

Research Briefing
**Negotiations on the UK's
Withdrawal from the EU:
Monitoring Report -
18 October 2017**

Produced for the External Affairs Committee



National Assembly for Wales
Research Service

The National Assembly for Wales is the democratically elected body that represents the interests of Wales and its people, makes laws for Wales, agrees Welsh taxes and holds the Welsh Government to account.

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1. Introduction

This report provides an update on developments relating to the Article 50 Negotiations on the UK's withdrawal from EU since 20 September 2017. Two further rounds of scheduled negotiations have taken place since a monitoring report was last produced for the Committee. The European Council is due to vote on whether 'sufficient progress' has been made to allow discussions to move on from discussing the terms of the Withdrawal Agreement to the terms of a transitional period or future relationship on 20 October.

The paper provides:

- A summary of the latest developments and documents published;
- An analysis of the key issues of interest to the External Affairs Committee ('the Committee');
- The Welsh Government's response to the latest developments.

Summary of developments

The fifth and final round of scheduled negotiations for phase one withdrawal discussions concluded Thursday 12 October. The EU's negotiator **Michel Barnier** described the talks in relation to the financial settlement as being in 'deadlock' and stated that 'sufficient progress' on the withdrawal agreement has not been made.

In addition, on the 3 October **the European Parliament voted in favour** of a resolution that outlines its view that insufficient progress had been made.

Prior to this, the Prime Minister, Theresa May, **made a statement** to the leaders of Member States in Florence on the 22 September in which she outlined that the UK would honour its current budgetary commitments in return for a two-year transitional period after 2019.

The Prime Minister also **gave an update to the UK Parliament** on the 9 October in which the Prime Minister stated that the UK Government was making preparations for a 'no deal' scenario even though this was not her preference. Two white papers on trade and customs arrangements for the UK post-exit were also published.

The European Council met on the **20 October to consider progress made** on the negotiations to date. The Council concluded that insufficient progress had been made on phase one of the negotiations to enable the talks to move on to a transition deal and the UK's future relationship with the EU.

At the **domestic level Joint Ministerial Committee on the Negotiations, JMC EN, met in London on 16 October**. At the meeting the Secretary of State for Exiting the EU, David Davis, provided an update on the state of play in the negotiations to the Welsh Government's Cabinet Secretary for Finance and Local Government, Mark Drakeford, and the Scottish Government's Minister for European Negotiations, Michael Russell. A **new inter-parliamentary forum on Brexit** made up of Chairs of European and Constitutional Committee's from legislatures from across the UK met in the House of Lords on 12 October.

2. Latest developments and documents published

The Negotiations

Two further rounds of negotiations have taken place since an update was last provided to the Committee. The fourth round of negotiations took place between 25 September and 28 September following the Prime Minister's speech in Florence on 22 September.

On 22 September **the Prime Minister made a statement** on the negotiations in Florence. In this speech the Prime Minister made a number of announcements:

- That the UK would seek to agree a new security treaty with the EU on justice, criminal and security cooperation;
- That the agreement reached on citizens' rights with the EU would be enshrined in UK law and that UK Courts would be able to take into account rulings of the European Court of Justice on the agreement to ensure consistent interpretation;
- Confirmed that the UK would not seek to be part of the single market or customs union and would not seek EEA or EFTA membership;
- That the UK Government would support a two-year transitional period in which the UK would continue to abide by EU rules and regulations and would continue to participate in some EU programmes in exchange for continued market access;
- That the UK Government would honour its existing financial commitment agreed under the current EU budget round.

At the conclusion of the fourth round of negotiations both Michel Barnier and David Davis stated that the speech made by the Prime Minister in Florence had added a new momentum to the discussions. Mr Barnier **concluded that the talks** had been constructive but had not amounted to 'sufficient progress'. Mr Davis **stated that** decisive steps forward had been made.

On 3 October **the European Parliament voted in favour** of a resolution prepared by the Parliament's Brexit Working Group setting out its view on progress made on the negotiations to date. The resolution sets out the Parliament's view that 'insufficient progress' has been made to allow the negotiations to move from phase one discussions on the withdrawal agreement to phase 2 on the future relationship. The European Parliament calls on the European Council to delay or defer its decisions on whether the negotiations should progress.

