

Select Committee on the European Union

Corrected oral evidence: Scrutiny of Brexit negotiations

Wednesday 12 July 2017

5 pm

Members present: Lord Teverson (The Chairman); Lord Crisp; Baroness Falkner of Margravine; Earl of Kinnoull; Baroness Suttie; Lord Woolmer of Leeds.

Evidence Session No. 1

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Questions 1 - 8

Witnesses

[I](#): Michel Barnier, EU Chief Brexit Negotiator; Sabine Weyand, Deputy Chief Negotiator; Stéphanie Riso, Principal Adviser; Tristan Aureau, Deputy Diplomatic Adviser.

Examination of witnesses

Michel Barnier, Sabine Weyand, Stéphanie Riso and Tristan Aureau.

Q1 **The Chairman:** Welcome, Mr Barnier. We very much appreciate your giving your time to us this afternoon. Would you like to make an opening statement?

Michel Barnier: *[Interpretation]* Since this meeting is important for me—it is important in my eyes—I have my deputy here, Sabine Weyand. Before she was with me, she was deputy director-general dealing with trade here in the European Commission. My main counsellor, Stéphanie Riso, is an economist, who dealt with budgetary matters with me previously. Tristan Aureau is a diplomatic counsellor and a member of the Conseil d'État in Paris. You are very welcome here and I am delighted to meet the House of Lords for the first time in this capacity. As a European Commissioner, though, I have already been to hearings with the House of Lords, so it is not my first time in all.

Before I answer questions, perhaps I could say a few words about the general architecture of the extraordinary negotiations that we are in. We had an initial meeting with David Davis, about three weeks ago now. We agreed with him on a certain number of organisational matters, such as a timeline for the negotiations. There will be a monthly cycle with one week of negotiations per month each time. That is both a lot and not very much, if you see what I mean. It is a week that has to be used properly.

I am in a rather peculiar position, because I am a negotiator for the European Union in the name of the Commission, and of course I represent 27 Governments. I am also working with the European Parliament. I am here as a negotiator in a college; although I am no longer a member of the College of Commissioners, I know how important it is to be collegiate. Checking that what I say—the negotiating lines on the Union side—is agreed by everyone is a lot of work. It is difficult for me and for my co-workers. There is a lot of work in consultation and in dialogue with the Council and working groups specialising in Brexit, as well as with the European Parliament and of course here with the college. A lot of co-ordination work has to be done between those weeks. That timeline is set till October. We decided that we would set up a number of working parties. That is what we agreed with David Davis on subjects that we regard as the ones that matter in an orderly withdrawal—a separation—which has to be organised pursuant to the treaty and which your country asked for after the referendum.

One of the working parties that we have set up will deal with securing citizens' rights; another will deal with the financial settlement—that is, the settling of accounts at the point of separation—and other subjects related to this separation. We decided to open a high-level political dialogue between Sabine Weyand and Olly Robbins, Theresa May's Sherpa, on matters related to Ireland. That is the operational set-up that

we have in place and that we will use as of next week, without wasting any time because it is a negotiation that is extraordinarily complicated—even more so, I would think, if I were simply to listen to the debate going on in the UK.

You are talking about unravelling 43 years of a relationship and of integration, with 850 international agreements that we signed together. That is not something that I am putting to you simply to express regret; I am saying that we have to implement the decision that has been communicated to us by the Government, although personally I do have a lot of regret. I am a politician and a political person, and I remember that my very first vote as a young French citizen, in 1972 when I was 21 years old, was in the referendum that we had in France on the accession of the United Kingdom, Ireland, Denmark and Norway, and I fought very hard for a yes vote. It was not that easy because I was part of a Gaullist party—I still am, for that matter—but I never regretted that vote.

It is a paradox that I am now entrusted with this negotiation on unravelling that. Nonetheless, it is our objective to succeed—never doubt that—to make it a success and to respect the lines that we have been given on the integrity of the single market. At the end of the negotiation it must be clear that the best relationship with the EU will be to be a member of the EU, and that any country that is not a member of the EU will be in a less favourable position than countries that are members. However, I want to reach an agreement because I know the cost and the price of no deal. One of the reasons for the speech that I made in the European Economic and Social Committee here last week, when I said what no deal means, was that I think it is a subject that should be better understood on both sides in the negotiation, certainly on the British side.

We are working with a view to a positive result, while of course respecting certain principles—for us, a balance of rights and obligations; the integrity of the single market in respect of the four fundamental freedoms for the proper functioning of that internal market; the autonomy of the decision-making process of the EU, which means that a third country cannot at any stage have an influence or a right of veto on the drawing-up of the rules that apply in the Union; and, lastly, something that is very important, and we will return to it, the level playing field that must exist and accompany our future partnership. So those principles are at the heart of the mandate that was unanimously given to me by the 27 Heads of State and Government in the European Parliament's resolution.

