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1. Thank you for the opportunity to assist the Treasury Committee at its evidence session on 3rd November 2015. As a supplement to my oral evidence, I am now submitting comments on some of the issues discussed by the Committee during the course of its inquiry thus far, including several on which the Committee indicated that it would appreciate further input:

    - **the relevance of "sovereignty" to the debate on UK membership of the EU** (paras 2-7);
    - **attempts to quantify the proportion of UK law that derives from EU law** (paras 8-17);
    - **observations on the available legal instruments for renegotiation** (paras 18-27);
    - **points of clarification about the process for withdrawing from the EU** (paras 28-35); and
    - **points of clarification about the UK's post-withdrawal trade relations** (paras 36-46).

The relevance of "sovereignty" to the debate on UK membership of the EU

2. The word "sovereignty" is used extensively in the political debates and public discourse surrounding UK membership of the EU – including in evidence presented to the Treasury Committee for the purposes of the present inquiry. It is important to point out that the language of "sovereignty" is perhaps an unhelpful way to express some important issues that are, as a result, at risk of being misunderstood.

3. There is no doubt whatsoever that the United Kingdom is and will remain a sovereign state under international law. Nor is there any doubt whatsoever that Parliament is and will remain the sovereign law making authority within this country. By contrast: it is equally well established that the EU is not a sovereign entity (let alone a sovereign state) under international law; as is clear from the Treaties themselves, the EU was created by its Member States in order to pursue objectives they hold in common, and the EU exercises only those competences which have been attributed to it under the Treaties. Moreover, the UK courts are obliged to treat relevant rulings of the European Court of Justice as binding precedents, and to give priority to certain measures of EU law in the event of a conflict with certain measures of UK law, only because this Parliament has instructed them to do so in the exercise of its sovereign powers.

4. Thus, as my colleague at the University of Liverpool, Dr Michael Gordon, pointed out in our joint evidence on this issue to the European Scrutiny Committee: "sovereignty" as such is not really an issue in this debate. Most of the time, when politicians and commentators talk about "sovereignty", they really mean "power" and "influence" in a much more practical sense.

5. From that perspective, membership of any international organisation entails a self-imposed limit on a state's theoretical power, but done for the purpose of acquiring the opportunity to exercise greater influence in practice. Conversely, standing aside from an international organisation whose activities are capable of affecting one's own interests might mean that the state's legal powers remain fully intact on paper – but in practice, it can also lead to a significant loss of political influence.

6. The same is true for the EU, though on a grander scale than is true for most other international organisations. It goes without saying that membership of the EU means accepting significant limits on any state's theoretical capacity to act just as it pleases. But membership of the EU offers states the opportunity for much greater problem solving capacities collectively and can enhance their political influence individually. That is especially true for the UK, as one of the "Big 3" Member States capable of exercising significant economic, political, diplomatic and cultural leadership within the EU. It is also important to recall that, through the EU's influence in bilateral relations and as a global economic actor, membership can also act as an effective "magnifier" for national political influence on the world stage. Conversely, standing aside from the EU might make the UK look more independent in theory – but in practice, it also means enjoying much more limited opportunities for influence, despite the inevitable fact that we will be directly or indirectly affected by so much of what the EU does.

7. I suggest that this provides a more accurate and helpful language through which to assess both our existing EU membership and any alternative relationships that might be mooted in the event of UK withdrawal: each model entails some sort of balance between "power" and "influence"; it is the nature of that balance that should largely determine how attractive (or otherwise) we judge any given relationship to be.

Attempts to quantify the proportion of UK law that derives from EU law

8. At its oral evidence session on 27th October 2015, the Committee referred to the Business for Britain report, "The EU's influence over British Law: The Definitive Answer". In particular, the Committee wondered about the reliability of claims that, between 1993-2014, 64.7% of UK law can be deemed to be EU-influenced; and that EU regulations accounted for 59.3% of all UK law during that period.

9. Despite its scientific trappings and claims to be definitive, I found this report to be of questionable rigour and accuracy. It is rarely a promising start when basic definitions, such as those of a regulation or a directive under EU law, are incorrect (and indeed, so too is its definition of an Act of Parliament under UK law). That is pretty basic stuff, so the fact that Business for Britain cannot even get that right is a rather worrying sign for the overall reliability of their work.