In addition to its views on sufficient progress, the European Parliament also called for further protections of citizens' rights both from the UK and EU. It outlined its view that the European Court of Justice should be given a role in protecting the rights of EU citizens. The Parliament also called for guarantees to be made to Northern Ireland citizens that they will not lose any of their existing rights. The resolution states that any transitional agreement would have to comply with the whole body of European law including the four freedoms enshrined in the single market. The resolution called for greater clarity from the UK on its position of the financial settlement and for the UK to honour all financial commitments it has accrued through its membership of the EU.

The Prime Minister also **made a statement to the UK Parliament on 9 October** outlining progress on the negotiations. The Prime Minister reiterated a number of the positions announced in her speech in Florence. The Prime Minister reiterated that if a transitional arrangement was agreed the UK would commit to abiding by EU rules and regulations. She outlined that the UK would enter into

discussions on new trade agreements with non-EU countries during the transition period but would not ratify these agreements until after the transition period ended.

The fifth and final scheduled round of negotiations took place between 9 and 12 October. In his press conference at the end of the talks on 12 October **Mr Barnier stated** that:

- The talks had been constructive and allowed progress on the three main areas of discussions but ‘no great steps’ towards agreement had been made.
- On citizens’ rights Mr Barnier welcomed the UK’s proposal for a simplified process for EU citizens to register in the UK following exit and on the UK’s commitment to enshrine the agreement on citizens’ rights in UK law. However he stated that further progress is needed on the role of the European Court of Justice, reunification of family members, and the exportation of social benefits after Brexit.
- On Ireland and Northern Ireland Mr Barnier outlined that further agreement had been made on maintaining the Common Travel Area and developing a shared understanding of existing North-South cooperation mechanisms.
- On the financial settlement he stated that further clarification from the UK of what financial commitments it will honour is needed. He stated that some further technical discussions have taken place but the lack of clarity was ‘extremely worrying for European tax payers’.

Mr Barnier concluded that because of the lack of progress made on the financial obligations he was not in a position to recommend to the European Council in its meeting on 20 October that sufficient progress had been made. He did conclude however that with political will decisive progress can still be made over the coming weeks to allow an agreement to be reached.

Mr Davis **in his statement at the end of the fifth round** of negotiations stated that talks had been constructive and had led to ‘a sense of shared political objectives’. He outlined his belief that the UK and EU are close to a deal on citizens’ rights and that further progress had been made on the issues surrounding Northern Ireland and Ireland. He stated that a rigorous examination of the technical details on a financial settlement had taken place but reiterated his view that the objective on the first phase of negotiations was not to agree a specific figure for the commitment. He stated that this could only be done in the context of discussions about the future relationships and urged the European Council to give Mr Barnier the mandate to move on to this phase of discussions.

Mr Davis provided an **update to the House of Commons on progress** made during the fourth and fifth round of negotiations on 17 October. In his statement Mr Davis told Members of Parliament that:

- During the fifth round the negotiations explored ways in which a Withdrawal Treaty could be enshrined in UK Law and how consistent legal interpretation could be secured;
- The EU and UK have reached agreement on rights of citizens to work and own businesses; social security rights; rights for current family members, reciprocal health care rights and rights of frontier workers.
- Outstanding issues on citizens’ rights include the recognition of professional qualifications; the right to vote in local elections; the right on movement between EU Member States for UK citizens, the right to return, the right to bring in future family members and the right to export some benefits.

- On the Northern Ireland and Ireland border both sides have agreed guiding principles to protect the Good Friday Agreement and joint principles for the continuation of the Common Travel Area and associated rights.
- He believed that a number of issues related to the Withdrawal Agreement cannot be resolved without reference to discussion on the future relationship.

