Good morning and welcome, Secretary of State. It is very good to see you here today. A great deal has happened since you last appeared before us.

Mr Davis: Just a bit, yes.

We therefore have a lot of ground to cover this morning. By the way, we look forward to seeing you again after the December Council meeting.

Mr Davis: Yes, I am sure.

I trust that will be okay. Can I begin with the transitional arrangements or the implementation period—whatever you want to call it? What the Prime Minister said in Florence was widely welcomed and it is significant. I would like to explore with you what the Government
intend will be part of that implementation agreement—what it will look like. First, would the UK in practice have the same access to the single market and the same freedom to operate during the implementation period as we have currently?

**Mr Davis:** Thank you, Mr Chairman. It is a pleasure to be back. Congratulations to you and all your Members for your re-election.

The first thing to say as a sort of caveat to this is, of course, we are going to engage on this prior to the negotiation. We do not even know what the Council’s guidelines to Michel Barnier will be—or at least to the Commission and then theirs to Michel Barnier will be afterwards.

But there will be a couple of guiding principles. Number one, we really only want there to be one change that business has to deal with, not two. We do not want there to be a big change from going out of the membership of the Union, which happens automatically on 29 March 2019, and the implementation period. As she said, it will be very close to the existing circumstances. Yes is the answer.

**Q4 Chair:** Would you envisage, for example, that passporting for financial services would continue during that period?

**Mr Davis:** That is one of the things I would expect to see.

**Q5 Chair:** You would expect to see it. Would EU citizens continue to be able to come and live and work in the UK during that period?

**Mr Davis:** Yes. The conditionality we put on that was that there would be a registration scheme. Although it would look like free movement to them, the rights may be a little different.

**Q6 Chair:** Okay. We would remain in a customs union with the EU during the implementation period.

**Mr Davis:** We will remain with access. It will probably be a customs agreement. The legal status of this is something we are really, at the moment, leaving with the Commission, because they have not shown any concern about the legal status, nor has the European Parliament. Whether or not it is a customs agreement that gives effective access to the customs union, the idea is for it to look the same.

**Q7 Chair:** What will happen to the trade agreements the EU has negotiated with over 50 countries that we are party to during the implementation period?

**Mr Davis:** We would seek to maintain them. As you know—I think I told you last time—there have already been a considerable number of discussions with them, the existing ones, to look at grandfathering anyway, in any event. All the big ones have said—this is second hand from Liam Fox, of course—they are interested in doing that. Some of them are interested in improving them, but that will take time.
There have also been comments from Prime Minister Abe on the future economic partnership with Japan—that they would want that to continue with us—and from Mr Trudeau that CETA would continue with us too.

**Q8** **Chair:** But would it be us asking those countries, “Can we carry on on this basis?” or would it be the EU saying, “We are asking for Britain to be allowed to continue to access these deals?” That is really quite an important distinction.

**Mr Davis:** It could be either or both. That is where my original caveat comes down, because it depends exactly on the guidelines given to the Commission by the Council.

**Q9** **Chair:** Okay. What will happen to the membership of the common fisheries policy during this time? Would we still be bound by it?

**Mr Davis:** Again, that is a negotiating issue. The problem there would be that there would be quota-setting during that period, so we have to have a resolution to that. We have not come to a policy conclusion on that.

**Q10** **Chair:** You have not come to a policy view. That is fine. We would accept the jurisdiction of the ECJ.

**Mr Davis:** Certainly initially, yes. Remember their phrase is “transition period”; ours is “implementation period”. By the end of it, we would want to be under alternative administration arrangements in terms of international arbitration, but that is something we would need to talk to the Commission about. That is something we do need to talk to them about.

**Q11** **Chair:** By “the end of it” you mean at the end of the implementation period, and we would then move on to the new relationship.

**Mr Davis:** Yes.

**Q12** **Chair:** That may have some court representing both parties, but during the length of the implementation period the EU has been very clear that ECJ oversight would apply.

**Mr Davis:** Barnier has been clear. We have not heard from the Council yet, of course. The point about the next two and a half months is that the Council will be coming to its conclusion and its guidelines, and the Commission will be drawing from them.

**Q13** **Chair:** But, Secretary of State, you say we have not heard from the Council. I thought the Council was quite clear in its negotiating guidelines that it gave to Mr Barnier.

**Mr Davis:** Are you talking about the first round?

**Q14** **Chair:** Any period of transition would have to—
Mr Davis: They have not given guidance on an implementation period yet. The final one will be in December, at the December Council, I would expect.

Q15 Chair: Right. Let me take the example of the EU-US open skies agreement and membership of the European Aviation Safety Agency or the European Medicines Agency. All of those things would continue to operate as now.

Mr Davis: I would expect so.

Q16 Chair: You would expect so. That is extremely helpful. What about access to the Schengen Information System, which is absolutely vital for our security, as you know?

Mr Davis: Yes, I would expect all of the security and home affairs issues to continue as well.

Q17 Chair: I also have one very specific question. Do you know what fees would be charged to EU students starting courses in September 2019? Would they be treated as home students or overseas students? Would you expect them to be included in home students?

Mr Davis: I would expect home. We have at every turn treated them as home for purposes of fee-setting and for loans, so we treat them as home so far. I would not see that would change in 2019. Thereafter it might, but not in 2019.

Q18 Chair: Right. That would be very helpful for universities, because they have to print their prospectuses next spring.

Mr Davis: I know. Ironically—again, forgive me if I have said this to the Committee before—it was one of the miracles of 1 August that we actually got the Treasury and the Department for Education to agree to change those things very rapidly first then and thereafter.

Q19 Chair: I am sure further miracles will be required before this process—

Mr Davis: Miracles come with the department, sir.

Q20 Chair: That is very good. Can I turn to the timing of all of this? The Prime Minister seemed to suggest recently that agreeing the deep and comprehensive partnership will in some way have to happen before the implementation period is agreed. Is that in fact the case?

Mr Davis: Yes. We are aiming for the conclusion of negotiations on all fronts—on the grounds that nothing is agreed until everything is agreed—by the end of March 2019, so in effect that is the case.

Yes, in principle what she said in the Chamber is right. I am just trying to think. Follow the question on, sir, and I will take it from there.

Q21 Chair: If I can repeat it, the Prime Minister appeared to suggest that agreeing the deep and comprehensive partnership would have to come
before the agreement of the implementation period. This led to some comment and consternation, because I think all of us had assumed it was the other way around. You get the implementation deal first, and then you negotiate.

**Mr Davis:** I am at risk of misleading you, so let me get it exactly right.

**Chair:** Yes, please.

**Mr Davis:** What we are intending to do is get the form of the implementation period agreed quickly, December or thereafter. But we want to conclude the overall negotiation—whatever the outcome may be—by the end of March 2019.

There are a number of reasons for that. One of them is looking at what the implementation period is taking you towards. Are we going from where we are now to a free-trade agreement? Are we going from where we are now to what you might call a bare-bones agreement, which is WTO plus agreements on the fundamentals like aviation and so on? You need to know where you are going.

**Q22 Chair:** Given what you have just said, you would agree with the Chancellor of the Exchequer. When he gave evidence to the Treasury Select Committee, he described a transitional arrangement as “a wasting asset”. It is very valuable now, but by next summer “its value to everybody will diminish significantly”.

**Mr Davis:** He is right. It is not entirely a wasting asset. There are three reasons for the implementation period. These are not in order of importance. Number one, it gives the UK Government longer to put in place any changes it needs to put in. We think we can put in place all the critical ones by March 2019, but it would give us longer—and therefore make it more reliable.

Secondly, and critically, it gives European countries time to put in place any structures they might need to put in place, whether those are new customs arrangements, new data-exchange arrangements or whatever else.

Thirdly—this is the point the Chancellor is making—it gives businesses time, after the decision is made on what the final outcome is going to be, to make any subsequent changes to their own dispositions. The most obvious example is American banks, which are the most sensitive to these things. They would not have to make a decision, as it were, on a worst-case outcome from their point of view today. They would know broadly where they would be before they needed to move. That was the reasoning of it, and that is the bit that is a wasting asset.

The longer we take to do that, the more they will feel they have got to move before they know the outcome.

**Q23 Chair:** Yes, absolutely. Indeed, that is why the Select Committee, in its
first report in January, observed that we thought there would need to be transitional arrangements.

**Mr Davis:** May I say something, Chairman? I do not wish to be critical, but you said in the Chamber at one point that you welcomed the Florence statement because it showed we were taking the implementation period seriously. The notion of an implementation period was aired in the Lancaster House speech as well.

**Chair:** Indeed it was. Now, as you told the House of Lords Select Committee when you appeared in July, I believe you have just said, “I believe we can get a free-trade and customs agreement negotiation concluded in the period before March 2019.” Do you really think all of that can be done in 12 months?

**Mr Davis:** Yes.

**Chair:** You do.

**Mr Davis:** Yes. I will air them again, but the arguments against tend to be based on other free-trade agreements, which are just very different from ours.

We start with identical regulatory arrangements; we start with an existing virtually €600 billion trade exchange, and all the vested interests and arrangements that go with that. We aim for a comprehensive free-trade agreement, which would be tariff-free. The customs agreement that would follow on from that, if we achieve that, would be one whose primary aim, depending on some of the other components, would be on rules of origin—on identifying and determining whether rules of origin met the tariff-free requirements.

The bits of the agreement that are more regulatory and more complex tend to be those that do not fall within the free-trade agreement directly. These are issues like aviation service agreements, data exchange, recognition of driving licences and those sorts of things. That is a very broad range of issues, and we would have to have a significant number of simultaneous negotiations on them, but they are effectively independent; they are not interdependent.

These things become problematic when you have got to do one before you have got to do another.

**Chair:** Okay, all right. Now, it is the case, is it not, that under EU law a trade deal could not be signed with the United Kingdom until after we had left and become a third country? Is that correct?

**Mr Davis:** Technically yes: it could be a nanosecond.

**Chair:** Right, okay. It could be one minute before midnight to one minute after.

**Mr Davis:** From your days as a Minister, you will remember that the clock has a habit of stopping at midnight during negotiations sometimes.
Q27 **Chair:** It can follow the example of Big Ben.

**Mr Davis:** It is probably more nimble than Big Ben.

Q28 **Chair:** Secretary of State, can you confirm that such an agreement would be done under Article 218?

**Mr Davis:** That is what I would expect. Article 50 refers to Article 218. From memory, it is Article 218(3).

Q29 **Chair:** If it is deemed to be a mixed agreement, does that mean it would require ratification by all the Parliaments of all the member states?