10. But the most important problems are methodological. In particular, the vast bulk of the "64.7%" figure calculated by Business for Britain refers to "EU regulations" without any apparent attempt to distinguish between legislative regulations and non-legislative ones. The former are relatively few in number. The latter are adopted in much larger numbers, because they constitute one of the main legal instruments through which the EU institutions reach their detailed technical administrative decisions: e.g. updating the scientific registers of chemicals and food additives; calculating the precise allocation of import licences under the common commercial policy; adjusting specific anti-dumping duties on cheap imports from third countries; confirming the regular continuance of UN sanctions on particular third countries or named individuals suspected of involvement in terrorism; entering or updating specific foodstuffs in the register of protected designations of origin etc.

11. As a result, this study is simply not comparing like with like. If we were to apply their understanding of "EU law" also to "UK law", then we would have to add into the calculation vast numbers of UK decisions taken by public officials in a wide range of public bodies across the entire country – which would surely render the EU component of any statistics on the volume of UK law virtually negligible. Instead, this report is comparing apples with pears – which is why they produce such inflated statistics. Going further: insofar as Business for Britain explicitly claims to be comparing like with like – in particular, they repeatedly refer to all of these EU regulations in terms corresponding to legislative acts, not mere non-legislative measures – these statistics are not only inaccurate but also positively misleading.

12. If one were to try and do a better job of comparing like with like, there is no doubt that we would end up with radically different numbers. By way of experiment, I checked all of the EU regulations published in the Official Journal for October 2015. Using the sort of methodology apparently employed by Business for Britain, I would have counted 119 EU regulations. But in fact, only 8 of those regulations were legislative – of which 5 were measures relating to the EU's own budget and another 2 were amending measures (note that the approach of Business for Britain towards counting amending measures is not entirely clear). The remaining 111 regulations were non-legislative acts, the vast majority of which consisted of detailed technical administrative decisions, adopted by the Council or the Commission, of the nature indicated above. In other words: when I used the sort of approach adopted by Business for Britain, my figures were multiplied by a factor of around 14.

13. That is by far the most serious but it is not the only methodological problem with this report. For example: if we really are going to include non-legislative EU regulations in an analysis, then why not also include other non-legislative instruments such as decisions of general application? Moreover: the Business for Britain analysis gives no indication that it has distinguished between EU regulations that apply to all Member States, as opposed to those that only apply to certain Member States and not to the UK (e.g. as with measures adopted in the field of EMU or as regards the AFSJ).

14. To be fair, any competent legal scholar would confirm that attempts to quantify the amount of "UK law", or the amount of "EU law", let alone the statistical relationship between the two, could never be anything more than an inaccurate guess. There are serious challenges even for a study that knows better what it is doing. For example: the distinction between EU legislative and non-legislative acts was only formalised after the Treaty of Lisbon; before that, separating out what was to be considered legislative from what was to be treated as essentially technical / administrative often meant checking individual legal acts on a case by case basis and in some cases making a judgment about their likely character (though there were indeed disputes where a more definitive classification was decided upon by the courts). Or again: what should we do with caselaw? In a common law system, the judges make "new law" through their interpretation of statutes as well as through their own jurisdiction to develop our unwritten legal principles. The EU is no different: the European Court of Justice operates, from that perspective, in a manner akin to a common law court. But how should we count caselaw in our statistics? There is simply no reliable or credible method. Yet if we do not count caselaw, then no study is able to offer a really accurate statistical picture.

15. If we accept that attempts to accurately quantify law in any jurisdiction are very difficult, let alone trying to do it across jurisdictions so as to draw meaningful comparisons, there are nevertheless much more important qualitative questions that we can ask about the relationship between UK law and EU law.

16. First, there are questions concerning the nature of the legislation produced by the EU. EU law tends to be concentrated in particular fields of activity (e.g. single market, consumer rights, environmental protection); when it comes to other sectors, the EU's legislative activities are much more marginal (e.g. taxation, public health, education). Even within sectors which see greater EU regulation, we should not automatically assume there is some uniform set of rules that makes every country's legislation identical; the EU often operates by setting broad principles and objectives or establishing framework regimes and minimum standards – leaving Member States discretion about how to tailor such legislation to their own contexts and needs. There is also the obvious point that not all law is of the same significance: much EU legislation is very humdrum and of no wider political salience; while other EU acts are far more important in terms of what they set out to achieve and the instruments they use to achieve them – though the number of genuinely significant legislative measures adopted by the EU each year is relatively low (probably something closer to 15-25). There is also the underlying point that much of this EU legislation concerns issues that would need to be regulated in any case, and the basic rules would often look very similar: after all, we do not want to place unsafe toys on the market; we want to limit air pollution; we want to promote equal treatment between men and women etc.