The European Council **concluded in its meeting on 20 October** that insufficient progress has been made on the phase one issues to allow the negotiations to move on to discussions on transitional arrangements and a future relationship at this point. However, the Council agreed to start internal discussions between the remaining 27 Member States on the EU's negotiation position on a future relationship and to return to assess progress made on phase one issues in the December Council meeting.

At a UK level chairs of constitutional and European committees from across UK's legislatures met on 12 October in the House of Lords to establish a **new inter-parliamentary forum on Brexit**. A joint-statement was published following the conclusion of the forum in which the chairs called on Ministers from the Department for Exiting the EU to ensure they provide evidence to all parliamentary committees across the UK working on Brexit. The Assembly was represented by David Rees AM Chair of the Assembly's External Affairs Committee and Huw Irranca-Davies AM Chair of the Assembly's Constitutional and Legislative Affairs Committee.

On 16 October **the Joint Ministerial Committee on EU negotiations, JMC EN**, met in London. Ministers from the UK Government, Welsh Government and Scottish Government attended along with senior civil servants from Northern Ireland. In addition to discussing the on-going negotiations the Ministers agreed to a set of principles to underpin any future agreements for common policy frameworks on areas such as agriculture following the UK's exit from the EU.

Documents and Position Papers

Neither the EU nor UK has published any new position papers since the last monitoring report was published on 20 September. However the UK Government has published two new papers on a Customs Bill and Trade Policy that will both affect, and be affected by, any negotiations on the transitional agreement and a future relationship agreement. A summary of these two documents has been added to the table below. Further analysis is provided in section 3.

Table 1 Position Papers and key documents published by the EU and UK

EU Paper	Contents EU Paper	UK Paper	Contents UK Paper
<p><u>Essential Principles on Citizens Rights</u> 29 May 2017 to EU 27 12 June to UK</p>	<p>Sets out the EU’s position on rights of UK citizens in the EU and EU citizens in the UK.</p>	<p><u>Safeguarding the position of EU citizens in the UK and UK nationals in the EU: Position Paper.</u> <u>26 June 2017</u></p>	<p>Sets out the UK position on the rights EU citizens should enjoy in the UK and that UK nationals should enjoy in the EU. See Research Service <u>blog post</u> for further detail.</p>
<p><u>Essential Principles on the financial settlement</u> 29 May 2017 to EU 27 12 June to UK</p>	<p>Sets out the EU’s proposals for a methodology that should be agreed during the Phase 1 negotiations on how the UK’s financial obligations to the EU should be calculated. Annex 1 contains a list of agencies, bodies and financial instruments to be included in the methodology.</p>	<p>None.</p>	<p>UK Secretary of State for DEXEU <u>has outlined</u> that the UK will ‘interrogate’ the EU’s position rather than set out its own.</p>
<p><u>Nuclear material and safeguard equipment (Euratom)</u> 23 June 2017 to EU27 13 July to UK</p>	<p>Sets out the EU’s proposals for the treatment and transfer of ownership of special fissile materials. Covers less areas than proposed by UK in equivalent paper.</p>	<p><u>Nuclear material and safeguards issues.</u></p>	<p>The UK Government sets out six principles it wants negotiations on these matters to achieve. It covers some additional areas to those covered by the European Commission including existing contracts for the supply of nuclear material and spent fuel and radioactive waste. The UK states that spent fuel and radioactive waste should remain</p>

EU Paper	Contents EU Paper	UK Paper	Contents UK Paper
			the responsibility of the State in which it was generated post withdrawal.
<p><u>Judicial cooperation in civil and commercial matters</u> 29 June 2017 to EU 27 13 July to UK</p>	<p>Sets out proposals for procedures to be put in place for cases pending at time of UK withdrawal.</p>	<p><u>Providing a cross-border civil judicial framework: a future partnership paper</u> 22 August 2017</p>	<p>The UK Government has set out its position for the procedures that should apply to cases pending at time of UK withdrawal and proposals for on-going cooperation in this area in a single paper. The paper states that Annex A of the paper responds directly to the EU’s paper and sets out the UK Government’s priorities should no agreement be reached on a future partnership. It states that no agreement on future cooperation is not however its preference. The paper states that leaving the EU will bring an end to the direct jurisdiction of the European Court of Justice but that the UK will seek an agreement with the EU that allows for close and comprehensive cross-border civil judicial cooperation.</p>