**Mr Davis:** I would expect the trade-agreement element of it, probably some of the other elements of the justice and home affairs parts of it, and maybe the defence part to be mixed. The withdrawal agreement would be QMV and European Parliament.

Q30 **Chair:** That is fine. You have expressed great optimism—as has the Prime Minister—about concluding all of this before the Article 50 period comes to an end, but Michel Barnier has a completely different view, as you know. In July at the House of Lords Select Committee, he spoke about “the scoping of the future relationship, which will continue after 30 March 2019. We will need a few years, most likely, to continue with that negotiation on the free and fair trade agreement.”

Would you like to comment on that? It is one thing for the Government to express optimism that they can conclude the deal, but when the person with whom it is negotiating says, “I am afraid that is not going to happen,” how is that circle being squared?

**Mr Davis:** I disagree with him. This is not the first time he and I have had this discussion. We are having it by proxy now, but the very first time I had a meeting with him his original plan for the timetable was effectively to do the withdrawal agreement up until the end of March 2019, and then start and carry on with the trade agreement in a sort of infinite transition arrangement. That would have put us in a very difficult negotiating position, because we would want to solve quickly and they would want to solve slowly.

Now, these are judgment calls, of course, Chairman, but the judgment call that impinges on this, in my view, is what the view of the Council will be. This is why I say it is very important to remember the Council is the decision-maker here.

Now, this is not true for all of the European countries, but we often have this argument about it being a big proportion of our trade and a small proportion of their trade. For some of them, however, it is incredibly important: Belgium, France, northern France certainly, Holland, Denmark. The littoral states, if you like, have really serious investment in this. Some of the Low Countries have made forecasts of the impact on their economy of, as it were, a WTO or no deal of 3% or 4%, so they have a very strong interest in making pace on this.
The best expert I can cite from the Commission side is an ex Trade Commissioner, Karel De Gucht, who is very antagonistic to Brexit but has said in terms this is eminently doable within two years if the political will is there. Now, that is why we come back to what the Council decides.

Q31 Chair: Right, so you have very clearly laid out the considerations the Council might bear in mind. You said you have discussed this with Michel Barnier. Are you telling the Committee that Michel Barnier no longer holds to the view that it will take years?

Mr Davis: No, I am not saying that at all. I am saying he started from a position that was further out from the one he now described in our conversation before the negotiations. We were not in a position to negotiate. Remember the phrase "no negotiation without notification". But he was just laying out how he saw it, and I said I thought that would not work—so we are where we are now.

This is one of the more important things the Council will have to consider when it discusses this in December.

Chair: Okay, thank you very much.

Q32 Sammy Wilson: Can I just come back, Secretary of State, to the sequencing of all of this? Under Article 50(1), as you have stated, we have to know the kind of end destination before a transitional arrangement can be put in place. If we know the end destination, if the framework or the form is known, why is there then a need for a transitional period?

For example, if it is agreed that the end destination is that we are going to have a free-trade arrangement between the United Kingdom and the EU that allows trade to continue as it is presently, what is the need for a transitional period?

Mr Davis: I gave the reasons for this. The first one we can probably get by, which is the time for British mechanisms and systems to be put in place: customs agreement, customs procedures, customs software, customs staff and new border arrangements in all sorts of ways, including Northern Ireland.

The second one was European changes. We will undertake the changes, investment and expenditure necessary to be ready to go in 2019 in case there is a complete non-agreement anyway—it is very unlikely but in case that happens—but other states would view that as nugatory expenditure until they know what they are aiming to do at the end of it. You might see, for example, the French not investing in enough customs hardware and software to inspect British vehicles coming into France and causing backlogs in the UK.

The third one, as I mentioned to the Chairman earlier in reference to his "wasting asset" question, is giving companies the ability to make the decisions on the basis of the actual decision, not their guess. For
example, we have heard a number of American banks—American banks are the most sensitive, because of their regulatory structures—say that they would have to move to Frankfurt, Paris, Dublin or wherever in January through March/April of next year if they do not know where we are going or we do not have some sort of arrangement. In March 2019, they will be in the position of having two years to carry out the regulatory adjustments they need to do.

That is the reasoning. That is all part of the reasoning, and that is it, I am afraid. I am sorry to be long-winded, but it is quite an important question.

**Q33 Sammy Wilson:** You have mentioned that there are some issues that would need to be addressed in a transitional arrangement: for example, whether we are full members of the customs union or there is some other understanding, the role of the European Court, movement of people and what the issues might be around that, and a number of other issues. Given that many of those are contentious, how long do you see a transitional arrangement negotiation going on?

**Mr Davis:** Not very long. One of the reasons for making it quite close to what it looks like now is to cut that period down. We could sit down and say, “Okay, financial-services companies will need this amount of time. French customs will need this amount of time”, and so on. We could do a sort of detailed, tailored one. It would take about two years to negotiate that. That would be as complicated as the final deal, so we are not going to do that.

It will be something quite simple and quite similar. That is one of the reasons it will be quite simple and quite similar.

**Q34 Sammy Wilson:** Many people see the dangers of a transitional arrangement that really reflects the status quo. Although the Prime Minister has said she sees it lasting no longer than two years, there is still an area of ambiguity there. Really, we could find ourselves indefinitely tied in to that transitional arrangement, because there would be no incentive for the EU to negotiate seriously the changes that are required to take us out of the EU.

**Mr Davis:** No. One of the reasons we need the negotiations concluded by the end of March 2019 is to avoid that circumstance. You are dead right: if we were doing a negotiation during the period of transition, I suspect what we would get offered is a year extension and then another year extension—and each time we would be paying a fee. That would solve one of the European Union’s biggest problems with our departure: money.

That would happen over and over again. It is not a good position to get into to be still negotiating during such an arrangement. That is why the sequencing as I have described it is the case.

**Q35 Sammy Wilson:** The finalisation of those negotiations for 2019 is not
entirely in the UK’s hands.

Mr Davis: No.

Q36 Sammy Wilson: It also depends on the EU. One of the reasons why it is important—perhaps you would like to comment on this—is that we should be making it very clear to the EU that in the event of that kind of scenario being played out, no deal is an option for the UK.

Mr Davis: No deal is an option. We have made that clear. It is not our preferred option: let’s be clear about that.

I am careful about the way I phrase it. At the moment I start talking about no deal, people say, “That is what you really want.” That is not the case; we want the deal. But of course we have reasons why we need no deal as an option literally right up to the moment of signing: because it would not be the first time in European negotiations where sudden, last-minute claims come in because they think they have got you over a barrel. That has happened.

Not that I agree with his politics, but I recommend to everybody reading Adults in the Room by Yanis Varoufakis. It is a very interesting read on negotiating tactics. But you are right: we do need to have no deal as an option throughout—both for reasons of policy but also for reasons of accident, if for some reason no outcome is possible at the end.

Q37 Sammy Wilson: Are you satisfied the Government are preparing for that scenario as well by putting resources into what is required?

Mr Davis: Yes. The Chancellor has already said this year it is about £250 million, and it is stepping up. If you look at the graph of the projects and so on, it is going up like that. It is not going to be easy to do—do not get me wrong—but it is eminently doable; it is eminently achievable. It will just require a lot of effort, a lot of work.

If we get to a point where we really think it is a high probability, there will be quite a degree of redirection of effort.

Chair: There was a very quick question from Peter Bone.

Q38 Mr Bone: Secretary of State, this is all rather difficult. You have explained it is very difficult. Why do we not just extend our membership of the EU until March 2021?

Mr Davis: We did have a referendum. You probably missed it, Mr Bone. A decision was taken to leave—and leave effectively in reasonable time, which was a balancing act the Prime Minister made in triggering Article 50 when she did. It is also not quite the same. We are leaving the Union on 29 March 2019, and some things will alter.

Now, I have not been asked about it, but we will be looking to do two things that we are currently prevented from doing by the duty of sincere co-operation, which is a part of our membership of the Union. For
example, in conversations or negotiations on free-trade arrangements we cannot get to the point of signing, let alone bringing into force. It seems to me one of the things I would look for—I hope I will be successful but let’s see how the European Union responds—is the right to sign those deals in that time. That would not be the case if we extended our membership.

Furthermore, if you extend it by two years, this is a one-off two-year thing. The Chairman asked about the decision procedure for this for the various negotiations. It has not come up very much in public discourse, Mr Chairman. I know a number of politicians around Europe take the view that a two-year extension is just about acceptable under qualified majority voting. For more than that, either there is a unanimity requirement—because that is what it is: what you are talking about is a unanimity requirement—or there is a mixed agreement, which is even more onerous.

Those two things would come up as well. Normally speaking—I do not want to appear too cynical in front of this Committee—when a requirement for unanimity comes up, a price comes from somewhere. A price comes from somewhere.

Q39

Wera Hobhouse: You pointed out quite rightly that a transition period can only happen if you have negotiated a deal, i.e. something we transition into. You put the date of 29 March 2019 out there, but is it not the case that, in order for all countries to ratify the deal, this deal would have to be negotiated by around the same time next year, so in about a year’s time?

Mr Davis: No. It is interesting, because Michel Barnier has said he wants to achieve that timetable, because he wants ratification before 29 March. Ideally, that would be perfect. That would be the whole thing wrapped up.

My concern is that we get the deal agreed with the Council and with the Commission by 2019. I would prefer to have it ratified before then, but I would not be mortified if the ratification process ran into the implementation period—as with CETA.

Q40

Stephen Crabb: Will you be publishing a position paper on the implementation period?

Mr Davis: We have not decided as yet to do so. What we have tended to do—you have seen it in the last six months—is to publish papers when we need to and when we think it suits our negotiating book. For example, we have never published a paper on the financial negotiation, because it just seemed to me like making a counter bid, and I do not want to make a counter bid. I wanted to take their bid down.

If we need to, we will do so, but at the moment I have not decided we should do so. If, as various people have said, it looks very like now but with a few variations, we may not need such a paper.
Q41 **Stephen Crabb:** In terms of agreeing the form of an implementation period ahead of March 2019, do you have in mind a final date by when agreement on the form of an implementation period should be reached?

**Mr Davis:** It should be as quick as we can, in truth. If we get a ruling on sufficient progress, of course, from the Council in December, I would expect it to be the very first thing we deal with at the very next negotiating meeting—and we would plug away at that for as long as it took, frankly.

Q42 **Stephen Crabb:** Would it be by first quarter 2018?

**Mr Davis:** For the implementation period, it would be earlier than that. I will be aiming to get certainly the outlines of it agreed, if we could, in the first quarter. That is if we could. It is a negotiation, as everybody remembers.

