

Research Briefing  
**Negotiations on the UK's  
Withdrawal from the EU:  
Monitoring Report -  
08 February 2018**

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Produced for the External Affairs Committee



**National Assembly for Wales**  
Research Service

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# 1. Introduction

This report provides an update on developments relating to the Article 50 Negotiations on the UK's withdrawal from the EU since 17 January. Since this report was last produced the European Council has agreed on its negotiation directives for the implementation period. Negotiations between the EU and UK on the outstanding elements of the Withdrawal Agreement and the transition period have been continuing.

This paper provides:

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

## Summary of developments

Between 17 January and 6 February the **European Commission's Article 50 taskforce has published** a series of slides from meetings that have been held by the European Council's Informal Working Party on internal preparations for the future relationship. The slides set out the key issues being considered by the European Commission and Council in relation to the agreement on a Future Relationship with the UK. These include information on options and issues for agreements on fisheries, aviation, governance and security and defence cooperation.

On 18 January the second Inter-Parliamentary Forum on Brexit was convened. The Forum brings together parliamentary committees from Wales, Scotland, the House of Lords and House of Commons working on Brexit related matters. The Forum issued **a joint statement** at its conclusion. The statement noted the strong concerns of the Scottish Parliament and National Assembly for Wales on the EU (Withdrawal) Bill and urged the UK Government to take into account the perspective of all participants on the Bill as it progresses through the House of Lords.

On 24 January the Secretary of State for Exiting the EU, **David Davis, gave evidence to the House of Commons Exiting the EU Committee** on progress with the negotiations.

On 24 January the European Parliament's **Constitutional Affairs Committee** held a session to discuss the latest developments in the Brexit negotiations with Guy Verhofstadt MEP, the Parliament's Brexit coordinator and Danuta Hübner MEP a member of the Parliament's Brexit Steering Group.

On 26 January the Secretary of State for Exiting the EU **made a speech** on the UK Government's priorities for the transition period. The Secretary of State said that the UK would abide by EU rules during the transition period but also wanted the UK to be able to negotiate and sign trade deals during this period.

On 26 January the Secretary of State for Exiting the EU, the Secretary of State for Business and the Chancellor **wrote an open letter** to business on the transition period.

On 29 January the European Council agreed its **negotiation directives for the transition period**. The guidelines state that to retain access to the Single Market and Customs Union during a transition period the UK would need to abide by all EU rules and laws for its duration.

On 29 January David Davis **gave evidence to the House of Lords EU Select Committee** on progress with the negotiations.

On 30 January **the Shadow Secretary of State for Exiting the EU, Kier Starmer, asked an urgent question** in the House of Commons about the UK Government economic analysis report on leaving the EU leaked to **BuzzFeed News**. MP's were given access to the report on 7 February.

On 30-31 January **the Withdrawal Bill received its second reading** in the House of Lords.

On 2 February the Assembly's Constitutional and Legislative Affairs Committee published its report on **UK governance post-Brexit**.

On 5 February the External Affairs and Additional Legislation Committee published its report on the Welsh Government's administrative and financial response to Brexit, entitled **How is the Welsh Government preparing for Brexit?** The Committee makes seven recommendations in its report, including that the Welsh Government urgently examines the likely parameters of various Brexit scenarios, including a 'no deal scenario'.

On 5 February Michel Barnier, the EU's negotiator, visited Downing Street for a working lunch with the Prime Minister and the Secretary of State for Exiting the EU ahead of **further formal technical talks** between both sides between 6-9 February. **Press Statements** were made following the lunch.

On 5 February the House of Commons **Public Administration and Constitutional Affairs Committee visited the Assembly** to hold evidence sessions as part of its Brexit and Devolution inquiry. The Committee heard evidence from the First Minister for Wales, leaders of the opposition parties in Wales, the Llywydd of the Assembly and Mick Antoniw AM, Chair of the Assembly's Constitutional and Legislative Affairs Committee.

