

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

Produced for the External Affairs Committee



National Assembly for Wales
Research Service

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

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1. Introduction

This report provides an update on developments relating to the Article 50 Negotiations on the UK's withdrawal from the EU since 8 March. Since this report was last produced the UK and the EU have reached a political agreement on the transition period and published a further version of the draft legal text on the Withdrawal Agreement. As part of the agreed transition period, the UK will continue to follow EU rules and regulations and remain a part of the customs union and single market, until December 2020.

The European Council published its negotiating guidelines on a political declaration for the future relationship with the EU on 23 March. These guidelines form the basis for phase two of the negotiations. The UK's position was outlined in the Prime Ministers' speeches in Munich and at Mansion House on 17 February and 2 March (see **8 March monitoring report**).

Following the failure to reach an agreement on amendments to the UK Government's *European Union (Withdrawal) Bill*, the Welsh Assembly has passed the *Law Derived from the EU (Wales) Bill on 21 March*, which seeks to retain legislative competence over EU legislation in areas of devolved competence in Wales. The UK Government has also published a list of 24 areas which it feels UK-wide legislative common frameworks will be needed after Brexit.

This paper provides:

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

Summary of developments

On 8 March the JMC (EN) met, for the second time in a fortnight, to discuss a possible agreement on amendments to the devolution provisions in the Withdrawal Bill. Subsequently, a **Communique was issued outlining the outcome** of the meeting.

On 9 March the UK Government published its **Frameworks Analysis**, which is its breakdown of areas of EU law that intersect with devolved competence in Scotland, Wales and Northern Ireland. The Welsh Government **responded to the analysis on 14 March**.

On 12 March the **Welsh Government responded to the UK Government's Spring Statement**, highlighting it will receive £21 million in Barnett consequential for 2018-19 as a result of the £3bn announced in the autumn Budget for Brexit preparedness.

On 15 March the First Ministers for Wales and Scotland **wrote jointly to the Speaker of the House of Lords** outlining their concerns on the UK Government's proposed amendments to the EU (Withdrawal) Bill.

On 14 March a **Joint Ministerial Council (JMC) Plenary meeting** was held between the First Ministers' for Wales and Scotland and the Prime Minister. Progress on the EU negotiations was discussed at this meeting. The Welsh Government published **its statement on the meeting** on 19 March.

The same day saw the European Parliament pass its **Resolution on the framework of the future EU-UK relationship**. The Resolution sets out the EU Parliament's principles for a future framework.

On 19 March the EU and UK negotiating teams **agreed an update to the legal text of the Draft Withdrawal Agreement**. Following the publication of the draft text it was announced that the UK and EU had reached political agreement on the transition period. The UK will formally leave the EU on 29 March 2019 but there will be a 21 month transition period (ending December 2020) between the end of the UK's membership and the start of any new relationship with the EU.

On 21 March the National Assembly passed the **Law Derived from the EU (Wales) Bill**, following **stage 1 consideration of the Bill**, which took place on 13 March. **The Bill as passed is now in the four week period of intimation**, when the Counsel General or the Attorney General may refer the question whether the Bill, or any provision of the Bill, would be within the Assembly's legislative competence to the Supreme Court for decision. The Scottish Parliament passed its **own UK Withdrawal from the European Union (Legal Continuity)(Scotland) Bill**.

On the same day the **European Union (Withdrawal) Bill was debated in the House of Lords**, resulting in the Bill being reported without amendment. The House of Lords Report Stage of the Bill is scheduled to begin on 18 April.

On 23 March the European Council adopted its **negotiation guidelines on a political declaration on the future partnership between the EU and UK**. The declaration will be adopted alongside the Withdrawal Agreement and will set the framework for detailed negotiations on an agreement/agreements on the UK's future relationship with the EU. President of the European Council, Donald Tusk issued a **statement to accompany the guidelines**.

Also on 23 March 2018, the **Prime Minister wrote a letter to UK Businesses**, summing up many of the substantial elements of the transition period.

On 26 March **UK Prime Minister made a statement in Parliament** regarding the agreement on the draft Withdrawal Agreement and the general progress of the negotiations and the UK Government's current position on a number of issues.

On 29 March 2018 the Prime Minister **undertook a tour of the UK**, visiting Scotland, England, Northern Ireland and Wales to mark one year to go until Brexit.

On 4 April the UK Parliament's Exiting the European Union Commons Select Committee published **its report on the Future UK-EU relationship**. The report sets out a number of 'tests' by which it will 'judge the political declaration in October 2018', i.e. the final Withdrawal Agreement.

During recent months and weeks the European Commission has been publishing a series of preparedness briefings for citizens and businesses on the UK's Withdrawal from the EU and a series of slides prepared to inform the EU's internal discussions on a future relationship. The latest documents in relation to preparedness were published between 12 March and 09 April. They include briefings on **fisheries and aquaculture, copyright, EU ship-recycling, Euratom, plant health, illegal logging, audiovisual media services, electronic communications and security networks and information systems**.

2. Latest developments and documents published

Draft Withdrawal Agreement

Whilst nothing will be formally agreed until towards the end of the two year period of negotiations, progress has been made towards reaching political agreement on some aspects of both the phase one and phase two talks.

On 19 March the EU and UK negotiating teams agreed an update to the legal text of the **Draft Withdrawal Agreement**. The 129 page document includes agreed legal text for an implementation period, citizens' rights, and the financial settlement, as well as a significant number of other articles.

The document is colour coded, the agreement explains

...text in green is agreed at negotiators 'level, and will only be subject to technical legal revisions in the coming weeks. For text in yellow, negotiators agreed on the policy objective. Drafting changes or clarifications are still required. Text in white corresponds to text proposed by the Union on which discussions are ongoing.