EU Paper	Contents EU Paper	UK Paper	Contents UK Paper
<p data-bbox="147 233 533 347"><u>Ongoing Police and Judicial cooperation in criminal matters</u></p> <p data-bbox="147 357 443 432">29 June 2017 to EU 27 13 July to UK</p>	<p data-bbox="607 233 1032 596">Proposals for the procedures that will apply on-going procedures such as European investigation orders and European Arrest Warrants procedures at the date of withdrawal and the treatment of information obtained by these procedures.</p>	<p data-bbox="1064 233 1489 347"><u>Security law enforcement and criminal justice: Future Partnership Paper</u></p>	<p data-bbox="1520 233 1951 970">Annex A of the paper provides a direct response to the issues raised by the EU in its paper. However, the UK advocates that discussions on the withdrawal issues on criminal matters take place with reference to discussions on a future partnership. The paper calls for a deeper relationship and cooperation on law enforcement and criminal justice issues between the UK and EU than the EU currently has with third party countries. It states that it should be read in conjunction with other future partnership papers on security and data protection.</p>
<p data-bbox="147 986 533 1061"><u>Ongoing Union and Judicial Procedures</u></p> <p data-bbox="147 1070 443 1145">29 June 2017 to EU 27 13 July to UK</p>	<p data-bbox="607 986 1032 1433">Sets out the proposals for procedures to be put in place for cases before the European Court of Justice involving the UK or UK residents/legal persons on-going at the time of withdrawal and for proposals for on-going administrative procedures before Union institutions, bodies, offices and agencies concerning the UK or UK</p>	<p data-bbox="1064 986 1489 1141"><u>Ongoing union judicial and administrative proceedings: Position Paper.</u> <u>13 July 2017</u></p>	<p data-bbox="1520 986 1951 1433">The UK Government recognises that there will be some cases pending at the point of withdrawal that should continue to fall within the jurisdiction of the European Court of Justice and seeks agreed criteria on the definition of 'pending'. It also seeks clarification of the role of the UK Advocate General and UK lawyers in the Court for a</p>

EU Paper	Contents EU Paper	UK Paper	Contents UK Paper
	<p>residents/legal persons. The EU proposed that the European Court of Justice should retain some competence to adjudicate in cases brought after the withdrawal against the UK about matters that happened when the UK was still a Member State.</p>		<p>transitional period whilst cases are still pending. It does not agree that the European Court of Justice should retain some competence over cases brought after the withdrawal date relating to actions that took place before the withdrawal date.</p>
<p><u>Issues relating to the functioning of EU Institutions, Agencies and Bodies</u> 29 June 2017 to EU 27 13 July 2017 TO UK</p>	<p>The paper sets out the EU’s position on what protections and immunities will apply to EU institutions and agencies in the UK at after withdrawal whilst the activities of the EU’s bodies in the UK are being wound-up.</p>	<p><u>Privileges and Immunities</u> <u>13 July 2017</u></p>	<p>The UK’s position paper agrees that protections and immunities should be offered to EU property, assets and operations in the UK for a transitional period after withdrawal. Negotiators on both sides have indicated that they are close to reaching agreement on this issue.</p>
<p><u>Governance</u> 29 June 2017 to EU 27 13 July 2017 to UK</p>	<p>The paper sets out the EU’s proposals for a dispute resolution mechanism for the Withdrawal Agreement, including that a Joint Committee be established to consider disputes. It states that the Joint Committee should make references to the European Court of Justice for binding decisions where agreement</p>	<p><u>Enforcement and Dispute resolution: Future Partnership Paper</u> <u>23 August 2017</u></p>	<p>The Paper includes proposals for a new enforcement and dispute resolution mechanism for both the Withdrawal Agreement and any future partnership. The paper states that a new mechanism will be needed as the jurisdiction of the European Court of Justice will come to an end. The UK’s position is that where the Withdrawal</p>