On 7 February the European Commission published a '**Position Paper Transitional Arrangements in the Withdrawal Agreement**'. The paper sets out a series of proposed legal clauses or articles to be included within a Withdrawal Agreement that would govern the UK's rights and obligations during the transition period.

On 7-8 February members of the UK Government's Cabinet met to discuss the UK Government's priorities for a future relationship with the EU.

## **Latest developments and documents published**

### **The Negotiations**

On 26 January the Secretary of State for Exiting the EU, David Davis, **made a speech in Teesport** on the UK Government's priorities for a transition period after the UK leaves the EU. In his speech the Secretary of State said that the transition period would be strictly time limited to the time it takes the UK to prepare to leave. He stated that the UK would follow all of the EU's existing rules and regulations during a transition period and that the European Court of Justice would continue to have a role in overseeing those rules for the duration of the transition. The Secretary of State outlined that the transition period would allow the UK to get the necessary infrastructure and systems in place. The Secretary of State outlined the UK Government's view that the UK would be able to design a new immigration system during transition and would be able to formally negotiate and sign new trade deals. Although the trade deals would only come into force once the transition period ends. The UK

will not be a member of the EU during the transition period and would not be a member of any of the EU's institutions. The Secretary of State outlined his belief that the UK will reach agreement with the EU on the transition period by the March meeting of the European Council.

On 29 January the European Council adopted **its negotiating directives** on the transition period, enabling Michel Barnier to begin negotiations with the UK on the EU's behalf on this issue. In the directives the Council outlined its view that the UK would not be able to adopt a sector-by-sector approach to the transition, something previously suggested by the UK Government. The Council concluded that to maintain access to the Single Market and Customs Union, the UK would need to abide by all the rules and regulations of the EU and that new EU law's adopted during the transition period would also have to apply to the UK even though the UK would not formally be a member of the EU or its institutions. The directives state that the UK should be required to abide by the EU's trade policy and would not be able to enter into any new trade agreements without first getting the permission of the EU to do so. The Council set out its desire for any transition period to end by 31 December 2020.

The EU currently has a number of trade agreements with third party countries such as Canada and South Korea which the UK benefits from through its membership. Speaking **at a press conference** following the adoption of the negotiating directives, Michel Barnier stated that whilst the EU was content for the UK to continue to benefit from these agreements during the transition period the UK would need to agree this separately with those third party countries.

In his **evidence to the House of Lords EU Select Committee** on 29 March the Secretary of State for Exiting the EU provided further information on his views on the implementation period, the sequencing of the negotiations and how any agreement would be ratified in the UK. The Secretary of State reiterated his view that negotiations on the transition period would be concluded by March and stated that he also expected the European Council to publish its negotiating guidelines on a future relationship by then. He expected all negotiations to have concluded by October 2018. The Secretary of State outlined that once agreement had been reached with the EU, the UK Parliament will have a vote on the agreement. Subject to the vote being in favor of the agreement, the UK Government would then introduce a Withdrawal and Implementation Bill which would ratify the deal. He outlined that he would not want to sign a Withdrawal Agreement without knowing the substance of the future partnership.

In terms of the future partnership the Secretary of State outlined his view that there would be 20-40 different strands of negotiations that would end in several different agreements and treaties, for example a Free Trade Agreement, a treaty on fisheries, a treaty on data, a treaty on security and a treaty on defence. In relation to whether new laws agreed by the EU during the transition period would apply to the UK, the Secretary of State argued that this would not be a big issue due to the average length of time it takes the EU to agree new laws. Meaning that not many new laws would be passed during the transition period that the UK hadn't had a say on prior to its exit next year.

On 29 January **BuzzFeed News reported** that a leaked impact analysis from the UK Government showed that the UK economy would be worse off under different scenarios post-Brexit. Kier Starmer MP, the Shadow Secretary of State for Exiting the EU **asked an urgent question** in the House of Commons on the matter on 30 January. Responding to the question the Under Parliamentary Secretary of State for Exiting the EU, Steve Baker, stated the content of the leaked document had not been signed off by the Cabinet and was a 'selective interpretation' of a preliminary analysis.

