



Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales

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[The External Affairs and Additional Legislation
Committee](#)

06/02/2017

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the Public for the Remainder of the Meeting

Cofnodir y trafodion yn yr iaith y llefarwyd hwy ynddi yn y pwyllgor. Yn ogystal, cynhwysir trawsgrifiad o'r cyfieithu ar y pryd. Lle y mae cyfranwyr wedi darparu cywiriadau i'w tystiolaeth, nodir y rheini yn y trawsgrifiad.

The proceedings are reported in the language in which they were spoken in the committee. In addition, a transcription of the simultaneous interpretation is included. Where contributors have supplied corrections to their evidence, these are noted in the transcript.

Aelodau'r pwyllgor yn bresennol
Committee members in attendance

Dawn Bowden Bywgraffiad Biography	Llafur Labour
Michelle Brown Bywgraffiad Biography	UKIP Cymru UKIP Wales
Mark Isherwood Bywgraffiad Biography	Ceidwadwyr Cymreig Welsh Conservatives
Steffan Lewis Bywgraffiad Biography	Plaid Cymru The Party of Wales
Jeremy Miles Bywgraffiad Biography	Llafur Labour
Eluned Morgan Bywgraffiad Biography	Llafur Labour
David Rees Bywgraffiad Biography	Llafur (Cadeirydd y Pwyllgor) Labour (Committee Chair)

Eraill yn bresennol
Others in attendance

Desmond Clifford	Cyfarwyddwr Swyddfa y Prif Weinidog, Llywodraeth Cymru Director of the Office of the First Minister, Welsh Government
Carwyn Jones Bywgraffiad Biography	Aelod Cynulliad, Llafur (Y Prif Weinidog) Assembly Member, Labour (The First Minister)

Swyddogion Cynulliad Cenedlaethol Cymru yn bresennol
National Assembly for Wales officials in attendance

Alun Davidson	Clerc Clerk
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Elisabeth Jones Prif Gynghorydd Cyfreithiol
Chief Legal Adviser

Rhys Morgan Dirprwy Glerc
Deputy Clerk

Nia Moss Y Gwasanaeth Ymchwil
Research Service

*Dechreuodd y cyfarfod am 14:00.
The meeting began at 14:00.*

**Cyflwyniad, Ymddiheuriadau, Dirprwyon a Datgan Buddiannau
Introductions, Apologies, Substitutions and Declarations of Interest**

[1] **David Rees:** Good afternoon. Can I welcome Members of the External Affairs and Additional Legislation Committee to this afternoon’s meeting, and the public? Before we commence, can I remind people that we are bilingual and if you require simultaneous translation from Welsh to English, that’s available through the headphones via channel 1? If you require amplification, that’s available through the headphones via channel 0. Please, if you have any mobile phones, make sure they’re on silent, and your iPads, so that we don’t get disturbed. In the event of a fire alarm—we are not scheduled for one—please follow the directions of the ushers. We also have apologies from Suzy Davies; there is no substitute who has been identified for Suzy this afternoon.

[2] **Michelle Brown:** Chair, I don’t have a translation machine.

[3] **David Rees:** Can we make sure we have a translation set for Michelle?

14:01

**Gadael yr Undeb Ewropeaidd: y Goblygiadau i Gymru—Sesiwn
Dystiolaeth gyda’r Prif Weinidog
Leaving the European Union: Implications for Wales—Evidence Session
with the First Minister**

[4] **David Rees:** We move into our evidence session this afternoon, and can I welcome the First Minister to this afternoon’s session? We’ll be looking

at the work in relation to the Welsh Government's White Paper. Would you like to introduce your official, First Minister?

[5] **The First Minister (Carwyn Jones):** Yes, I'm joined by Des Clifford, who's my principal private secretary. Des leads on European policy in the Welsh Government.

[6] **David Rees:** Thank you for that. Clearly, since the publication of the White Paper, we've seen various events occur: the Joint Ministerial Committee plenary has taken place here in Cardiff; the UK Government has published its White Paper; and the article 50 first vote has taken place within the Commons, so there's been quite some movement. On the basis of those later events, have you reviewed the UK Government White Paper in line with your White Paper to see if there are any gaps or differences between the two, and if there are, are they reconcilable or is there going to be a huge gap that you think there are going to be difficulties over?

[7] **The First Minister:** I think we have to look at what's been said as well as what's been written down in the White Paper. I've heard David Davis, for example, say to me that we are more or less in the same place when it comes to market access. The Prime Minister has said she wants, I think, the fullest possible access. So, it's right to say that we would want to make sure that Welsh businesses are able to export to the European market in the same way as they do now. That's what we've been told.

[8] In terms of the UK White Paper, I think I can sum it up in this way: it illustrates the complexities of Brexit, but doesn't offer any answers as yet. The purpose of our White Paper was not to act as a rival, nor was it intended to act as a form of criticism of the UK Government's position, rather to add to the debate as we secure the best outcome for Wales and the UK.

[9] **David Rees:** On those lines, clearly the Scottish White Paper was discussed at the JMC on EU Negotiations, at its last meeting, with the expectation that the Welsh Government's White Paper will be discussed at the next meeting. What confidence do you have that what you hope will take place will take place, in other words, that your views will be listened to and responded to in a positive manner, based upon, perhaps, the outcomes of the previous JMC(EN), where, from what we were gathering from all the comments coming out of it, it wasn't necessarily that progressive?

[10] **The First Minister:** So far, we have been told that the White Paper will

be considered at the next JMC(EN). We expect that to happen and for it to inform and influence the thinking of the UK Government as it looks to the way forward. It's usually important that the words that have been used so far are backed up by delivery, and we expect to see the UK Government's position being influenced by and, indeed, fed into by the White Papers of both the Welsh and Scottish Governments.

[11] **David Rees:** Thank you. If I move on to some questions from my colleagues, we start with Eluned on the block grant.

[12] **Eluned Morgan:** Before we go on to the block grant, can I just ask you, is it your understanding—? You gave us three options of what would be possible and what would be suitable arrangements for us, including, for example, the Norwegian model. It strikes me, in what the Prime Minister has said, that the only option available to us now is that bespoke model. Is that your understanding?

[13] **The First Minister:** I'm not sure that they understand what sort of model they want, thus far. I don't say that in a prejudicial way, but I see no evidence of any developed thinking, yet, as to what the final model will look like. The Norwegian model is a model that certainly can be considered by the UK, I believe. It doesn't fit completely, as of course the nature of the free trade agreement that Norway has with the EU means that, for example, agriculture is excluded, which is something we wouldn't want to see, I'd suggest, in Wales.

[14] Given the fact that the UK Government has conceded that there will be no full control of the UK's borders because there will be an open border with the EU in Ireland, to which there's no solution as yet, it's difficult to see what kind of model they would propose at this stage. I believe that what we've put forward, which is a modified system of freedom of movement, is a sensible and rational model that should be considered.

[15] **Eluned Morgan:** Okay. I know other people want to do the Norwegian model, now—

[16] **Dawn Bowden:** Shall I do that, then, because—

[17] **David Rees:** Go on.

[18] **Dawn Bowden:** —obviously, it was the issue around the alternative

model that I wanted to ask you about, First Minister. You've talked about the Norway model in terms of freedom of movement. In Plenary, you've mentioned that and in other places. Can you perhaps just expand a little bit more, now that we've got a little bit more time than we have in Plenary, on the difference between the Norway model in relation to free movement, as opposed to what we have now? I guess what I'm asking is: can we have that without a single market? And, are there any other models across Europe that, if that wasn't applicable, we could use? Perhaps we'll just start there and then we'll take it further.