EU Paper	Contents EU Paper	UK Paper	Contents UK Paper
	<p>can't be reached in the Committee. It states that the European Commission should retain full powers for the monitoring and implementation of the agreement on citizen's rights.</p>		<p>Agreement or any future partnership arrangements give rise to rights or obligations for individuals and business operating in the UK these will be given effect in UK law and enforced by UK courts. The position paper argues there is no precedent or imperative in EU or UK law which states that enforcement or dispute resolution has to fall under the direct jurisdiction of the European Court of Justice.</p>
<p><u>Goods placed on the market under Union law before the withdrawal date</u> 29 June 2017 to EU 13 July 2017 to UK</p>	<p>The paper sets out proposals for the procedures that should apply to goods that comply all Union rules and are placed on the market for sale before withdrawal date but have not been sold at the time of withdrawal.</p>	<p><u>Continuity in the availability of goods for the EU and the UK: Position Paper</u> <u>21 August 2017</u></p>	<p>The UK Government states that this issue should be resolved with reference to any future partnership. The UK seeks further discussion on the meaning of "placed on the market" and suggests it should include services associated with the supply of goods.</p>
<p><u>Customs related matters needed for an orderly withdrawal of the UK from the Union</u> 7 September 2017 to EU 27</p>	<p>Proposals for the customs procedures that should apply to goods whose movement started before the date of withdrawal but ends on or after.</p>	<p><u>Continuity in the availability of goods for the EU and the UK: Position Paper</u> <u>21 August 2017</u> <u>Future customs arrangements: Future</u></p>	<p>The UK position paper on the continuity of goods acknowledges that customs issues related to goods on the market at time of withdrawal will need addressing but does so</p>

EU Paper	Contents EU Paper	UK Paper	Contents UK Paper
		<u>Partnership Paper</u> <u>15 August 2017</u>	with reference to its proposals for a future customs relationship and states that the issue should be addressed with reference to a future partnership.
<u>Guiding Principles transmitted to EU 27 for the Dialogue on Ireland/Northern Ireland.</u> 7 September to EU 27	Principles set out for the basis of discussions of the relationship between Ireland and Northern Ireland. No solutions are proposed for the Irish border and the paper places the onus on the UK to propose solutions.	<u>Northern Ireland and Ireland: Position Paper</u> 16 August 2017	The position paper states that the Common Travel Area (CTA) between Ireland and the UK should remain, that swift progress should be made on the issue and that the rights of EU citizens in Ireland will not be affected by the CTA's continuance. The paper does not propose specific options for the land border but sets out principles to test models against. It cross-references the UK Government's proposals for future customs arrangements. It states that no solution agreed should require a new customs border between Northern Ireland and Great Britain. It makes specific proposals on agri-food products. It suggests that separate to the broader discussions on the financial settlement there should be an

EU Paper	Contents EU Paper	UK Paper	Contents UK Paper
			agreement to continue PEACE funding to Northern Ireland and border counties of Ireland.
Public Procurement 7 September to EU 27	Proposals for the rules and procedures on public procurement that should apply to procurement procedures and contracts on-going at the date of withdrawal.	None.	
Intellectual Property Rights (including geographical indications) 7 September 2017 to EU 27	Proposals for the continuation of the protection of intellectual property rights agreed before the date of withdrawal including the protection of protected food names. The EU suggests that the UK will need new domestic legislation to be in place before the date of withdrawal on protected food names.	None.	
Use of Data and Protection of Information Obtained or Processed before the Withdrawal Date 7 September to EU 27	Proposals to the reciprocal rules and protections that should apply to data held or processed in the UK and the EU after the date of withdrawal.	Confidentiality and access to documents: Position Paper 21 August 2017	The paper states that the aim should be for the Withdrawal Agreement to ensure that the UK and EU have equivalent protections and obligations on information and access to documents as it currently the case under existing EU legislation.