Q43 **Stephen Crabb:** You mentioned the example of American banks. Some of them have indicated that they are already in the process of making decisions on investing in new capacity in Frankfurt out of contingency. It is not necessarily a black-and-white decision to move a bank lock, stock and barrel from London to Frankfurt. But given those decisions are already being made, does that reflect the fact we are already seeing the wasting asset of an implementation period in action?

**Mr Davis:** If I were the European chief executive of an American bank, I would look at the Florence speech and the response to the Florence speech from the Council, and even the body language, and I would say to myself, “There is going to be some sort of transition arrangement. The telegraphing we are getting is that it will give me two years to make up my mind. Should I go in for nugatory expenditure? Will I be able to turn around to my shareholders and say it was a very good idea to buy that office in Frankfurt in November 2017?” I might think not.

All businessmen would like things in black-and-white law. They like things that take uncertainty away from them, but they are not beyond making judgments, too. I used to be a director of two FTSE 100 companies, and executive director in one. I would have taken on board what would happen.

Q44 **Stephen Crabb:** The problem is that the London directors are saying to their bosses in New York, “Read the body language. It will be fine.” Their bosses in New York have to take risk-averse decisions and build in contingency. They are not into reading the body language.

**Mr Davis:** I am sorry: that was a metaphor. Read the language. Also read the language of people like Herr Schäuble in Germany. We are grown-ups around this table; we are adults in this room. We know that Germany has a bigger influence than most. We know they broadly or strongly welcomed the idea of an implementation period when the Chancellor was talking about it a little while ago.
You make calculations now. What it might mean is they reduce the size of the office they open. There are all sorts of possibilities. Their difficulty is the statutory lag on getting approved in a new regulatory framework and so on. That may also shorten as the European authorities put in place the regulatory structures that are not there now.

There is a variety of reasons. If I were asked this in front of a bunch of American bankers, I would give them the advice to save their money for the moment—at least until January.

Q45 Mr Rees-Mogg: Thank you, Chairman. Good morning, Secretary of State. Could we move on—

Mr Davis: You have been listening to me rather than me listening to you.

Mr Rees-Mogg: It is much better that way around.

Mr Davis: The last time we spoke, I was awe-struck with the rest of his audience at the Conservative Party Conference.

Mr Rees-Mogg: That is very funny. Hansard will have enjoyed that. Thank you very much, Secretary of State.

I want to move on to the money, please. The starting point is our legal obligation if we leave without a deal. Do you or do the Government broadly accept the conclusions of the House of Lords report of 4 March this year entitled *Brexit and the EU budget*?

Mr Davis: It said it is sort of undecided.

Q46 Mr Rees-Mogg: No, it did not. It set out that, if we left without a deal under Article 50, we had no legal obligation under EU, international or UK law to pay anything.

Mr Davis: I think no obligation is a step too far. I am not going to share with you, as Governments never do, the legal advice we have been given, but let me outline for you the approach we took. It might inform the answer rather more thoroughly than just me giving you a yes or no on that.

The Commission put a proposal to us. It was pretty high-level, by the way. It was not quite as detailed as people suspect. But it was a kitchen-sink proposal: it took in every conceivable liability, including things like contingent liabilities, and it did not take in any assets. Even when looking at the EIB, it took the liabilities and not the assets. It presented that to us.

We went through it, and basically we felt that they were on poor to non-existent ground under both Article 50 and Article 70 of the Vienna convention. Those are the two primary tests. We also thought the approach on things like ignoring assets was just illogical in some respects.
That was why in the fourth round of negotiations—I believe it was the fourth round—there was a pretty frosty write-up everywhere, because it was one of those ones where Mr Barnier was not very happy. From the beginning, from my very first meeting with him, we took the view that this is not an issue of legal responsibility; it is an issue of political, moral maybe, and operational responsibility. You pick your words: different people put it differently. But it is not a legal responsibility.

The thrust of your argument is right, however. What the legal argument tends to show is that we might be on the hook for one year, basically, not five or 10 years.

**Q47 Mr Rees-Mogg:** This was basically what the House of Lords report said. It said there may be a moral obligation to pay but there was no legal one, because Article 50 of the Treaty knocks out the Vienna convention’s alternative provisions.

But does this not become very important in the event we leave without a deal? Is the Prime Minister’s commitment to pay under the multiannual financial framework an unconditional one or is it conditional on an agreement?

**Mr Davis:** We have not gone into the speculative outcomes of no deal. Let me just say why for a second. Much of the arguments about deal and no deal are phrased in polemical rather than logical arguments. They use phrases like “crash out” and all this sort of thing.

There are various sorts of no deal. There is a no deal where we go to WTO arrangements but we have a bare-bones deal on other elements. I listed them to the Chairman: aviation, data and maybe nuclear—or not—and so on. Then of course there is a complete failure to agree and a hostile outcome. That is so incredible that it is off the probability scale. But in those circumstances, it is conceivable there will be no deal of any sort.

**Q48 Mr Rees-Mogg:** If there is, we pay nothing.

**Mr Davis:** Under those circumstances, you could imagine the country paying nothing.

**Q49 Mr Rees-Mogg:** This is our strongest negotiating card, is it not? The multiannual financial framework needs the £20 billion over the next two years to make it work, otherwise somebody has to pay more.

**Mr Davis:** I would not put it in such crude terms, but I am sure it is on the mind of some continental countries.

**Q50 Mr Rees-Mogg:** They are aware of it. You made a statement saying the days of making vast yearly contributions to the EU budget will end when we leave, but that will be when the transition period ends, not—

**Mr Davis:** I am excluding from that what the Commission delightfully calls the divorce bill, but, yes, there will not be a continuous future
payment for access to the market, for example, which is what I had in mind.

Q51 Mr Rees-Mogg: But there may be contributions to individual projects beyond that.

Mr Davis: Yes, absolutely. It is quite likely—so long as we are still friends, which is what I expect we will be—that we will be taking part in things like Horizon 2020, some of the other space issues like the GPS system, and some of the nuclear things. There is a variety of things where I can see us continuing to be part of it, just as—I do not know—Israel is part of some of them.

Q52 Mr Rees-Mogg: What about loans to the Ukraine and things like that?

Mr Davis: That is a separate issue. I slightly need notice of that question, but my instinctive reaction to that is that it would be a discretionary decision thereafter. It would be one of our foreign policy decisions.

Bear in mind that one of the things that we are looking towards is a deep and special partnership that includes a warm and close relationship on foreign policy thereafter. We view Europe as our nearest and largest ally, effectively.

Q53 Mr Rees-Mogg: But that is not sincere co-operation.

Mr Davis: I am sorry.

Mr Rees-Mogg: The UK would not expect itself to find itself—

Mr Davis: No, sincere co-operation stops when we leave.

Mr Rees-Mogg: It stops when we leave rather than at the end of the implementation period.

Mr Davis: Yes.

Q54 Mr Rees-Mogg: On the sequencing of agreements, you set out that we would get a deal under Article 50, which requires an enhanced qualified majority vote and the European Parliament’s approval.

There are then the JHA and trade issues. Assuming they are mixed agreements, they will require more complex application procedures. Do we fulfil our obligations under the Article 50 agreement before they have fulfilled their side on the other parts, or does our commitment under Article 50 to pay money, for example, become contingent on those agreements being ratified?

Mr Davis: “Nothing is agreed until everything is agreed” is the famous, favourite phrase of the European Union, and we think it applies both ways.

Q55 Mr Rees-Mogg: Are you saying we would suspend payments during the
implementation period until an agreement on JHA and trade has been reached?

Mr Davis: This is about as far down the speculative route as I am going to follow you.

Mr Rees-Mogg: But it is very important, because if there is sequencing in the agreement, it is perfectly possible that it will take more than two years to ratify the trade deal. It may be possible to continue with it pending ratification, but in that two-year period we would have paid over £20 billion and we may not have the trade deal. This seems therefore to be very important.

Mr Davis: That is one of the reasons we need agreements at least at Council level and Commission level before it starts.

Mr Rees-Mogg: But does it not go back to—

Mr Davis: But we do not necessarily need ratification. There is an element of risk in it; I accept that.

Mr Rees-Mogg: There is an element of risk. But can you reduce that risk by making it clear the British Government will not, during the implementation or transition period, make payments until those ratifications are done?

Mr Davis: That is why I said I am not following you down this route any further.

Mr Rees-Mogg: All right, because the worry is—

Mr Davis: I can see what you are saying.

Mr Rees-Mogg: You can see what I am saying.

Mr Davis: I am conscious of the trade-offs.

Mr Rees-Mogg: To follow on from Mr Bone’s question, the worry is when we get to 29 March 2019 we stay under the auspices of the European Court; we are still in the customs union; we accept new rules as they come through; and we keep on paying money with the promise of a trade deal on the never-never.

We are still therefore within the European Union for a further two years. All that has happened is the endpoint has been delayed and the uncertainty in 2021, which the aim is to avoid, is just as great—but we have stayed in the European Union for two years longer and not achieved what we are aiming for.

Mr Davis: There are ways around that, but, if you forgive me, I am not going to detail them here today.

Chair: That is very helpful. A moment ago you said it is quite likely we will continue to participate in Horizon 2020. Can I just be clear that the Government’s policy is that they wish to do so?
Mr Davis: We have not yet engaged with the Union on those things. As you are aware, Mr Chairman, we have not engaged with the Union on any of these ongoing relationships.

Chair: I appreciate that point, but saying “quite likely” presumably suggests there is an intent on the part of the Government to wish to do so.

Mr Davis: The phrase “quite likely” is exactly what it is: it is quite likely. We will formalise that before December.

Mr McFadden: Good morning, Secretary of State. I want to ask you some more questions about this transition period, but can I just give you an opportunity, before I do, to comment on the letter from your colleague Mr Heaton-Harris to universities asking them about the content of prospectuses and lessons on—

Mr Davis: I have not seen it.

Mr McFadden: You have not seen it. It has been all over the media. Let me fill you in. He has asked universities to supply him with—

Mr Davis: I can save you the trouble, Mr McFadden: I am not going to comment on other colleagues’ activities that I have not seen for myself. I am sorry.

Mr McFadden: You are not going to give us any comment on that.

Mr Davis: No, I am not going to comment. I have not seen the letters; I am not going to comment on it.

Mr McFadden: Let’s continue, then, on the transition period. Can you just set out for clarification, again, when you hope this to be agreed? Is it to be agreed by the end of the year in December in terms of the Government’s intent—I appreciate you are not fully in control of this—or is it dependent on the shape of a future trade agreement being agreed?