[19] **The First Minister:** Well, having been to Norway, it's clear to me that the Norwegians keep within the letter of the law with regard to freedom of movement, but interpret it in a different way, in a more restrictive way—at least in theory. The UK took a far more generous approach when it came to freedom of movement. The difference is this: the current system is an unqualified right of freedom of movement for EU citizens within the EU member states. The Norwegian model is closer to there being a freedom of movement to work—to get a job or look for a job within a certain amount of time. So, it is a narrower and more restrictive model, but nevertheless appears to be within the rules that already exist.

[20] **Dawn Bowden:** The current rules. And, would it be possible to have an arrangement like that under a bespoke model? So, is there an opportunity, in your view, for us to negotiate something like that, which would be a free movement arrangement that applies now to one particular nation or in a particular area, but something similar to that could apply if we had to have a bespoke model?

[21] **The First Minister:** It's possible. The problem is that nobody knows what a bespoke model looks like. This has never been done before on this scale. The point is that it's possible to have a system that's different to the current system of freedom of movement and its interpretation in the UK, and yet still maintain that access to the single market. It's not a question of: accept freedom of movement as it is, or nothing.

[22] **Dawn Bowden:** Yes, okay. Can I just ask you, because, again, I'm not completely familiar with the Norway model? Access, as I understand it, as you've explained, is if someone has a job to go to, then they have access. What happens if they lose employment while they're there? Do they claim benefits? Are they sent straight back? What happens in those circumstances?

[23] **The First Minister:** No. They have, in my understanding, three months to look for another job, at which point, they then are required to leave. The other difference is that, when people arrive in Norway, they're required to register with the police in a way that doesn't happen here.

[24] Another question that arose in Norway was this: in the future, people will be required, I suspect, to prove that they are able to work in the UK. As far as UK citizens are concerned, they can do that by way of a passport, but that's optional, or they can do that by way of a driving licence, but not everyone has a driving licence. It tends to suggest that we will move to a system of compulsory or quasi-compulsory ID cards in order for people to be able to prove that they are UK residents. At the moment, the practice is that people are required to produce the original copy, or the original letter, rather, that they receive from the UK Government with a national insurance number on the letter, but, of course, there's no photo ID on that letter, so we may end up—this is a question I put, half in jest, to David Davis, a well-known opponent, of course, of compulsory ID cards, that this may well be where we end up—that, in order to work in the UK, you'll have to produce a photographic identification, which, effectively, means a compulsory ID card.

[25] **Dawn Bowden:** Okay. Thank you. Thank you, Chair.

[26] **David Rees:** Jeremy on this point.

[27] **Jeremy Miles:** Can I just develop this point about the nature of the difference between the Norwegian rules and the UK rules? Within the EU, there's a concept of union citizenship—EU citizenship—which applies in the UK, as it does in all other member states. That concept doesn't exist in the EEA agreements.

[28] **The First Minister:** That's right.

[29] **Jeremy Miles:** So, it may go beyond interpreting the same rules more strictly into having slightly different rules, because of that absence of the concept of union citizenship in the Norwegian arrangements. Is that something that is being explored—the difference inherent in that—by the Welsh Government and the UK Government?

[30] **The First Minister:** It is said to us that the rules are the same, even though it's right to say there's no concept of EU citizenship in the EEA agreement; but, nevertheless, the application of the rules appears to be

different. I don't suggest that the Norwegian model is 100 per cent the right fit for the UK—I've already mentioned the issue with regard to agriculture. But what it does show is that it isn't simply a binary choice between the existing system or nothing, in terms of any kind of freedom of movement, that there are other options that the UK can look at, as it leaves the EU, that should be considered in order to maintain our access to the single market.

[31] **Jeremy Miles:** Okay, thank you.

[32] **David Rees:** We'll go back to Eluned and your question on the block grant.

[33] **Eluned Morgan:** Yes, sorry, we'll come back to the question on the block grant, which is—. You've suggested in your White Paper that you'd like to see an uplift in the block grant to reflect the fact that, had we remained in the EU, then we would have had a certain amount of money. I just wonder why you've come to that particular conclusion. Did you explore any other options? Why was it that that was the right answer? I just wonder whether you have any concerns, for example, over what that might look like 20 years from now, if you consider the fact that, at the moment, yes, you can say that we get x amount from agriculture—. Twenty years down the line, people from the north of England might look at that block grant and say, 'That's completely unfair', because we'll be out of the Brexit bubble.

[34] **The First Minister:** I suspect they already think that with Barnett. What we have to do is to compensate for the loss of European funding in so many areas. What we can't do, however, is accept a Barnett share in every area, because, particularly with agriculture, a Barnett share would represent a gigantic cut in funding for Welsh farmers. There is no other mechanism in place at the moment. If other mechanisms can be explored—. Let's take farming, for example: with farming subsidies, it would be possible to set up a system where the current pot of money is provided by the UK Government and it's shared out in the same way as it is now. That's one possibility, but, historically, in the UK, that's never been the case: any kind of public spending in Wales has been funded through Barnett. So, the point we make is that, yes, we are looking for an uplift in the block grant in the absence, at this moment in time, of any alternatives.

[35] **Eluned Morgan:** But did you explore, for example, the idea of the UK subsidising the whole of Wales, effectively, as an enterprise zone? How much did you think beyond the idea of just one switch of funding? Did you explore

any other option? Is there still room to think about other options?

[36] **The First Minister:** There's room to think about other options. I couldn't accept the UK designating Wales as an enterprise zone. That would mean that the Welsh Government would lose control over, for example, areas of economic development—I'm happy to work with the UK Government, but it shouldn't be on the UK Government's terms; it would have to be agreed.

[37] **Eluned Morgan:** Yes, okay. Can I ask you—? I've had a look, obviously, at your paper—I can't see any specific mention of the transitional funding that we would have expected, had we remained a part of the EU, in terms of structural funds. Is there a reason why there's no specific mention of those transitional structural funds?

[38] **The First Minister:** That would be included and considered in terms of the funding that we would get via the block grant. The argument of the Secretary of State for Wales is that we shouldn't expect to see structural funds—structural funding—continuing in the future, given the fact that it's our ambition not to qualify. That is a point, but the point is, of course, that we need to make sure that there's transitional funding there. So, as part of the negotiations surrounding the block grant, I would expect there to be, at the very least, an equivalent sum of money set aside on annual basis that would have covered the transitional arrangements that would have been in place had we stayed in the EU.

14:15

[39] **Eluned Morgan:** But there's no specific reason why you left it out of the White Paper.

[40] **The First Minister:** No. It's not been left out for any particular reason.

[41] **Eluned Morgan:** Okay. I just wonder if you could say something about the—what assurances you can possibly give to constituencies like mine that receive a huge amount of funding from common agricultural payments, which, in future, will have to fight with health for that funding, if it were to come as a revision of the block grant. What assurances can you give, then, that, actually, that money may come to them in future?

[42] **The First Minister:** Well, in terms of farming subsidies, I can give no assurances at all. What I know is that assurances have been given by the UK

Government until 2020—beyond that, nothing. Now, we can't find £260 million out of our own budget to compensate farmers for the loss of European funding, which is why we make the point that it is another responsibility of the UK Government to find that money, as per the promise that was given in the referendum. The difficulty for farming is that if farming payments do become part of the block grant then, of course, farming is fighting against health and education for that funding. I'm sure that farmers would argue that a cleaner solution would be for an equivalent sum of money to be made available by the UK Government from the supposed Brexit dividend, and that money then shared on the same basis as it is now.

[43] **Eluned Morgan:** Can I ask you about the single market in terms of the creation of a new UK single market if we were to leave the EU? What are the big issues that you would have to deal with there, and has that been something that's been explored in your joint ministerial council?