17. Secondly, there is the simple fact that, despite the casual rhetoric used by many commentators, EU legislation is not somehow "imposed" upon the UK as if we were the helpless victim of Brussels. As one of the "Big 3" Member States that dominate the EU's political agenda, we exercise significant influence at the EU level when it comes to agenda setting, negotiating policies, and building alliances. Moreover, despite QMV now being the normal voting rule, the Council still seeks

to operate in practice through compromise and consensus – so that most of the time, most Member States feel able to sign up to most EU decisions. Of course, the UK will sometimes be outvoted on particular measures – but within the overall scheme of EU decision-making, that is still a relatively unusual occurrence and not necessarily any reliable indicator of our overall political influence over EU policies. If a Member State objects to some EU act not merely on political grounds but because it believes some constitutional principle is at stake – for example, that the relevant EU body has overstepped the limits of its powers – then that Member State can seek judicial review to defend its fundamental interests (as the UK did with the *Eurozone Clearing House* ruling in 2015).

Observations on the Available Legal Instruments for Renegotiation

18. As Dr Gordon and I highlighted in our evidence to the European Scrutiny Committee, there is no "one size fits all" for the UK's likely renegotiation demands: different demands will require different legal responses; some objectives will involve a choice of means to achieve them. But in many cases, there is a close inter-relationship between the possible political choices to be made and the potential legal instruments to achieve them.

19. First, anything involving primary Treaty change will require a relatively time-consuming procedure and be contingent upon successful ratification by all 28 Member States. But Treaty change is the most secure way of changing EU law. In particular, Treaty changes can be considered immune from judicial review before the European Court of Justice.

20. Secondly, changing EU secondary legislation is in principle a less cumbersome process than Treaty amendment. However, it involves not only the Member States in Council, but also the Commission as sole initiator of legislative proposals and (in most cases) the European Parliament as co-legislature with the Council. Furthermore, EU secondary legislation can be challenged before the European Court of Justice for alleged breach of a higher legal norm, e.g. the Treaties, the Charter of Fundamental Rights, or general principles of Union law.

21. Thirdly, some objectives can be effectively achieved through institutional and inter-institutional political commitments. Of course, such agreements do not have the same formal and binding status as Treaty or legislative amendments. Nor can they directly contradict or undermine existing Treaty or legislative obligations. But within those limits, political commitments are indeed politically effective – and they can pave the way for future Treaty or legislative change. In that regard, the EU has a good record of delivering on political promises of future Treaty / legislative reform made in anticipation of a national referendum.

22. Finally, other objectives might be achieved through unilateral action at the national level. This is obviously easier to deliver in practice, since it falls entirely within the power of the Member State itself. Such national action could be bolstered through the explicit political endorsement of the European Council. But even then, certain national measures (especially those relating to the free movement of persons) would remain open to challenge before the courts for alleged breach of existing Treaty obligations.

23. Without yet knowing the full details of what the UK intends to ask for in its renegotiation exercise, I would suggest that the key issues can be broken down as follows. For reasons of space, I will not comment too much on each of the individual demands, though I would of course be happy to provide further details should the Committee so desire and / or to revisit the issue once the terms of any potential deal become clearer.

24. *Clarifying the relationship between the Single Market and the Single Currency; and increasing the powers of national parliaments within the EU legislative process.* The former issue was discussed quite extensively at the evidence session on 3rd November; the latter issue received less attention, though it is of at least equal importance, particularly if the UK were indeed to advocate the introduction of a "red card" power for national parliaments. Each of these key demands can be presented as being for the benefit of the EU as a whole and each clearly builds upon an existing momentum for reform. If the UK can secure agreement, it might deliver some genuine and substantive reforms in these fields. That could be done on an interim basis through political agreements / declarations; though one would prefer for any major changes to be later incorporated directly into the Treaties.

25. *Deepening the Single Market while reducing the burden of EU regulation especially for SMEs.* This is a demand that it should be relatively easy to deliver on. After all, the UK should be pushing at an open door, since the Juncker Commission is already committed to pursuing both these objectives – as reaffirmed in the 2016 Work Programme. However, there could be real added value in securing high level political endorsement and greater impetus for action at the level of the European Council.