As the coloured text indicates, the UK and EU have reached agreement on the issue of citizen's rights, the UK's financial settlement and most other separation issues.

The key areas in white that indicate that an agreement has yet to be reached include what happens on the Northern Ireland/ Ireland border, the position of Gibraltar in the negotiations, and what role the European Court of Justice will play in arbitrating any future disputes on the implementation of the Withdrawal Agreement.

The aim of both sides is to agree the final version of the Withdrawal Agreement by October 2018 to allow for ratification by the European Council, European Parliament and UK Parliament by 29 March 2019. Some provisions in the Withdrawal Agreement would come into force on 30 March 2019 such as those on the transition period whilst others would come into force at the end of the transition period on 1 January 2021.

A **further series of talks** between officials from both sides on the Northern Ireland and Ireland border have been taking place since 14 March. This latest round of talks is due to conclude on 18 April.

The **UK Prime Minister stated in Parliament on 26 March 2018** that, that the UK Government has committed

to agree operational legal text for the "backstop option" set out in the Joint Report - although it remains my firm belief that we can and will find the best solutions for Northern Ireland as part of the overall future relationship between the UK and the EU.

However, the Prime Ministers position is

...that the specific European Commission proposals for that backstop were unacceptable because they were not in line with Belfast Agreement and threatened the break-up of the UK's internal market. And as such they were not a fair reflection of the Joint Report.

Following the publication of the draft text on 19 March, **the Secretary of State for Exiting the EU, David Davis** and the **EU's Chief negotiator, Michel Barnier** announced that the UK and EU had reached political agreement on the transition period. Although the UK will formally leave the EU on 29 March 2019 there will be a 21 month transition period between the end of the UK's membership and the beginning of any new relationship agreed with the EU. The transition period will end in December 2020.

Further detail on the transition period can be found in Section 3 of this paper.

Future partnership

On 23 March the European Council **adopted its negotiation guidelines** on a political declaration on the future partnership between the EU and UK. The declaration will be adopted alongside the Withdrawal Agreement and will set the framework for detailed negotiations on an agreement/agreements on the UK's future relationship with the EU. The EU's Chief negotiator, Michel Barnier will use these guidelines as a basis for discussions with the UK Government on the content of the political declaration. These guidelines have, in part, been influenced by the European Parliament's **Resolution on the framework of the future EU-UK relationship**, passed on 14 March. The Resolution sets out the EU Parliament's principles for a future framework.

In a **statement accompanying the negotiation guidelines**, the President of the European Council, Donald Tusk indicated that there are some areas of commonality between what the UK Government and EU hopes to include in a future partnership such as zero tariff trade, security partnership and agreements on areas such as research and innovation.

The guidelines also indicate areas where further discussion is needed such as what membership or relationship, if any, the UK will be able to have with EU agencies such as the European Medicines Agency.

President Tusk also noted that

From my point of view, the outcome of the negotiations must pass two key tests:

– the test of balance of rights and obligations. For example, the EU cannot agree to grant the UK the rights of Norway with the obligations of Canada;

– the test of integrity of the Single Market. No Member State is free to pick only those sectors of the Single Market it likes, nor to accept the role of the ECJ only when it suits their interest. By the same token, a pick-and-mix approach for a non-member state is out of the question. We are not going to sacrifice these principles. It's simply not in our interest.

The Prime Ministers' statement in Parliament on 26 March 2018, reaffirmed that her speeches in **Munich** and **at the Mansion House** sets 'out the future security and economic partnerships we want to develop'.

On 14 March, a **Joint Ministerial Council (JMC) Plenary** meeting was held between the First Ministers' for Wales and Scotland and the Prime Minister. Progress on the EU negotiations was discussed at this meeting.

On **26 March the third meeting** of the Interparliamentary Forum on Brexit took place in Edinburgh. The Forum brings together parliamentarians from Westminster, Edinburgh and Cardiff, along with officials from Belfast. A **joint statement** was issued following the meeting.

The UK Parliament's Exiting the European Union Commons Select Committee published its **report on the Future UK-EU relationship** on 4 April. The report sets out a number of 'tests' by which it will 'judge the political declaration in October 2018', i.e. the final Withdrawal Agreement. The tests mostly revolve around the extent to which the UK citizens, businesses and other organisations will be able to engage with EU counterparts after Brexit. However the Committee did not reach a unanimous conclusion with this report, with some **Committee members criticising the report** in the press on the day it was published.

One year anniversary

On 29 March 2018 the Prime Minister undertook a tour of the UK, visiting Scotland, England, Northern Ireland and Wales to mark one year to go until Brexit. The **stated aim of the tour** was for the Prime Minister to

...outline her determination to deliver a Brexit deal that works for every community and protects the integrity of the Union.

Martin Shipton, chief reporter for Media Wales, reported that he was the 'only press journalist from Wales who would be asking a question of the Prime Minister' during the Welsh leg of her tour. He asked

Many take the view that leaving the Single Market and Customs Union will be devastating for the Welsh economy, which more than England's relies on manufacturing car and aircraft parts for export. What would you do for Wales, and companies based here, to offset such economic concerns?

The Prime Minister responded

First of all, I think there's actually a bright future for Wales and for the whole of the United Kingdom when we've left the European Union. I think there will be opportunities open to us. What I'm doing today in my tour of the four nations of the UK is talking to people like parents in the north east of England, I've talked to a business in Scotland, businesses here in Wales, farmers in Northern Ireland ... is [sic] hearing directly from them as to what they, how they see Brexit, what they want from Brexit. But also talking about the real opportunities that would exist to trade around the rest of the world.

So we're focusing now in our negotiations with the European Union on ensuring that we get that good economic partnership with the EU which will enable businesses here in Wales and elsewhere to continue to trade with the European Union.