[44] **The First Minister:** I raised this very point last Monday in the JMC. I don't think it's understood, bluntly, in Whitehall. There are some who seem to take the view that the UK would revert back to what it was in 1972: a unitary state. I agree that we shouldn't jeopardise the internal single market, but the way to ensure that doesn't happen is to ensure that there are common frameworks and rules that are agreed between the four Governments, not imposed by one Government on the other three. For example, in farming and fisheries, why would we accept a quota that's imposed on Wales rather than agreed by all four Governments? The Scots would never accept that, and there's no way that we should either. But there's no reason why we can't agree these things between us. Would we want to have three different animal health regimes? No, I suspect not. In practice, we have one now that's agreed, so—these things can be agreed. But the key point is that these issues should be resolved by agreement between the Governments and not by imposition. The second point is this: if you have an internal single market, you need to have rules. You need to have your own state-aids rules. Who enforces them? In every other single market, there's a court—the ECJ does this in the European single market. There would have to be, then, an independent arbitration system—or adjudication system, rather—that would enforce the rules of the single market. It can't be the UK Treasury—they have a clear conflict of interest.

[45] I made this point last Monday. I said, 'Look, if you have an internal single market, if you have agreed rules, the rules have to be enforced. Who does it? Is it the Supreme Court, or is it a different body?' This was news, I have to

say, to some around the table. But an internal single market has to have agreed rules and a method of enforcing those rules, otherwise, there could be rules and, without a method of enforcement, we could say in Wales, 'Well, we're just going to ignore them; there's nothing you can do about it', and the UK Government would have nothing that they could do about it. Well, that's not the way that an internal single market should operate. So, there are fundamental issues about agreeing common standards, frameworks, and rules, and having them enforced by a truly independent body, possibly a type of trade court, within the UK.

[46] **David Rees:** Jeremy, do you want to come in with a supplementary on this point?

[47] **Jeremy Miles:** Just on that, the notion of whether a framework is imposed on Wales, or whether it's negotiated and agreed, in the UK's White Paper, which is a master class in weasel words on this particular point—it just talks about powers coming to Wales where appropriate—. Now, what's your reading of that language? Is it that the UK Government hasn't done its homework yet and doesn't know where the powers lie, or are they just keeping us guessing, or—? What's your reading of that?

[48] **The First Minister:** There's a fundamental difference of approach to this. In Whitehall, they take the view that, when powers come from the EU, every single one of those powers rests in the UK Government, devolved or not. We take an entirely different view. The view we take is that where something is devolved—let's take agriculture, for example—the powers come from the EU, go round the M25, bypass London and end up here. The reason why we say that is that, if we look at the devolution settlement, agriculture is devolved. There's no qualification to it. So, it means that any powers that return from the EU are automatically devolved to the devolved Governments. I think it's fair to say that they take a fundamentally different approach in Whitehall, but that is our view on this, and this is an issue that will have to be resolved in time.

[49] **Jeremy Miles:** So, just to take that analogy further, anyone who has spent any time on the M25 knows it's not a straightforward journey. Would you expect then to see express provision, say, in the repeal Bill, which talks about powers being retained under the devolution competencies? How would you see that playing out?

[50] **The First Minister:** Well, the default position is that it'll all be

devolved—that's the default position—unless the powers that we have, voted for by the Welsh people in 2011, in a referendum, are in some way curtailed. That's the only way they can do it. Now, we wait to see what the great repeal Bill, so-called, will actually do. Its ethos is sound: to make sure that all the laws that exist within the different UK nations and across the UK remain once the UK has left. I have no argument with that principle. I've no doubt it'll require a legislative consent motion, as far as the Assembly is concerned, but there may be good reason why an LCM would be agreed to. We have to see the detail first. But under no circumstances could the great repeal Bill somehow say, 'Well, all powers that return go straight to Whitehall'. That cuts across the Welsh devolution settlement that the Welsh people themselves overwhelmingly voted for in 2011. You can't respect the result of one referendum and then ignore another.

[51] **David Rees:** Can I just clarify? You said 'the default position'. That's the Welsh Government's default position, not the UK Government's default position.

[52] **The First Minister:** Yes, but we believe it's the correct position.

[53] **David Rees:** Yes, I appreciate that, but I just want to be, for the record, quite clear on it. Mark.

[54] **Mark Isherwood:** Yes, just very briefly, to help my understanding of your understanding in relation to your proposals for an increase in block grant, of course the block grant is based on Barnett, which is a population—rather than a needs—based formula, and the EU funding is essentially needs—based, whether gross value added, structural funds or common agricultural policy. Are you therefore proposing that the block grant should include different pockets of money assessed differently, or that it should all move to a population basis? My second question again relates to the final points there. The legal advice this committee has received is that the competence and powers currently held by the EU over matters that are devolved to Wales will pass to Wales but that a UK Government could, if it chose, legally, ignore the Sewel convention, which, as we know, in the Supreme Court, they do not consider a matter for the courts, and take those powers to the centre in the way you have just described. Does that match your understanding?

[55] **The First Minister:** On the second question, I think that's correct, yes. That is the legal position. Clearly, the advice that's been given to the committee is similar, if not identical, to the position that I've taken on this.

It's correct to say that the UK Government could do what it wants; that's the concept of parliamentary sovereignty. But it could only do so at the expense of a particularly difficult constitutional crisis, not just as far as Wales is concerned, but Scotland and Northern Ireland as well.

[56] With regard to the block grant, the block grant, of course, doesn't have to be Barnettised. We don't support Barnett; we've long taken the view that the formula needs to be revised and that Wales would benefit from that. There's no reason in the future why a block grant couldn't include different strands of funding. Some might be subject to a formula, another strand might be subject to a different formula. Historically, of course, it's all been done with one formula, but there's no reason why the block grant itself should be allocated in the future in the same way.

[57] **Mark Isherwood:** Thank you.

[58] **David Rees:** Michelle, do you want to ask questions on trade and movement?

[59] **Michelle Brown:** Yes. Thank you, Chair. I note from your White Paper that you want unfettered and free access to the European single market. You're also talking about market participation. How much are you prepared—? What's your price for that? How much are you prepared, as a Government—? You're prepared—you know, you're saying that you're also prepared to pay a subscription to the EU and pay a contribution to the EU in exchange for access to the market. How much are you willing for the Welsh taxpayer to pay?

[60] **The First Minister:** Well, in terms of a contribution, we await to see what the result of the negotiations actually is. David Davis himself has said that that might be a price worth paying. If you want to be in a club, sometimes you have to pay a membership fee; that's the way that it operates. We have no control, of course, over the way the market will operate because we won't be members of the single market. But for me, what's usually important is that we're able to—for Welsh businesses to be able to export in the same way as they do now; that's absolutely critical. Does that mean that there has to be a compromise as far as immigration is concerned? The answer is 'yes'. For me, it's quite clear that a substantial number of people in Wales aren't happy with the current system of freedom of movement. But what we've suggested is that there are alternatives. Norway provides a possible alternative—not a complete fit—that would enable the

concerns of a lot of people to be eased, while at the same time not interfering with our ability to export.

[61] **Michelle Brown:** The big concern over—. One of the reasons that so many people voted 'leave' and one of the biggest concerns was immigration and border control. I don't really understand how this—your proposals—fits with what people actually voted for.

[62] **The First Minister:** I don't believe people voted in that way. 'We don't know' is the simple answer. We do know that people voted to leave the EU; beyond that, we have no idea what people voted for. It's true to say that, on the doorstep, people did raise immigration. Lots of people raised the point with me that they just wanted to kick the current UK Government. I had that on the doorstep. Some people were saying to me, 'We need to leave this European convention on human rights'—it wasn't even about that. The difficulty is that people voted for a number of different reasons. All we know is what they don't want. What we don't know is what they do want. So, what we're trying to do is to put together a deal that we believe is good for Wales and that represents the view of the majority of people—trying to pull together the different strands of thinking people had in the referendum.

[63] **Michelle Brown:** Okay, thank you.

[64] **David Rees:** Thank you. Jeremy.