EU Paper	Contents EU Paper	UK Paper	Contents UK Paper
None.		<p><u>Future Customs Arrangements: Future partnership paper</u> 15 August 2017</p>	<p>The position paper proposes two possible options for a future customs relationship. A highly streamlined customs arrangement between the UK and EU or a new customs partnership with the EU where the UK would align its border with the EU in such a way that it would remove the need for the UK-EU customs border. The UK would leave the customs union and be able to negotiate its own trade deals under both options. Under the second option the position paper proposes that the UK would mirror EU requirements for goods from the rest of the world where their final destination is the EU. It states that this would be unprecedented and could be challenging to implement but wishes to explore it with the EU. The paper proposes a time limited model of close association with the EU Customs union for a transitional period to avoid a cliff-edge for business</p>

EU Paper	Contents EU Paper	UK Paper	Contents UK Paper
			and individuals on both sides.
None.		<p><u>The exchange and protection of personal data: Future partnership paper</u> 24 August 2017</p>	Sets out the UK Government's proposals for a new UK-EU model for the exchanging and protection of personal data based on the current EU approach. It suggests the Information Commissioner's Office could continue to cooperate with EU regulators.
None.		<p><u>Collaboration on Science and innovation: Future partnership paper</u> 6 September 2017</p>	It sets out the UK Government's proposals for a science and innovation agreement with the EU. It states the agreement should be broad and make room for new areas of research. It states that the UK's continued access to EU research and innovation programmes will need to be negotiated along with the size of any financial contribution the UK would have to make to participate in them. It states that this contribution would need to be weighed against the UK Government's other spending priorities. Reference to the participation of

EU Paper	Contents EU Paper	UK Paper	Contents UK Paper
			Welsh Universities in existing programmes and networks is made.
None.		<u>Foreign Policy, defence and development: Future partnership paper</u> 12 September 2017	The paper proposes a future partnership with the EU on security and defence which is broader than any agreement the EU currently has with a third-party country. It sets out the areas where there is currently cooperation on defence, security and international development.
None.		<u>Customs Bill White Paper: legislating for UK's future customs, VAT and excise regimes</u> 9 October 2017	The <u>White Paper on the Customs Bill</u> sets out the UK Government's initial proposals for a standalone customs, VAT and excise regime following the UK's exit from the EU. The White Paper includes proposals for a contingency scenario should no deal be reached with the EU on a future trading relationship.
None		<u>Preparing for our future UK trade policy</u> 9 October 2017	The <u>trade policy white paper</u> sets out the UK Government's preferred positions for a new

EU Paper	Contents EU Paper	UK Paper	Contents UK Paper
			trade policy and indicates what legislation will be needed to implement that policy. The paper sets out five priorities for a new trading policy.

3. Key issues of interest to the External Affairs Committee

In its work to date on the implications of Brexit for Wales issues surrounding current and future trading arrangements have been of particular interest to the work of the Committee. On 9 October the UK Government published two white papers on customs and trade.

The White Paper on the Customs Bill sets out the UK Government's initial proposals for a standalone customs, VAT and excise regime following the UK's exit from the EU. The White Paper includes proposals for a contingency scenario should no deal be reached with the EU on a future trading relationship. The White Paper:

- Outlines that a standalone Bill will be needed because the EU Withdrawal Bill specifically prohibits the use of the regulatory powers contained within it from being used to introduce new taxes;
- States that the Bill will be a piece of framework legislation with broad delegated powers to UK Ministers to introduce detailed secondary legislation on the administration, enforcement and collection of new customs, VAT and excise duties;
- Outlines that the delegated powers will include Henry VIII powers to amend primary legislation to take account of any agreement reached with the EU;
- Says that the UK Government will work with the devolved administrations to consider any implications of the Bill for the devolved governments;
- States that in addition to customs duties the Bill will provide UK Ministers with powers to introduce new tariffs and quotas in line with a new trading policy;
- Outlines that the Bill's provisions will largely replicate the existing EU Customs Code and diverge only where required to provide certainty to business;
- States that whilst the Bill will give the UK Ministers flexibility to implement any agreement with the EU the Bill will not be able to be drafted in such a way as to implement the second of the two customs options included in the UK Government's future partnership paper on customs as this option is too novel and would require further work and legislation;
- Confirms that the Bill will include contingency plans for a no deal scenario including giving UK Minister's powers to introduce systems that would require the pre-notification of consignments; pre-arrival safety and security declarations and new measures for the VAT and duties charged on small parcels sent between the UK and EU.