But also ensuring that we're seeing those markets developed elsewhere.

The **full article is available online**. The Assembly's Research Service also published an article on the same day entitled: **One year to go: Brexit negotiations reach halfway point**.

UK legislation

The Trade Bill

The **Trade Bill** was reported to the House of Commons without any amendments on 1 February. The Bill closely relates to the **Taxation (Cross Border Trade) Bill** currently awaiting Report Stage in the Commons. The Trade Bill and the Taxation (Cross Border Trade) Bill seek to provide UK Ministers and, in some circumstances, devolved Ministers with framework powers to establish a standalone UK trading regime after the UK leaves the EU.

The Welsh and Scottish Government **amendments to the Trade Bill** were not accepted. Further **amendments** to the Bill have been tabled ahead of Report Stage but the date for report stage has not yet been announced. These amendments include a new clause tabled by Jeremy Corbyn which would ensure that regulations made by a Minister of the Crown within devolved competence require the consent of devolved Ministers.

The Welsh Government laid a **Legislative Consent Memorandum** in relation to the *Trade Bill* before the Assembly on 7 December 2017. It concluded that as currently drafted it could not recommend that the Assembly give consent to the Bill.

The External Affairs and Additional Legislation (EAAL) and Constitutional and Legislative Affairs (CLA) Committees recently reported on the Legislative Consent Memorandum relating to the Trade Bill.

The **EAAL Report** was published on 9 March. It contained one Recommendation that 'the Assembly should not grant its legislative consent to the provisions of Trade Bill identified as requiring the Assembly's consent at this time.' The report also concluded, among other things, that the powers proposed for Welsh Ministers are framed too widely and that the Bill should be amended to state that the powers it proposes cannot be used to amend the *Government of Wales Act 2006*.

CLA's Report was published on 16 March 2018. It also concluded that it is probable that amendments to the Trade Bill will be necessary before the Assembly will be in a position to provide its consent. The report also stated, among other things, that the use of concurrent powers by UK Ministers to make regulations that amend primary legislation in devolved areas should be subject to consent by the National Assembly.

The Sanctions and Anti-Money Laundering Bill

Another Brexit related Bill introduced by the UK Government, **the Sanctions and Anti-Money Laundering Bill**, which provides for the establishment of a national sanctions regime after Brexit, is also awaiting Report Stage in the Commons, the date of which is yet to be announced.

European Union (Withdrawal) Bill

The House of Lords Committee Stage of the **European Union (Withdrawal) Bill** concluded on 28 March after sitting for 11 days. **Over 400 amendments** to the Bill were tabled, including amendments jointly published by the Welsh and Scottish Governments, which were not accepted in the House of Commons, as well as amendments to clause 11 tabled by the UK Government.

Clause 11 which places restrictions on the legislative competence of the devolved legislatures featured prominently during the Lords Committee Stage debates on 21 and 26 March. Prior to Lords consideration of the devolution clauses, there were a number of Joint Ministerial Council (EU Negotiations) (JMC (EN)) meetings to try and reach an agreement on the Withdrawal Bill.

The JMC (EN) met on 8 March, for the second time in a fortnight, to discuss a possible agreement on amendments to the devolution provisions in the Withdrawal Bill. Subsequently, a **Communique** was issued which stated:

The Committee discussed the UK Government's proposed amendment to clause 11 and progress made towards reaching agreement. The Committee noted the timings for the Committee Stage debate in the House of Lords. All administrations remained committed to reaching agreement on the EU (Withdrawal) Bill. Discussions on further detail on the proposal would continue between the UK Government and Scottish and Welsh Governments in the coming weeks.

The Cabinet Office **press release** that accompanied the Communique noted the UK Government's decision to table their amendments to the Withdrawal Bill in the House of Lords despite no agreement having been reached to enable Parliament to have a detailed debate on clause 11.

The UK Government's proposed amendments to clause 11 were tabled on 13 March for consideration at Committee Stage in the House of Lords. Clause 11 as currently drafted places a new restriction on the legislative competence of the devolved legislatures post Brexit, in that they will not be able to pass legislation which is incompatible with the body of EU law that will be retained by the Bill, unless the restriction is lifted by Order in Council.

The UK Government's amendments, **tabled by Lord Callanan**, proposed to invert clause 11 by giving the devolved legislatures the freedom to legislate on any areas within their powers, as opposed to placing a blanket restriction on legislative competence. However, the proposed amendment would give powers to UK Ministers to make regulations imposing restrictions in devolved areas. These regulations would need to be approved by both Houses of Parliament but would not need to be agreed by the Assembly.

In a **letter** to all Assembly Members, dated 13 March, the Secretary of State for Wales, Alun Cairns, set out his views on the amendments to clause 11 and described them as a 'significant offer'.

On Wednesday 14 March a plenary meeting of the Joint Ministerial Committee (JMC (P)) was held between the UK Prime Minister Theresa May, the Welsh First Minister Carwyn Jones, and the Scottish First Minister Nicola Sturgeon. However, no agreement was reached on amendments to the Withdrawal Bill during the meeting. According to the **Communique** published after the meeting:

Ministers also discussed the EU (Withdrawal) Bill, agreeing that further work would be required at JMC(EN) and via further Ministerial discussions, with all administrations reiterating their preference to reach agreement on an amendment to Clause 11.

On 15 March the First Ministers for Wales and Scotland **wrote jointly** to the Speaker of the House of Lords outlining their concerns on the UK Government's proposed amendments to Clause 11.