[65] **Jeremy Miles:** In the White Paper, which is full of helpful detail about the impact of leaving the European Union, if you look at the sector with the largest share of export, it's the machinery and transport equipment, which is 25 per cent of all exports, of which 80 per cent go to the EU, which is 20 per cent of all exports going to the EU in that particular sector. What will the Welsh Government be doing to support companies facing that reality, alongside maintaining the position in the single market, in order to provide additional support, if you like, for companies to look at other markets or deepen their penetration into existing markets? How different does that look from what the Welsh Government's doing now?

[66] **The First Minister:** The great difficulty is that we don't know what the outcome's going to be. Businesses are saying to us, 'We're just holding on to see what the outcome is.' So, there's a great deal of uncertainty that still exists that will need to be resolved over the course of the next few months and years, because this is going to take, probably, the best part of a decade

to resolve eventually. We are looking now at how we improve and strengthen our presence in Europe. We have an office in Brussels—everything's being run from Brussels. In the future, that's not going to work; we're going need to look at other cities in Europe where we open offices. We focused on North America first because that is our biggest investment market, and North America has been restructured with the offices there. At the moment, we have to target particularly businesses that don't rely on the export market, particularly the European export market, for example businesses that are involved in maintenance and businesses that have markets around the world that are not particularly affected by tariffs—it wouldn't particularly affect them. But, certainly, the atmosphere has changed since June, where investors are not saying 'no', but they are reluctant to commit at the moment until they see the final outcome of the Brexit negotiations. So, the quicker the certainty can come, the better it will be in terms of bringing investment in.

[67] **Jeremy Miles:** But in terms of—. I take your point about bringing investment in; that, I think, is necessarily the conclusion from the uncertainty. But in terms of Welsh businesses that are looking to access other markets, looking at it from the other end, are you hearing from businesses that they are looking to diversify those markets outside the EU, for example? If so, what's the Government's response to that?

[68] **Carwyn Jones:** They're not. The EU is one of the world's biggest markets, and it's on our doorstep. It's not easy to replace, particularly, for example, with food and drink; 90 per cent of our exports go there. They can't find another market without extra cost and needing more time to do it. What the UK Government has said is that it wants the fullest possible access to the European single market. So, for a lot of businesses, they are relying on that to make sure they can continue to export profitably to their existing customers.

14:30

[69] **Jeremy Miles:** Okay, thank you. I've got a question on transitional arrangements. Shall I come back to that?

[70] **David Rees:** Yes. On that particular point, First Minister, it's also been raised with us that perhaps the Welsh Government should be focusing upon some of the indigenous businesses and building the markets up within Wales and within the UK as we face uncertainty because of exports across the EU, and inward investment uncertainty as well. Has the Welsh Government taken

a view as to if it wishes to take that type of direction, or is there still a focus upon encouraging inward investment, knowing that there's still uncertainty with the European markets?

[71] **The First Minister:** The nature of the economy is such that foreign direct investment is massively important to the economy. We have a broad base of SMEs and we have very few large businesses that are headquartered in Wales. We want to see that change in the future, but that's the reality at the moment. We could not replace thousands of jobs from foreign direct investors in any short space of time by building up our own SMEs. We need both to prosper. Nobody's ever suggested, as far as I'm aware, that the objective of Brexit is to lessen foreign investment into the UK or indeed to Wales. On that basis, we continue to seek foreign direct investment, and we've been successful in doing that, having had the best figures for 30 years last year.

[72] **David Rees:** Steffan, you had a question on the White Paper.

[73] **Steffan Lewis:** Diolch, **Steffan Lewis:** Thank you, Chair. Gadeirydd. Mae yna lot ynglŷn â'r There is a great deal about the sefyllfa bresennol sydd, wrth gwrs, current situation, which, of course, yn gwneud inni aros i Lywodraethau means that we have to wait for other eraill wneud penderfyniadau cadarn. Governments to make robust Ond, wrth gwrs, mae yna agweddau decisions. But there are, on the other ar y Papur Gwyn yma lle gallai hand, aspects of this White Paper Llywodraeth Cymru ddechrau where the Welsh Government could gweithredu bron a bod ar unwaith, i start to act almost immediately, to be ddweud y gwir. Hoffwn i ddechrau honest. So, I'd like to start by asking: trwy ofyn pa fath o werthusiad ydych what kind of evaluation are you chi'n gwneud yn y Llywodraeth nawr i undertaking in the Government weld pa fath o gamau y gallai'r currently to see what actions the Llywodraeth yng Nghymru eu Welsh Government can take? For cymryd. Er enghraifft, polisi example, international policy in order rhyngwladol er mwyn hybu Cymru fel to promote Wales as a global entity, endid bydol, nid jest yn nhermau cael not just in terms of getting investment to Wales, but in other buddsoddiad i Gymru, ond mewn areas as well. materion eraill hefyd.

[74] Wrth gwrs, mae yna sôn Of course, there is talk about the ynglŷn â Gweriniaeth Iwerddon, sydd Republic of Ireland, which is going to yn mynd i fod yn hollbwysig i Gymru be essential for Wales in the future,

yn y dyfodol, beth bynnag yw statws y ffin forol rhwng Cymru ac Iwerddon. A allwch chi roi rhyw fath o syniad os oes yna werthusiad wedi bod o beth allwch chi ei wneud yn sgil y ddogfen yma i symud ymlaen heb orfod aros i San Steffan?

[75] **Y Prif Weinidog:** Ynglŷn â'r agwedd ryngwladol, mae hynny'n dal i fod yn bwysig. Fe fyddaf i yn America ddiwedd y mis hwn a bydd derbyniad ar Capitol Hill, sydd wedi digwydd o'r blaen, er mwyn sicrhau eu bod nhw'n deall ein bod ni'n dal ar agor i fusnes ac i fuddsoddwyr o America. Bydd Gweinidogion eraill yn mynd i lefydd eraill yn y byd i roi'r un neges. Mae hynny'n hollbwysig.

[76] Un o'r pethau sydd wedi bod yn fy nhrwblu i dros y misoedd diwethaf yw buddsoddwyr yn dweud, o wledydd eraill, nad ydynt yn siŵr a yw'r Deyrnas Unedig yn croesawu buddsoddiad o dramor. Felly, mae'n hollbwysig i sicrhau bod y neges yna'n gryf ynglŷn â lle maen nhw'n gweld Cymru.

[77] Ynglŷn â gwledydd eraill, fe fyddaf yn cwrdd, yn y misoedd nesaf, gyda Phrif Weinidog Gibraltar. Rwyf wedi cwrdd ag e unwaith o'r blaen. Maen nhw yn yr un sefyllfa. Eu hofn nhw yw y bydd y ffin yn cael ei chau. Mae rhywbeth fel 10,000 i 15,000 o bobl yn ei chroesi bob dydd ac mae eu heconomi nhw yn dibynnu'n fawr iawn ar y ffaith bod y ffin yna yn ffin

whatever the status of the marine border between Wales and Ireland. Can you give us some idea of whether there has been an evaluation of what you can do as a result of this document to move ahead without having to wait for Westminster?

Y Prif Weinidog: Regarding the international aspect, that's still important. I'll be in America at the end of this month and there will be a reception on Capitol Hill, which has happened previously, in order to ensure that people understand we are still open for business and to investors from America. Other Ministers will go to other parts of the world to give the same message. It's extremely important.

One of the things that has been troubling for me over the last few months is investors from other countries saying they're not sure whether the UK welcomes investment from abroad. So, we have to make sure that that message is out there clearly, in relation to how they see Wales.

In relation to other countries, I will, over the next few months, be meeting with the Chief Minister of Gibraltar. I have met him once before. They are in the same position. Their concern is that the border will be closed. Some 10,000 or 15,000 people cross that border every day and their economy depends hugely on the fact that that

agored.

border is an open border.

[78] Hefyd, fe fyddaf i'n mynd i Iwerddon er mwyn cwrdd â Llywodraeth Iwerddon er mwyn inni weld ym mha ffordd y gallwn ni gryfhau'r cysylltiadau sydd yna'n barod rhwng Cymru ac Iwerddon. Mae Iwerddon yn hollbwysig fel gwlad sy'n buddsoddi yng Nghymru.