Another fundamental matter that I need to give you a word of explanation on relates to what we call the sequencing. I proposed the sequencing not to create problems but to solve them. The thing is that in Brexit—which your country decided—as in any separation, there are subjects of legal uncertainty, there are costs and there are legal constraints that need to be dealt with, as the treaty requires, and they are matters of priority. Some of those questions are extremely sensitive, not just in the UK. That is certainly true of citizens' rights, affecting 4.5

million people or thereabouts, with 1.2 million British people living and sometimes working, although a lot of them are retired, in the 27 countries of the EU. I was president of the Savoy region in the French Alps, and I have had a lot of British people live around me. I was very happy to have them there, by the way, and we want them to stay. However, there are also 3.2 million citizens of the 27 who live and work in Britain and participate in the British economy, and we have to make their position secure. So it is a very sensitive and complicated matter.

The other sensitive and complicated matter is the budget. I had the opportunity this morning in a press conference to say that I do not accept it when people use words like "ransom", as Mr Farage said in the European Parliament. There is no ransom, exit bill or punishment. All there is, as in every separation, is that you look at commitments that you have entered into together and you settle the accounts. It is no more and no less than that. It really isn't.

We have to understand how sensitive this is, because it is the big risk of failure that I see in the short term in these negotiations. I want it to be made less dramatic and more objective, on the basis of legal principle, and I want us to discuss finding a compromise and a presentation and a way of looking at these expenses that is reasonable and that avoids having to break off thousands of programmes that were agreed and committed to on the basis of the undertakings entered into, by the United Kingdom with us and by us with the United Kingdom, for the current period of the financial perspectives, as they are called, under the structural funds, which I was responsible for as Commissioner some 15 years ago. There are literally thousands of programmes all over Europe—under the CAP, Erasmus, universities—that have been committed to and to which we have said we are going to pay this much money or that much money, and if the British share of that commitment were to go missing, thousands of programmes would have to be interrupted. That is why I am saying that that is the main risk of failure that we run. We have to solve that calmly and objectively on the basis of decisions legally entered into and well founded, and we are prepared to discuss that.

As to the rest, having found agreement on the principles underlying these big subjects—I am not forgetting the border and Ireland—in October or November, thereabouts, I would like to be in a position to recommend, on the basis of a clear agreement based on those principles and those three subjects, the opening in parallel of a scoping negotiation on the future relationship between the United Kingdom and the European Union. In other words, I am in favour of parallel negotiations, but parallels do not start at the same point, if you see what I mean. That is about it. We are here, and the parallel will start a bit further down the line in October or November, when we have solved some of the other issues and the principles, not the details. Then you start off on your parallel path.

It is also a political matter, because we have to have trust if we want, and I do want, to build a future partnership on trade, and it is largely about trade, and if we want to co-operate on security and defence and

fighting terrorism—a subject that I am personally very interested in, because I was French Foreign Minister for a while and I also worked very hard on defence as a Commissioner—and if we want to co-operate on other things, such as universities. To build that future relationship and to make it last we have to have mutual trust, and mutual trust is partly about settling accounts. That is the basis of the trust that we need to have. It is all about solving those questions.

Just one word about the future relationship and the perhaps short transition period that we might have between the two. I see the future partnership, the new partnership, as having an economic and trading basis or dimension on the one hand and that dimension of co-operation on security and defence on the other. I say “economic and trading”, because I asked the Minister for Brexit, who was there opposite me—I know David Davis well; he was Minister of European Affairs for the UK back in 1995-97 and I was Minister of European Affairs for the French Republic, so we know each other; he had the same ideas and we shared ideas back then, even—whether he would confirm that the UK is leaving the European Union, and the answer was yes. “Will you confirm that the UK is leaving the single market?” The answer was yes. “Will you confirm that the UK is leaving the customs union?” The answer was yes. So that is the position of the Government of your country, and we are working on that basis.

What is left, of course, beyond a certain number of co-operation agreements in good time, is all about building a free trade agreement of some kind, with one challenge, if you like, which is in the nature of a free trade agreement. We are used to doing free trade agreements; we have just done one with Japan, we discussed one with Canada, and we have one with Australia that is also on the loom. All those agreements were negotiated in terms of regulatory convergence, with about 60 countries in the world converging on us and us converging on them. In the case of your country, however, the set-up is the opposite. We are of course totally integrated now in the single market, and you will diverge mechanically. The questions that we have are: is that divergence reasonable? Is it under control? Is it mastered, and if so by whom? Or will it become a tool for regulatory competition with us? I ask this, because it is one of the keys to the success of the negotiation—not this one, not the one on Brexit but the next one, the one that I hope to open shortly on the future relationship.

Why do I say that? I do not know what form the second treaty, on the future relationship, will take, by the way, but I do know one thing: it will have a different legal basis. The basis will not be Article 50, which is a community article; at the end of that road is ratification by the European Parliament, the Council and the UK Parliament. The second treaty, on the future relationship, will be a mixed agreement that requires something different. Most likely, it will require ratification of all the parliaments of the 27 countries of the Union.