On 5 February the EU's Chief Negotiator Michel Barnier visited Downing Street for a working lunch with the Prime Minister and the Secretary of State for Exiting the EU. Following the lunch Mr Barnier **made a press statement** in which he said that three key things needed to advance in the negotiations: both parties needed to move forward with turning the Joint Report they agreed in December 2017 into legal text; the UK would need to accept that a transition period would be subject to the ratification of the Withdrawal Agreement and abiding by all the EU's rules and; the EU needed clarity from the UK about the sort of future partnership it wanted. Mr Barnier made clear the EU's view that if the UK leaves the Single Market and Customs Union there will be unavoidable barriers to trade in goods and services. The Secretary of State for Exiting the EU was reported in his statement to have said that it is already clear what the UK Government wants. It wants a comprehensive Free Trade Agreement and has already published a number of other position papers on issues such as customs.

Negotiations between the EU and UK on the outstanding issues from the Withdrawal Agreement, Ireland and Northern Ireland and the implementation period continued between 6-9 February. An **agenda** for this round of talks has been published.

Since 17 January the EU Commission's Article 50 Taskforce has **been publishing a series of presentations** that have been produced as part of the informal preparatory discussions within the European Council on its priorities for the future relationship with the UK. Whilst the slides in no way set out the EU's final position they provide a useful indication of the issues being considered by the EU as part of this work. Slides are available on International Agreements and Trade, Services, maintaining a Level Playing Field, Security, Defence and Foreign Policy, Policy and Judicial Cooperation, Governance, Fisheries and Aviation.

## UK legislation

On 25 January **the Sanctions and Anti-Money Laundering Bill**, which is necessary to ensure that the UK can implement international sanctions after Brexit, received its first reading in the House of Commons after completing the necessary stages in the House of Lords on 24 January. The Second Reading is scheduled for 20 February.

On 1 February the House of Commons Public Bill Committee completed its work on the **Trade Bill** and reported the Bill to the House without any amendments. The date for report stage has not yet been announced. Commons committee debate of **The Taxation (Cross-border Trade) Bill** also concluded on 1 February. The Public Bill Committee once again recommended that the Bill be reported without amendment. The Bill, together with the Trade Bill, is intended to allow the UK to continue its existing trade policy as far as possible immediately after Brexit by allowing the Government to create a functioning customs, VAT and excise regime for the UK. The Welsh and Scottish Government has proposed joint amendments to the Trade Bill in January 2018. These were tabled by the SNP in the Public Bill Committee but all were defeated.

The House of Lords Second Reading of the **European Union (Withdrawal) Bill** took place on 30 and 31 January 2018. The Bill revokes the European Communities Act 1972; provides that EU law will no longer apply in the UK; and converts most existing EU law into domestic law. 195 speakers debated the key principles and main purpose of the Bill over two days. The House of Lords Committee Stage is expected to begin on 21 February and take place over 10 days. No amendments were made to Clause 11 which places restrictions on the legislative competence of the devolved legislatures during Committee and Report stages in the House of Commons. However UK Government amendments to Clause 10 to change the requirement for Welsh Ministers to seek the consent of the UK Government in exercising the correcting power to a consult requirement and also to enable Welsh Minister to correct deficiencies in direct retained EU law but only in areas where a common framework is not

required were accepted. On 16 January the Secretary of State for Wales wrote to the Llywydd reaffirming the UK Government's commitment to amend Clause 11 of the Bill in the House of Lords.

On 29 January the House of Lords Constitution Committee published a report on the European Union (Withdrawal) Bill concluding that the Bill as drafted is constitutionally unacceptable. On 1 February the House of Lords Delegated Powers and Regulatory Reform Committee also published a report on the European Union (Withdrawal) Bill criticising the lack of sufficient parliamentary scrutiny of the power to make regulations delegated to Ministers.

