and of software on which they made their customs declarations is an invitation to terrorists? That does not seem a reasonable or logical proposition.

I put it to you that everybody has to give in this negotiation if there is to be any deal. Just to keep on, parrot-like, saying "integrity of the single market, integrity of the single market" is not facing reality.

Charles Grant: I was trying to explain why the EU would not accept these proposals. Some of what it says I think is quite reasonable; some of it I am a bit less committed to.

On the integrity of the single market, I think it exaggerates a bit. There is so little trade across that frontier that it will not have a very big effect on the single market as a whole.

On the point about the peace process, I am more with what the EU says.

Lord Lamont of Lerwick: I was not asking about that; I was asking about this bit.

Charles Grant: It is related to what you said, Lord Lamont, about infrastructure. We do not know how much infrastructure there would be with these proposals. The paper keeps on saying, "We will work out the details during the transition period", so we do not know how the customs arrangements—

Lord Lamont of Lerwick: The head of customs has specifically said that there is no need for any additional infrastructure. He said it in a Select Committee meeting in the House of Commons several times.

Charles Grant: Fair enough, but we do not know how the system will work yet. Until we do, you will find it hard to convince some people in the EU that there is no problem with infrastructure.

On one other thing you said, Lord Lamont, I agree that it is hard to see how the UK and Irish positions can be reconciled, because the Irish position is that Northern Ireland has to stay in the EU customs union. That is obviously a position that it is difficult for many people in Britain to accept and it is a fundamental problem.

Briefly on Lord Kerr's question, I do not know who wrote the document leaked to the *Spectator*, but I think that the person who wrote it does not have a great understanding of how the EU works. If he had such an understanding, he would know that making these kinds of idle threats is no way to get what you want in the EU. In particular, the references to withdrawing our co-operation on security and defence policy will go down very badly with our best allies in the EU such as the Nordics and the Baltics, which are very sure that after Brexit, if and when Brexit happens, they want a close security relationship with the UK. I know already that they are quite upset with such comments.

My line would be that if you behave in a stroppy way with your EU partners, you lose good will. Britain will need good will to get a good deal in the end.

Lord Kerr of Kinlochard: I see that Mr Cummings in this quotation in the *Spectator* says that those who hope that Mrs Merkel would ride to our rescue are deluded. I understand that there was a conversation with Mrs Merkel this morning that did not go very well. I would have thought that the Germans, perhaps with the Dutch, would be the most likely to be upset by blackmail linking defence commitment to EU exit terms. I remember how upset the Germans were by Mrs May's Lancaster House speech, which I think they misinterpreted, and how relieved they were when she went to Munich and made it clear that the British NATO commitment to European defence was free-standing and had nothing to do with this argument. I very much agree with you, Charles, that it is counterproductive to try this kind of language.

Charles Grant: It is also an empty threat, because—

The Chair: Mr Grant, we are wandering a bit off the point of the evidence session, so I want to come back to the matter on which we are trying to gather evidence. These are very interesting discussions, but perhaps we could have them afterwards. Lord Sharkey has a particularly on-the-point question.

Q4 **Lord Sharkey:** What is your assessment of the proposal for the potential creation of an all-Ireland regulatory zone on the island of Ireland that covers all goods, including agri-food? Do you think it marks a significant step forward from Theresa May's proposal?

Victoria Hewson: In comparison with the May backstop, it is almost the same in regulatory terms, because all the substantive regulations listed in

the annexes of the existing withdrawal agreement will apply. The level playing field question is slightly different, but the substantive regulations both on agriculture and food and on manufactured goods will all apply. In regulatory terms, it is almost the same as the May deal, except for the conditionality of the consent mechanism.

That is the big change in how trade between Great Britain and Northern Ireland works. I want to be very clear that this is not about checks at the ports. Those are really neither here nor there in operational terms. It is more that the burden will be on the administrative processes, because the proposals from the Government envisage a form of regulatory declaration to notify authorities that goods are coming from Great Britain to Northern Ireland and will need to be checked.

The volume of checks will probably be very low, as they are for trade from outside the single market today. What is new is the additional requirement to submit a regulatory-only declaration. This does not exist already and will need to be designed.

My concern is that, currently, trade to Northern Ireland from Great Britain is purely a domestic matter, so introducing this new requirement—as well as, potentially, different substantive regulatory requirements for goods in the future—will cut out Northern Ireland from UK-wide supply chains.

Small businesses in particular but also larger businesses might be deterred from including Northern Ireland in their UK-wide distribution networks. For example, if Tesco cannot economically service supermarkets in Northern Ireland because it has to have a separate range of chicken or fishfingers, or because the extra, bespoke way of declaring one's goods into the Northern Ireland market makes it not worth the hassle for a relatively small and not particularly affluent market—

Lord Sharkey: Does that apply to manufacturers as well as to retailers?