Also, I will be going to Ireland to meet the Irish Government in order to see how we can strengthen the links that already exist between Wales and Ireland. Ireland is extremely important to us a country that invests in Wales.

[79] Un o'r pethau—ac fe wnes i'r pwynt yr wythnos diwethaf—sy'n hollbwysig yw: mae pobl yn sôn am ryw fath o gytundeb gwahanol i Ogledd Iwerddon, lle na fyddai unrhyw fath o rwystr ynglŷn â phobl a nwyddau yn croesi'r ffin rhwng Gogledd Iwerddon a Gweriniaeth Iwerddon. Wel, nid ydym am weld hynny'n digwydd ac yna gweld tollau yng Nghymru, ac efallai hefyd ffiniau yng Nghymru yn y porthladdoedd, achos beth fyddai hynny'n meddwl yw y byddai traffig nwyddau yn gorfod mynd drwy lot fawr o waith papur wrth fynd drwy Gaergybi, er enghraifft, ond yn gallu mynd drwy Cairnryan a Lerpwl i fynd i Ogledd Iwerddon gyda llai o rwystr. Ni fyddai hynny'n dda i borthladdoedd Cymru. Felly, nid wyf i'n moyn gweld unrhyw fath o ddêl ynglŷn â Gogledd Iwerddon sy'n ei gwneud yn rhwyddach i symud nwyddau trwy Ogledd Iwerddon na thrwy borthladdoedd Cymru i mewn i'r weriniaeth.

One of the things—and I made this point last week—that is extremely important is: people are talking about having some kind of different agreement for Northern Ireland, where there would not be any restriction in relation to people and goods crossing the border between Northern Ireland and the Republic of Ireland. Well, we do not want to see that happen and then see tolls in Wales and perhaps also boundaries in Wales's ports, because what that would mean is that goods traffic would have to go through a lot of paperwork when going through Holyhead, for example, but could go through Cairnryan and Liverpool to Northern Ireland with fewer restrictions. So, it wouldn't be good for Welsh ports. I don't want to see any kind of deal struck concerning Northern Ireland that makes it easier to move goods through Northern Ireland than through Welsh ports into the republic.

[80] **Steffan Lewis:** Jest i ddilyn lan

Steffan Lewis: Just to follow up on

ar hynny, a ydych chi'n rhoi ystyriaeth nawr, yn dilyn o'r Papur Gwyn yma, i gyhoeddi dogfennau eraill sydd efallai â mwy o fanylder? Er enghraifft, a ydych chi'n bwriadu—? Rwy'n meddwl y byddai'n bwerus iawn i Brif Weinidog Cymru lansio polisi rhyngwladol newydd i Gymru er mwyn cael y neges mas yna ein bod ni ar agor i fusnes, ein bod ni eisiau gwneud mwy o bethau fel gwlad ddatganoledig. Os yw'r pwerau newydd yn dod o Frwsel yn syth i Gymru ar amaeth a newid hinsawdd, mae yna gyfleoedd i Gymru fod yn aelod, neu'n rhan-aelod, o gyrff rhyngwladol nad ydym ni wedi bod yn aelod ohonyn nhw hyd yn hyn. Mae hyn yn gyfle i godi ymwybyddiaeth o Gymru ar lefel ryngwladol mewn ffordd fawr, yn hytrach na thrial gwneud ambell beth fan hyn a fan draw. A ydych chi'n rhoi ystyriaeth i'r fath yna o ymyrraeth?

[81] **Y Prif Weinidog:** Wel, dechreuodd hynny ar ôl y refferendwm ei hunan. Un o'r pethau cyntaf ddyweddom ni oedd bod Cymru ar agor i fusnes. Mae Ken Skates, fel y Gweinidog, wedi bod i sawl gwlad, a Japan yn enwedig, yn ddiweddar, er mwyn sicrhau bod y neges yna yn dal i fod yn un cryf i fuddsoddwyr. Felly, roeddwn i'n deall y byddai yna broblem pe byddai gan bobl yr agwedd yn gyfan gwbl nad oes croeso iddyn nhw yng Nghymru na hefyd yng ngweddill y Deyrnas Unedig. Felly, mae'r gwaith yna wedi

that, are you now giving consideration, following on from this White Paper, to publishing other documents that may go into greater detail? For example, do you intend to—? I believe that it would be very powerful for the First Minister of Wales to launch an international policy for Wales to put it out there that we are open for business and that there is a need to do more things as a devolved country. If the new powers do come immediately from Brussels to Wales in terms of agriculture and climate change, there will be opportunities for Wales to be a member, or a partial member, of those international bodies that we haven't been a member of up to now. There's an opportunity to raise awareness of Wales on a global level in a big way, rather than trying to do a few things here and there. Are you giving some sort of consideration to that kind of intervention?

The First Minister: Well, that began after the referendum itself, of course. One of the first things we said was that Wales is open for business. Ken Skates, as the Minister, has visited many countries, notably Japan recently, to make sure that that message is still a strong one for investors. So, I did understand that it would be a problem if people got the impression completely that there was no work for them in Wales or in the rest of the UK. So, that work has already begun. Des—?

dechrau. Des—?

[82] **Mr Clifford:** I'll speak in English, if I may. So, the White Paper we see as the foundation for a longer and more detailed debate across a number of fronts that will take place in the months and years ahead. I think one of the things that we'll be doing in the next 12 months—as the terms of debate with the European Union become more apparent and the possibilities for access to the single market start to emerge from the discussions between the UK and the European Union—hand in hand with that, we'll be looking at our infrastructure around the world and making assessments of what we need. What we don't know, for example, at the moment is whether we will need a very large, significant footprint across Europe in order to cope with more complex terms of trade, or whether we will continue to have very straightforward terms of trade. At the moment, obviously, we have complete convergence between the UK and the European Union. Our objective would be to retain that convergence, even when the UK is outside the European Union, but we do need to see what sort of distance, if any, will arise between the UK and Europe in terms of how we do trade in order to make detailed assessments about the kind of footprint that we need on the ground in different parts of Europe to help us to continue trading.

[83] But I think the other thing that the First Minister has also been on the record about is that, if the rhetoric of the UK Government in terms of developing new free trade agreements in other parts of the world—with the United States, with Australia, and other countries—if that comes to fruition, in reality it can't happen very quickly, because that can't happen at minimum until we leave European Union, obviously. So, we might be talking about, sort of—. And then there has to be a negotiation period, so we probably are talking over a three, four, five-year time frame. But if new trade agreements become possible to which the UK has access, we clearly want to take advantage of those and support them.

[84] **Y Prif Weinidog:** Un pwynt i'w wneud hefyd: yn ystod y trafodaethau yr wythnos diwethaf, gofynnais i i Liam Fox beth fyddai'r sefyllfa ynglŷn â'r cytundebau sydd yna ar hyn o bryd rhwng yr Undeb Ewropeaidd a gwledydd eraill lle mae yna gytundebau masnach rydd—mae yna dros 50 ohonyn nhw. Ei farn e oedd y

The First Minister: One point also to add: during the discussions last week, I asked Liam Fox what the situation would be in relation to the agreements that are in place at the moment between the European Union and other countries where there are free trade agreements—there are over 50 of them. His opinion was that

byddai'r cytundebau hynny'n trosglwyddo i'r Deyrnas Unedig: cadw cytundeb yr Undeb Ewropeaidd, ond y byddai'r Deyrnas Unedig jest yn cymryd drosodd beth oedd yna yn barod. Nid wyf yn dweud taw dyna yw fy marn i, ond dyna beth yw ei farn e. Achos gofynnais i'r cwestiwn a fyddai'n rhaid ailtrafod y cytundebau hyn gyda'r gwledydd eraill, a'i farn e oedd nad oedd rhaid gwneud hynny—meddai fe.

those agreements would transfer to the UK: they would keep the agreement with the EU, but the UK would just take over what is there already. I am not saying that that is my opinion, but that that was his opinion. Because I asked the question of whether we would have to renegotiate these agreements with other countries, and he felt that we wouldn't have to do that—or so he said.