I am a national parliamentarian, a politician, and I know that ratification does not just happen at the wave of a magic wand, particularly where there are discussions, criticism and even campaigns that make the consumers, the unions, the business communities fearful of some kind of dumping perhaps or regulatory competition with us. We will have to find ways of reassuring people, which is why I will take the time to meet not just you—with a great deal of pleasure, by the way—but people in every capital city where I go every week, and I do travel. Halfway through my second tour of the capitals I am meeting Governments, unions, business organisations and national parliaments, because I am preparing some future ratification of that second treaty, and it is not too early to do so. I want to avoid polemic of the kind we had on Canada or TTIP, and that is why we are promoting a public debate and operating in complete transparency, which is quite unusual. We are very transparent on this. The idea is to give the public debate a lot of chances to succeed. I am sorry, I have been far too long. Thank you very much for listening to me.

The Chairman: Mr Barnier, thank you very much. You have probably answered a lot of the questions that we were going to ask, but I suspect that we have many more that arise from what you have said. That was really most useful. From a working point of view, so that we can make sure we are able to fulfil the meeting properly, how much time can you give us?

Michel Barnier: I have time.

The Chairman: That is an excellent answer, thank you.

Michel Barnier: Maybe even tomorrow morning. To be clear, I have a very British agenda. I am meeting Mr Corbyn, Madame Sturgeon and Mr Jones.

The Chairman: We certainly would not want to get in the way of that agenda, so we will go back tonight.

Michel Barnier: We have about an hour and 15 minutes.

Q2 **The Chairman:** Perhaps I can follow up a number of things that we discussed. You have covered a number of them, but one of the things we are particularly interested to understand, having of course read your speech last week to the Economic and Social Committee, is whether you feel, although the negotiations have only just started, that there is a constructive tone behind them and, if so, whether you see that continuing. I was particularly interested around the timetable side. Having met UKREP at the European Parliament, and after our discussions yesterday in the Lords with David Davis, there was a strong hope that this parallel negotiation, as you said, could start in October/November. We are particularly interested to understand, given the particular issue of the financial settlement that you have mentioned, whether you feel the Government are in a position where they might even get anywhere near the assurance that you might need on that side. Is October/November at all realistic?

Also on the timing, you mentioned the 850 international agreements—I remember the *Financial Times* going through them—and the issue that the follow-on agreement will be a mixed one, which means that the Commission does not have exclusive negotiating rights on any future agreement. You have said you want a successful negotiation by March 2019, although a lot of things have to be agreed well before that. Is that at all credible, given that agenda, those sorts of agreements and everything that has to be undone and redone?

Lastly on that, we have heard your concerns about whether the British Government actually understand the size of the issue. Do you feel that both sides now understand the size of the task ahead? There are a number of questions there, but they come back to the issues that you yourself have brought up.

Michel Barnier: *[Interpretation]* As far as we are concerned, we have indeed understood the size of the task. I have been doing this work since October. I have been working on this file with my team here, and it is becoming more and more complex. I assure you that we do not underestimate the difficulty. I certainly hope that the UK at all levels—political, technical, the Treasury, Foreign Affairs—and indeed everyone on your side is not underestimating the difficulty either. Quite simply, we have to understand the consequences of the decision to leave the EU. This is a very heavy, serious decision, with consequences at the human, social, legal, technical, economic and financial levels. The very least that we owe to our citizens is to tell the truth about what Brexit really means. We are certainly not underestimating the size of the task.

Once again, I hope that we swiftly get down to the discussion on the nine subjects that we have decided on. We have published nine specific position papers, and I hope the UK Government will be able to do the same in the next few days. That is entirely normal. It is what we expect and it is what citizens deserve. There are another eight subjects that will be put together in some comparative work. As I said to my colleagues in the College this morning, we have to say publicly where we agree and where we do not, and, on the basis of those statements, those findings, we have to work so that we can somehow come together.

We do not have much time. We are talking about October 2018 for our agreement, not March 2019, because we have to allow time for ratification by your Parliament and the European Parliament. I was an MEP myself, and of course the Council of Ministers has to agree as well. So an agreement on Brexit—the duration, the conditions and the nature of the probable transitional period, which will be short; the political agreement and statement on future relations—all that should be done by October 2018. That is why we need to set things out properly. We have to be orderly.

When you go up a flight of stairs, you certainly do not want to trip and miss a step. The first step for us is to take all the separation issues. There are three major issues among them: citizens' rights, the financial settlement and the question of borders. I hope everyone has understood

that these three subjects are inseparable, and that in October we should be able to mark down sufficient progress on all three of them, not just one or two. We have to find in October that there is sufficient progress and durable agreement in principle on these three subjects, and Sabine and Stéphanie will go into more detail about what we actually expect. We do not have to agree on all the details, of course—we will certainly need more time for that—but we need the principles to be decided on by October, and then we will work on the different categories of the population and their status, and on the details of the financial settlement, but we should have agreed by then on methodology.