Victoria Hewson: Yes, absolutely. That is my concern: that, notwithstanding that customs and tariffs will not apply, we are essentially making goods trade from Great Britain to Northern Ireland almost like exporting. Businesses that currently trade only domestically might just decide that it is not worth trading into Northern Ireland. A huge proportion of goods, especially consumer goods, comes from Great Britain. Quite a lot of manufacturing supply chains are more integrated east-west than they are north-south.

This new form of regulatory declaration—how the checks will work—will first have to satisfy the EU, because that is the potential route into the single market. Whatever the declaration system and the associated checks will look like, they will have to satisfy the EU. Charles is right that, according to the proposals, this is all to be worked out during the transition period. That is not actually such a big difference from the existing withdrawal agreement because, as we discussed at length the last time I was giving evidence to this Committee, huge amounts of how

the existing backstop would work are still to be operationalised, so that is not so much of a criticism of this proposal, but it is potentially quite a big impact for Great Britain-Northern Ireland trade, notwithstanding that Great Britain will still accept imports from Northern Ireland coming the other way.

I will make a final point, and then I will let Charles come in. It is interesting that in the follow-up to the withdrawal agreement of the May Government, a set of commitments were published to try to persuade MPs to support the withdrawal agreement. They included a commitment by the UK Government not to diverge Great Britain's regulations from Northern Ireland's for so long as the backstop was in force. I thought that that was astonishing because it was committing the UK as a whole to follow single market regulations without getting any reciprocal recognition or access in return. I can only hope that that commitment will fall away, but that exposes Northern Ireland to the risk that there will be different regulatory environments.

Lord Sharkey: Do you characterise the additional burdens that will be in place as significant and as likely to have a significant effect on the Northern Ireland economy?

Victoria Hewson: They could be. I am not an economist, I am a lawyer, but I think they are material.

Charles Grant: I have nothing to add to Victoria's excellent analysis except to say that there is the issue of the consent mechanism which we have not come on to yet. Victoria said earlier that a time limit on the backstop would be a very bad idea because businesses would assume that it would have to go on for ever because it would be so awful suddenly to change things at a cut-off point, but the same will apply to this four-year consent mechanism. Imagine that every four years businesses in Northern Ireland do not know whether or not they are going to stay aligned to UK regulations. I think the consent mechanism is very problematic indeed for the EU and would have a pretty bad effect on the economy.

The Chair: We will come on to the consent mechanism in detail.

Lord Wood of Anfield: Just a quick follow-up to your very interesting point about the regulatory barriers between GB and Northern Ireland. Your worries were about the position of the Conservative Party and the DUP for three years. Do you have any sense of why their concerns have suddenly disappeared in this proposal? Is it because of compensations elsewhere, or because of seeing that there is a technical way through the concerns that you have expressed?

Victoria Hewson: It is a significant compromise by those unionist parties. To be fair, in the spirit of compromise, it is not bad to compromise. In many ways, this is preferable to the backstop as it stood in the original withdrawal agreement, so it is better. There are other aspects of the proposal that are intended to address and mitigate that.

There is the so-called new deal for Northern Ireland, so there will be support for businesses, investment in intermediaries and advice to assist businesses to adapt to the new environment. That is positive, and it might help, but I am not convinced that the administrative burden on Great Britain businesses supplying the Northern Irish market has been addressed by this proposal.

Q5 Lord Lamont of Lerwick: My question as drafted is rather long and has already been covered partly by Lord Sharkey and partly in my previous interchange with Charles. It is about how the controls would apply separately. The question was about how they would apply on agri-food and manufactured goods moving from Northern Ireland to Great Britain and there was a similar question on the other way between Great Britain and Ireland. This has been partly covered. Victoria said in reply to a question about the cost of this that she is not an economist. I do not know whether Charles Grant could give an answer on that, because it seems very important. For example, there have been analyses of the cost of rules of origin from Switzerland to the EU and from the EU to Switzerland.

The headline figures can appear very large. For example, the *Financial Times*' headline this morning is: "Red tape bill for EU-UK trade in a no-deal Brexit to hit £15bn". The figure of £15 billion sounds huge, but as a percentage of trade, it may be very small indeed. The Swiss figures were small. I do not know whether the IEA could do any work or has done any work.

A further point, surely, is that some of these costs are one-off costs. They are the costs of setting up new computer systems and new forms and designing them at the beginning, but eventually people get used to them. My final point is: am I right in saying that in GB/Northern Ireland trade in animals, at least, there are already some checks?