Mr Davis: First, in terms of timing, the Council is on 13 or 14 December, so it is unlikely to be agreed before then, because the guidelines to the Commission will only go down at that point, assuming we hit the timetable.

Then we will get as much agreed as we can, but, like all these things, nothing is agreed until everything is agreed at the end. But it will be pretty plain what we are trying to deliver.

Mr McFadden: By when do you mean?

Mr Davis: It will be by when we have negotiated it, which I hope will be in the first quarter of next year.

Mr McFadden: You are saying the first quarter of next year. If it is dependent on the future shape of the trade deal, should we expect the shape of that to be agreed by the first quarter of next year?
Mr Davis: No, that will not be agreed in detail until 2019.

Mr McFadden: In Parliament the other day, the Prime Minister said that “the point of the implementation period is to put in place the practical changes necessary to move to the future partnership, and in order to have that you need to know what that future partnership is going to be.” That is why I am probing you on this.

Mr Davis: I see where you are going, Mr McFadden.

Mr McFadden: Will we know that—

Mr Davis: It gives you the time to do it. Let me go back to the answer I gave to two people now, the Chairman and Mr Wilson. I said the reason for the time available or creating the time-space available was to enable three things to happen.

First, for the Government, if need be, to conclude its modifications, whether it is to customs or immigration systems or whatever—

Mr McFadden: I heard that point—“when?” is what I am asking.

Mr Davis: The second is to enable foreign governments to do the same, but they would only start much later because they would not start until they knew what the deal looked like. That is the point: they would not start until they knew what the deal looked like.

Thirdly, this allows companies to make their arrangements once they also know what the deal looks like. Now, we have accepted there may be a ratification risk in that, but, beyond that, they will have a pretty good idea of this. If you look at what happened with Canada, Canada had a mild modification to the CETA deal after the ruling in Parliament. That was it, but the main shape of the deal was the same.

I expect the same sort of circumstance to apply post March 2019: we will know where we are going, and all those three sets of agencies—our Governments, EU 27 Governments and companies, and indeed people maybe—can make their arrangements accordingly.

Mr McFadden: Can I ask you about the content of the final deal? Mr Barnier said the other day, “From the moment the UK told us it wants out of the single market and the customs union, we will have to work on a model that is closer to the agreement signed with Canada.”

Mr Davis: Closer to what, sorry?

Mr McFadden: An agreement that is closer to the agreement signed with Canada. Is the CETA agreement or something like that what the Government is aiming for?

Mr Davis: No, it is not. The Prime Minister made plain that we are looking for a bespoke agreement. That is a term of art used. But
Canada, for example, has very little in it on financial services and on services generally. It is bespoke to Canada in a way.

What we are looking for is pretty plain in outline terms: tariff-free access for goods and, as much as possible, free access to services without non-tariff barriers where we can get them.

**Mr McFadden:** I will leave it there, with the Arsene Wenger defence.

**Mr Davis:** I am afraid I not up with the cultural reference, sadly, as is probably the case with Mr Rees-Mogg. Probably neither of us understands it.

**Chair:** I suspect that is the first time Arsene Wenger has been mentioned in this Committee.

**Q66 Joanna Cherry:** Good morning, Secretary of State.

**Mr Davis:** Good morning, Ms Cherry.

**Q67 Joanna Cherry:** Can I go back to the transitional period or the implementation period? What is your understanding of the legal basis for a transitional deal or an implementation period?

**Mr Davis:** The presumption we have been working on is that it comes under the Article 50 proposal. It was raised with us by the Commission. The European Parliament sees it in those terms. I am assuming the Commission legal service does. But in many ways it is a question almost for the Commission rather than me.

**Q68 Joanna Cherry:** Do you have any legal advice of your own as to the basis of a transitional deal or implementation period?

**Mr Davis:** I am not going to share the legal advice for the reason I gave earlier: that is the convention. But our belief is that it fits under Article 50.

**Q69 Joanna Cherry:** Legal advice exists, and it is your belief that it is under Article 50.

**Mr Davis:** I am not going to be drawn any further on that. I said I believe it is going to be under Article 50.

**Q70 Joanna Cherry:** Article 50 does not actually say anything about transitional deals or implementation periods.

**Mr Davis:** Article 50 does not say very much about anything, if you read it. It is the blandest and unhelpful phrase you are ever likely to come across, but there we are: that is that.

**Q71 Joanna Cherry:** What it does make clear is that, during any period of deferred withdrawal, the treaties would continue to apply, so if we went into a period of deferred withdrawal under Article 50 we would still be in the single market; we would still be in the customs union; and we would still be under the jurisdiction of the European Court of Justice. That is
correct, isn’t it?

Mr Davis: My response to that is the same as my response to Mr Bone: we are not looking for deferred withdrawal; we are looking for an implementation period.

Q72 Joanna Cherry: But if it is the case that, as a matter of law, all you could have under Article 50 was a deferred withdrawal, we would not be leaving on 29 March 2019, would we?

Mr Davis: That is not what we have been negotiating for. The phrase “deferred withdrawal” has never been used to me by the Commission. The phrase they use is “transition period”. Our term of art is “implementation period”.

Q73 Joanna Cherry: Earlier, when the Chair was asking you questions, you said that you were very much leaving the legal status of the transitional period with the Commission, and they had shown no concern and neither had the European Parliament.

I wonder whether that is correct, because it has been reported that yesterday Manfred Weber, the leader of the European Parliament’s largest political group, said that his party would oppose any plan for a transitional deal that gave Britain the same benefits outside the EU as it had inside. He said, and I quote, “But I already have got to clarify that we cannot accept that a country outside the EU will have the same conditions and the same status as inside the European Union, so there must be a difference.”

That is a very prominent politician in the European Parliament, the leader of the biggest political group, saying that you cannot have a transitional deal from outside; you have to be either in or out.

Mr Davis: That is interesting. I have not seen that. All I am noting is that the European Parliament voted for a proposal that included what they called a “transitional period”. In my conversations with Mr Gualtieri, Mr Verhofstadt and other members of the Brexit committee, nobody has raised it.

Q74 Joanna Cherry: I asked the Prime Minister about this in the House on Monday. I asked her what the legal basis of a transitional period would be, and her answer was, and I quote, “The European Union raised a similar concept to the implementation period in its April guidelines, and that would be on the basis of the Article 50 process.” Do you know what the European Union’s legal advice is about the legal basis of a transitional period?

Mr Davis: I have not asked, no.

Q75 Joanna Cherry: The Prime Minister will not know what the legal advice is either. She is just making this up.

Mr Davis: You will have to ask her.
Joanna Cherry: I will do.

Mr Davis: No, no, she is not making it up. She is referring to Council documents and, indeed, the responses we have got from the Commission today.

Q76 Joanna Cherry: But she is referring to the April guidelines. If anybody looks at the April guidelines, there is nothing saying the legal basis for a transitional period is Article 50. That is correct, isn’t it?

Mr Davis: I do not have it in front of me.

Q77 Joanna Cherry: Okay. Let’s move to something else. I want to ask you about the economic impact assessments that the Chancellor told the Treasury Select Committee have been carried out. In his evidence to the Treasury Select Committee, he said the Treasury has developed a model that can explore the impact of leaving the single market and customs union on individual sectors, regions and bilateral trade pairings. That is correct—that was his evidence, wasn’t it?

Mr Davis: Go on, yes.

Q78 Joanna Cherry: Why have the Government not published this data?

Mr Davis: We have said this before. This is a repeat of a conversation we have had in this Committee before. The decision of the House of Commons back in December of last year was that we will be as transparent as possible with the House and the public, subject to not giving away negotiating advantage or undermining the national interest.

Now, listing out the details of impacts on individual industries is like giving a price list to the other side, and it is not something I would do.

Q79 Joanna Cherry: You will appreciate that, as the MP for Edinburgh South West, a large number of my constituents work in the second biggest financial sector in the United Kingdom. I am concerned about the impact on the Scottish economy. Will you release the analysis that your Government has carried out in relation to the impact of Brexit on the Scottish economy?

Mr Davis: No, we will not publish it. What we have been doing is, at official level, being in conversation with the Scottish Government over various sectoral issues. Indeed, that came up at the last JMC(EN).

Q80 Joanna Cherry: Yesterday, when the Secretary of State for Scotland gave evidence to the Scottish Affairs Committee, he was asked whether the Government had made their own assessment of the impact of Brexit on Scotland and whether he would share it with the Scottish Affairs Committee. He said there had been such an assessment and it would be shared between Governments. Will you now confirm that that assessment of the impact of Brexit on the Scottish economy will at least be shared with the Scottish Government?
Mr Davis: You will need to take this up with the Secretary of State for Scotland, but that is rather what I said to you about what happened at the last JMC(EN).

Q81 Joanna Cherry: Well, no. The question yesterday from the MP for Edinburgh West—

Mr Davis: Not yesterday, no. The JMC(EN)—

Q82 Joanna Cherry: Just let me put to you what he said. The MP for Edinburgh West asked yesterday whether the Government had made their own assessment of the impact of Brexit on Scotland and, if so, whether it would be shared with us. He said at the JMC meeting it was agreed that both Governments have done a degree of analysis and that it would be shared between the Governments.

The MP for Edinburgh West asked whether it would be shared between Governments, and he said it would be, so can you confirm that the assessment of the impact of Brexit on the Scottish economy will be shared with the Scottish Government without further delay?

Mr Davis: I said to you at the beginning of that question that at the last JMC(EN), which was before the start of this meeting, the other day, we discussed this very thing. We agreed that there would be official-level contact on these issues, yes.

Q83 Joanna Cherry: The assessment setting out the impact of Brexit on the Scottish economy will be shared with the Scottish Government.

Mr Davis: I am assuming it already has been.

Q84 Joanna Cherry: I do not think it has, Secretary of State. That is why I am seeking clarification that the Scottish Government will be favoured with a copy of your Government’s assessment of the impact of Brexit on the Scottish economy.

Mr Davis: What we have agreed is to go through the individual sectoral effects with them. They have done work of their own as well. It is an exchange; it is going on.

Q85 Joanna Cherry: But it is clear from the answer given by the Secretary of State—

Mr Davis: I am sure that whatever the Secretary of State for Scotland said will be the case. It will be true, and it will happen. I am sure that is the case. He may be organising that, but what I am telling you is what has already happened.

Q86 Joanna Cherry: If the Secretary of State for Scotland has said that that information will be shared with the Scottish Government, we should assume that it will be.
Mr Davis: I am sure that is correct, yes. When a Minister says something to a Committee, that is what I assume happens. It certainly does with me.