## **Documents and Position Papers**

Since the last monitoring report was published the EU has published its negotiation directives on the transition period, a position paper on suggested clauses for inclusion in the Withdrawal Agreement and a series of presentations made as part of the informal internal discussions on a future relationship. These are added to the table below.



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

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

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

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

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

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

EU Paper	Contents EU Paper	UK Paper	Contents UK Paper
<p><b><u>Union</u></b> 7 September 2017 to EU 27</p>	<p>before the date of withdrawal but ends on or after.</p>	<p><b><u>21 August 2017</u></b> <b><u>Future customs arrangements: Future Partnership Paper</u></b> <b><u>15 August 2017</u></b></p>	<p>issues related to goods on the market at time of withdrawal will need addressing but does so with reference to its proposals for a future customs relationship and states that the issue should be addressed with reference to a future partnership.</p>
<p><b><u>Guiding Principles transmitted to EU 27 for the Dialogue on Ireland/Northern Ireland.</u></b> 7 September to EU 27</p>	<p>Principles set out for the basis of discussions of the relationship between Ireland and Northern Ireland. No solutions are proposed for the Irish border and the paper places the onus on the UK to propose solutions.</p>	<p><b><u>Northern Ireland and Ireland: Position Paper</u></b> 16 August 2017</p>	<p>The position paper states that the Common Travel Area (CTA) between Ireland and the UK should remain, that swift progress should be made on the issue and that the rights of EU citizens in Ireland will not be affected by the CTA's continuance. The paper does not propose specific options for the land border but sets out principles to test models against. It cross-references the UK Government's proposals for future customs arrangements. It states that no solution agreed should require a new customs border between Northern Ireland and Great Britain. It makes specific proposals on</p>

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

EU Paper	Contents EU Paper	UK Paper	Contents UK Paper
7 September to EU 27	withdrawal.		protections and obligations on information and access to documents as it currently the case under existing EU legislation.
None		<p><b><u>Future Customs Arrangements: Future partnership paper</u></b> 15 August 2017</p>	<p>The position paper proposes two possible options for a future customs relationship. A highly streamlined customs arrangement between the UK and EU or a new customs partnership with the EU where the UK would align its border with the EU in such a way that it would remove the need for the UK-EU customs border. The UK would leave the customs union and be able to negotiate its own trade deals under both options. Under the second option the position paper proposes that the UK would mirror EU requirements for goods from the rest of the world where their final destination is the EU. It states that this would be unprecedented and could be challenging to implement but</p>



EU Paper	Contents EU Paper	UK Paper	Contents UK Paper
			wishes to explore it with the EU. The paper proposes a time limited model of close association with the EU Customs union for a transitional period to avoid a cliff-edge for business and individuals on both sides.
None		<b><u>The exchange and protection of personal data: Future partnership paper</u></b> 24 August 2017	Sets out the UK Government's proposals for a new UK-EU model for the exchanging and protection of personal data based on the current EU approach. It suggests the Information Commissioner's Office could continue to cooperate with EU regulators.
None		<b><u>Collaboration on Science and innovation: Future partnership paper</u></b> 6 September 2017	It sets out the UK Government's proposals for a science and innovation agreement with the EU. It states the agreement should be broad and make room for new areas of research. It states that the UK's continued access to EU research and innovation programmes will need to be negotiated along with the size of any financial contribution the UK would have

EU Paper	Contents EU Paper	UK Paper	Contents UK Paper
			to make to participate in them. It states that this contribution would need to be weighed against the UK Government's other spending priorities. Reference to the participation of Welsh Universities in existing programmes and networks is made.
None		<b><u>Foreign Policy, defence and development: Future partnership paper</u></b> 12 September 2017	The paper proposes a future partnership with the EU on security and defence which is broader than any agreement the EU currently has with a third-party country. It sets out the areas where there is currently cooperation on defence, security and international development.
None		<b><u>Customs Bill White Paper: legislating for UK's future customs, VAT and excise regimes</u></b> 9 October 2017	The <b><u>White Paper on the Customs Bill</u></b> sets out the UK Government's initial proposals for a standalone customs, VAT and excise regime following the UK's exit from the EU. The White Paper includes proposals for a contingency scenario should no deal be reached with the EU on a