Victoria Hewson: Yes. All live animal exports from Great Britain to Northern Ireland are currently subject to checks at the ports of Northern Ireland. That is what I was sort of getting at when I said that physical checks at the ports are really not the issue. They can be accommodated relatively straightforwardly. It is in the administrative and macro impact of regulatory divergence where the burden will be felt.

A lot of the estimates of the costs of customs compliance are not very reliable. They tend to overestimate the cost of rules of origin, for example. You gave the example of Switzerland. I believe the Swiss customs authorities estimate the cost of customs compliance for Swiss trade with the EU to be 0.1% of the value of trade, which is really not material at all, especially given the opportunities we have to invest and improve competitiveness in other areas. I do not mean to dismiss the costs of customs, but you are right that a lot of this is the fear of the unknown and the initial investment, because once your systems are up and running for repetitive trade, the technology involved looks after itself to a large extent. Where we have government investment in all the

simplifications that are possible, viable and operable in lots of jurisdictions, I do not think we should be frightened of that.

The Chair: Mr Grant, do you have anything to add on those issues? Does your technology look after itself?

Charles Grant: No. Yes.

The Chair: Very good. Thank you very much.

Q6 **Lord Faulkner of Worcester:** We have already covered customs controls to some extent. My question is about the political implications and about how much of what is being proposed is politically acceptable. The *Guardian* had an extensive report yesterday morning covering the EU's point-by-point reply to the Government's proposal. One of the things it says is: "The proposals for a customs border were said to risk a major disruption of the all-Ireland economy. EU negotiators have pointed out that it has been rejected by groups representing Northern Irish business".

One can add, of course, that the DUP speaks for only a minority of people in Northern Ireland and there is a strong pro-EU majority among the population. The thought of giving a veto, effectively, to the DUP must be somewhat anathema to the EU as well as to the Irish Government, of course. Perhaps Charles could comment on that.

Charles Grant: Just to reinforce the point you just made, as far as I am aware, every single business lobby in Northern Ireland for retail, manufacturing, farming and other things, is critical of the Government's proposals. Lord Lamont may be right that you do not need any physical infrastructure to make them work, but that is not the perception in Northern Ireland, including even business people who support the DUP who I have spoken to. In terms of marketing these proposals, there is a big problem in Northern Ireland. I see no possibility of the Irish Government softening their opposition to the idea of a customs border between the north and the south because, as we discussed earlier, they do not see it as in their interests to do so.

Victoria Hewson: I would agree, except that I would suggest that with political will and co-operation it is possible to have a customs border that does not have physical checks.

Lord Faulkner of Worcester: It is quite hard to see where the political will is if the Assembly will not even form and operate. It has not sat for three years.

Victoria Hewson: I was referring to the political will at an intergovernmental level to invest in customs operations to avoid physical infrastructure. You are right about the political will to accept the consent mechanism for the regulatory aspect—already, the EU has said that it would have a big problem with that—but that is somewhat at odds with the commitment that it made in the joint report to give a say to the

Northern Ireland Assembly. It is fairly typical of the EU's reluctance to follow democratic mandates.

Lord Faulkner of Worcester: Sorry, what do you mean by that?

Victoria Hewson: This aversion to allowing a democratic say in the direction of travel of Northern Ireland as part of the United Kingdom.

On the face of it, there should be nothing wrong with that; you are quite right: the practicalities of designing the way in which the question would be phrased and what the default would be are more difficult, especially given the absence of a functioning Assembly.

Lord Sharkey: Does not the mechanism that exists within Stormont, when it sits, require community consent? Or to put it simply: does it not give, for example, the DUP a veto?

Victoria Hewson: I think that everyone is anticipating that at least the DUP would invoke a petition of concern, which would mean that, rather than being a straight vote, cross-community support was needed. That would mean that one side or the other could veto it. But that is very much in keeping with the Belfast agreement's principles of avoiding outright-majority decision-making and that, unless there is a majority otherwise, the default is that Northern Ireland stays constitutionally part of the United Kingdom. It is my opinion that that is the right way around and respects the Belfast agreement.

Lord Lamont of Lerwick: What about the suggestion put forward by William Hague in the *Telegraph* this morning that a compromise might be that both communities should exist if one wanted to opt out of the alignment arrangements—or are you saying that that is a meaningless step forward?

Victoria Hewson: I have not had the pleasure of reading William Hague's piece, but that sounds even more complicated.

Lord Lamont of Lerwick: He is saying that, rather than one side having a veto, both would have positively to agree if there was to be a change in the status of Northern Ireland.

Lord Wood of Anfield: Change the presumption.

The Chair: We are going to come on to consent.

Lord Lamont of Lerwick: It is a very important question

The Chair: It is, but I wonder whether you could hold it back for just a wee second and we will get to it in due course. I want to move to Baroness Neville-Rolfe.