Q87 Mr Djanogly: Good morning, Secretary of State.

Mr Davis: Good morning, Mr Djanogly.

Q88 Mr Djanogly: Having heard previous questions, Chairman, can I just clarify for my understanding that during the implementation period we will remain in the single market and the customs union but we will no longer have a place on the EU’s decision-making bodies that affect both the single market and the customs union?

Mr Davis: We will remain in, have access to it or it will look alike, yes. We will get back to the legal basis, Mr Djanogly, if we are not careful.

I am sorry. What was the last part of the question? It was about whether we will have a say on decisions.

Mr Djanogly: It was about whether we will have a say about how those are moulded.

Mr Davis: Yes, how they are changed, yes.

Q89 Mr Djanogly: During that period, will the UK have to accept new EU laws made during that period?

Mr Davis: One of the practical points of this, which anybody who has dealt with the European Union knows—as you will have done, I guess—is that it takes two to five years from inception to outcome for laws to make it through the process.

Anything that would have impact during those two years we are talking about will already have been agreed with us in advance. Anything that happens during it will be something for subsequent discussion as to whether we propose to follow it or not. That is where the international arbitration procedure might become important.

Q90 Mr Djanogly: If I could also just have a say on the sequencing—everyone else seems to want to—most businesses I speak to have been thinking, until yesterday probably, that we were just going to have a two-year implementation period. They thought it had been negotiated and agreed, but of course that is not the case either from the European Union’s point of view, who have been saying that they have only agreed to consider it, or from our perspective. Yesterday, the Prime Minister made it quite clear that we firstly need a trade deal to implement.

Given how little time there is, can I just go a stage before the stage Mr Bone was talking about? Will there come a point in time when your department and you take the decision, “Actually, we are running out of time here. There is no time to do a deal before March 2019”? In that
situation, would you consider a two-year standstill from March 2019, giving business time to sort itself out and you time to finalise an FTA?

**Mr Davis:** The first thing is that trying to finalise an FTA under those circumstances would be very disadvantageous from a negotiating leverage point of view. You might get into the circumstance Ms Cherry raised of putting it off and putting it off and putting it off, which we do not want to do.

Secondly, it is no secret that the way the Union makes its decisions tends to be at the 59th minute of the 11th hour of the 11th day and so on. That is precisely what I would expect to happen here.

In technical terms, there is no reason why we cannot do this in the time available. That is the point Karel De Gucht made, the previous Trade Commissioner, an antagonist of Brexit. Even he accepted that, given the political will. But we do have to maintain a degree of determination to achieve it, but I am quite sure in my mind that we can do that.

My jibe or joke—if it was a joke—to the Chairman about the clock being stopped at midnight is precisely what happens. If there is a time limit on a negotiation, the Union stops the clock. It assumes it is still at 11.59 or whatever it may be until it is concluded—sometimes over the course of 24, 36 or 72 hours thereafter. That is what I imagine it would be here, and there would be a lot of pressure. It would be very high-stress and very exciting for everybody watching, but that is what would happen.

**Q91 Mr Djanogly:** These will be the very final points. What if, six months before or a year before, you are very far apart? You can only be so far apart to take that strategy.

**Mr Davis:** If the experience to date is anything to go by, we will have a pretty good idea of where their end game is from what is published. What people do not often ask me about at this Committee but is the unseen element of this is the huge amount of diplomatic activity, personally by me, by Olly Robbins, by UKRep and by our diplomatic corps as well, across the whole of Europe, across the 27 members, to know what they are after, what they are accepting from this and what they want out of that final Council meeting.

We have a pretty good idea of the economic interests of every single member state. They are not always focused on them, all the time. They have other issues. We have Germany, Austria, Holland—I have forgotten somebody—and the Czech Republic all without new Governments in place at the moment, so this is not at the top of their tree. There are other reasons, Catalonia in Spain, people's eyes are being taken away from it. Nevertheless, we have a pretty good idea of where they will end up as the end game, even if there are delays along the way.

**Q92 Mr Whittingdale:** On your answer to Jonathan Djanogly, from April 2019, you have suggested we should continue to enjoy the benefits of being part of a single market and the customs union, as much as
possible, even though technically we are no longer in it. Obviously we will no longer have representation on the Commission, at the European Parliament or round the table at the Council of Ministers. I think you also suggested in an earlier answer, but I would like you to expand on it, what positive benefits this country will have in April 2019 that we did not have the week before.

Mr Davis: Bear in mind an implementation period is there for just that. I would not describe it as a positive benefit, but you have the time to make the things happen that are going to deliver the later benefits. What you are probably referring to are my comments on not being a member of the Union anymore, therefore not being subject to the duty of sincere co-operation and therefore being able to negotiate and sign, but not enter into force, free-trade treaty arrangements with other countries.

Mr Whittingdale: We would be able to negotiate but not actually be able to sign.

Mr Davis: Bear in mind that we are at the beginning of a negotiation that we have not concluded. I am telling you what we are aiming for, but it is a perfectly reasonable aim. One of the things that will affect inward investment in the years straddling this period will be what people see as the future markets for the UK. If I were in my old job many years ago of running a public company, I would be looking to actual free trade agreements—not aspirations or nice words from Justin Trudeau or whoever, but actual free trade agreements. Now, they do not have to enter into force, so long as they are signed. Some of them will enter into force in a couple of years when we are out, and those sorts of things will be very beneficial.

Q93 Mr Whittingdale: The week after we leave the European Union, we will have lost some things—representation and the ability to put our case—but we will not yet be enjoying any new freedoms or opportunities, which are the reason we decided to leave in the first place.

Mr Davis: We will not at that stage, no.

Chair: Craig Mackinlay, were you on this same point?

Q94 Craig Mackinlay: It is the same sort of point. Secretary of State, it is good to see you. There are quite a few things happening here. You have the Article 50 divorce agreement, then we have a potential free trade agreement and now we have in the mix the transition period agreement. Now, I am just getting a little confused as to who has the competence to negotiate these and to agree them. Say in the Article 50 agreement we agree the Irish border, EU citizens’ rights, driving licences, open skies and those fundamentals, but say we have not agreed the money. We would have a partial agreement, perhaps. Would that be a mixed competence or a Council competence? I am a little confused as to who has the competence to say, “This is mixed and this is just us.”

If it is a mixed one, it has to go to the EU 27 and the Parliament on four-
fifths of the agreement. If that is agreed, does it then have to go back later to the same 27 and the Parliament to agree the money? Is the transition potentially a treaty issue, because is something new that affects the 27? There are a number of things here. Later on, and it is something we all want, is the free trade agreement. Would that have to go to the 27 and the Parliament? You can see the confusion of getting this body to move as one.

Mr Davis: I can see the point. The withdrawal agreement, which I judge includes the implementation period or transition period, whichever you prefer, is under Article 50. That is QMV on the Council and majority agreement of the European Parliament. Now, my hunch, bluntly, is that the Council will be seeking unanimity on it, in truth, but the legal basis is QMV.

For any trade agreement and the wider justice, home affairs and foreign policy agreements that we do with them—counterterrorism and security arrangements—almost certainly both of those will be mixed. They will go through Council, they will go through Parliament and they will go out to the 36, maybe 35, Parliaments, including the infamous Walloon Parliament, and all that goes with that.

Q95 Stephen Kinnock: In your exchange with the Chair right at the beginning of this meeting, you said that the European Council had not yet come to a view on the legal basis for any potential transition arrangement, but that is not actually true, is it? In the EU Council negotiating mandate of 22 May, paragraph 19, the Council says, “Should a time-limited prolongation of Union acquis be considered, this would require existing Union regulatory, budgetary, supervisory, judiciary and enforcement instruments and structures to apply.” In essence, that phrasing was copied and pasted into the European Parliament’s resolution of 3 October. It is crystal clear that any transitional arrangements would be governed by the same regulatory, budgetary, supervisory, judiciary and enforcement instruments. Can you therefore confirm that that would be the basis for any transitional arrangement?

Mr Davis: What I actually said was that they had not agreed the final guidelines. I did not say “legal basis”; I said “the final guidelines”, unless I misspoke, which I do not think I did. Those final guidelines will be agreed assuming sufficient progress, of course, which we still do not have, in December. At that point that may well be their stance. Bear in mind, however, that this is a negotiation. Broadly speaking, that is consistent with what the Prime Minister said too. This structure will look quite like where we are now.

Q96 Stephen Kinnock: Do you feel that the Cabinet and your parliamentary party also understand that the transitional arrangements will be on this basis?

Mr Davis: There will be something like that. As I said, this is the negotiating position. This is not handed down. One of the things that
always irritates me, frankly, about British public life is that people assume that anything that comes from Europe is on tablets of stone and everything we have is an opinion. It is not quite like that. That is their start position. It may be where we end up, but our position is what the Prime Minister laid out. It is not that dissimilar, but it is not identical.

Q97 Stephen Kinnock: Thank you. I wanted to move on now to the issue of a potential no-deal scenario. I thought it might be useful to look at the issue of the port of Dover, as an illustration of the potential impact of a no-deal scenario. As you may know, the Select Committee visited the port of Dover last week and we were told there that every two minutes added to customs processing and proceedings would create an additional 17 miles of tailback of heavy goods vehicles from Dover to Ashford. Of course, the port of Dover is processing around 10,000 HGVs per day. How do you feel is the state of preparedness for a no-deal scenario in that particular context?

Mr Davis: I feel it is reasonable. Dover is not the only one. Dover is probably the sharpest example, because of its lack of parking capacity, bluntly. We would need to create some workaround for that. Now, there is a variety of ways of doing that. We are not in a position to publish it yet but, at some point, we probably will publish some of the components of the contingency planning. A lot of work is going into that, both in the Department for Transport and in HMRC.

Q98 Stephen Kinnock: Just to be clear then, for our no-deal play, or negotiating position to have any kind of realism, you need to have this kind of issue absolutely clear and settled by very soon, because otherwise it becomes absolutely clear that the no-deal scenario is just a bluff.

Mr Davis: It is not very soon. It has to be in place to work on 29 March 2019. That is what it has to do. It is not a bluff. In any event, Mr Kinnock, even if it were not a useful negotiating tool, we would need to do it anyway. The other way round, if we suddenly felt that parts of our economy would grind to a halt, the pressure on us to give in anything would be enormous.

Two minutes leading to a 17-mile queue sounds incredibly dramatic. At Dover we are talking ro-ro, which is a little different. However, to give you a measure of the sorts of numbers we are talking about, for containers coming in across the common external tariff barrier into other ports, say Southampton or wherever, the clearance time on a single container is four seconds. That is for 98%. Those are the ones that do not get inspected. Most traffic across the borders does not get inspected; 2% does. You have got issues like that.