There is also the question of Ireland. From next week, we are going to start working on specific aspects of the common travel area and the way in which we can maintain the spirit and all dimensions of the Good Friday Agreement, which I know quite well. In 2018 we will be working on the specific arrangements for border checks without there being any hard border. I am prepared to start all this, but we have to identify the subject. My responsibility is that in October we can say where there is sufficient progress and where there is not. That is the first phase. I would like us to open the second phase as soon as possible, but—

The Chairman: Mr Barnier, can I specifically ask this question: do you think, having spoken to the Secretary of State for Brexit, the British Government and all the other people that you speak to, that there is a realistic chance of getting to October/November and actually moving on, or do you think the UK side is so slow or whatever in bringing its papers forward—and of course it has its political issues—that this is not actually likely to happen? I am just trying to get a feel from your side so far on the negotiations.

Michel Barnier: *[Interpretation]* My position is known in the Union. On the question of citizens' rights, the UK proposal does not correspond to our demands or the expectations of citizens on both sides. Still, we have a position, there is disagreement, we can take stock of that disagreement and the points where we agree, and we can work on that. I do not know at all about the financial settlement. I do not know what the position of the UK Government is, so I do not have a starting position. Does your country recognise its commitments from a financial perspective? If the answer is no—in the words of your Foreign Secretary yesterday, we can go whistle—I am rather worried. If the answer is yes—David Davis said that you do have certain commitments—we can discuss the nature of those commitments and the legal basis. We want to do this work in an objective manner.

Once again, this is an explosive point. It is up to your Government to answer this question. I cannot know for the moment what the UK position is on eight of the nine subjects. That is why the next session is so important; it will be the moment of truth. You asked for a negotiating mandate. Do we then commit ourselves to that or not? I would like to stick to October, but it is possible that we will not. I am very sad about the divorce, the separation, but it is decided now, so I want to work on

our future relations for stability and for the European project. If the Government were to publish their position on these eight subjects, tomorrow or the day after, we would be able to start work seriously next week.

The Chairman: I think we are very clear on that. As you know, since you have had copies of the questions, we want to go into each of those areas. I will ask Lord Woolmer to take the first of those areas, which very much moves forward on this negotiating position.

Q3 **Lord Woolmer:** You said that you asked Mr Davis where he stood on three very important principles that the UK Government had set out initially in Mrs May's notification letter, and that he confirmed very clearly—or at least I understood him to say—that the UK Government stood by those principles. The immediate problem for you, he said, is not the ability or actuality of the UK Government responding in position papers to specific papers that you have put forward. That is what I understand the situation to be at the moment. Do you perceive any change in the UK's position or language since the most recent UK general election? Do you sense any change there, or do you sense that the UK Government are in the position they were when Theresa May issued the notification letter in March, whether in substance or style?

Michel Barnier: [*Interpretation*] Maybe I should have said something about the timeline and the constraints imposed by it. The referendum took place more than a year ago and we received a notification letter more than three months ago, but nothing has happened. I know there has been a general election in the meantime.

I cannot guess. I cannot speculate on the positions of the UK Government. I hear Ministers say things. I read everything very closely, and indeed everything you say. I read the account of David Davis's hearing yesterday, just as he probably reads mine, so I am sure that at least that way we are informed. I know that after the elections David Davis, the official representative of the British Government, with Theresa May's personal Sherpa—her counsellor—confirmed that the UK is to leave the Union, the single market and the customs union. That is all I can say. It is all I know. I have heard nothing else officially so far.

Q4 **Lord Woolmer:** You have used on a number of occasions the word "trust". You have used it again today and elaborated a little on it. You are an experienced politician of considerable repute. Do you have any concerns not merely about the clarity but about the resolution of the current UK Government to set out their objectives and papers and to carry through the assurances given? I am concerned to understand your use of the word "trust" so many times. I do not criticise it; I just want to understand.

Michel Barnier: [*Interpretation*] Yes, I did use it on a number of occasions. I use it carefully—I weigh my words—particularly with respect to one aspect of the separation, the divorce, which is the financial settlement. I am concerned, to be very frank with you, that the 27

Governments, the 27 national parliaments that are behind each Government, and the European Parliament, where I spend a lot of my time, need objective reasons to trust what we can do together in the future. If we do not find that trust and if we cannot find an agreement on settling the accounts, there will be no trust later. That is what I think. There will be no trust to do anything else later, and I want there to be trust later to do things together. That is why I use the word "trust" a lot, and that is why I wanted the sequencing to take place, because I want to take the drama out of the whole thing.

I want us to reach an agreement in principle quickly. I am prepared to work every single day throughout the summer. I am waiting for the UK's positions on subjects on which it has not spoken and on which there is no public position. If we are among responsible partners, if we are objective, we really should be able to reach an agreement. It is not possible not to find an agreement. Afterwards, there is the modality, the ways and means and all those details, but on the financial settlement we have to be able to reach an agreement on the things that the United Kingdom committed to, its obligations—it with us and we with you. Then one can start on the details about how one accounts for the guarantee fund in this or that programme or in the European Investment Bank. There are specialists for this. The EIB, by the way, intervenes massively in the UK. We can discuss the spreading of the payment over time. We can discuss certain European demands exhaustively. I am prepared to discuss all that, but we have to reach agreement on the fact that the UK has commitments that it entered into as equals with us.