[85] **Steffan Lewis:** Jest i orffen, Gadeirydd, rwy'n awyddus iawn ein bod ni'n—fel rwy'n dweud, mae cymaint sydd ddim yn ein dwylo fel cenedl, fel Cynulliad, na fel Llywodraeth, ond a oes rhywbeth yn digwydd ar hyn o bryd? Er enghraifft, a oes yna rywun neu rywrai yn eich Llywodraeth chi sydd â'r swydd benodol o edrych ar y sefyllfa sy'n newid yn glou iawn i wneud y penderfyniadau? Er enghraifft, mae'r bunt nawr wedi gostwng yn eithriadol, ac efallai y bydd hynny'n cario ymlaen. A oes rhywun wedyn yn y Llywodraeth yn cysylltu â Croeso Cymru i ddweud, 'Reit, mae'n rhaid inni drial manteisio ar y sefyllfa yma i ddenu pobl i ddod i ymweld â Chymru; mae'n rhaid inni actio yn glou'? Rwy'n derbyn y pwynt fod yna lot fawr o bethau nad ydym ni'n gwybod yr atebion iddyn nhw—a byddwn ni ddim am rai blynyddoedd, efallai—ond, ar y pethau dydd i ddydd, er mwyn i Gymru fod ar y blaen, fel petai, a ydy hynny'n digwydd nawr?

Steffan Lewis: Just to conclude, Chair, I am very keen that we—as I say, there is so much that is out of our hands as a nation, as an Assembly, and as a Government, but is there something currently happening? For example, is there anyone in your Government with the specific post of looking at a situation that is changing very rapidly to make decisions? For example, the pound has now dropped to an extreme low, and that may carry on. So, is there someone in the Government who is in contact with Visit Wales to say, 'Right, we have to take advantage of the situation to try to attract people to visit Wales; we need to act quickly'? I accept the point that there are many things that we don't know the answers to—and it might be unclear for a number of years, perhaps—but, in terms of the day-to-day things, so that Wales is on top of the game, for example, is that happening now?

[86] **Y Prif Weinidog:** Mae gan bob adran gyfrifoldeb. Des sy'n gyfrifol yn weinyddol am hwn, a minnau, wrth gwrs, yn wleidyddol. Ond rwy'n gwybod bod pob adran yn y Llywodraeth wedi edrych ar ba fanteision sydd ar gael ar hyn o bryd—maen nhw dros dro, wrth gwrs, ond maen nhw yna ta beth—ynglŷn â'r sefyllfa yn glŷn â'r bunt.

The First Minister: Every department has responsibilities. Des is responsible on an administrative level for this, and myself on a political level. But I do know that every department of the Government has looked at what advantages are available at the moment—they are temporary, of course, but they're there—in relation to the situation regarding the pound.

[87] **Steffan Lewis:** Océ, diolch. **Steffan Lewis:** Okay, thank you.

[88] **David Rees:** Dawn, you've got a supplementary on this.

[89] **Dawn Bowden:** Well, it was just on the wider question of trade outside the EU. And, as we've heard, things are changing so rapidly, wherever we go. And the concern that I guess a number of us have is the current direction of the US administration towards trade deals, and whether that has, or is, beginning to influence or make the Welsh Government think about the way in which you're going to approach potential trade deals with countries outside of the EU.

[90] **The First Minister:** I think it's very difficult to predict the direction of the US Government. It is protectionist—openly so; that's what the President was elected to do. I heard what was said in terms of what was described as a rapid free trade agreement with the UK. I can't see that happening, personally. These things take many years to negotiate, in any event. The will might be there, but actually putting it into practice might be quite difficult. I don't think that we really should be saying, 'Well, it doesn't matter about the single market, because we can replace the single market with the US', for any number of reasons. The US is further away, for a start, so there are costs involved. Of course we want to export to the US, but you can't substitute a large market on your doorstep with a smaller market, further away. You want opportunities in both.

[91] **Dawn Bowden:** Yes, I guess my question really was: is the Welsh Government of the same view about trading with the United States now as it perhaps was before February—before November, shall we say?

[92] **The First Minister:** Well, the US is still an important investor. I will be in the US at the end of this month. Business has to continue as usual. We want to make sure that we still attract investment from the US. I don't see that the free trade agreement is suddenly going to appear now or at any point in the future, but, of course, we still have trade links that have been successful, and we need to make sure that they continue in the future. But I don't see the terms of trade changing any time soon.

[93] **Dawn Bowden:** Okay. All right, thank you.

[94] **David Rees:** Before I bring Eluned in, a question on that particular point. The EU, obviously, was in negotiations with the US on this trade agreement, and the transatlantic trade and investment partnership, as we are all aware, was a major element of that and it caused great concern. It would cause great concern if it was part of a new trade agreement between the UK and the US. So, what progress has been made between the Welsh Government and the UK Government as to whether you are entitled to ratify any free trade agreement, with any country, in a situation such as that?

[95] **The First Minister:** Well, they say it's not devolved, but of course it's not quite as easy as that. Let's say, for example, there was a free trade agreement with New Zealand that allowed unfettered access to the UK market for New Zealand lamb, it would destroy Welsh farming. So, even though it may not be devolved, there's a very strong interest that we have in ensuring that that doesn't happen. The difficulty the UK Government has, of course, is that it can't strike deals in devolved areas, because it's got no way of enforcing those deals. And if, for example, say the UK struck a deal allowing US companies into the health service—something that was a concern with TTIP—well, actually, there's no real way of forcing us to do it, and you then end up with them trying to do it by changing the law, by changing the devolution settlement, and that precipitates a constitutional crisis. So, logically, and sensibly, where a free trade agreement has been negotiated, it makes perfect sense to ensure that we are aware of what the proposals are, in order that we can ensure that anything that's detrimental to Wales is pointed out.

[96] **David Rees:** You've said 'aware'; if you felt it was detrimental to Wales, where do you feel you could actually have a say in that?

[97] **The First Minister:** Well, if, for example, hypothetically, the UK

Government said, 'We're going to introduce private finance into the health service', we'd say, 'Fine, you can do it in England, but it's not happening here.'

[98] **David Rees:** Okay. Eluned.

[99] **Eluned Morgan:** You've answered—that's exactly the question.

[100] **David Rees:** Okay, thank you. Jeremy.

[101] **Jeremy Miles:** On the question of transitional arrangements, the Welsh Government and Plaid Cymru's position in the White Paper is clear that a European Economic Area or European Free Trade Association sort of staging post, if I can put it like that, might be the way forward. But the UK Government's White Paper talks about there not being what they call an unlimited transitional period, and that it's a much more issue-by-issue set of transitional arrangements that they might be prepared to sign up to.

14:45

[102] It seems to me that, when you've got all these issues in negotiation, making a decision about what you're going to press and what you're going to park from a transitional point of view is quite a fundamental part of that set of negotiations, really, because, obviously, there's a trade-off between different areas. What confidence have you got that those judgments around the transitional arrangements are ones where Welsh Government's voice is going to be heard to ensure that our priorities are reflected in those decisions?

[103] **The First Minister:** I would argue that we've pushed them into thinking about it, because, until quite recently, transitional arrangements weren't on the table. The penny has dropped now that it's not possible to have a comprehensive free trade deal with the EU in under two years. In fact, with the French and German elections, it's going to be the autumn before any serious discussion begins. That's something like 18 months to negotiate deals that usually take seven or eight years. So, yes, I'm glad that there's a recognition that the transitional arrangements are important. The complication is, of course, that those transitional arrangements have to be agreed by all and sundry in order for them to be put into effect and in order to avoid World Trade Organization rules being imposed.