EU Paper	Contents EU Paper	UK Paper	Contents UK Paper
None		<p><b><u>Preparing for our future UK trade policy</u></b> 9 October 2017</p>	<p>future trading relationship.</p> <p>The <b><u>trade policy white paper</u></b> sets out the UK Government's preferred positions for a new trade policy and indicates what legislation will be needed to implement that policy. The paper sets out five priorities for a new trading policy.</p>
<p><b><u>European Council Conclusions</u></b> on progress made in the negotiations- 20 October</p>	<p>The Council concluded that insufficient progress has been made in the discussions on the Withdrawal Agreement to begin negotiations on the future relationship. It provided detail on where further progress is needed. It also stated that internal preparations between the 27 remaining Member States for discussions on a future trade relationship would begin.</p>	None	
None		<p><b><u>Sanctions and Anti-Money Laundering Bill</u></b> 19 October</p>	<p>The Bill is considered necessary to ensure that the UK can implement an international sanctions regime following its exit from the EU.</p>

EU Paper	Contents EU Paper	UK Paper	Contents UK Paper
None		<u>Technical Note: citizen's rights administrative procedures in the UK</u> 7 November	The UK Government published further details on how the system for EU Citizens to apply for permanent UK residency will work. This was sent as a technical paper to the European Commission.
None		<u>Trade Bill 2018</u> 7 November	The Bill provides ministers with powers to make changes to domestic UK law to implement the WTO's Agreement on Government Procurement and any necessary changes if the UK replicates some of the EU's existing deals with third party countries. It also provides for the establishment of a new Trade Remedies Authority and gives HMRC new data and information powers and duties in relation to export and trade.
<u>Joint Report</u> from the negotiators of the European Union and the UK Government on progress during Phase 1 of negotiations under Article 50 TEU on the UK's orderly withdrawal from the EU	Both the EU and the UK Government reached agreement in principle in the areas under consideration during the first phase of negotiations, enabling talks to move to the next phase. The report sets out their agreed	<u>Joint Report</u> 8 December 2017	

EU Paper	Contents EU Paper	UK Paper	Contents UK Paper
8 December 2017	position on protecting the rights of Union citizens in the UK and UK citizens in the Union; the framework for addressing the unique circumstances in Northern Ireland; and the financial settlement.		
<u>Communication from the Commission to the European Council (Article 50)</u> on the state of progress of the negotiations with the UK under Article 50 of the Treaty on European Union 8 December 2017	Based on the Joint Report from the negotiators of the EU and the UK Government, the Commission recommended to the European Council (Article 50) to conclude that sufficient progress had been made in the first phase of the negotiations.		
None		<u>Prime Minister's commitments to Northern Ireland</u> 8 December 2017	Prime Minister Theresa May set out six key commitments to Northern Ireland that guided her in the negotiations with the EU.
European Council <u>Guidelines</u> 15 December 2017	Following the decision that sufficient progress had been made, the European Council (Article 50) issued draft guidelines to move to the second phase of negotiations where a transition period and the framework for the future relationship will be discussed.	None	