Pursuant to those undertakings, there are thousands of town halls, municipalities, businesses and universities that have undertaken projects on the basis of those undertakings and commitments. If we are to cut 15% or whatever—that is the UK share—there will be an explosion everywhere across the board. You cannot build a relationship in trust on a situation like that. That is why we have to solve this question calmly and objectively. That is the spirit in which I and my colleagues here wish to work. My co-worker Stéphanie knows these budgetary matters very well and she will work in the working group on that basis, but we have to move forward. At some stage, we will discuss this line by line and find compromises, but there has to be a responsible position. You come from a great country—a responsible country—that I greatly admire, but you have to shoulder those responsibilities and face up to them.

Lord Woolmer: You mentioned a possible transition period. You were quite specific in saying that it would probably be short. Is that your position or your understanding of the position of the United Kingdom? What would you mean by "short"?

Michel Barnier: *[Interpretation]* "Short" means not unlimited, not open-ended. "Short" means that there is a framework, a timeframe. What is this all about? In some cases, you are talking about a phasing out—the kind of thing that we have in our position papers on legal, penal and criminal matters or Europol's work. There are many subjects where we

have to organise a phasing out. You will be leaving Euratom and Europol mechanically; it is an automatic process of phasing out. That is not a matter for discussion. How you continue the work intelligently on security, or on nuclear supplies for your hospitals, is another matter. Those things will be dealt with intelligently, but in subsequent agreements, which we are ready to organise.

Then there are transitional phasing-in arrangements towards a future relationship, as long as we agree on what that future relationship is. There is no reason why that period should be very long, but the time it takes is the time that we need to make the second negotiation a success. That is the one that I want to start very quickly at the beginning of next year—maybe even in December this year—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, co-operation on defence and all sorts of other things. We will need a few years. That period will be set in a framework, a transition period, and then there will be a new relationship. I cannot give you a time more precisely than that. I cannot even tell you the nature of it. All that I can say—and I can say this in the name of the EU—is that during that period we will maintain, in relation to the internal market, the regulatory architecture and supervision of the Court of Justice.

The Chairman: We have about 40 minutes left. I would like to tackle some of the other issues that we need to talk about. Perhaps Charles could start off on European citizens.

Q5 **Earl of Kinnoull:** Thank you. You have been very kind in giving some high-level input to us in your opening remarks, which was very helpful. It would be helpful to us again if you could give us a concentrated reaction to the one paper that the British Government have tabled so far, on citizens' rights. In particular, how far along the "sufficient progress" spectrum do you feel this paper has brought us in one of the three important areas?

Michel Barnier: [*Interpretation*] We would like to make sufficient progress together by October—Sabine Weyand will be able to say something about this—on very clear principles, such as reciprocity. We have a problem with the British paper on some of the reciprocal rights and the enforcement of those rights. If I read it properly, the proposal would mean that Union rights would be applied to British citizens resident in the Union and that British law would be applied to EU citizens in the UK, but we know that British law will be less favourable, so we have a problem with reciprocity. We have a problem with lack of certainty in relation to the implementation of British law and the jurisdictional aspect to the British courts without any guarantees on future laws. The procedure will be very heavy and cumbersome. Citizens with their children will all have to make individual requests to the UK on the basis of the British paper, which contains many expressions that are not legally clear: "We wish", "We are prepared to", "We hope". We have a basis for

working together; we have some substance there, and I would like to have that kind of substance on the other subjects as well.

Earl of Kinnoull: That is very helpful. It sounds as though we have made reasonable progress there.

To finish off my questions before handing over to colleagues, I would be very interested in having a bit more from you on one bit of detail. Certainly in your position paper and in some of your statements, it is clear that you want the European Court of Justice to have jurisdiction on what will be a third country. Do you have any other examples of where the European Court of Justice has jurisdiction within a third country? Perhaps you could comment on that in general, because it seems quite unusual.

Michel Barnier: [*Interpretation*] The whole negotiation is quite unusual. This is an extraordinary situation, and somehow we will have to find some solutions. We are talking about Union law. I have no hypothesis or solution other than to say that we will need to have recourse to the ECJ, because that is where the jurisdiction of the European Union lies for British citizens residing in the EU. In this specific case, EU law is going to be more favourable, and I have no other solution to offer you. There are not many other examples of this kind of relationship with a third country. The UK has accepted these rules, and often there has been recourse to the Court of Justice, which has worked well in the past.

The UK is putting quite an odd question here. If I were to give you an example, without getting into the legal niceties, this is not really directly linked to the ECJ but there is an implementation of this kind of law in the countries of the EEA. Norway and Iceland have accepted specific jurisdiction, which is backed up by the European Court of Justice, and there has been no contradiction between the two. That is my example to you.

Earl of Kinnoull: That is very helpful again. Thank you.

The Chairman: Perhaps we can move on to the area where you have been most explicit: the finance side. I will ask Baroness Falkner, who chairs the EU sub-committee that looks at that area in particular, to take the issue on.

Q6 **Baroness Falkner of Margravine:** Mr Barnier, I am sure you have seen the House of Lords report on the United Kingdom's obligation vis-à-vis the EU budget. The media made a big story about the fact that in our view there was no legal obligation, but they did not read the rest of the report, which said that there should indeed be a payment. I suggest that the United Kingdom Government did read that part of the report, so I will leave it to them to express when they will acknowledge that there should be a payment, which I hope, like you, will be sooner rather than later; I feel your frustration that they are not coming up with an acknowledgement that there should be a payment.