Q7

Baroness Neville-Rolfe: I would like to return to the economic side. We have talked a bit about the impact on the Irish Sea, which we should try to quantify through our work, but what do you think is the likely economic impact both on large businesses and in particular on smaller

businesses—which I am very concerned about—of the imposition of customs controls on the island of Ireland? There are proposals for special provision for small traders. I do not know how you view that scheme, but perhaps you could talk a bit about the economic impact, bearing in mind the point made by Lord Lamont, which is that there are existing levies—VAT and a whole load of controls—on repetitive trade for somebody who runs businesses both north and south of the border.

Victoria Hewson: As I said before, I do not want to dismiss the fact that the introduction of customs controls is material, especially for small traders in border communities who are used to just driving across the border. Whether it is tradesmen or local shops or farmers, it is a big change for them. That is why I think the proposal that there should be an exemption for small traders is important. It is disappointing that the EU has been unwilling so far to countenance that. I understand why it would resist it, because it is a serious derogation from the customs regulations currently in place.

However, given that we are all trying to put measures in place to protect peace and support law-abiding businesses, it is not an unreasonable ask. Quite frankly, if one does not put a legal derogation in place, there will be a de facto derogation, because those small local traders will simply carry on their business. Unfortunately, that will simply disadvantage the law-abiding small businesses which do seek to incur the extra costs involved. Rather than having a de facto derogation where people just ignore the rules, which disadvantages those who try to follow them, it would surely be fairer and entirely reasonable to put in place a de jure derogation, perhaps linked to the VAT threshold. Linking customs declarations and potential duty payments, if any, to the VAT system is really the way that one would monitor whether people were duly declaring and paying any duties. If you do not also duly declare your VAT and account for it, you will not be able to avoid making a customs declaration, because the two are very much entwined. An exemption tied to the VAT threshold would make sense.

Baroness Neville-Rolfe: How do we persuade the EU to be more sensible on all this? Of course, the VAT threshold is quite high, and quite a lot of small companies are below that level. I know that the Government made some proposals on this. What do you think of them?

Victoria Hewson: It was the original UK Government proposal two years ago and, as I say, it was not countenanced, but if we are talking in terms of the peace process and preserving people's livelihoods, I do not think it is an unreasonable ask, especially given, as Charles said, that the value of trade that crosses the Irish border is small in financial terms and in volumes. The incentives for smuggling in terms of import duties are virtually non-existent, especially if we have a free trade agreement whereby in the vast majority of cases no duty will be payable anyway and it is purely a paperwork exercise. You get smuggling only when there is a differential that is worth exploiting. Most customs duties are so low that it is not worth putting yourself at the risk of doing so. The fiscal risk in any event is very small. To my mind, there are strong political and pragmatic

reasons for agreeing this, but, as things stand, it does not look likely that the EU will do so.

Charles Grant: By way of a footnote to what Victoria said, the Government's own public statements on this matter are ambiguous. Sometimes, they say that small traders would face reduced customs controls; at other times, they say that they would be excused customs controls. We do not know what the Government are really proposing on that.

Let us assume that some wonderful system can be created that means we do not have any infrastructure close to the border, as Lord Lamont said. Well, fine. However, as far as I understand from talking to people who know more about customs than me, such a system would require the co-operation of the local communities on either side of the border. Small traders would have to work the system, fill in certain forms, make certain statements and be willing to be surveyed and checked in the border area. The trouble is that the people who live close to the border do not like this change; they quite like the current system where there is no need for these controls at all.

One of the problems with the Government's proposal or alternative arrangements in general is that they require the willing co-operation of people who live around the border, and that is not there. Let us not forget that they were promised by Theresa May in the December 2017 joint report that there would be no friction at the border at all.

Victoria Hewson: No. That was not what it said. It said that there would be no physical infrastructure or related checks and controls. The joint report did not promise frictionless trade, and it did not promise retaining the status quo. That may have been how it was interpreted.

Charles Grant: The British Government subsequently did talk about frictionless trade and British Ministers did talk about frictionless trade.

Victoria Hewson: It was generally "as frictionless as possible".

Charles Grant: I think they did, and the current Government have said, "We are different". I have heard Ministers say, "We are different. We say as little friction as possible", which is not what their predecessors said, and if you live in the area, that is not good.

Lord Lamont of Lerwick: Is not the whole idea of frictionless trade a complete myth? All trade involves some form filling. There is some friction, and there is more friction, and the issue is how much friction.

Victoria Hewson: I think that is right. There is another aspect that I do not think is in these proposals, but I have heard it mentioned in some of the reporting on what is in the detailed legal text. It is things like access to databases. Currently, for agricultural trade, there is a lot of friction even within the European Union; intra-EU trade is all very closely tracked, regulated and monitored through the TRACES system.