<b>EU Paper</b>	<b>Contents EU Paper</b>	<b>UK Paper</b>	<b>Contents UK Paper</b>
<b><u>Supplementary negotiating directives</u></b> 20 December 2017	Supplementary directives for the negotiation of an agreement with the UK setting out the arrangements for its withdrawal from the EU.	None	
<b><u>Slides on Fisheries</u></b> 17 January 2018	Presentation on fisheries to inform the internal preparatory discussions on a future relationship.	None	
<b><u>Slides on Aviation</u></b> 17 January 2018	Presentation on aviation to inform the internal preparatory discussions on a future relationship.	None	
<b><u>Slides on Governance</u></b> 19 January 2018	Presentation on governance to inform the internal preparatory discussions on a future relationship.	None	
<b><u>Slides on Security, Defence and Foreign Policy</u></b> 24 January 2018	Presentation on security, defence and foreign policy to inform the internal preparatory discussions on a future relationship.	None	
<b><u>Slides on Police and Judicial Cooperation in criminal matters</u></b> 24 January 2018	Presentation on police and judicial cooperation to inform the internal preparatory discussions on a future relationship.	None	
<b><u>Council (Article 50) negotiating directives on the transition period</u></b>	Directives from the European Council setting out the guidelines for the Union's negotiator on a	None	

<b>EU Paper</b>	<b>Contents EU Paper</b>	<b>UK Paper</b>	<b>Contents UK Paper</b>
29 January 2018	transition period with the UK		
<b><u>Slides on a Level Playing Field</u></b> 31 January 2018	Presentation on a level playing field to inform the internal preparatory discussions on a future relationship.	None	
<b><u>Slides on Services</u></b> 6 February 2018	Presentation on Services to inform the internal preparatory discussions on a future relationship.	None	
<b><u>Slides on International Agreements and Trade Policy</u></b> 6 February 2018	Presentation on International Agreements and Trade Policy to inform the internal preparatory discussions on a future relationship.	None	
<b><u>Position Paper on Transitional Arrangements in the Withdrawal Agreement</u></b> 7 February 2018	Paper outlining suggested legal text on transition for inclusion in a Withdrawal Agreement.	None.	

## 2. Key areas of interest to the External Affairs Committee

Given the Committee's work on monitoring the negotiations and Wales' future relationship with the European Union of particular interest to the Committee will be the adoption by the European Council of its negotiating directives on the transition period and the Secretary of State for Exiting the EU's views on the same issue. The Council's negotiation directives set out its preference for a transition period to end on 31 December 2020. The Secretary of State for Exiting the EU has said the period would be time limited but has not set out a specific date. In his evidence to the House of Commons Exiting the EU Committee, the Secretary of State outlined his belief that the transition period could last between 21 to 27 months. The Secretary of State has outlined the UK Government's view that it should be able to negotiate and sign trade agreements with non-EU countries during the transition period. The European Council's directives outline its view that this could only be done with the consent of the EU. A key issue for some Welsh businesses will be whether they will be able to continue to benefit from the trade concessions and deals that the EU has with other countries during the transition period. The EU's Chief Negotiator, Michel Barnier, has stated that whilst the EU is content that the UK would continue to be bound by and benefit from these deals the UK would need to also agree this with the third party countries themselves.

Another issue of particular importance to the Committee has been the impact of Brexit on Welsh ports and particularly the impact the resolution of the Northern Ireland, Ireland border issue could have upon them. In his evidence to the Lords EU Select Committee on 29 January the Secretary of State for Exiting the EU answered further questions on the issue and what was agreed with the EU in the Joint Report on the Withdrawal Agreement. In the Joint Report the UK stated that its preferred option was to avoid a hard border between the two countries by reaching an agreement with the EU on a future partnership that enabled this to happen. The Joint Report went on to say that in the absence of agreed solutions between the UK and EU, the UK would avoid a border between Northern Ireland and Ireland by ensuring:

*.. full alignment with those rules of the Internal Market of the Internal Market and the Customs Union which, now or in the future, support North-South cooperation, the all-island economy and the protection of the 1998 Agreement.*

The Lords EU Select Committee asked the Secretary of State for Exiting the EU to clarify what 'full alignment' would mean. The Secretary of State said that it would mean alignment of 'regulatory outcomes' rather than maintaining the exact same legislative texts. He stated that the UK Government believed it could do a 'more efficient job' of regulation but this would not lead to a reduction in standards or outcomes.