However, there is something that ties in very much with what you said

about trust, and I have a lot of sympathy with you on this matter. It is the first time we have heard that the trust issue arises from this. We suspected that was the case, but now we have heard it from you. If I may, I very respectfully mention to you your use of the word "divorce". First, "divorce" implies acrimony. You have said many times that you intend no acrimony at all to the United Kingdom. Article 50 exists in a treaty between consenting parties. It is just an agreement, it is a treaty, and perhaps we would all improve the public discourse—by the way, I said the same thing to Peter Altmaier, Mrs Merkel's close adviser—if we stopped using words like "divorce". Perhaps we could cool the temperature a little by using your term "the settlement of accounts", which is a very nice way of putting it. I completely agree with you that trust is about settling accounts.

Once we have put a bit of flesh on these bones, hopefully in the July or September meeting, on the fact that there will of course be a financial settlement, do you expect the principles to be agreed in the autumn to be sufficient—and, as you said, allowing for the technical work to be done by Sherpas and so on—when do you think we will have to present our publics with what we see as figures on either side of the negotiation?

Michel Barnier: [*Interpretation*] First, I take your point about the use of the word "divorce", and I will make sure that I no longer use it. The problem, as you know, is that I am French, and in France an amiable divorce, without acrimony, has legal status. I have friends who have divorced in this way; they have remained on good terms. Perhaps the word "divorce" has a different resonance in English, but certainly from now on I will talk about separation or an orderly withdrawal. Let us hope it is orderly. Perhaps the word in itself provokes a certain feeling that the separation is very serious, of great importance. We are talking about 44 years of integration that we are leaving behind us. We have had so much in common. I think we have had to use words that people understand, but I take your point.

On the question of what we expect, first, we expect recognition that commitments have been made and that the accounts have to be settled. There should be a settling of accounts—no more, no less. Secondly, we have to agree on the methodology. What should we count? There are some things that are extremely clear, such as the financial perspectives; others on which there could be some debate, such as on the common agricultural policy and direct payments; and subjects that have to be weighed up. Perhaps Stéphanie will take the floor, because she will be in charge of this question and she knows all about it, so she will speak briefly and will be able to add something. At the very least, I want us to agree by October.

There is an important point here relating to when withdrawal actually occurs. It cannot be that the longer it takes the less you pay. This is not an insignificant point. If we are looking at the date of March 2019 or maybe 2020, commitments will have been made before this period going to 2021, 2022, 2023, and perhaps later, so this is what we have to sort out. The UK has lots of commitments and will have to pay them.

Stéphanie Riso: On the methodology, it is important to agree first on the scope of the single financial settlement, because it concerns not only the EU budget and the multiannual financial framework but other elements such as the European Investment Bank, the European Central Bank, trust funds that the member states have agreed with each other, and the European Development Fund. So first there will have to be a scoping exercise on what the elements of this financial settlement are.

The MFF is a very particular animal; it does not resemble national budgets, so there is a discussion to be had on what we are talking about. The difficulty comes from the fact that it is delinked from any national procedures, so there seem to be some misunderstandings about what the MFF is and where the member states' obligations stem from within the framework of EU obligations. I think and I hope that this is the core of the matter that will be discussed next week: what are the member states' financial obligations vis-à-vis the EU budget with regard to timing, different elements and the legal basis? We are ready to have that discussion, which should lead to a common understanding. It is not about figures, as Mr Barnier just mentioned, because we cannot say today what they will be for the very reason he just mentioned: we will have annual budgets between now and the withdrawal of the UK, which means that some commitments made in the past will be paid over time. That is off the financial settlement, so we will have to wait for the timing of the withdrawal to know the figures. However, that does not preclude—in fact, this is our objective—our agreeing the methodology ahead of the withdrawal.

Baroness Falkner of Margravine: My understanding is that you want to agree the principles—the heads of report, so to speak—on those items. Naturally, that is a movable feast; draft amending budgets come to my Committee almost monthly these days, so we know well about that. That is all very well.

On the figures, today is the first time I have heard a figure from Mr Barnier: 15%. That is some way off our own calculation—and we are independent of the UK Government—which was roughly in the region of 12% to 14%, but that is interesting. It is of course a negotiation. All I can say is that I hope it goes smoothly, with pragmatism on both sides.

Michel Barnier: [*Interpretation*] I read your report very closely—every single page. In fact, David Davis used your report. He said, “The House of Lords says we don't have to pay anything. Look, here, it says it”. I thought, “That's not what I can read in the House of Lords report. It talks about uncertainties and arbitration in the case of an international dispute”. When it comes to paying, we manage the budget on behalf of member states, including on behalf of the UK, and we know what legal undertakings have been entered into as well as all the projects that depend on those legal undertakings. A figure of 12%, 14%—I said 15%, did I?—is a rough average. If you say 12% to 14% and I say 15%, we can discuss it, can we not?