26. *Exempting the UK from "ever closer union".* This is a peculiar demand because, legally speaking, it is a complete non-issue: this is not a binding obligation and it has no appreciable impact upon the UK's membership of the EU or the functioning of the EU legal system. Pushing this issue will be seen by many as pure politics, primarily intended for domestic consumption. Yet that might make it relatively straightforward to resolve: the UK is not asking for much, so maybe it will not be difficult to give the UK what it wants. The best solution would be a solemn declaration from the European Council, clarifying that "ever closer union" refers only to peoples not states, that it legitimately means different things to different countries, and that it can include even an outright rejection of any further constitutional integration. The European Council already said as much in June 2014, but the Member States could now reiterate the point more formally and explicitly. To go further, though, e.g. by insisting on changes to the text of the Treaties, might risk expending valuable political capital to secure an essentially cosmetic reform, when such negotiating power could be much better invested elsewhere.

27. *Reforms to the migration and equal treatment rights of EU citizens.* Both politically and legally, this is the most difficult of the UK's main demands.

    The case is politically difficult for a number of reasons. It is generally acknowledged that the UK benefits economically and socially from EU free

movement. There is no convincing evidence that "benefit tourism" is a significant issue when it comes to EU nationals. The legal framework governing economically inactive migrants is already evolving in a manner that better accommodates Member State restrictions on access to non-contributory benefits. The UK's demands seem to focus more on the economically active, who contribute directly to the economy and HMRC. Even if the UK can claim that free movement by the economically active in the period post-2004 has created localised issues, e.g. around low paid work and for certain public services, it would be easy for other Member States to point out that such problems are largely self-inflicted, since the UK (unlike the great majority of eligible countries) decided not to take advantage of the power to impose significant transitional restrictions on free movement by the nationals of acceding countries. We risk looking very much like we want to have our cake and eat it.

The case is legally difficult partly because the scope and nature of the UK's demands here remain unclear. However, two common themes emerge from the indicative list contained in the Conservative Party's 2015 election manifesto.

First, the Government needs to clarify whether it is asking for special treatment in the UK's powers to restrict the existing migration / social rights of EU citizens. The case for special treatment is obviously even more politically challenging to make (especially when the evidence base is so limited, and it would be immediately perceived as an assault on some of the most basic rules of EU law). But it is also more legally tricky: special restrictions for the UK are much more likely to require formal amendments to the existing EU treaties; and any special powers are likely to come with reciprocity, i.e. so that other Member States would be entitled to impose comparable restrictions on the residence and social rights of migrant UK citizens (which could have a significant impact upon British nationals living / working elsewhere in Europe).

Secondly, the Government needs to clarify whether it intends to target all migrant EU citizens regardless of economic status; or only those who are economically inactive and potentially in need of support from public funds. Rolling back the existing rights of migrant workers is much more likely to require primary Treaty reform; whereas further restricting the access of economically inactive persons to publicly funded benefits might be more readily achieved through EU secondary legislation (or even purely national action, in the light of sympathetic judgments such as *Brey* (2013), *Dano* (2014) and *Alimanovic* (2015)).

The joint evidence submitted by Dr Gordon and myself to the European Scrutiny Committee contains a more detailed breakdown of the main EU law issues arising from each of the migration / welfare demands contained in the Conservative Party's 2015 election manifesto. If the Committee would find it helpful, I can of course forward a copy of that evidence.

Points of Clarification about the Process for Withdrawing from the EU

28. As I indicated in my oral evidence, Article 50 TEU outlines the procedure for withdrawal, based upon the unilateral right of every Member State to leave the EU but also foreseeing (though not requiring) the conclusion of a withdrawal agreement to tackle some of the logistical issues that would inevitably arise. The timescale for withdrawal is a matter for mutual negotiation and there is considerable flexibility in that regard. The indicative (or, if needs be, default) period of 2 years suggested by Article 50 TEU might even prove optimistic: the withdrawal agreement itself is only one of the major tasks facing a Member State preparing to leave; one must also factor in, e.g. conducting a comprehensive review of internal legislation and the construction of new frameworks for external relations – with the remainder of the EU, both collectively and with individual Member States, as well as much of the rest of the international community. In the UK context, we should also bear in mind the possibility of a second Scottish referendum on independence and the constitutional ramifications that might entail.