In terms of the European Union (Withdrawal Bill), the fate of Clause 11 and other clauses about devolution continues be of particular interest to the Committee. The House of Lords Committee Stage is expected to begin on 21 February. The UK Government has committed to amending Clause 11 of the Bill in the House of Lords. On 1 February 2018 the First Minister and the Cabinet Secretary for Finance met with Cabinet Office Minister David Lidington in Cardiff for 'bilateral discussions on the EU Withdrawal Bill.'



### 3. Welsh Government Response

On 29 January the Cabinet Secretary for Finance visited the House of Lords to brief peers on his concerns with Clause 11 and other provisions of the EU Withdrawal Bill. Welsh and Scottish Government amendments to Clause 11 to the Bill were tabled again at report stage but were not called. The UK Government has not yet brought forward its own amendments to Clause 11 but has committed to doing so in the House of Lords. Following the meeting in the House of Lords, Mark Drakeford **said**:

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*What we now need is that the UK Government will come up with a satisfactory amendment early enough to mean a fight is not necessary. Be in no doubt, however, that if such an amendment is not produced, we will do everything we can to defeat this aspect of the bill and to bring about the changes which protect the devolution settlement across the UK.*

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On 1 February the First Minister and the Cabinet Secretary for Finance met with Cabinet Office Minister David Lidington in Cardiff for 'bilateral discussions on the EU Withdrawal Bill.'

The First Minister has previously **stated** that it is regrettable that the UK Government has not introduced any amendments to the "wholly unacceptable" Clause 11 and that it was his intention to submit the Welsh Government's Continuity Bill to the Llywydd before the end of January for her determination. The National Assembly unanimously agreed a motion to note the proposal for a Continuity Bill on 17 January. The **BBC reported** on 29 January that the Welsh Government has now presented a Continuity Bill to the Llywydd for advice on whether the legislation could be passed by the Assembly.

On 18 January the Welsh Government published amendments to the Trade Bill, developed jointly with the Scottish Government. The Welsh Government considers it unacceptable that the Bill places restrictions on the executive competence it gives to Scottish and Welsh Ministers, while placing no similar restrictions on the executive competence given to UK Ministers; and it gives UK Ministers concurrent powers in devolved areas which are exercisable without any requirement for Scottish or Welsh Ministers' consent. The Welsh Government also considers that the Trade Remedies Authority should have input from the devolved nations as well as the Secretary of State.

The Welsh Government's written statement states that:

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*the Scottish and Welsh Governments cannot recommend that our respective legislatures give their legislative consent to the Bill as it is currently drafted.*

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On 2 February 2018 the Welsh Government published Trade Policy: The Issues for Wales the latest in its series of Brexit policy position papers, supported by an economic impact analysis from Cardiff Business School entitled EU Transition and Economic Prospects for Large and Medium Sized Firms in Wales. The policy position paper:

- Reiterates the Welsh Government's position on the future relationship it believes the UK should have with the EU, the Single Market and Customs Union;
- States that the Welsh Government remains unconvinced that leaving the Customs Union to pursue an independent trade policy is in Wales' interest and the UK Government has not provided sufficient evidence that Wales would be better outside the Customs Union;

- Calls for the UK Government to provide further details on how a transitional or implementation period will work and for the period not be time limited in arbitrary way;
- Provides some analysis of the sectors of the Welsh economy most likely to be effected by tariff and non-tariff barriers between the UK and the EU. Those sectors identified as being most at risk from tariff and non-tariff barriers are the automotive industry, chemicals, steel, electrical engineering, aerospace, Welsh lamb exporters, shellfish producers and food processing;
- Reiterates the Welsh Government’s call for the establishment of a UK Council of Ministers to discuss issues such as trade but in the interim calls for the establishment of a Joint Ministerial Committee on International Trade;
- Sets out principles for the engagement of the UK Government with Devolved Governments on Trade including, that the UK Government should work with the Devolved Governments to develop a UK Trade Policy and Framework, that Devolved Governments should be consulted on negotiating mandates for trade deals and during negotiations and that the UK Government should consult Devolved Governments at the end of trade negotiations.