The UK Government amendments to Clause 11, as well as other amendments including those drafted jointly by the Scottish and Welsh Governments, were debated on 21 March. However, the UK Government decided to withdraw their amendments after debate. **The Advocate-General for Scotland, Lord Keen of Elie, speaking on behalf of the UK Government, said:**

We have put forward these amendments to facilitate scrutiny of the Government's current position on Clause 11. They reflect the status of our discussions with the devolved Administrations, and noble Lords will be aware that our discussions with the Scottish and Welsh Governments are continuing. We remain convinced that this Bill is the right vehicle for providing legal certainty across the UK and that we should reach agreement with the Scottish and Welsh Governments. As such, the Government do not seek a vote on these amendments today and we will withdraw or not move them at the conclusion of the debate, but we will reflect seriously on the points made and incorporate them into our discussions.

All other amendments relating to devolution were also withdrawn. As a result, the Bill was reported without amendment and the House of Lords Report Stage of the Bill is scheduled to begin on 18 April.

Documents and Position Papers

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

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

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

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

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

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

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

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

EU Paper	Contents EU Paper	UK Paper	Contents UK Paper
			border between Northern Ireland and Great Britain. It makes specific proposals on agri-food products. It suggests that separate to the broader discussions on the financial settlement there should be an agreement to continue PEACE funding to Northern Ireland and border counties of Ireland.
<u>Public Procurement</u> 7 September to EU 27	Proposals for the rules and procedures on public procurement that should apply to procurement procedures and contracts on-going at the date of withdrawal.	None	
<u>Intellectual Property Rights (including geographical indications)</u> 7 September 2017 to EU 27	Proposals for the continuation of the protection of intellectual property rights agreed before the date of withdrawal including the protection of protected food names. The EU suggests that the UK will need new domestic legislation to be in place before the date of withdrawal on protected food names.	None	

EU Paper	Contents EU Paper	UK Paper	Contents UK Paper
<p><u>Use of Data and Protection of Information Obtained or Processed before the Withdrawal Date</u> 7 September to EU 27</p>	<p>Proposals to the reciprocal rules and protections that should apply to data held or processed in the UK and the EU after the date of withdrawal.</p>	<p><u>Confidentiality and access to documents: Position Paper 21 August 2017</u></p>	<p>The paper states that the aim should be for the Withdrawal Agreement to ensure that the UK and EU have equivalent protections and obligations on information and access to documents as it currently the case under existing EU legislation.</p>
<p>None</p>		<p><u>Future Customs Arrangements: Future partnership paper</u> 15 August 2017</p>	<p>The position paper proposes two possible options for a future customs relationship. A highly streamlined customs arrangement between the UK and EU or a new customs partnership with the EU where the UK would align its border with the EU in such a way that it would remove the need for the UK-EU customs border. The UK would leave the customs union and be able to negotiate its own trade deals under both options. Under the second option the position paper proposes that the UK would mirror EU requirements for goods from the rest of the world where their final</p>

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

EU Paper	Contents EU Paper	UK Paper	Contents UK Paper
			<p>innovation programmes will need to be negotiated along with the size of any financial contribution the UK would have to make to participate in them. It states that this contribution would need to be weighed against the UK Government's other spending priorities. Reference to the participation of Welsh Universities in existing programmes and networks is made.</p>
None		<p><u>Foreign Policy, defence and development: Future partnership paper</u> 12 September 2017</p>	<p>The paper proposes a future partnership with the EU on security and defence which is broader than any agreement the EU currently has with a third-party country. It sets out the areas where there is currently cooperation on defence, security and international development.</p>
None		<p><u>Customs Bill White Paper: legislating for UK's future customs, VAT and excise regimes</u> 9 October 2017</p>	<p>The <u>White Paper on the Customs Bill</u> sets out the UK Government's initial proposals for a standalone customs, VAT and excise regime following the</p>

EU Paper	Contents EU Paper	UK Paper	Contents UK Paper
			UK's exit from the EU. The White Paper includes proposals for a contingency scenario should no deal be reached with the EU on a future trading relationship.
None		<u>Preparing for our future UK trade policy</u> 9 October 2017	The <u>trade policy white paper</u> sets out the UK Government's preferred positions for a new trade policy and indicates what legislation will be needed to implement that policy. The paper sets out five priorities for a new trading policy.
<u>European Council Conclusions</u> on progress made in the negotiations- 20 October	The Council concluded that insufficient progress has been made in the discussions on the Withdrawal Agreement to begin negotiations on the future relationship. It provided detail on where further progress is needed. It also stated that internal preparations between the 27 remaining Member States for discussions on a future trade relationship would begin.	None	

EU Paper	Contents EU Paper	UK Paper	Contents UK Paper
None		<u>Sanctions and Anti-Money Laundering Bill</u> 19 October	The Bill is considered necessary to ensure that the UK can implement an international sanctions regime following its exit from the EU.
None		<u>Technical Note: citizen's rights administrative procedures in the UK</u> 7 November	The UK Government published further details on how the system for EU Citizens to apply for permanent UK residency will work. This was sent as a technical paper to the European Commission.
None		<u>Trade Bill 2018</u> 7 November	The Bill provides ministers with powers to make changes to domestic UK law to implement the WTO's Agreement on Government Procurement and any necessary changes if the UK replicates some of the EU's existing deals with third party countries. It also provides for the establishment of a new Trade Remedies Authority and gives HMRC new data and information powers and duties in relation to export and trade.