[104] I don't think that there's a particular desire to cut the UK off at the knees, bluntly, in European countries. I think the attitude is, 'Well, the UK is leaving, but let's be sensible about it.' They're quite clear that the UK can't be in a better position, or the same position as it is now, through not being a member of the club, as it were. But the reality is that we just don't know, until March 2019, what the situation will be. But at least the UK Government now recognises that those transitional arrangements are going to be important. Yes, they can't be permanent transitional arrangements, I understand that, but they have to be sufficiently long in order to make sure that we don't see a shock to the UK economy.

[105] **Jeremy Miles:** Thank you for that. Tied, I suppose, to that question of the way in which Brexit happens, if you like, in terms of transition, is the question of the ongoing membership of the EEA. There has been a debate that leaving the EEA requires its own set of triggers, if you like. What's the Government's current thinking—the UK Government and Welsh Government—on that process? I think it was article 127 or something that was the other hurdle, so to speak, that we need to cross.

[106] **The First Minister:** They haven't addressed that and it's not an issue that they've raised with us.

[107] **Jeremy Miles:** Right. So, they're assuming it's not an issue, effectively.

[108] **The First Minister:** I can't speak for them, but it's certainly not an issue that has been raised as an issue of concern to them.

[109] **Jeremy Miles:** Okay, thank you.

[110] **David Rees:** Mark, do you have a question on the JMC?

[111] **Mark Isherwood:** Yes, thank you. In your view, how constructive were the recent JMC discussions between the UK Government and devolved administrations?

[112] **The First Minister:** It's always useful to continue discussions. I welcome the fact that the JMC now meets quarterly, rather than annually—the JMC plenary was an annual meeting at one point and I don't think that can happen. The engagement is good. Yes, we make our points firmly. We get an idea of—well, we don't get a coherent view; we get different views from different Ministers. That's part of the issue that we face; there's no coherent

view from the UK Government and no coherent view from the Prime Minister in terms of the discussions I've had with her. So, I think it's hugely important that the UK Government now starts to work on the issues and the challenges that are identified in the White Paper and we will work with them to do it. There's no point standing outside this process, but it's hugely important that the UK Government continues to take the devolved Governments seriously.

[113] **Mark Isherwood:** To what extent, if at all so far, are discussions at the JMC two-track, first, in terms of the exit negotiations themselves and, secondly, in terms of agreements such as trade agreements with America or elsewhere, which will be bilateral matters between the UK state and the countries that we're negotiating with?

[114] **The First Minister:** We're not even at that point yet. We're still at the point of working through and trying to get to a common position with regard to the Brexit negotiations. We're a long way even from being in that position. What the UK Government has said is that they want to ensure that our views are heard. It has to go further than that, because we've made the point that we have to be part of those negotiations. We should have observer status in the negotiations. I'm not asking to lead the negotiations, necessarily, but we need to have observer status, so that we know what's happening in those negotiations and we can make sure that Wales, and indeed Scotland and Northern Ireland, are not forgotten as part of those negotiations. The tendency will be that if we have UK Ministers and UK officials leading the negotiations, they will see things through familiar eyes, namely, 'How does this work in England?', because that will be their experience. It's hugely important to have as much buy-in as possible, not just for the final deal, but during the course of those negotiations as well.

[115] **Mark Isherwood:** And given that the UK Government has indicated that the preparatory work on those trade agreements will begin before exit, although clearly they cannot be formalised until after exit, do you foresee the JMC being a mechanism for the devolved administrations to engage?

[116] **The First Minister:** There's no reason why not. We see no evidence of any preparatory work having been done so far, but, yes, the JMC would be the correct forum for that. But the JMC is not adequate for the future. We have to address the inter-governmental machinery of the UK, because the JMC at the end of the day is a useful point of discussion, but it doesn't agree anything. We have to have a change in the inter-governmental machinery of the UK so that we have a proper council of Ministers where there can be

agreement on, as I mentioned before, common frameworks, common standards and the preservation of the internal single market. None of that has been done yet. So, the UK itself faces challenges from Brexit, and that means looking at the way the UK operates in order for the UK single market to remain, and in order for there to be an understanding that the UK is not the unitary state that it was in 1972. I wouldn't want to see a situation where tensions become such that the UK itself is under threat, because I wouldn't want to see the union go.

[117] **Mark Isherwood:** So, issues such as those you referred to earlier—private finance for the NHS, for example—and noting that UK Ministers again restated this weekend that it's a red line, no privatisation of the NHS, they're not something that have yet been raised through that mechanism or equivalent inter-governmental contact.

[118] **The First Minister:** No.

[119] **Mark Isherwood:** In terms of Scotland, I understand there was a poll a couple of weeks ago showing that a third of those who voted for independence in the referendum there do not propose now putting single market access above remaining within the UK. To what extent do you—I suspect I know your own personal views on this—share the First Minister of Scotland's view that time is running out for the UK Government to demonstrate that it will take the positions of devolved administrations into account?

[120] **The First Minister:** Well, it's a matter for the First Minister of Scotland what she says. The view I take is that there's a great deal of work to be done internally in the UK to make sure it works properly in the future, because it won't work properly and will not stay together unless we can put in place a sensible mechanism. I think it can stay together—this work is not difficult—but there's no sign of it happening yet. As regards the opinion polls in Scotland, I can't pretend to be an expert on opinion polls; I don't think anyone can. But the point is that the world is febrile at the moment. We have seen voting patterns that no-one has seen before. It doesn't take much to push people in the opposite direction. And, for me, I'm always aware of the fact that it's volatile—that we can't rely on established convention as was true in the past. So, I would not want to see constitutional problems occurring in the UK that push people towards a position where they no longer see the UK as relevant to them.

[121] **Mark Isherwood:** And, again, you've repeated a number of times your commitment to developing a new inter-governmental structure—a quadrilateral structure within the UK. Do you think it's practical if that could be in place before we leave the EU?

[122] **The First Minister:** Yes, there's no reason why not. It isn't difficult. There's a model for it elsewhere. There are models around the world where this works. So, no, practically it's not difficult. In terms of thinking, it's a big step for Whitehall. This is something they've never seen before and have no experience with. They don't see things through the same lens and from the same perspective as we do, but all this is easily done and can easily be put in place before we leave.

[123] **Mark Isherwood:** If I may, how much of that is awareness, because you've indicated it appeared to be something they hadn't even thought about before in Whitehall—

[124] **The First Minister:** It's awareness; they don't think about these things.

[125] **Mark Isherwood:**—rather than necessarily will?

[126] **The First Minister:** I think most of it is that it doesn't strike them. Last week when we were discussing—well, when I mentioned the issue of the internal single market and talked about the enforcement of rules, it was quite obvious to me that this hadn't been thought of at all. Nobody came back to me and pushed back on that viewpoint, which would suggest to me that they had thought of it and had taken a view that was different to mine, but no view at all. The JMC was important last week, if nothing else, to ensure that there was an awareness in Whitehall that there are different perspectives on what Brexit means in terms of powers, and, secondly, what needs to be done in order for the UK to develop the right mechanisms to keep it together in the twenty-first century.

[127] **David Rees:** Based upon that, clearly, the Bill to invoke article 50, which is going through its Committee Stages this week, has amendments in it that include putting the JMC upon a statutory basis. That would strengthen the case for you and obviously put you in a position to create that council of Ministers, then, I understand.

[128] **The First Minister:** It's one thing to say it should be on a statutory basis. It's another thing to ensure that it does what it should do. So, if it's

simply the case that the JMC is put on a statutory basis, and it continues working in the same way as it does now, it doesn't take us much further. So, we'd need to have—. We'd need to go beyond simply an amendment regularising the place of the JMC in law.

[129] **David Rees:** Eluned.