One extremely useful co-operative step that could be delivered would be maintaining co-operative access to these various databases. The VAT database, VIES, would be another example. Again, in both cases, the EU has flatly refused that. That, again, seems somewhat unreasonable, not least because as a member state we paid for the development of these databases in the first place.

Surely if one is serious about alternative arrangements, which of course the EU assured us it was when the original backstop was drafted, these are the kinds of co-operative measures that should be deliverable, even if we have to pay a subscription fee to access and use them.

But, to the point, the TRACES database, for example, already tracks food exports and trade on the island of Ireland, so it is not frictionless today.

Lord Cavendish of Furness: I merely ask a question in the context of having spent all my adult life in the SME sector. I am constantly being told by politicians, officials and think tanks that burdens put on me are intolerable. In fact, they are a tremendous nuisance, but we get round them. That is our life. That is what we exist for. One remembers markets disappearing overnight and regulation that was very unwelcome. Are we underestimating the power of small business, or business in general, to live with these difficulties?

Charles Grant: The problem is one of perceptions. As far as I understand it, many businesses in Northern Ireland, big, middle and small, perceive that the changes being proposed would create significantly more friction than there is today and certainly more bother and paperwork than there is today. I hear from Victoria and Lord Lamont that that is rather mythical, but they need to get out there and make their point, because the perception in Northern Ireland, and therefore in Dublin and EU capitals, is that what the Government are proposing would lead to significantly more friction and, in particular, to problems for SMEs.

Victoria Hewson: I think that is right. I think that businesses are adaptable and are already subject to lots of burdens. If we end up with businesses in Northern Ireland having these new requirements for their trade with the Republic of Ireland, it will very definitely be incumbent on HMRC to do whatever it can to offset those costs and burdens in other areas.

Small business people are already struggling with programmes like Making Tax Digital and all these other things, so if we are going to add a burden here it will certainly be incumbent on HMRC to try to offset that with things like a single-window customs system—that should certainly be invested in—and general tax simplifications.

Baroness Neville-Rolfe: I agree with all of that. I wonder whether you are aware of any work on the specific sectors that will be affected in Northern Ireland. This Committee has done some work and took evidence locally, but there are some sectors that are more difficult than others—I think of clothing and dairy. Clearly, there is an interplay with tariffs, as

you were hinting, because if tariffs are low, the incentives for moving things backwards and forwards and round and round on the border are less.

Is there any work that you are aware of that could help us to understand those difficulties a bit more? We have focused in particular on SMEs, but there are also big companies operating north and south of the border.

Victoria Hewson: As I am sure you are all aware, the Northern Ireland statistics authority is a fantastically useful resource for trade figures in Northern Ireland. I must admit that it sounds as though you are better briefed than I am on the specific sectoral work.

In terms of the fiscally sensitive areas, clothing, automotive, food and agriculture are I guess the high-tariff items, but with exception of clothing they are also highly regulated supply chains. It is very hard to smuggle milk or live animals, which are very high-tariff items, because the movements have to be tracked in TRACES and, frankly, who is going to buy smuggled animals or meat to get it into their supermarket supply chain?

An aspect of these proposals that is worth looking at has been christened the two-borders proposal. It would be very interesting to explore how much trade would be subject to both borders, coming from Great Britain to Northern Ireland, perhaps processed in a factory and ultimately then exported to the Republic of Ireland. It seems to me that not that much would be subject to both borders, but that is purely conjecture. It would be interesting to look into how much goods trade would cross both borders.

Q8 Baroness Hamwee: I suspect that you might not want to say more, but let us give you an opportunity. This question is about the development of electronic customs checks and notification requirements for prohibited and restricted goods—if you feel that there is more to say.

Victoria Hewson: Actually, there are one or two points. I am sorry; I am talking quite a lot. This has been building up for the past week that I have been reading.

There is a very interesting challenge to do with the implementation and development of the systems and processes that would need to be put in place. That links to the consent mechanism, because we do not know until the vote has happened, or the absence of a vote has happened, whether the regulatory split will need to be accommodated. So when you do actually invest in the notifications and the checks and controls at the ports of Northern Ireland? We do not know that it will happen until the Assembly has voted for it, so there is a sequencing issue there.

As for the rest of it, I stress that most of the proposals rest on using existing processes under EU customs regulations, so it is more that educating and supporting business people to be able to use those processes and getting their systems installed will take the time and the investment.

Charles Grant: As a footnote to that, of course we have not discussed what happens if Stormont says no to the renewal after four years. The Government's Explanatory Note deliberately does not say what happens. Obviously, there will have to be very hard border controls between the north and south of Ireland, because the one thing the EU is very strict about doing at the border is controlling phytosanitary measures. It has these special control centres that have to be on the border. So if Stormont votes no to the renewal of the alignment with the single market rules, a very hard and physical border with infrastructure would appear immediately, or would have to appear very soon anyway.