On other countries, I went to the Canadian/American border at Windsor/Detroit. I went there because I knew it from running business across it myself. I have sold across borders myself in the past and I knew this border well. It is an incredible choke point. It is a choke point like Dover is a choke point. Their clearance time is 54 seconds on an
average truck, but they also use a whole series of systems clearing things before they get to port and authorised economic operators. These things become very important in Northern Ireland as well. An authorised economic operator is a trusted trader. We use them much less than other countries do and will increase that. Electronic pre-notification is what accelerates most of the container traffic that goes through.

There is a huge amount of work going into all this deliberately to make sure that this is not a bluff, Mr Kinnock. This is the reality we have to cope with if we end up in that circumstance—not that we intend to. I keep stressing every time that that is not the aim, but it is what we may need to do in that circumstance.

Q99 Stephen Kinnock: The fundamental difference between this and those examples you just gave is, when the systems were being designed to enable that processing and that administration, the people designing the systems knew what kind of circumstances they were going to be in. In this case, everyone is in the dark. We do not know whether there will be a deal, no deal at all or whether it will be certain aspects of authorised economic operators, for example, or what will happen with the rules of origin. I really felt for the staff and management in Dover, I have to say, because they are being asked to design systems—I do not even know if they are being asked—without knowing what the future reality looks like. How can you design an infrastructure and an IT system without knowing your direction of travel?

Mr Davis: I sympathise with the staff at Dover too. They are not designing the system, by the way. That is being done by HMRC and physical aspects of it are being done by DfT. It is not true to say that we do not know what the parameters of the worst-case outcome or the most-stressed-case outcome would be. For a start, in the event we are talking about WTO, we are then talking about the application of Union Customs Code, which we already apply in all the ports where we bring things in from outside the European Union. This is exactly what is being applied, and the Union Customs Code is what is already in the CHIEF system, which you probably saw. That is the green-screen system. It will also be in the CDS system, which was under way before all of this started and will come into effect at the very beginning of 2019—1 January. Those two systems will operate in parallel, if need be, which gives us an extra contingency. They are not intended to but, if we need to, we can do that.

What is the case, and I do not think one should blink in the face of it, is that there would be an increase in volume of checking. It would not be quite pro rata what you see, because some of the stuff is coming from the European Union. We would have pretty good ideas of where it is coming from, what its phytosanitary background is and so on. It would be the same as the day before, but there is a lot of work to do on it and it is under way.

Q100 Richard Graham: Secretary of State, good morning. Some people take
the view that any deal is better than no deal. Part of the answer to that has to be what the worst-case deal would look like. What was the size of the original EU bill presented to us?

Mr Davis: It is not sized in terms, but the number being thrown around in the press of €100 billion was one of the aspirations. Of course, one of the things that is very apparent in negotiations is, if we had gone and said, “Yes, we will pay €100 billion,” I suspect they would have added something to it at the next stage.

Q101 Richard Graham: How important were pensions as a part of that initial bill?

Mr Davis: I cannot remember the number off the top of my head, but they are quite a significant proportion, yes.

Q102 Richard Graham: What is your view on the pension liabilities?

Mr Davis: With the best will in the world, Mr Graham, I am not going to go into a line-by-line critique of this, because that is precisely what we are doing internally. We are going to have to make some political judgments later on, rather than legal ones. As I think I said earlier to Mr Rees-Mogg, the legal basis is not strong for many of the claims.

Q103 Richard Graham: During the transition period, the implementation period, what is your belief about the likelihood of us being able to clone all the existing EU free trade agreements?

Mr Davis: It is pretty high. We will need co-operation from the EU on it, as well as from the other side. On the other side, we have not done all of them yet, but Liam Fox has certainly talked to the big ones. All of them have indicated interest in grandfathering and/or improving. We will probably have to do it in two stages: grandfather first and improve second.

Q104 Richard Graham: Would you expect that to include any new agreements that the EU signs during the transition period?

Mr Davis: The two new ones coming along are obviously CETA—and Justin Trudeau has expressed explicitly to the Prime Minister that he wants to see an equivalent for us—and Prime Minister Abe said the same thing about the Japanese one, which is still informal at the moment. That is the significant one that is most likely during the transition period.

Q105 Hywel Williams: Good morning. Just moving on from the question that you were asked by Stephen Kinnock to one that I had hoped to ask you later about the arrangements at ports, of course Dover is not the only one. You mentioned Southampton but, in Wales, we have Fishguard and obviously Holyhead, which is, if I may characterise it as such, the Wales/Ireland border. What discussions have you had with the Welsh Government regarding any arrangements that might need to be made there?
**Mr Davis:** There has been nothing explicit to Holyhead yet. All the DAs will have explicit port issues for themselves. As you say, because Holyhead is the sort of Wales/Ireland border, it may even have an extra layer of complexity later on, if we get special arrangements there. The truth of the matter is it is one of the objectives. Forgive me if I see it from the Irish point of view rather than the Welsh point of view for a second, but one of my aims in this is to try to get an outcome that does not do harm to Ireland. Ireland is the country that is most dependent on us for trade. I think it is about a €1 billion a week in both directions. They have a great deal of investment in maintaining sales, both to us and through us to the continent. Of course, much of that comes through Holyhead. It is in our mind, but we have not had an explicit discussion on it yet.

Q106 **Hywel Williams:** Can I ask you if you know if the Welsh Government has engaged in any planning, as far as Holyhead might be concerned?

**Mr Davis:** I do not. I can find out if you wish and let you know. I will write to the Committee.

Q107 **Hywel Williams:** There is a money question here: they are responsible for the roads, not the ports themselves, I think, but there is also a specific issue around the bridges across the Menai Strait and the possibility of a third one, which might cost anywhere around £100 million, all of which is of great interest to people locally. Anybody exporting from Ireland to the continent might also be very interested indeed if you could provide us with any information on that.

**Mr Davis:** I suddenly feel like the Chancellor receiving a bid, but I will find out what I can.

Q108 **Hywel Williams:** I assure you we will be putting the same questions to our colleagues in Cardiff as well. Can I then go on, Chair, to another point made earlier about the intense diplomatic activity taking place with the 27? Can you confirm that there is a certain amount of activity with certain member states’ Governments, such as Wallonia and Flanders possibly? I will not introduce Catalonia, because we might not know where they are next week, let alone in 18 months’ time.

**Mr Davis:** No, Catalonia would not be one we would be looking at. We are very supportive of the Spanish Government in terms of maintaining the rule of law and so on, but the issue with respect to the regional governments in some of the littoral states is very important. For example, Mr Bourgeois is the President of Flanders and Mr Xavier Bertrand is the President of Hauts-de-France, which includes Calais and Dunkirk. It is north France, in effect. They have already expressed an interest and I have asked to see them. I have not seen them yet, but I have asked to see them specifically about this. Of course, I have got my pitch in to see the new Dutch foreign secretary once he is appointed. His name is known, but he has not been appointed. My specific aim is saying
that these are areas that are particularly sensitive to our issues here. We will aim to do what we can and work with them.

The other example I can give you of the equivalent of a devolved Administration is the Minister-President of Bavaria, Mr Seehofer, who I went to see. I went to see him because they have a very large trade balance with us in BMWs, Siemens, agriculture and so on, and they are a very large entity in their own right. I have been doing that too. As you can imagine, it is a pretty sizable number of people.

Q109 **Hywel Williams:** It is just a point of detail. I do not expect you to be able to respond in any real sense, but Flanders has had diplomatic representation here in London. I assume that they are being involved as well. They are very competent people who might be able to participate.

**Mr Davis:** I do not know the answer to that. We have made an overture for me to see Mr Bourgeois certainly.

Q110 **Hywel Williams:** Can I therefore turn to devolved Governments in the UK? What consultation have you had with them regarding the proposals for the implementation period? You have answered that already, to some extent.

**Mr Davis:** It has not been formal. As you will be aware, I speak to Mark Drakeford quite a lot and Mike Russell, the Scottish Europe Minister. I cannot think that we have formally done this. Carwyn Jones welcomed the direction of travel of the Florence speech, and my strong impression is that they will be favourable to this, just from our general conversations.

Q111 **Hywel Williams:** The Joint Ministerial Council, which is one formal way of discussing between the Governments, met in this month—a couple of weeks ago—and also in February. There is quite an intervening period there, when many detailed and exciting things were happening. Can I assume that there were consultations at senior levels?

**Mr Davis:** I spoke to them. This tends to fall to the First Secretary more than me these days, because he now chairs the JMC; I used to chair it. I know he talked to both Governments shortly before the Florence speech was delivered to walk them through it and so on. I talk to them after each negotiating round, in essence directly, just telephone conversations to Mark Drakeford and Mike Russell fairly frequently. There is a deal of discussion going on, but the real meat of this will start after December when we go to the ongoing relationship.

For the immediate ones, we know the stance of the Welsh Government, for example on citizens’ rights, in detail. We have discussed that in JMC in the past. We know the stance on Northern Ireland. Of course, one of the problems with JMC(EN) is there is no Northern Ireland Executive. I tried as long as I could to keep seeing the old Ministers until there was nothing, until after the election, and then I could not even do that. We do what we can and, as you say, the JMC(EN) is reinstated now and it is
under way. I have to say that some of the members of the JMC were not
really happy with the way it worked, but they have decided to go back to
it. It is a good way to do it.

Q112 Hywel Williams: Can I finally ask you, therefore, what the formal
relationship is between you and the First Secretary of State who is
handling this. Is there a formal relationship between your department
and his on this specific issue?

Mr Davis: No, there is none at all. He is one of my oldest friends.

Hywel Williams: He is a very fine man, I am sure.

Q113 Seema Malhotra: Thank you, Secretary of State, for coming today. I
want to come back for a point of clarification on some of the points raised
by colleagues on the timetable again to clarify further what we see
happening or you envisage happening. You will have a transition
agreement that you think will be agreed by the end of quarter one.

Mr Davis: Hopefully it will. That is what we are aiming for anyway.

Q114 Seema Malhotra: When do you think the withdrawal agreement will be
agreed by?

Mr Davis: That is actually a very good point, because I have not
answered that question. Bear in mind the withdrawal agreement includes
citizens’ rights, which I think we will get to a conclusion on. For
Northern Ireland, the next stages require the onward relationship to be
resolved. These are things like the north/south strands. There are about
142 of them. They include things like the single energy market for
Northern Ireland and the Republic of Ireland, and we cannot deal with
that until we know what we are doing on that basis, and border issues,
which will be affected by whatever conclusion we get to on customs
agreement and free trade agreement.