EU Paper	Contents EU Paper	UK Paper	Contents UK Paper
<p><u>Joint Report</u> from the negotiators of the European Union and the UK Government on progress during Phase 1 of negotiations under Article 50 TEU on the UK's orderly withdrawal from the EU 8 December 2017</p>	<p>Both the EU and the UK Government reached agreement in principle in the areas under consideration during the first phase of negotiations, enabling talks to move to the next phase. The report sets out their agreed position on protecting the rights of Union citizens in the UK and UK citizens in the Union; the framework for addressing the unique circumstances in Northern Ireland; and the financial settlement.</p>	<p><u>Joint Report</u> 8 December 2017</p>	
<p><u>Communication from the Commission to the European Council (Article 50)</u> on the state of progress of the negotiations with the UK under Article 50 of the Treaty on European Union 8 December 2017</p>	<p>Based on the Joint Report from the negotiators of the EU and the UK Government, the Commission recommended to the European Council (Article 50) to conclude that sufficient progress had been made in the first phase of the negotiations.</p>		
<p>None</p>		<p><u>Prime Minister's commitments to Northern Ireland</u> 8 December 2017</p>	<p>Prime Minister Theresa May set out six key commitments to Northern Ireland that guided her in the negotiations with the EU.</p>

EU Paper	Contents EU Paper	UK Paper	Contents UK Paper
European Council <u>Guidelines</u> 15 December 2017	Following the decision that sufficient progress had been made, the European Council (Article 50) issued draft guidelines to move to the second phase of negotiations where a transition period and the framework for the future relationship will be discussed.	None	
<u>Supplementary negotiating directives</u> 20 December 2017	Supplementary directives for the negotiation of an agreement with the UK setting out the arrangements for its withdrawal from the EU.	None	
<u>Slides on Fisheries</u> 17 January 2018	Presentation on fisheries to inform the internal preparatory discussions on a future relationship.	None	
<u>Slides on Aviation</u> 17 January 2018	Presentation on aviation to inform the internal preparatory discussions on a future relationship.	None	
<u>Slides on Governance</u> 19 January 2018	Presentation on governance to inform the internal preparatory discussions on a future relationship.	None	

EU Paper	Contents EU Paper	UK Paper	Contents UK Paper
<u>Slides on Security, Defence and Foreign Policy</u> 24 January 2018	Presentation on security, defence and foreign policy to inform the internal preparatory discussions on a future relationship.	None	
<u>Slides on Police and Judicial Cooperation in criminal matters</u> 24 January 2018	Presentation on police and judicial cooperation to inform the internal preparatory discussions on a future relationship.	None	
<u>Council (Article 50) negotiating directives on the transition period</u> 29 January 2018	Directives from the European Council setting out the guidelines for the Union's negotiator on a transition period with the UK	None	
<u>Slides on a Level Playing Field</u> 31 January 2018	Presentation on a level playing field to inform the internal preparatory discussions on a future relationship.	None	
<u>Slides on Services</u> 6 February 2018	Presentation on Services to inform the internal preparatory discussions on a future relationship.	None	
<u>Slides on International Agreements and Trade Policy</u> 6 February 2018	Presentation on International Agreements and Trade Policy to inform the internal preparatory discussions on a future relationship.	None	

EU Paper	Contents EU Paper	UK Paper	Contents UK Paper
<u>Position Paper on Transitional Arrangements in the Withdrawal Agreement</u> 7 February 2018	Paper outlining suggested legal text on transition for inclusion in a Withdrawal Agreement.	Response to Position Paper on Transitional Arrangements in the Withdrawal Agreement 21 February 2018.	Response with suggested amendments to the position paper published by the European Commission.
None.		<u>Technical note on international agreements</u> 8 February 2018	This technical note outlines further information on the UK's approach to international agreements during the implementation period.
<u>Slides on Transport</u> 21 February 2018	Presentation on transport to inform the internal preparatory discussions on a future relationship.	None.	
<u>Slides on Mobility</u> 21 February 2018	Presentation on mobility to inform the internal preparatory discussions on a future relationship.	None.	
<u>Slides on regulatory issues</u> <u>21 February 2018</u>	Presentation on regulatory issues to inform the internal preparatory discussions on a future relationship.	None.	
<u>Brexit preparedness document rail transport</u> 27 February 2018	Information for citizens and businesses on the implications of the UK's withdrawal from the EU on rail transport.	None.	
<u>Brexit preparedness document consumer protection and passenger</u>	Information for citizens and businesses on the implications of the UK's withdrawal from the EU	None.	

EU Paper	Contents EU Paper	UK Paper	Contents UK Paper
<u>rights</u> 27 February 2018	on consumer protection and passenger rights.		
<u>Brexit preparedness document animal health and welfare</u> 27 February 2018	Information for citizens and businesses on the implications of the UK's withdrawal from the EU on animal health and welfare.	None.	
<u>Brexit preparedness document maritime transport</u> 27 February 2018	Information for citizens and businesses on the implications of the UK's withdrawal from the EU on maritime transport.	None.	
<u>Draft legal text on the Withdrawal Agreement</u> 28 February 2018	Draft articles and clauses for a legal text to implement the agreement reached between the EU and UK on Withdrawal.	None.	
<u>European Council draft negotiation guidelines on a framework for a future partnership</u> 7 March 2018	Suggested guidelines from the Council to the Commission on agreement a framework for a future partnership between the EU and UK.	None.	
<u>Brexit preparedness document electronic communications</u> 12 March 2018	Information for citizens and businesses on the implications of the UK's withdrawal from the EU on the rules in the field of electronic communications.	None.	
<u>Brexit preparedness document security networks and information systems.</u> 12 March 2018	Information for citizens and businesses on the implications of the UK's withdrawal from the EU on the rules in the field of security	None.	