Baroness Hamwee: To put that another way, are you saying that the Government's proposals depend on Stormont's saying yes?

Charles Grant: I said that one reason why the EU cannot accept the Government's proposals is because of this problem. When talking to EU officials about this, they think that you could find a way of finessing it and finding a compromise—perhaps the sort of thing mentioned by William Hague today, which I have not yet read. Perhaps there is a conceivable compromise on that.

The real reason why the EU cannot accept these proposals is not the consent mechanism, it is the customs. I do not see a way of compromising on the customs.

Baroness Hamwee: I have a question following the previous exchange about SMEs, just so that I am clear on it. I think that we were talking about small businesses, not medium ones; can I get confirmation on that? If so, what are small businesses for this purpose, or are we talking about below that threshold?

Victoria Hewson: It is a very good question, because the working definition of SMEs that I think most people use is businesses with less than 250 employees, which is actually quite large, especially in terms of the trade across the land border. If you were to try to exempt SMEs, that would not fly at all, because it would be almost all trade, certainly in terms of volume if not value. That is why I think people are steering us more towards the VAT threshold, which would be the very smallest businesses with up to £85,000 turnover.

The Chair: Lord Lamont wanted to come in on this.

Lord Lamont of Lerwick: Can I save it for later?

The Chair: Yes, absolutely. We are nicely segueing into the big and difficult area of consent. Can Lord Kerr kick that off? I know a lot of people want to come in on that.

Q9

Lord Kerr of Kinlochard: I am absolutely not an expert on Northern Ireland, but it is clear that the Government are not intending to check that Northern Ireland agrees by a plebiscite, because Northern Ireland, if consulted, would want to remain by a bigger margin than it did last time. Northern Ireland would say—the public opinion polls show—that it greatly

preferred Mrs May's proposals to Mr Johnson's, and the reason is that it particularly liked the backstop, which gave it, in some ways, the best of all possible worlds.

Clearly the Government, because they are determined that the backstop has to go, are not going to consult the people of Northern Ireland. Under the principle of consent, as established in the Good Friday agreement—where each community is able to ensure that matters revert to the status quo—the status quo is not changed unless both communities agree to a change.

As I understand it, the European Union is this week being asked to agree that a regime should be established that would include checks in the Irish Sea on goods travelling from the UK to Northern Ireland but not in the opposite direction, unless the DUP disagrees with that, which it could do before it came into effect or every four years thereafter, in a Stormont that currently does not exist and has not existed for 1,000 days. That seems unlikely to be seen by the EU 27 as giving them the assurance that they feel they need and which would be written down in a binding treaty. There seem to me to be too many conditionals there. Is that right?

Charles Grant: Yes. I do not think that there is any enthusiasm on the EU side for this. There is the question of whether it may, as Lord Kerr implied, breach at least the spirit of the Good Friday agreement. In its current form it seems to give a veto to the DUP, which does not speak for the majority of people in the Province at the moment. As I said before, this is an issue on which a compromise could be found, if one had to be found, with some very clever judicial drafting. It is not going to be the deal-blocker, but it is another reason why the EU does not like these proposals.

Victoria Hewson: However, all the unionist parties in Northern Ireland were against the May backstop. The so-called moderate unionist parties—the Ulster Unionist Party—were very much against the backstop because of its division of Northern Ireland from Great Britain in both customs and regulatory terms. In fact, the DUP has made a huge compromise in endorsing at least one leg of that split. Were there to be any vote in the Assembly, I am not so sure that it would split down the simple unionist/nationalist lines, because the UUP has been quite critical of these new proposals, whereas the DUP has endorsed and supports them.

In terms of the status quo question and the consent question, the Belfast agreement is concerned with the position of Northern Ireland as part of the United Kingdom. It is quite reasonable, I would say, that the status quo we are talking about—and where consent is required to depart from that—is of Northern Ireland as part of the United Kingdom's single market and that the decision should be taken from that baseline.

Lord Kerr of Kinlochard: I agree with you and take that point, but it is difficult to see the European Union agreeing that its single market frontier should be defined or redefined by this process every four years. Is there

a risk that, if this were to happen—which I think is impossible, but supposing it were—the four-year review procedure would turn into a proxy for a unification referendum on the island of Ireland?

Victoria Hewson: That is certainly possible. In a way, one positive that could be argued in favour of this consent proposal is that it could incentivise the parties to get around the table, form the Executive and get the Assembly to meet again in a way that, at the moment, is at a complete stalemate. It could incentivise the parties to get Stormont back up and running, not least because, potentially, the nationalist side could see voting in favour of this new mechanism as being a step towards its objectives. I do not want to speculate too much on that, because devolved politics in Northern Ireland is always slightly unpredictable.