[130] **Eluned Morgan:** Yes, you talk about the importance of the JMC, which is absolutely right, but we were told very clearly by Sir Emyr Jones Parry that, actually, if you want to influence things like the JMC, you've got to be there when they're writing the papers. He suggested very strongly that we need to be placing people in the Cabinet Office and in the Foreign and Commonwealth Office. Have you requested that? Have you been successful in getting that done?

[131] **The First Minister:** Des.

[132] **Mr Clifford:** We do have some secondments in Whitehall. We have a secondment from here into the Department for Exiting the European Union at a senior level. Part of our problem is that the Welsh Government civil service is quite a—. We have quite a—. We don't have the same numbers of people to play with that they have in Whitehall, so, you know, we want to keep our best people here when we can. But I think the point is well made; it is advantageous for us to have a senior presence in Whitehall.

[133] **Eluned Morgan:** So, was that person there before Brexit, the Brexit vote, or is this new? Is this a new person or is there continuity?

[134] **Mr Clifford:** This is new. It's new. He's joined DExEU, obviously, which is, by definition, a post-Brexit creation.

[135] **Eluned Morgan:** So, we've got one person in the new department. One.

[136] **Mr Clifford:** At a senior level, yes. There may be others elsewhere, for all I know.

[137] **The First Minister:** I think what we have to understand is that we would have to have somebody in every department, because, at the moment, Whitehall does not operate as a coherent whole when it comes to Brexit. So, for example, the White Paper the UK Government produced was not shared with us, but what we hear is that some Ministers were happy to share the

White Paper with us beforehand and some weren't. So, actually, we'd need to have people in every single department, almost—or every single relevant department—and we just haven't got the personnel to do that.

[138] **Eluned Morgan:** So, you've made a judgment that it's more important for them to be here than to be there. That's a political call, is it? Or is it—

[139] **The First Minister:** A lot of these people are experts in their field. We are a small civil service. We have good people, but we don't have depth, so it would mean sacrificing a significant amount of policy capacity as far as Welsh Government is concerned. So, it is a difficult balance that we have to strike.

[140] **David Rees:** I appreciate the difficult balance. Are you reviewing that on a regular basis to assess whether it would be more effective for the Welsh Government to have people in place in Whitehall?

[141] **The First Minister:** We always review these issues on a regular basis, but we do need to make sure that we don't compromise our own position in terms of policy development by losing people. And, of course, there's no guarantee that they'll take them. The days when there was a free flow of civil servants between here and Whitehall—that's changed a little. I regret it, because I think it's a good thing. I'd like to see it re-established, where we have a much greater flow of civil servants between Whitehall and Cardiff, but I do wonder whether some Whitehall departments would see a Welsh Government official sitting in with them as meaning they couldn't be as frank, in terms of discussions, as they otherwise would be.

[142] **David Rees:** That's at department or official level. What about at ministerial level? Have you had those discussions as to whether that's a good thing or a bad thing?

[143] **The First Minister:** Well, we've offered support and help to the UK Government. We are tiny as an organisation compared to the UK Government and yet we produced a White Paper that was well beyond, I'd argue, what they produced, in raising issues. We worked with Plaid Cymru, of course, on the White Paper, as a joint paper. But, in terms of raising issues and offering potential solutions, it goes beyond what's in the UK Government White Paper. But that was done through a lot of work by a relatively few people who are experts. If we lose those people, we can't produce documents like this in the future. That's the difficult bit.

[144] **David Rees:** Eluned.

[145] **Eluned Morgan:** Have you considered switching people from Brussels into Whitehall?

[146] **The First Minister:** They perform a slightly different task in Brussels compared to—. You would need fairly senior people to command respect in that respect in the Whitehall departments. In the main, our staff in Brussels are not that senior, and we still need to have people in Brussels—we're still members of the EU; we've still got to make sure that we have people there who are able to work and interact with the EU through UKRep. We'll keep the situation under review.

15:00

[147] **Eluned Morgan:** So, how many people do we have in the Welsh Government specifically working on Brexit at the moment?

[148] **The First Minister:** I mean—

[149] **Eluned Morgan:** It's very difficult; obviously it's in every department, but exclusively on Brexit?

[150] **David Rees:** If it's difficult to give us an answer right now—

[151] **The First Minister:** It's impossible to give an answer specifically on Brexit. Bear in mind that the Brexit response is co-ordinated through the Cabinet Office, through my office. Des is not full-time on Brexit, but it's taken up, more or less, most of his time in the last few weeks and months. There's also a Brexit special adviser, who is full-time. Between them, they're able to co-ordinate the Brexit response of most of the different departments.

[152] **David Rees:** I think we have written to ask for clarification on that from the Welsh Government and we await your answer on that one.

[153] I see time's up, but just one final question, perhaps, from me: have you been informed by the UK Government as to when article 50 may be triggered?

[154] **The First Minister:** Not personally. I assume it's the end of March. That's what they're saying.

[155] **David Rees:** Okay. So, there's no indication of any other dates other than the end of March?

[156] **The First Minister:** No.

[157] **David Rees:** Okay, thank you. Finally, article 50—as I said, the Bill to actually trigger article 50 is going through Parliament at this point in time, and various amendments are being discussed in the Committee Stages. Have you looked at those amendments to see what the implications are for the Welsh Government and the White Paper you've produced?

[158] **The First Minister:** Some of them would need an LCM, potentially, in the future because there are some amendments that appear to cut across devolved competencies, despite what the Supreme Court says. The Supreme Court says that, as a matter of principle, the triggering of article 50 is not devolved, but the more detail you add, the more you start to cut across devolved competencies. So, we'll look at the amendments, see which of those amendments, actually, are successful or not—although, actually, before that, we'll have to look at them in order to make sure that an LCM isn't required at that point. So, we examine the amendments and take a decision from there.

[159] **David Rees:** Okay, thank you. Are there any other Members with any other questions? Eluned.

[160] **Eluned Morgan:** Just one on the report that we wrote as a committee. Can you give us some kind of timetable on when you'll be responding to that? Is that normal? I don't know what you do—

[161] **David Rees:** The Government respond within six weeks.

[162] **Eluned Morgan:** It's six, is it?

[163] **The First Minister:** It is, yes.

[164] **David Rees:** That's when we expect the response by.

[165] **Eluned Morgan:** Okay.

[166] **David Rees:** Any other questions? As there are no other questions, can I thank you, First Minister, for your attendance this afternoon? As normal,

you'll receive a copy of the transcript for any factual inaccuracies—please make us aware of them, if there are any, so that we can get them corrected as soon as possible. Thank you very much for your attendance.

[167] **The First Minister:** Thank you.

15:02

Papurau i'w Nodi
Papers to Note

[168] **David Rees:** I take the committee on to the next item on the agenda, papers to note. Are Members happy to note papers of the meetings held on 16, 23 and 30 January 2017? Are Members content? Members are, therefore, they are noted.

15:03

**Cynnig o dan Reolau Sefydlog 17.42 (vi) a (ix) i Benderfynu Gwahardd
y Cyhoedd o Weddill y Cyfarfod**
**Motion under Standing Orders 17.42(vi) and (ix) to Resolve to Exclude
the Public for the Remainder of the Meeting**

Cynnig:

Motion:

*bod y pwyllgor yn penderfynu that the committee resolves to
gwahardd y cyhoedd o weddill y exclude the public from the
cyfarfod yn unol â Rheolau Sefydlog remainder of the meeting in
17.42(vi) ac (ix).*

*accordance with Standing Orders
17.42(vi) and (ix).*

Cynigiwyd y cynnig.

Motion moved.

[169] **David Rees:** Then, under Standing Order 17.42(vi), I now propose that we resolve to meet in private for the remainder of this meeting. Are Members content? Thank you. We move into private session.

Derbyniwyd y cynnig.

Motion agreed.

*Daeth rhan gyhoeddus y cyfarfod i ben am 15:03.
The public part of the meeting ended at 15:03.*