The Chairman: That sounds like a deal, Michel! I hasten to add that I do not have that authority, although it would be interesting to go back to the UK having sorted it all out. If we can move on to an area where I know we all have very much a single aim to get it right, the Ireland situation, I shall hand over to Alison Suttie.

Q7 **Baroness Suttie:** Thank you, Commissioner. I know you have a long and personal commitment to the peace process. I believe that you recently spoke in the Dáil in Dublin, illustrating once again your strong commitment to ensuring that nothing is done to water down the Good Friday Agreement. We in the House of Lords Select Committee have produced one of the few comprehensive reports on this issue. I hope you may have had the opportunity to read our report on the impact of Brexit on the island of Ireland. Everyone seems to agree on the principle that we should have no hard border—no one disagrees on that—and that there should be no damage to the peace process and the Good Friday Agreement. However, no one is yet coming up with any concrete, practical solutions to take them forward. Could you say a little about what practical solutions, in your judgment, would be acceptable to the EU 27, and what would not? As you have said, you are already speaking on a regular basis with national parliaments in all the EU 27. I will stop there if you would like to answer that question.

Michel Barnier: [*Interpretation*] That is a very important point, not just per se for Ireland but in terms of a general explanation of my position as negotiator for the 27. Every day, I have to make sure that what I say around tables will be supported. In the case of Ireland, which is a unique case, I have to make sure that what I say or accept in negotiations is supported by the 26 other countries—26 because Ireland has a particular dialogue with us. If the others will not, I have a problem, so I have to check back all the time.

So what is at stake here? The conditions for entry and exit on to the single market—for goods, mainly—so it is the way in which goods come in and out of the single market, mainly for animal products or livestock. We have a constraint, which is also yours as a member of the Union, as you well know: the health of animals. I was Minister of Agriculture for my country at one time, and I can say that that is really important for consumer trust. So we have to find solutions.

The problem is that you have to get these things in the right order. If we find agreement at a political level on the political conditions under which we are working, we will find technical solutions. You do not want to get the technical solutions first. That is not the way it is going to work. Sabine Weyand is doing the political work along with Olly Robbins, and they will go into the detail of the common travel area, which is not that clear; not an awful lot is written down. I do not have a document that describes precisely what the common travel area is and how it works, so I am very glad for Sabine's contributions there.

As for the Good Friday Agreement, let me tell you a story. I went to Belfast when I was dealing with the structural funds in about 2000. I was

honoured and privileged to meet, in two different places at two different times, two Nobel prize winners, David Trimble and John Hume. They were not together but they said exactly the same thing about the EU: "We sat around the table after the tragedy of our two communities. That was not thanks to London, Belfast or Dublin. It was thanks to Brussels and the peace programme". I was responsible for the programme. That really touched me and I have never forgotten it. I will never do anything that would make that peace process and the Good Friday Agreement more fragile. We have to find solutions. We are going to work at the political level, and I will follow this personally.

At the right time, when we have taken a look at all the different elements and got them sorted and straight, there will still be one aspect that is very important, which you in the House of Lords are well aware of: the UK Government are a co-guarantor of the Good Friday Agreement, in all its dimensions. To find solutions to the Irish question, including Brexit, we need the co-operation of the British authorities, the co-guarantors of the agreement. That is an indication that I am giving you—a hint, if you like.

Baroness Suttie: I have one short supplementary. What in your view would count as sufficient progress to be able to move in October to phase two regarding Northern Ireland and the border issue?

Michel Barnier: *[Interpretation]* It is a different subject, is it not? It is not like the other two subjects; I want to make progress in parallel on the three. What would be progress? An agreement in the political dialogue group and a common reading of the obligations, and I think we can achieve that by October. Afterwards, I know that part of the technical solutions will depend on the nature of our relationship in future. If we have a free trade area, that is not the same thing as if we have something else. I do not want to imagine something else that your country does not want, but the Norwegian model, for example, has different elements of response in it. It all depends on the nature of the relationship, you see, and we will continue in 2018 in the light of the parallel discussion that I will be starting on the scoping of the future relationship. There is something I want to add, though. For me, the Irish question is unique, and the solutions that we find for Ireland will be unique. They will not be based on a precedent, and they will not be a precedent for anything else.

The Chairman: Perhaps I can now ask Nigel to move towards the future and explore a bit of that area.

Q8 **Lord Crisp:** I wanted to ask about the future relationship. You have talked about it a lot, and I was very struck by your point that normally in negotiations on trade with another country such as Australia or Canada you are moving towards regulatory convergence, whereas in this case you are probably looking at regulatory divergence, depending on how that works. How do you see that being managed? What are the options for trying to ensure that that does not destroy the long-term relationship that we have had?

I have a second question, if I can build on that. This has been an extremely helpful discussion. I do not envy you the complexity of this negotiation or indeed the number of parties that you have to line up. You are not just negotiating; you are orchestrating a meeting of minds around this. I would be interested in what you think the UK Parliament's role can be in helping that part of the process, and indeed whether at some point in the future at an appropriate time in the negotiations you would be willing to meet this Committee again, perhaps not only in the light of where we are but in the context of helping that meeting of minds.