Q115 Seema Malhotra: When is it in your mind? I am just trying to get a
date clear. Is it October next year?

Mr Davis: My hunch on this is it will be coterminous in terms of
agreement, not quite in terms of signing, with the forward relationship.

Q116 Seema Malhotra: Do you have a specific date in mind?

Mr Davis: I am sorry; I did not mean to cut across you. That is why the
Council used the phrase “sufficient progress” not “conclusion”.

Q117 Seema Malhotra: When do you envisage that? Would you give a
quarter next year?

Mr Davis: No. Parts of it will go on. Take Northern Ireland; we cannot
address some of the Northern Irish issues, of which there are a number.

Q118 Seema Malhotra: It could be as late as March 2019.
Mr Davis: It could be at the same time, yes. That is why I said it could be coterminous with it.

Q119 Seema Malhotra: At which point do you envisage Parliament having a vote?

Mr Davis: As soon as possible thereafter.

Seema Malhotra: This Parliament, our Parliament?

Mr Davis: As soon as possible thereafter, yes.

Q120 Seema Malhotra: The vote of Parliament could be after March 2019.

Mr Davis: It could be, yes. It could be. It depends when it concludes.

Seema Malhotra: Sorry, the vote of our Parliament, the UK Parliament, could be after March 2019.

Mr Davis: Yes, it could be. It could be. It cannot come before we have the deal.

Q121 Seema Malhotra: What would be happening at that point with the European Parliament?

Mr Davis: We have said that it is our intent and our expectation that we will bring it to the British Parliament before it goes to the European Parliament. It will be after that, and then it will go to the EP and then it will come back to the Council.

Q122 Seema Malhotra: I am not sure I feel much clearer, but that is very helpful. I will move on to my other questions. Could I just ask why Oliver Robbins was moved from DExEU to the Cabinet Office?

Mr Davis: Yes. I do not like speaking about individuals but, when we started, the task of being the Prime Minister’s Sherpa was that of going around most of the member states, establishing the arrangements there. The department was 50 people. Now, in the next stage it is going into, the negotiations, which Olly runs for me, are going to become enormous. They are pretty big now. We take 100 civil servants with us when we go to Brussels for the negotiating week, if you like. My department is now 500 people and climbing, in terms of size. It was plain a little while ago that we were going to have to divide the role. That is why I brought in Philip Rycroft, first as a deputy or the Second Permanent Secretary, and now to take over as Permanent Secretary.

Q123 Seema Malhotra: Was it your decision for Oliver Robbins to move?

Mr Davis: Yes, it was my request. No, I thought the organisation needed to be divided. That was all.

Q124 Seema Malhotra: Do you think it sends a confusing message, however, that 16 months after the referendum we seem to be moving the deckchairs a little bit in Whitehall? Do you think there is any confusion
about who might be in charge of negotiations?

Mr Davis: No, not at all. The person who is in charge of the negotiation is the Prime Minister. Both Mr Robbins and I report to the Prime Minister. When we are out doing the tactical stuff in Brussels, he effectively reports to me. It is the sort of thing that is interesting to Whitehall correspondents. I do not think there is much reach beyond that. Everybody knows Olly on the continent. Everybody knows Tim, the UKRep ambassador. The dramatis personae are the same in operational terms.

Q125 Seema Malhotra: In the last evidence session, Secretary of State, you confirmed that DExEU was carrying out 57 sets of sectoral analysis on the impact on the economy of Brexit. MPs and the public have raised concerns that the analyses have not been placed in the public domain. That has also been the subject of freedom of information requests. Could I ask you, Secretary of State, who decides what information, if published, would undermine the ability of the Government to negotiate the best deal for the UK? Would that be your department?

Mr Davis: The Government do. To a very large extent it comes to me, but it would depend on which department it is in. Some of the stuff is also held in other departments.

Q126 Seema Malhotra: All of those assessments and the decision to not publish them at this point would be in your department.

Mr Davis: Of that 57, yes they would.

Q127 Seema Malhotra: Do you have clear criteria on which you are making that assessment?

Mr Davis: It is the criterion that was agreed by the House by an overwhelming majority in December of last year as that which would undermine the negotiations or, in any other way, undermine the national interest. It is time-sensitive too. Some of the things that I could tell you in six months’ time I cannot tell you now. Some of the things I could tell you now I could not tell you six months ago.

Q128 Seema Malhotra: It is interesting, Secretary of State, because in 2015 you wrote an article on the importance of freedom of information. I quote, “Time and time again, information is withheld from the public for no good reason other than to spare the blushes of the powerful.” You may recognise your words.

Mr Davis: I am not blushing, but maybe I am not powerful.

Seema Malhotra: I am just interested in whether you still agree with yourself.

Mr Davis: I always agree with myself. The one thing you can always be sure of is the answer to, “Do I agree with myself?” is yes.

Q129 Seema Malhotra: Without revealing what you consider to be of concern
in relation to negotiations, would you be able to say whether the findings reflect the broad thrust of the last impact studies that were published by the Treasury in May last year? The tone was very different, because what the Treasury said at that time was how important it was to give facts to the public.

**Mr Davis:** Was this what was colloquially known as project fear?

**Q130 Seema Malhotra:** It was not necessarily any project, was it? It was the impact assessments that were undertaken by the Treasury, which said that, under any alternative relationship with Europe, we would trade less, do less business and receive less investment. Now, that may just be the reality of Brexit. I am wondering whether you would distance yourself from any of the findings in the report last year.

**Mr Davis:** Ms Malhotra, I was not in the Government at the time. I would point out to you a couple of things. Number one, the forecasts about now, immediately after the Brexit decision, have been proven to be completely wrong. Look at the operation of the country in the last week.

**Q131 Seema Malhotra:** Could I ask you another question? You have answered that question; that was very helpful. Has the Prime Minister seen the impact assessments that have been published, yes or no?

**Mr Davis:** The details of them? Sorry, did you say “have been published”?

**Seema Malhotra:** Sorry, I am just asking whether she has seen the impact assessments. A yes or no answer is fine.

**Mr Davis:** Which ones? I will give a proper answer; I do not give yes/no answers.

**Seema Malhotra:** I mean the impact assessments that you have not published.

**Mr Davis:** That we have not published?

**Seema Malhotra:** Yes.

**Mr Davis:** She will know the summary outcomes of them. She will not necessarily have read every single one. They are in excruciating detail.

**Q132 Seema Malhotra:** Has the Cabinet seen the analyses?

**Mr Davis:** No, they will not have. They will have seen the summary outcomes. That is all.

**Seema Malhotra:** I imagine there may have been interest expressed if they covered the areas of other Secretaries of State.

**Mr Davis:** They would have elements of their own departments. Of course they will have a view of anything their own department is responsible for, yes.
Q133 **Seema Malhotra:** When do you envisage publishing the list of sectors that has been promised more than once and recently by the Prime Minister?

**Mr Davis:** It will be very soon.

Q134 **Seema Malhotra:** What is holding you up?

**Mr Davis:** I have signed a letter to the Lords committee on it, which includes the list. If it has not gone yet, it will go soon.

Q135 **Seema Malhotra:** Would you be able to say whether you would consider making the findings of the analyses available under confidentiality procedures that could be agreed between you and perhaps the Liaison Committee? Perhaps you could make those findings available to the relevant Chairs of Select Committees.

**Mr Davis:** Let me think on that. I do not know the answer to that off the top of my head.

Q136 **Seema Malhotra:** Could I ask one final very small point on this? Thank you, Secretary of State. Would you be able to say whether DExEU modelled specific outcomes, different scenarios for what the current arrangements could mean and alternative outcomes, for example a free trade agreement or the impact of no deal? Have you looked at those different scenarios?

**Mr Davis:** What I said to this Committee before is I am not a great fan of mathematical models. They are almost always wrong. There is a famous line from Norman Lamont when he ceased to be Chancellor. He said that, when he arrived at the Treasury, everybody there forecast that he would be the most unpopular man in Britain. He said that that was correct, but it was the only forecast they got right in his entire time as Chancellor. I am afraid it is the truth. These models are never right. You look at them. You saw a speech from the Deputy Governor of the Bank of England, Andrew Haldane, either earlier this year or the end of last year, saying that they had a Michael Fish moment. Was it him who said that? They are very ineffective.

Let me just finish, because there is an important intellectual point in this, as to how you address these things. What I try to do with the analyses we do is look at the bits where we have got data or where we can make an assessment. For example, when you get free trade agreements, the range of improvement in trade—free trade agreements we cannot do at the moment but we can do for ourselves—is from 25% to 40%. Now, 40% was NAFTA, so it is an unusual one and is very approximate. A lot of the data in this area, particularly on forecasting trade-flow effects, are on very old-fashioned so-called gravitational models.

Since 1945, when these things tend to have been tested, and in the 1950s, the nature of international trade has changed. Two material things have happened. One is the cost of transporting, because of containerisation and larger and larger ships, has come down absolutely
dramatically. The other is a large part of trade has become very high value. If you move, let us say, a container of cars, it is less valuable then a container of iPhones. Let me finish. The proportion of the cost is very small.

Q137 **Seema Malhotra:** I understand this. I understand, but I hope you will be confident in the findings of your analysis, bearing in mind your department commissioned the analysis. You will therefore have had a say in what models and methodology were used. I understand from the response you have given me or that has come from your department that all those analyses have been completed and that the vast majority of the work was done within Government. I hope that you will acknowledge those findings are ones that you may hold to.

**Mr Davis:** They are not huge mathematical models. That is the point I am making to you. These are individual sectors.

Q138 **Jeremy Lefroy:** Good morning, Secretary of State. Before I come on to three questions about citizens’ rights, I would like to ask something about money. The Prime Minister, you and indeed the Government have said that we wish for, understandably and rightly, a deep and comprehensive partnership with the European Union in the future, which obviously will have to include services, because they are so vital to our economy. Presumably the analysis shows that, compared with the alternative of some form of no deal, that would give a boost to our economy or would be much better for our economy by a matter of several percentage points of GDP, over a period of a few years.

Now given that our GDP is somewhere in the region of just under £2 trillion and 1% is therefore about £20 billion, would you accept that—I am not expecting you, understandably, to discuss details or numbers on this—the kind of difference that the Government are talking about in terms of money in the withdrawal agreement and what the EU is now talking about, and I discount the €100 billion, is probably in the region of 1% of GDP or less? Therefore, it should not be an enormous factor in not coming to an agreement over something that is worth several percentage points of GDP, over a relatively short period.