29. Returning to the withdrawal agreement, the range of issues that will need to be addressed, whether definitively or on a transitional basis, is considerable: from clarifying various budgetary questions (about UK contributions, including any issues surrounding long term spending commitments that would need to be addressed; as well as UK receipts, including the status of payments due under the CAP, economic and social cohesion, research funding programmes etc); to staffing and infrastructural issues (not least, the position of the many UK nationals currently working at the EU institutions, bodies and agencies).

30. Perhaps the most important issues will concern the status and treatment of UK nationals (natural and legal persons) who are exercising a variety of free movement rights in other Member States at the point of withdrawal and would thenceforth be treated as third country nationals (or companies) for the purposes of EU law (as well as the converse situation, i.e. the position of those EU nationals exercising free movement rights in the UK at the point of withdrawal). The issues are myriad: residency status; employment rights; rights to operate a business; social security rights; broader rights relating to social treatment; the ownership and use of property etc.

31. The Treaties do not contain any explicit "grandfathering" provisions dealing with the rights and obligations of natural and legal persons in the event of a current Member State's withdrawal from the EU. It has evidently been taken for granted that such issues will be addressed within the context of, and appropriate provisions made under, the withdrawal agreement foreseen by Article 50 TEU. In that regard, the EU Treaties can be contrasted with other international agreements which do contain specific provisions (albeit in greater or lesser detail) for the protection of certain vested / acquired rights in favour of natural and legal persons in the event of termination of the relevant treaty, e.g. as with the EU's bilateral agreement with Switzerland on the free movement of persons (see Article 23 on the acquired rights of individuals). Note that – despite occasional claims to the contrary – Article 70 of the Vienna Convention on the Law of Treaties, concerning the consequences of termination of a treaty / withdrawal from a

multilateral treaty, is irrelevant in this context – not least because that provision refers only to the rights and obligations of the contracting parties (i.e. states).

32. Notwithstanding the silence of the Treaties, we can safely assume that various vested / acquired rights in favour of natural and legal persons would indeed be adequately protected after withdrawal: e.g. it is obvious that those UK nationals who have invested in real property in another Member State will not simply be stripped of their ownership in the event of a UK withdrawal (after all, the Treaties guarantee the free movement of capital across EU external borders as well as within the Single Market).

33. But for most purposes, UK nationals previously classified as EU citizens exercising rights pursuant to the Treaties will, at the point of withdrawal and in the absence of any alternative arrangements, be reclassified as third country nationals and should expect to be dealt with as such in accordance with relevant EU rules as well as the applicable domestic legislation of each remaining Member State. Particularly as regards issues of continuing status (as with residency), the future handling of legal relations (in employment or social treatment), or the vesting of new rights (in property or social security) we should be clear that any notion of "grandfathering" will not affect the competence of the EU or its Member States to reclassify situations and / or to change their regulatory choices.

34. In short: there are complex and technical yet potentially very sensitive issues here which would need to be actively addressed and resolved. There are no easy answers and the outcomes would be uncertain. The UK would have to be prepared to engage in careful negotiations in order to deliver a satisfactory level of protection for our own citizens.

35. An important question was specifically raised at the evidence session on 3rd November: in the event of UK withdrawal, would the remaining Member States be entitled to enter into bilateral agreements with the UK, relating to the immigration rights of UK nationals within the territory of each such Member State? To answer that question, we can begin by observing that the EU obviously enjoys a degree of competence over external agreements concerning third country nationals and their rights within the EU. Indeed, there are multiple agreements between the EU and third countries dealing with or including provisions on the border, residence and employment etc rights of non-EU nationals (one need only think of the EEA agreement or the bilateral treaties with Switzerland as prominent examples). However, it is equally clear from the Treaty of Lisbon that such external Union competence is not exclusive but shared with the Member States. The latter therefore remain competent in their own right to conclude international agreements with third states concerning the legal status of each other's citizens within their respective territories – provided that such agreements also comply with any obligations imposed upon the relevant Member State by either the Treaties or EU secondary legislation (e.g. the directive on long term resident third country nationals).

Points of Clarification about the UK's Post-Withdrawal Trade Relations

36. Some key points emerged at the evidence session on 3rd November: that negotiating any trade deal is complex, time consuming and uncertain; that we would need to assess the UK's own internal and diplomatic capacity to carry out the necessary international negotiations; that we should be realistic about our prospects for negotiating favourable arrangements with third countries (including whether individual states would even be interested in any bilateral deal rather than leaving things to multilateral relations organised through the WTO); and that the challenges for international relations would cover not only trade but also a host of other fields that are nevertheless of indirect economic relevance (such as environmental pollution and cross-border crime).