Lord Kerr of Kinlochard: Have you looked at Lord Empey's proposals for using the institutions set up in the Belfast treaty, the Good Friday agreement, as the means of handling the issues posed by the border?

Victoria Hewson: He is exactly right. That is what should have been done right from the very beginning. The approach that genuinely would have respected the letter and spirit of the Belfast agreement would have been to use those institutions, in particular the strand 3 intergovernmental institutions.

Lord Lamont of Lerwick: I wanted to read three sentences only from the Hague article this morning. It says that, "the DUP has now agreed that Northern Ireland could stay within the orbit of EU regulations after Brexit, but only subject to the renewed consent of the Stormont assembly every four years. Since it could then vote to leave that arrangement anyway, if the assembly could ever agree to meet, it is not surprising that this does not go down well on the other side. It would be in its own interests to make a further concession—that any future departure from single market rules would require ... the agreement of both nationalist and loyalist communities".

Charles Grant: Sounds reasonable.

Victoria Hewson: I can see that being a point of negotiation.

Lord Faulkner of Worcester: Could I ask you a "What if?" question? Let us imagine that Theresa May had won the 2017 election with, say, a Conservative majority of 20; we would not have any of this now, would we? There would have been agreement to leave, presumably, a year ago, and the arguments about Northern Ireland and the backstop would have been wrapped up into a general approach towards the best terms for the United Kingdom to leave. Is not the problem the fact that the DUP has been given an extraordinary amount of power in the present Parliament?

Charles Grant: You say a majority of 20, but that would not have been quite enough to run all the meaningful votes on her deal, would it? I think your question works better if you say 30 or 40.

Lord Faulkner of Worcester: All right. I will change it to 30 or 40.

Charles Grant: First, the view from Brussels is that it is very unfortunate that the Government, throughout the last two years of the May Government and the Johnson Government, at least until recently, were dependent on the DUP votes. People forget that more than half the population of Northern Ireland has a different view from that of the DUP. That is certainly the view in Brussels.

Q10 **The Chair:** Thank you very much. I observe that this area has come up quite a lot in the Chamber of the House in recent times. On Thursday the Leader of the House specifically said that the consent mechanism was not settled and she refused to comment on whether the cross-community formula used in the Northern Ireland Assembly would be used. The same question was asked of Lord Callanan, who is the Exiting the EU Minister in the House of Lords, yesterday evening. He said more or less the same thing. I think a lot more will come out on consent. It is pretty difficult at the moment to form a view.

While we have been sitting, the Government have published a 155-page report called the *No-Deal Readiness Report*. Obviously, we have not had a chance to look at it, but I am looking at the front page. Moving to the last question of the day, I wonder whether you have any thoughts on the reflection that the Prime Minister has said that the only alternative to his deal is no deal. I wonder what you feel the political and economic implications of that would be for Ireland and Northern Ireland, and for UK-Irish relations, which have been going through such a good period in recent years.

Victoria Hewson: It would be a sub-optimal outcome to leave with no deal, but, as has been alluded to in the previous questions, if Ireland absolutely insists on its red line of Northern Ireland staying in the EU customs union and the UK Parliament cannot agree to that then, frankly, we are heading for no deal, parliamentary interventions aside. However, I would perhaps strike a note of optimism, if I may, by saying that once we have entered no-deal territory, I hope that pragmatism will prevail and the strand 3 institution, the British-Irish conference, should be invoked to try to sort it out. The sting will have come out of the overpowering spectre of no deal because it will have happened and we will be in a practical situation of actually dealing with it.

For what it is worth, I think the Government's no-deal plans for Northern Ireland were underdeveloped, very lacking in detail and not very well publicised at all, but in principle they had it right in applying no tariffs and controls on goods coming from the Republic of Ireland to Northern Ireland. That was the right approach. I know as well that, for example, the port authorities in Northern Ireland and local governments had been working on their planning, somewhat hamstrung, as I said, by the lack of detail provided by the Government, even though the high-level proposals were about right.

Charles Grant: The Commission has been putting a lot of pressure on the Irish Government behind the scenes to make better no-deal preparations for the border. It is very difficult for Irish politicians to admit

that they will have to put up controls on the border. They have now finally admitted it, under pressure from the Commission, but they have not done enough, from the Commission's point of view, to prepare for that eventuality.

We cannot be sure about the economic impact of no deal. It all depends on how many mini-deals are done at the last minute to ameliorate the worst effects of no deal. As you know, the Commission has perhaps been rather strong and taken too hard a line in saying that no member state is allowed to talk to the Brits about doing mini-deals on the side. That would change if no deal really approaches, particularly between the British and the Irish. We do not know what the economic impact would be, but we have all seen economic analysis suggesting that Northern Ireland will be particularly badly hit by no deal in its agricultural and textile industries, and the south in many ways too.