The trade policy white paper sets out the UK Government's preferred positions for a new trade policy and indicates what legislation will be needed to implement that policy. The paper sets out five priorities for a new trading policy:

- **Trade that is transparent and inclusive:** the paper states that the UK Government will make trade negotiations and policy transparent including to the devolved legislatures but does not set out a specific mechanism for how it will do this.
- **Supporting a rules based global trading environment:** the UK will uphold the commitments made by virtue of its WTO membership and ensure it has implemented the necessarily legislation to plug any gaps in commitments made as a result of its withdrawal from the EU.

- **Boosting trading relationships:** the paper states that the UK will seek new trading relationships and that it will begin discussions about these during any implementation period. It states that devolved administrations will be included in the discussions as well as public bodies such as the NHS.
- **Supporting developing countries:** preferential access will continued to be offered to developing countries to support their economic development. Legislation will be needed to allow the UK to develop standalone systems for this.
- **Ensure a level playing field:** the UK will establish systems for trade remedies and disputes that replicate the existing procedures and remedies available to UK business by virtue of the UK's membership of the EU.

The paper outlines that legislation will be needed to: allow the UK to implement the requirements of the Government Procurement Agreement agreed by WTO members; establish UK trade remedy frameworks; ensure powers exist to enforce and ensure abidance with international trade disputes; to introduce a preferential access scheme; to enable the Department for International Trade to take on some functions currently exercised by the European Commission and; to enable the creation of an effective trade sanctions regime.

Another area of particular interest to the Committee has been its work to scrutinise inter-governmental meetings and agreement between the UK Government and devolved governments on the negotiations. The first meeting of the Joint Ministerial Committee on European negotiations, JMC EEN, since February took place on 16 October. The principles to underpin agreements on policy frameworks in the UK post-Brexit will set the parameters within which policies on key areas such as agriculture, environmental protection and fisheries will be agreed. The text agreed states:

- The UK Government and devolved governments will work together to establish common approaches in some areas currently governed by EU law but are otherwise within areas of devolved competence;
- Frameworks may be implemented by legislation, executive action, memorandums of understanding or by other means;
- Discussions will be multilateral between all governments or bilateral between UK Government and a devolved government;
- Frameworks will respect the devolution settlements and the democratic accountability of devolved legislatures, respect the legislative consent process and maintain as a minimum equivalent flexibility for tailoring policies for the specific needs of each territory; and
- Recognise the economic and social linkages between Northern Ireland and Ireland.

4. Welsh Government response to developments

On 16-17 October the Cabinet Secretary for Finance and Local Government, Mark Drakeford, visited Brussels to hold talks with key members of the European Parliament, the UK Government's Permanent Representative to the EU Tim Barrow and to deliver a speech at a joint European Policy Centre and Wales Governance Centre event on Brexit and devolution. Speaking about the visit the Cabinet Secretary stated that the visit was an opportunity to highlight the Welsh Government's priorities for Brexit including full and unfettered access to the single market, responsible migration and the agreement of a transition period. The Cabinet Secretary called on the UK government to

provide the Welsh Government with evidence that being outside the Customs Union with the EU would be of advantage in the long term. The Cabinet Secretary also outlined his belief that a no deal situation is not viable.

In relation to preparation for different scenarios and outcomes from the negotiations **the First Minister told the Assembly on 17 October** that the Welsh Government's EU exit working group is undertaking work to look at different scenarios but outlined his belief that there would be 'no mitigation for a no deal'.

In relation to the Joint Ministerial Committee on European Negotiations, JMC EN, **the Cabinet Secretary of Finance and Local Government stated** that the meeting provided:

'...an opportunity to re-set the approach and actively involved the devolved administrations in the development of the negotiating position for leaving the EU.'