EU Paper	Contents EU Paper	UK Paper	Contents UK Paper
	networks and information systems.		
<u>Brexit Preparedness document audiovisual media services</u> 12 March 2018	Information for citizens and businesses on the implications of the UK's withdrawal from the EU on the rules in the field of audiovisual media services.	None.	
<u>Draft Withdrawal Agreement</u> 19 March 2018	The draft Withdrawal Agreement of 19 March 2018 includes agreed legal text for the implementation period, citizens' rights, and the financial settlement, as well as a significant number of other articles. The UK and the EU negotiating teams aim to finalise the entire Withdrawal Agreement by October.	<u>Draft Withdrawal Agreement</u> 19 March 2018	The draft Withdrawal Agreement of 19 March 2018 includes agreed legal text for the implementation period, citizens' rights, and the financial settlement, as well as a significant number of other articles. The UK and the EU negotiating teams aim to finalise the entire Withdrawal Agreement by October.
<u>Brexit Preparedness document illegal logging and associated trade</u> 21 March 2018	Information for citizens and businesses on the implications of the UK's withdrawal from the EU on the rules in the field of illegal logging and associated trade.	None.	
<u>Brexit Preparedness document EU plant health</u> 21 March 2018	Information for citizens and businesses on the implications of the UK's withdrawal from the EU on the rules in the field of EU plant	None.	

EU Paper	Contents EU Paper	UK Paper	Contents UK Paper
	health.		
<u>Brexit Preparedness document Euratom</u> 23 March 2018	Information for citizens and businesses on the implications of the UK's withdrawal from the EU on Euratom.	None.	
<u>European Council (Art. 50) guidelines on the framework for the future EU-UK relationship</u> 23 March 2018	These guidelines will serve as a mandate for the EU negotiator to start discussing the framework for the future relationship, with the aim of reaching an overall understanding. That understanding will be reflected in a political declaration accompanying the withdrawal agreement and referred to in it.	<u>The Prime Minister's letter to UK Businesses</u> 23 March 2018	Explaining the substantial elements of the transition period.
<u>Brexit Preparedness document EU ship recycling</u> 27 March 2018	Information for citizens and businesses on the implications of the UK's withdrawal from the EU on rules in the field of EU ship recycling.	None.	
<u>Brexit Preparedness document copyright</u> 28 March 2018	Information for citizens and businesses on the implications of the UK's withdrawal from the EU on rules in the field of copyright.	None.	
<u>Brexit Preparedness document approval of certain vehicles and engines</u> 28 March 2018	Information for citizens and businesses on the implications of the UK's withdrawal from the EU on rules in the field of the approval	None.	

EU Paper	Contents EU Paper	UK Paper	Contents UK Paper
	of certain vehicles and engines.		
<u>Brexit Preparedness document fisheries and aquaculture</u> 9 April 2018	Information for citizens and businesses on the implications of the UK's withdrawal from the EU on rules in the field of the fisheries and aquaculture.	None.	

3. Key areas of interest to the External Affairs Committee

Preparation for Brexit

The Welsh Government's response to the Chancellor of the Exchequer's Spring Statement, published 12 March 2018, highlighted that

The UK Government confirmed today that Wales will receive just over £21m in Barnett consequential for 2018-19 as a result of the £3bn announced in the autumn Budget for Brexit preparedness.

The full response implies that this will go towards supporting the Welsh Government's £50 million EU transition fund to support Welsh businesses and public services plan and prepare for Brexit.

The Ireland/Northern Ireland border

Given the Committee's interest in the implication of Brexit for Welsh Ports, it may be particularly interested in the issue of the Northern Ireland and Ireland border and where any eventual border may begin.

The latest draft of the legal text on the Withdrawal Agreement retains the EU's proposed 'back-stop' solution for the border between Northern Ireland and Ireland. This solution is contained in a Protocol on Ireland/Northern Ireland within the draft Withdrawal Agreement.

The Protocol calls for the establishment of a "common regulatory area" between Northern Ireland and the EU should no other agreement be reached. The Common Regulatory Area would require full alignment of the regulations on goods listed in Annex 2.1 of the Protocol and for Northern Ireland to follow the EU's customs code. Regulatory alignment would, in particular, be required on sanitary and phytosanitary rules on agriculture and fisheries goods listed in Annex 2.5 of the protocol.

The Annexes have yet to be published and the majority of the text on the proposals for a Common Regulatory Area remain white indicating an agreement has yet to be reached. However, the text indicates that in the event that the 'back-stop' solution applies there is political agreement on the continued operation of the single electricity market and the need for continued cooperation in the areas of environment, health, agriculture, transport, education, tourism, energy, telecommunications, broadcasting, inland fisheries, justice and security, higher education, sport and state aid.

The Prime Minister provided an initial reaction to the protocol in Prime Ministers' Questions on 28 February, saying that

The Foreign Secretary and I are absolutely committed to ensuring that we deliver on no hard border between Northern Ireland and Ireland...the draft legal text that the Commission has published, if implemented, would undermine the UK common market and threatens the constitutional integrity of the UK by creating a customs and regulatory border down the Irish sea. No UK Prime Minister could ever agree to it, and I will be making that absolutely clear.

Discussions about a mutually agreeable option are ongoing, with a meeting between the leaders of the negotiating teams on the issue due to take place on 18 April.

The Transition period

In terms of the transition agreement, the parties have agreed that the transition will last from 29 March 2019 until December 2020. The UK will continue to abide by the rules and regulations of the EU for the entirety of that period including any new regulations that come into force during those years. The European Court of Justice will continue to be the legal authority for European regulations during the transition period and UK Courts will still be able to refer matters to the European Court of Justice during that period.

EU citizens who arrive in the UK during the transition period will be entitled to the same rights offered to those who arrive before 29 March 2019 and visa versa for UK citizens arriving in an EU Member State. The UK will continue to participate in both the Common Agricultural Policy (CAP) and Common Fisheries Policy (CFP) until December 2020. In terms of the CFP the UK will be consulted on the annual allocation of fishing quota during the transition period and could be invited to participate in any EU delegations negotiating fishing rights with third-party countries. The UK will also continue to have access to the Single Market and Customs Union on the same terms as it enjoys as a Member State.

The UK will be allowed to negotiate and sign trade deals with non-EU countries during this period but these agreements cannot come into force until after December 2020. The UK Government published a [technical note on international agreements](#) on 8 February 2018, which outlines its approach to international agreements during the implementation period.