A final word: we have not talked about security at all. One of my biggest worries about no deal is the impact on security co-operation between the UK and the EU: the European arrest warrant, the Schengen information system, Europol and all that. Established methods of exchanging information will be broken and ruptured.

I know that the police and intelligence services have very serious worries about security co-operation post-Brexit. That is particularly apposite in the Northern Irish context of a no-deal Brexit.

The Chair: The Committee very much shares those concerns and has written a report about this. I would like to bring in Lord Cavendish here.

Lord Cavendish of Furness: I am not sure how often I have heard from people who should know that deals with the European Union tend to go on to midnight and sometimes a minute past.

I sense that we are not in that territory now, but I would like to get your views on that. I do not get a sense of how nervous the Commission is about no deal and I would like a comment on that.

Charles Grant: The Commission is not nervous about no deal. It would be wrong to say that the Commission and the member state Governments are relaxed. They are not relaxed, but they are resigned. They think that it may well happen. They believe, rightly or wrongly, that they will be much less hit than the Brits.

Therefore, they think that we will not put up with no deal for very long. They think we will come back and ask for a deal after a certain number of weeks or months and will have to take it on their terms. They will not talk to us about any future trading relationship unless we sign up on the money, citizens' rights and the Northern Irish border. So, they are relatively relaxed.

On the point about deals being done at the last minute, that is true of an internal EU negotiation on the budget or a constitutional treaty change. Sure, then everything is done at the last minute at three o'clock in the

morning. But this is different. It is not an agreement that requires everybody's consent, with everybody then moving forward or not. This is one country unilaterally deciding to leave a club.

If it does not leave on negotiated terms, it will leave on unnegotiated terms, which the EU believes will be very painful for Britain. The EU does not feel any obligation that it has to reach a deal at the last minute. It would like a deal but it is prepared for no deal.

Victoria Hewson: At the moment, we do not have a last minute anyway; we have a perpetual series of extensions. Even if it were the case that things happen at only the last minute, we do not have a last minute in sight.

I do not think that no deal will be as bad for the UK as many others think. Therefore, I do not think it is at all the case that we will be on our knees begging to pay the money and agree to the backstop.

The Chair: Lord Lamont will ask what is, potentially, our last question of the day.

Lord Lamont of Lerwick: If, first, one believes that leaving the EU must mean leaving the customs union—which I think is a reasonable definition, or must include it—and if, secondly, the Irish position is that there must be no border of any kind, even though there is a border at the moment, surely a deal is impossible and the only compromise we can possibly reach is a degree of softness in the border, as in the British proposals.

Charles Grant: There is a degree of truth in what you say, Lord Lamont. At the moment, I think you are right that the Irish and the EU are not willing to compromise on Northern Ireland staying in the customs union and having no physical, visible border at all.

But one can perhaps be a little more optimistic. If, for the sake of argument, there is a general election in this country quite soon, and if the Conservatives return with a large majority and say to the EU, "Come on, let's think again. Let's go back to square one, forget this backstop and see what we think", then, maybe, when there is clearly no choice other than no deal for the EU, possibly the EU will be more flexible. But I would not count on it. It might be, is all I can say.

Lord Kerr of Kinlochard: If what was in the *Spectator* last night is authentic, No. 10 is ruling out that scenario. It is saying, "There is no question: once this negotiation has successfully failed, and once we have won an election, our aim is simply no deal. We will be seeking election on a no-deal platform, and if they think we are going to come back and negotiate, they have another think coming". That seems to me rather a plausible position for No. 10 to adopt.

Charles Grant: It may be plausible. I do not know what is going on in the Prime Minister's mind. But if he comes back with a big majority having fought the election on a hard Brexit or no-deal Brexit, he may see the case for getting a deal with the EU, should the EU be willing to

engage with him. He might prefer to preside over a country that has left the EU in an orderly manner rather than in a disorderly manner. That is to be seen.

The Chair: Miss Hewson, did you want to have the last word?

Victoria Hewson: The way we hark back to the December joint report cuts both ways. If the EU side in Ireland had always intended that Northern Ireland must stay in the customs union, and believed that was the only way we could progress, why did it not say so in the joint report?

Actually, the joint report says, no “physical infrastructure or related checks and controls”. Over the period since that was documented, it has been wildly overinterpreted. We will get anywhere only if that interpretation can be rowed back to what was actually intended at the time.

The Chair: Thank you very much, both of you, for a very thought-provoking and rich evidence session. I bring it formally to a close.