37. I will now pick up on two issues that appeared to be of interest to the Committee.

38. First, as I stressed in my oral evidence: when it comes to evaluating the true worth of our existing membership of the EU, as well as reaching a proper understanding of what it means to secure continuing access to the Single Market as a non-EU member, and indeed assessing any alternative trade arrangements we might secure on a bilateral or multilateral basis, the term "market access" means something radically different in the context of the Single Market than it does in the context of virtually every other trade relationship. It is difficult to overstate the importance of this point.

39. The EU's commitment to tackling non-tariff barriers, particularly those which arise through differences in national legislation, far surpasses that of any other trade organisation or agreement. Indeed, much of the EU's resources are devoted to creating and maintaining the conditions under which such non-tariff barriers can be reduced and eliminated: the EU model of limited harmonisation combined with mutual recognition, based upon a high level of mutual trust, has involved the gradual evolution of a finely balanced yet highly sophisticated matrix of legislative, administrative, judicial and other legal structures and processes.

40. As a full member of the EU, the UK enjoys the benefits of that unique degree of market access together with significant political influence over its development. If the UK wanted to secure the same or a similar degree of market access but acting instead as a non-member of the EU, there is no doubt that we would have to agree a deal comparable to the EEA, i.e. one which integrates the UK into the Single Market on the basis of dynamic homogeneity as regards regulation, interpretation and enforcement; but which offers us only a marginal degree of influence over the substantive content of the Single Market rules, still creates problems of market fragmentation when the system fails to deliver the requisite degree of convergence, and still comes with a substantial "membership fee". To argue that the UK is bigger than and different from Norway, Iceland or Lichtenstein is entirely true, but misses the fundamental point: it is *the nature of the Single Market itself* that requires such a high degree of integration in order to secure such a privileged degree of participation.

41. If the UK is not willing to subscribe to that sort of arrangement – or perhaps just as likely, if the EU is simply not willing to offer it – then we would either have to

agree a narrower and shallower trade relationship with the EU; or instead fall back upon the general standards for international trade set out under the auspices of the WTO. In either of those events, our understanding of "market access" would have to be considerably less ambitious than that which we have grown accustomed to as full members of the EU. In particular, significant parts of the UK economy – not least the financial services sector – would have to adjust to a less advantageous trade environment, in which goods / services lawfully produced / provided in the UK no longer enjoy presumptive let alone automatic "passporting" rights when it comes to being sold / supplied across the remaining EU.

42. Secondly, there is the question of the UK's position in relation to existing EU trade agreements post-withdrawal. This is undoubtedly an important issue that deserves more detailed research. For now, a number of points are worth noting.

43. When it comes to trade agreements concluded by the EU in the exercise of its exclusive competences in the field of external relations, it is very likely that the UK would simply be excluded from the scope of such agreements after withdrawal from the EU.

44. As for agreements concluded other than through exclusive EU competence, the situation is more uncertain. The worst case scenario would be that the UK is again excluded upon its withdrawal. The best case scenario would be that certain deals could remain in place, between the UK and the relevant contracting party, but depending upon a case-by-case analysis of their legal basis and detailed content. In practice, however, much will surely depend on the attitude of the relevant contracting parties – who might decide to accommodate or reject the UK's desire for continued participation in an existing trade deal on a truly bilateral basis. That calculation would obviously take into account the fact that those third countries had bargained away access to their markets in return for access to the Single Market: would they have offered the same terms to the UK acting alone, for access only to the UK's domestic market? If not, they might well be happy to terminate any existing trade relationship vis-à-vis the UK and seek (if at all) to negotiate some new arrangement based on the latest economic and political realities.

45. In any event, when it comes to trade negotiations between the EU and a third country, currently under way (e.g. USA and Japan) or in the pipeline for the future (e.g. Australian, Philippines, Indonesia), it can be taken for granted that the UK would be excluded from the process upon its withdrawal.

46. Despite a degree of legal uncertainty, it is therefore quite likely that we would be back to square one in our bilateral trade relations on a wide range of issues with a significant number of third countries. In each case, the UK would have to negotiate new trade agreements (on which, see para 36 above); in the meantime, or in the absence of any new deal, relations would be governed by the general framework of international trade and, in particular, the WTO agreements.

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