The agreement on transition has been welcomed by parties on both sides of the negotiations for providing citizens and businesses with more time to prepare for any changes to the future relationship. On 23 March 2018, the [Prime Minister wrote a letter to UK Businesses](#), summing up many of the substantial elements of the transition period.

Implications of Brexit for Wales

In terms of gauging the impact of Brexit on Wales, the Committee may be interested in the following.

The National Assembly's Finance Committee launched a new Inquiry on ['What will replace EU funding post-Brexit?'](#) The Committee will 'look at what preparations the Welsh Government is making for different scenarios and which funding models could deliver the best possible benefits for Wales' and has called for written evidence from stakeholders on this issue.

On March 12, the UK Parliament's Work and Pensions Committee has published its report on [the future of the European Social Fund](#). As Wales is a significant beneficiary of the fund, the Committee may be interested to know that one, of the four, report conclusions, was that

the [UK] Government proceed urgently with detailed design of a successor to the European Social Fund so that there is no gap between existing and new funding streams.

On 13 March, the [UK Parliament's Welsh Affairs Committee took evidence](#) from Professor of International Business at Aberystwyth University, Nicholas Perdikis on

the impact of the UK's future trade policy on the Welsh economy, the differing priorities within Welsh export sectors, the importance of imports to the Welsh

economy, and how the various options for the UK's future trade policy could impact the Welsh economy as a whole.

This evidence session is part of the Welsh Affairs Committee's wider **Inquiry on Brexit: Agriculture, Trade and the repatriation of powers.**

During the session, Professor Perdikis was discussing evidence from his **Modelling the Economic Impact of Brexit on the Welsh Economy** report, which he first presented to the External Affairs and Additional Legislation Committee on 12 March. Professor Perdikis produce this report as part of his involvement with the **National Assembly for Wales' Academic Fellowship Scheme.**

Post Brexit Frameworks

Given the Committee's interest in intergovernmental relations post-Brexit, it will want to note that the UK Government have published their provisional **assessment** of where there will need to be UK-wide common frameworks after Brexit. The document, published on 9 March, lists 24 areas that are expected to require legislative frameworks. These 24 areas include agricultural support, fisheries management and support, animal welfare, pesticides, food labelling and food safety, and plant health. The analysis also includes 12 policy areas that the UK Government believes are wholly reserved but which are currently subject to 'ongoing discussion' with the devolved governments. These include protected food names and state aid.

Meanwhile, in response to the UK Government's publication of its **common frameworks analysis**, the Cabinet Secretary for Finance, in a **written statement** published on Wednesday 14 March, highlighted the fact that it is a UK Government document:

...it had not been agreed with us and does not represent Welsh Government views. We will be considering the document in detail and working with the UK Government, the Scottish Government and the Northern Ireland Executive to overcome any differences where we can.

The Cabinet Secretary for Finance also said:

Language around devolving "significant brand new powers" is misleading and unhelpful. These powers are not being handed to the National Assembly, they are already here.

Adding that the overall number of areas in each group are 'largely meaningless':

.... because areas such as 'Agricultural Support' and 'Fisheries management and support' are significantly broader and have a greater impact on devolved competence in Wales than important, but narrower, areas such as 'electronic road toll systems' and 'blood safety and quality'.

On 15 March, the Assembly's Research Service published an **article regarding Post Brexit UK-wide Frameworks.**

Also in March, the **UK in a Changing Europe programme** published its report on **the regional policy implications of Brexit.** The report brings

together a team of experts on devolved and local government to consider not only what happened in the referendum itself, but also the debate about how Brexit should affect these sub-state layers of governance.

On 9 April, the **Institute for Government published** a report which, it believes, shows that

the devolution arrangements of the late 1990s were designed to function within membership of the EU. Outside of the EU, they are no longer fit for purpose... The report makes recommendations for how the four governments can work together now and after Brexit.

European Council Guidelines on the framework for a future relationship

As referenced above, the European Council adopted **its negotiation guidelines for a political declaration** on the framework for a future partnership between the UK and the EU on 23 March.

In its guidance, the Council calls for as 'close as possible' a relationship with the UK in future but notes that the type of agreement possible will be limited by the UK's current position on the customs union and the single market which it states will mean friction in trading relationships. However, paragraph 6 of the guidelines state that should the UK Government's position on the single market and customs union change the Council would be prepared to reconsider its offer on the future relationship.

The guidelines state that a future relationship should include agreements on trade and economic cooperation, security, defence and foreign policy, terrorism and crime, research and innovation, transport including an agreement on aviation, public procurement, climate change and sustainable development, education and culture, law enforcement and judicial cooperation and personal data.

The guidelines further state that a free trade agreement between the UK and EU should be 'ambitious' and seek to agree zero tariffs on all goods. The guidelines also state that the EU would be prepared to discuss customs cooperation but this must respect the 'integrity' of the customs union. Paragraph 8 of the agreement outlines the Council's desire for a free trade agreement to include cooperation on technical barriers to trade but states that any free trade agreement should also seek to retain existing reciprocal rights in relation to access to fishing waters.

4. Welsh Government Response

Law Derived from the EU (Wales) Bill

Following the failure at a number of Joint Ministerial Council (EU Negotiations) meetings to reach an agreement on the Withdrawal Bill, both the Welsh and Scottish Governments decided to introduce their own 'continuity' bills.

On 6 March Assembly Members agreed that the **Law Derived from the EU (Wales) Bill** be treated as an Emergency Bill and also agreed the **timetable** for its consideration. A guide to Emergency Bills, produced by the Assembly's Research Service, can be found **here**.