Michel Barnier: [*Interpretation*] First, the answer is yes. I am not saying it would be next week, but I will certainly be at your service, and indeed I would be happy to meet your other colleagues who might want to come along as well, such as your Conservative colleagues. My answer is emphatically yes. Your Parliament, the House of Lords, the quality of the reports on Ireland and the financial settlement—all this is very important when it comes to an objective public debate that is less passionate and more specific and that gives facts, figures and legal bases, which after all are the reality of this negotiation. I would very much like public opinion in the UK to be enlightened. I would like to hold a lantern up for the country and shed some light on matters.

You in the House of Lords have authority and respect, and the same goes for the House of Commons. This work has to be done. We have to shed light on the matter and illuminate people about Brexit. That is what I would like to ask for. As I said, I am more than happy to be available. There are no secrets or ulterior motive. I deeply regret the decision taken by the UK, but it is the will of your people, and I want to manage this as intelligently as possible. Please do not hold it against me, but I am not in this position by chance. I accepted the task and was happy to do so. I am not surprised by its complexity. I am 66 and have been a Member of the European Parliament and a Commissioner twice, so I am not taken aback by the complexity of the issues or put off by the people I have to work with. I know you, we have already met, and I am very happy to meet the people from the UK in charge of this subject.

You talked about the risk of divergence. It is a risk, not a certainty. The repeal Bill is meant to bring EU legislation into British laws, and that is very good and important, but what will happen D plus 10 or D plus 20? How will your law and your standards develop?

These are also questions for the other member states. The mechanics of this divergence should not lead to unfair competition, because if we do not answer this question—of course, you can help us to find solutions to this because you have so much expertise, skill and competence, and you can help us to have a level playing field—I can tell you that there will be major difficulties in obtaining ratification of any future agreement in all countries, because there will be campaigns against the negotiations. It will be said that Brussels is conducting negotiations with the UK to downgrade environmental and social standards, for example, which will lead to more tax competition. If that happens, everything is over. I do not want that. I want us to make progress.

You ask what the House of Lords can do. You can help us with the mechanics of the level playing field. But this is for the second stage, so you have time to prepare yourselves.

The Chairman: Thank you, Michel. It is good of you to give us a task, un travail, to take back to the United Kingdom. You mentioned the admirable idea of coming over to the UK and shedding light on Europe and what goes on. I think there would be consensus among everyone from the remain and the Brexit campaigns—from both sides—that that is exactly what the referendum failed to do during the campaign. I think that would be the one area of unity between the two sides: that so little light was shed on anything.

I am very aware of the time. Clearly you have given us a task, but I would like to ask you if there is anything you would like to ask us, so that we can feed it back to you. There might not be anything, but if there is a question that you would like to ask us as a Committee, I am sure we would be very pleased to respond.

Michel Barnier: *[Interpretation]* I have a great deal of respect for the independence of the House of Lords and for your institution, so I certainly have no advice to give you. I have just talked about the subjects on which we need to find some kind of resolution. We need to meet and to discuss, even if it is conflictual. We have to come up with some solutions. However, as I said before, we need to take the heat out of this. We need to make it less dramatic. We need to focus on the facts and the figures.

Perhaps I may suggest a third subject. In the speech I gave last week that you referred to, I talked about the idea that I have heard from some Ministers in the UK debate that it would be better to say “no deal” in some instances. I think we really need to explain what “no deal” would mean. So perhaps the House of Lords could explain exactly that. We really have to weigh up the consequences. It is certainly not the option I would choose.

I conclude by saying that when we are in a classic kind of negotiation, “no deal” means the status quo. When France, my country, after a campaign, which was quite a caricature, voted against the European constitution, as it is called, the result of “no deal” was the status quo; we returned to the previous treaty. It was a mistake, but there you go. Here we would go back 44 years, and I think that also needs to be explained.

There will be no aggression in these negotiations. I will be calm but firm. I will not get irate. I am beyond that now—I am a bit too long in the tooth for it—but I will certainly be looking towards the future relationship that we will construct together. And when it comes to the economy, I do not think we should just be trading with the UK. We have common responsibility for stability and security on this continent and to play a role in the world. You will participate in European actions, possibly on a bilateral level for defence and security. There are lots of subjects for which we will maintain joint responsibility.

I would like to thank you very much for visiting us, and I look forward to seeing you again here in the future.

The Chairman: Thank you very much, Michel. Just one last thing: you said that David Davis quoted part of Baroness Falkner's report to you. Unfortunately, British Government do not always quote our reports, because they are very independent and look on both sides of these things. It might be nice if they looked at them more often.

Thank you very much for all the time that you have given us. We very much welcome the fact that you clearly would like a continuing relationship with us and no doubt with the House of Commons, which is going through its various selection procedures for Select Committees and setting those up. We have been slightly quicker in that regard. We have found this afternoon very useful, and although we are delighted to hear that you are not going to be aggressive or annoyed, I certainly admire your passion about the subject, and please believe that many of us are very passionate about it too.