**Mr Davis:** Were it simply that? No, that is probably right, but the other side of the coin is I have, in the past, bought houses that were worth a very great deal to me, but I did not pay what they were worth. I paid what I could offer and get accepted. It is public money. It is still a large amount of money. The number it sounds like you had in your head was £20 billion or £30 billion. It is still a large amount of money for the public to meet, so we do not want it to get in the way.

Just so you understand the approach, Mr Lefroy, I am possibly subject to criticism, because we have bent over backwards to be reasonable in this. We changed the basis from a legal basis that we thought was flawed to saying, “Okay, what is it that is really worrying the European Union member states?” It is having to pay more or receive less in this
particular financial round. We went straight to that. Now, that is quite a bold move by the Prime Minister and she did it precisely because of your analysis. But it does not mean we should pay more than we need to. That is all.

Q139 Jeremy Lefroy: Thank you very much. That is very clear, but it is very important to understand the context, in terms of an economy of £2 trillion. If we can come on to citizens’ rights, you very helpfully set out to the House last week the areas on which there is agreement and where there is not yet agreement. Has there been any movement since then or are we roughly where we were then?

Mr Davis: There has not been yet. We were basically waiting for the Council to come to its conclusion, and we will come back to it. There is the very fundamental area of the European Court, where we think we have a solution that, in due course, we think we will persuade the Commission is acceptable for them. Then you have a whole series, which I think I listed, of things, ranging from family rights, where there is a lacuna between British citizens’ rights and existing European citizens’ rights, through to professional qualifications, for example. We are still struggling with them. We hope we are going to get to conclusion on them. If not now, it may be released by going to the forward arrangements.

Whenever we try to talk about, let us say, something like protecting the professional qualifications of somebody who is studying for that qualification, we say, “We should protect them. That is protecting their lives as they are now.” The Commission is really quite picky about this and says, “No, that is the future relationship.” We have some semantic issues there, which may be freed up in December.

Q140 Jeremy Lefroy: Is it your sense that, as the Prime Minister has said, we are within “touching distance” of a comprehensive agreement on citizens’ rights?

Mr Davis: Yes, that is right. Indeed, the Council reflected that. It had a pecking order of that and then Ireland and then money, on which it had progressively less satisfaction or, if you like, progressively more if you go up.

Q141 Jeremy Lefroy: In terms of the procedures for applying for settled status, how confident are you that we are putting in place those procedures that are needed and that they will be effective and efficient?

Mr Davis: I am confident that they will be in place by the end of next year, which is the deadline that the Home Secretary has set. As they stood at the beginning, to be frank, they were not very good. 85 pages is daft and it has come down to 60, but it could still come down a lot more. We want to make it cheap as well, and we want to make it easy. I did an explicit change of policy on people who already have permanent residence. The original proposal was to put them through the whole process again. I was lobbied directly by the Europe Minister of the Italian
Government on this, who said, “We have lots and lots of Italians in Britain, who have been there for years. Why do they have to go through it?” We altered that too to say, basically, provide a photo and proof of residence. We are doing everything possible to bring it down, both in policy terms and in efficiency terms.

The other issue that is important to the Europeans is that we agree the criteria we apply so that, at some point in the future, we will not come back and say, “You’ve got blue eyes. We don’t like you,” or whatever—we would invent some other criterion. They want the criteria to be agreed and we have agreed that too.

**Q142 Jeremy Lefroy:** Finally, Chairman, could I ask one more question? A few months ago, the European Parliament’s Mr Verhofstadt came forward with an idea of associate citizenship that might be available to British citizens after we leave the EU. This is quite attractive to a large number of British citizens, particularly young citizens, but not necessarily just the young. Is this an issue that has been discussed in detail or at all during the negotiations? I think it is something that a lot of people in the UK would like to hear more of.

**Mr Davis:** No, it has not. Again, the issue of the future relationship versus current circumstances would pre-empt that. Yes, I remember it now you mention it. Very much, to be honest, it is something in the gift of the Union rather than us. We will see whether Mr Verhofstadt pursues it. I talk to him quite a lot. I quite like him, despite our differences.

**Q143 Jeremy Lefroy:** Could I ask if you would raise it with Mr Verhofstadt next time?

**Mr Davis:** I will point out your interest next time I see him.

**Chair:** Wera Hobhouse wants to come in on this very point of EU citizens’ rights.

**Q144 Wera Hobhouse:** Thank you, Chair. Secretary of State, I asked you this question last week. If I understand correctly from what you have just said, it should be very simple. If people already have permanent residency now, that should be transferred very simply into settled status. I asked you the question last week. Why can people who already have that status not apply directly for a British passport, which a lot of EU nationals want? They are being told that they have to wait and get the settled status first, and that delays their application for a British passport, which would give them certainty.

**Mr Davis:** I must admit I would have thought that related to citizenship, rather than residential status. They would normally have their own nation state’s passport, surely.

**Q145 Wera Hobhouse:** The process is, if you want to apply for a British passport currently, you have to demonstrate 12 months of permanent residency.
Mr Davis: In that case, I have not come across the question. I will look it up. I will find out and I will write straight back. I must not have understood the question when you raised it in the Chamber.

Chair: That would be very helpful.

Q146 Stephen Timms: Secretary of State, you spoke earlier about the assurances needed to stop American banks moving large numbers of staff out of London. As you know, the recent letter from the business organisations asked for certainty by the end of this year. I just wanted to check that I have understood correctly what you have told the Committee this morning. As I understand it, you are saying that you will not be able to deliver that certainty by the end of December this year, but you would hope that, following a Council decision on 13 or 14 December, we will all know enough about arrangements during the two-year implementation period by the end of March 2018 to provide the assurance that is needed.

Mr Davis: I would hope so. In practical terms, if you think about it, the Council is 13 to 14 December, if I remember correctly. That gives us one working week before Christmas. Unless we both suddenly agree that this is a very easy thing to agree, it is not probable, in truth. The first quarter is the earliest we could do it.

Q147 Chair: On Northern Ireland, which we touched on very briefly, does it remain the Government’s position that they will ensure that there is no physical border and no infrastructure, come what may, at the border?

Mr Davis: Yes, that is right.

Q148 Chair: Can you just explain how that could be the case if there were, heaven forbid, no deal at all?

Mr Davis: The first thing to say, Mr Chairman, is remember there is a border. It is a fiscal border, in a sense. There are different levy arrangements and tax arrangements, north and south. Indeed, I understand that there is a degree of smuggling that goes on now, so there is a border there now, in the first instance. We wrote up some of the mechanisms we have in mind in one of our 14 papers this summer including, as I mentioned earlier, a much bigger use of authorised economic operators, the use of exemptions for small firms and so on. There may be some ANPR on strategic roads back from the border, not at the border. There are two sides to this, which means the European Union also has to agree with the Irish Republic that they can do similar things. I make no bones about it: there will be a fiscal loss on it. There will be a tax loss, because it will be quite expensive, though nothing like as expensive as other things.

Q149 Chair: From the negotiations you have had thus far, is it your view that the Republic of Ireland and the EU 27 think that it is possible to have no border and no physical infrastructure, in the event of there being no deal?
Mr Davis: I think the Republic of Ireland takes that view. There has been a change of Government, and we have not really had time to settle down with the new people, although the Prime Minister has seen the Taoiseach twice, I think. The Commission shows a certain degree of scepticism, but we have taken the view bluntly that this is going to be completely dependent on what the future arrangements are. We will need to talk through them once we get to that point. We have not had time to do the detail of that yet.

Q150 Chair: The European Council just past decided that there had not been sufficient progress to move on to phase two. I think everyone is anxious that we should. What is going to change between now and the December Council to enable all of the things that you have spoken about today to actually happen?

Mr Davis: It would be unwise of me to try to pre-rehearse the next round of the negotiations, because that would not work, for a start. I remember you asking me last week what I was going to do in the next two days, I think. Truth be told, I had a fairly good idea of how it was going to play out but was not sure, but it did not require anything. From now on, we are going to have to work very hard on concluding the citizenship element. That has huge political leverage among the 27. We are going to have to work in some fine detail on Northern Ireland, but there is a limit to what we can do there. We are already going through the money issues, not coming to decisions but getting common understanding of what they believe their legal basis is and what we believe it is. Then we will have to take it from there, but that is about as far as I can go without pre-rehearsing.

Q151 Mr Chope: This is just a quick point. In a fortnight’s time, members of this Committee will be seeing Mr Barnier. Are there any particular questions that you think we should be asking Mr Barnier? In particular, do you think it would be helpful for us to ask Mr Barnier why he is still saying that it is going to take several years to negotiate the second part of this deal?

Chair: You can offer to write to us on this subject, Secretary of State, if you would like.

Mr Davis: No, I will volunteer to you straight away. Ask him what sufficient progress actually means. That would be a good start. Yes, you should ask him why he thinks it will take so long. Put the point of Mr Karel de Gucht to him—that a previous Trade Commissioner thought it was doable in that time. Why does he think it is not? The thing with the Commission is they do like to use time as a pressure point. You have seen it already and it is one of their standard tactics. We have to resist that in this case. What he is saying there is unnecessary. At the end of the day, you might ask him what guidance he has got from countries like Holland and Belgium about the idea of taking several years to come to a conclusion on something that would have a 3% to 4% impact on their GDP.
Chair: Thank you very much, Secretary of State, for coming today and for answering all our questions. If I may say so, you have made two very significant observations today. The first is your answer a moment ago, when you said that it is possible that Parliament might not vote on the deal until after the end of March 2019. I am summarising correctly what you said.

Mr Davis: Yes, that is possible in the event that we do not do the deal until then.

Chair: Secondly, you were absolutely clear, which is extremely helpful, if I may say so, that it is the Government’s policy, despite recent uncertainty—not to say confusion—that they wish to pursue and sort out the nature of the implementation period as swiftly as possible and not for that to be dependent on sorting out the deep and comprehensive future relationship. I think that will provide reassurance to many people for whom the implementation period/transition arrangement is very important indeed.

Mr Davis: I hope I have been clear, Mr Chairman, as always. Thank you for the courtesy of the Committee. It is always a pleasure.

Chair: We look forward to seeing you again soon and not in six months, so after the December Council.

Mr Davis: As long as you do not dissolve the Committee in the meantime, Mr Chairman, I am sure that will be the case.

Chair: I do not have any intention of doing that.

---

1 The Secretary of State originally said “Czechoslovakia” but later clarified that he meant “Czech Republic”