Following the Assembly's agreement to treat the Bill as emergency legislation, on 7 March the **Law Derived from the EU (Wales) Bill** was formally introduced by the Welsh Government along with the Bill's **Explanatory Memorandum**. A Bill Summary was **prepared by the Research and Legal Services**.

Following the formal introduction of the Bill, the Cabinet Secretary for Finance made a **written statement** in which he said:

Our preference remains that those amendments are made and that the EU (Withdrawal) Bill operates fairly for the whole of the UK. Although we are working closely with the UK Government to secure those amendments, and indeed substantial progress has been made in recent weeks, we have yet to reach an agreement.

In these circumstances, it would be irresponsible for us to fail to prepare for a situation where consent for the EU (Withdrawal) Bill is withheld by the Assembly. The LDEU Bill is a fall-back option both to provide legislative continuity in Wales in a way that respects the devolution settlement. We must have continued legal certainty for Welsh businesses and citizens in Wales following the UK's exit from the EU – the LDEU Bill will provide the means of delivering that legal certainty.

According to the **Welsh Government**, the Bill's aims are to:

- preserve EU law covering devolved areas after Brexit;
- enable the Welsh Ministers to ensure that legislation covering these subjects work effectively after Brexit and after the Withdrawal Bill repeals the European Communities Act 1972;
- enable Welsh Ministers to legislate to maintain regulatory alignment with the EU; and
- ensure that UK Government Ministers will have to obtain the consent of the Welsh ministers before making regulations within the scope of the EU law within devolved competence.

On 12 March the Assembly's Constitutional and Legislative Affairs Committee considered the Bill and laid its **report** the following day in which it made eight recommendations to the Welsh Government. The **Cabinet Secretary for Finance responded to the report** on 15 March.

Stage 1 consideration of the Bill the Bill **took place on 13 March** and the motion to agree the general principles of the Bill was agreed, with 40 Members voting in favour, 13 against and 1 abstention.

Stage 2 consideration took place in the Committee of the Whole Assembly on **Tuesday 20 March**. The Bill was amended during Committee Stage to:

- provide that an enactment that is partly within the Assembly's legislative competence and partly outside legislative competence can be disapplied in relation to Wales by Welsh Ministers, and then restated to the extent that it is within the Assembly's competence;
- place a sunset clause on the powers of Welsh Ministers to make provision corresponding to EU law after exit day; and
- require Welsh Ministers to lay statements alongside draft regulations setting out whether the enhanced procedure should apply, and also in circumstances when they consider the urgent procedure should apply or when draft regulations modify primary legislation.

Stage 3 consideration of amendments took place in **Plenary on 21 March**. During Stage 3, the Bill was amended to place a duty on Welsh Ministers to report on the exercise of their consent function to the making, approving or confirming of subordinate legislation within devolved competence by UK Ministers within a period of 60 days. The Bill was also amended to enable Welsh Ministers to repeal the

Act via subordinate legislation. In addition, despite rejecting Simon Thomas's proposed amendment to place EU environmental principles on the face of the Bill, the Welsh Government committed to taking the first legislative opportunity to enshrine environmental principles into domestic law and to closing the governance gap.

Stage 4 of the Bill took place immediately after the conclusion of Stage 3. The Bill was agreed by the Assembly with 39 Members voting in favour, 13 against and 1 abstention.

The Bill as passed is now in the four week period of intimation, when the Counsel General or the Attorney General may refer the question whether the Bill, or any provision of the Bill, would be within the Assembly's legislative competence to the Supreme Court for decision. Similarly, the Secretary of State for Wales may make an order prohibiting the Clerk of the Assembly from submitting the Bill for Royal Assent.

The *Law Derived from the EU (Wales) Bill* is drafted differently to the UK Government's Withdrawal Bill. The Withdrawal Bill provides for a general transposition into, and preservation of the entire body of EU law in, UK domestic law and describes it as 'retained EU law'. The Welsh Government's Bill does not provide for this general transposition. Rather, the Bill gives regulation-making powers to the Welsh Ministers to ensure that EU law covering subjects within the Assembly's legislative competence is preserved as part of the law in Wales after Brexit. In addition, the Bill empowers Welsh Ministers to modify EU law within devolved competence; but subject to a range of limitations intended to confine the changes to what is necessary in the light of Brexit. The new body of EU law transposed by this Bill will fall outside the definition of 'retained EU law' in the Withdrawal Bill. As a result, the restrictions on the Assembly and Welsh Ministers in relation to modifying retained EU law, including the restrictions in clause 11 of the Withdrawal Bill, would no longer apply.

The Welsh Government's Bill does not replace the Withdrawal Bill. Rather, the Bill will operate alongside the UK Government's Bill. Any EU law which is not retained or restated in regulations made by Welsh Ministers, for example provisions that fall outside the Assembly's legislative competence, will be captured by the Withdrawal Bill and transposed into domestic law as retained EU law.

As mentioned above, the First Minister for Wales, Carwyn Jones, **issued a written statement** on the outcome of the JMC Plenary meeting held on 19 March. He stated:

...I reiterated the need for the UK's fullest possible access to the single market, and referred to the relationship Norway has with the single market. I also restated the Welsh Government's support for the UK remaining within a Customs Union with the EU, not least because it would go a considerable way to resolving the difficulty of future Irish border arrangements (and in that context I noted the particular difficulties that might be experienced in Holyhead and other Welsh ports handling Irish trade if a satisfactory arrangement could not be reached). I also stressed the need for early agreement on transitional arrangements. Finally, looking further forward, I emphasised the importance the Welsh Government attaches to the engagement of the devolved administrations with the UK Government on the negotiations on the future trade relationship with the EU and with future trade policy and negotiations more generally. There will be a paper on this at the next meeting of JMC(EN), and we will be looking for concrete proposals from the UK Government in this regard.
