

# Negotiations on the UK's withdrawal from the EU

## Brexit Monitoring Report

19 December 2018



The Assembly and

BREXIT

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The Assembly and

**BREXIT**

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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 12 November 2018. This paper provides:

- A summary of the latest developments in the negotiations and the related UK legislation;
- An analysis of the key issues of interest to the External Affairs and Additional Legislation Committee (the Committee); and
- A summary of the Welsh Government's response to the latest developments.

### Summary of developments

- On 14 November the agreed text of the **Withdrawal Agreement between the UK and EU** was published alongside a draft **'Outline of the Political Declaration'**.
- On 15 November the Prime Minister **made a statement in Parliament** outlining key elements of the documents. That same day Dominic Raab, then Secretary of State for Exiting the European Union and Esther McVey, then Secretary of State for Work and Pensions resigned from the Cabinet.
- Also on 15 November, **Donald Tusk, the President of the European Council** called an emergency summit of the European Council, for 9.30am on 25 November.
- On 16 November **the First Ministers of Wales and Scotland** sent a joint letter to the Prime Minister, criticising the lack of engagement with the devolved administrations prior to the UK Cabinet's agreement on the Withdrawal Agreement. Consequently, **a JMC (EN) was arranged for 19 November**.
- On 20 November, the **First Minister made a statement in Plenary** on the draft Withdrawal Agreement, in which he 'set out the Welsh Government's position on the agreement and outlined the next steps that need to be taken'.
- On 22 November, following the publishing of the agreed text of the **full Political Declaration**, the Prime Minister, **Theresa May, made a statement on the declaration in Parliament**.
- On 25 November, **the EU Council endorsed** the Withdrawal Agreement and approved the Political Declaration. Its **President Donald Tusk** and **Theresa May** made statements the same day.

- On 26 November, the Cabinet Secretary for Finance, **Mark Drakeford AM**, gave **evidence** on the negotiations to the Assembly's External Affairs and Additional Legislation Committee.
- On 27 November the Welsh Government published its **assessment of the Withdrawal Agreement and Political Declaration** in a written statement by the First Minister.
- On 28 November the UK Government published its **long-term economic analysis for EU exit**. This estimates the impact of a number of different Brexit scenarios on the UK's Gross Domestic Product (GDP) in comparison to EU membership over a 15 year period. The same day the Bank of England also published **analysis of the impact of different Brexit scenarios on the UK's monetary and financial stability**.
- On 29 November 2018 the governments of the UK, Spain, and Gibraltar, **concluded four Memoranda of Understanding (MoU)** on Gibraltar.
- On 29 November the **House of Commons Liaison Committee** took oral **evidence from the Prime Minister on Brexit**.
- On 29 November the Assembly's External Affairs and Additional Legislation Committee published its analysis of **the impact of the Withdrawal Agreement and Political Declaration on Wales**.
- On 3 December the UK Government published a summary of the legal advice it received on the Withdrawal Agreement: **EU Exit Legal position on the Withdrawal Agreement**. Two days later it published **the advice in full, following MPs finding the UK Government in contempt of Parliament for not publishing its advice in full**.
- On **4 December, the Assembly debated** the draft EU Withdrawal Agreement (the Withdrawal Agreement) and the Political Declaration. The Assembly rejected the Withdrawal Agreement and the political declaration and called for the UK to remain within the Single Market and Customs Union and for an extension to the Article 50 process.
- December 4 also saw the start of five days of debate in the House of Commons on **Section 13 (1)(b)** of the **European Union (Withdrawal) Act 2018** i.e. the ratification of the deal reached by the Prime Minister with the EU Council.
- Also on 4 December the Assembly's Children, Young People and Education Committee released its report on the **Impact of Brexit on Higher and Further Education in Wales**.

- On 4 December the Court of Justice of the European Union's (CJEU) Advocate General, Campos Sanchez-Bordona, **published his opinion** which indicated that he believed countries should be able to unilaterally cancel its Article 50 notification.
- And also on 4 December, the Welsh Government published its **economic analysis of UK Government's proposals for the UK's exit from the EU**.
- The **Scottish Parliament** voted on 5 December to reject the Withdrawal Agreement and Political Declaration.
- On 6 December, Michel Barnier, the EU's Chief Brexit Negotiator, **spoke at the Committee of the Regions** about the Withdrawal Agreement and Political Declaration, and in relation to working with cities and regions in relation to Brexit.
- The House of Commons' Committee on Exiting the EU published its **report on the EU Withdrawal Agreement and Political Declaration** on 9 December. Committee Members unanimously concluded that the deal fails to offer sufficient clarity or certainty for the future of the UK.
- On 10 December, the UK Government announced that it was postponing the 'meaningful vote' to ratify the Withdrawal Agreement and Political Declaration. The Prime Minister **made a statement to Parliament** on 10 December on this postponement, noting that the Ireland-Northern Ireland 'backstop' contained within the deal was a source of 'widespread and deep concern' to MPs. As a result, she said that the deal would be rejected by a significant margin if it was held on 11 December, as scheduled.
- Also on 10 December, the Full Court of the CJEU **published their judgement** that the UK is free to revoke unilaterally the notification of its intention to withdraw from the EU.
- On 11 December, Robin Walker MP, Parliamentary Under-Secretary of State for Exiting the EU, stated in response to **an Urgent Question** that the UK Government will ensure that there is a 'meaningful vote' by Parliament before 21 January 2019.
- Also on 11 December, the House of Commons' Treasury Committee published its **report on the economic implications of the Withdrawal Agreement and Political Declaration**.
- On 11 December, the House of Commons **held an emergency debate** on the UK Government's management of the meaningful vote.

- On 13 December, Mark Drakeford **appointed his Cabinet**, including Jeremy Miles as Counsel General and Minister for Brexit and Eluned Morgan as Minister for International Relations and the Welsh Language.
- On 13 December the Supreme Court **handed down its judgement** following the referral made by the UK Government in relation to the Scottish Government's Continuity Bill. It found that section 17 of the Bill would step outside the Scottish Parliament's competence to modify the Scotland Act. In addition, a number of other parts of the Bill would change the EU Withdrawal Act 2018, which is protected from modification – therefore a number of other sections are also now outside the competence of the Scottish Parliament.
- On 13 and 14 December, the Prime Minister **attended the European Council** in Brussels. Ahead of the meeting, the Prime Minister stated her intention to show the “legal and political assurances” that she would be seeking. Donald Tusk, President of the European Council **stated that** “We will not renegotiate the deal, including the backstop, but we are ready to discuss how to facilitate UK ratification. As time is running out, we will also discuss our preparedness for a no-deal scenario.”
- On 17 December, the Prime Minister **made a statement to the House of Commons** on the European Council meeting. She stated that the meaningful vote on the Withdrawal Agreement and Political Declaration would be in the week commencing 14 January 2019, after the debate restarting in the week commencing 7 January. The Prime Minister also highlighted that she had raised the Ireland-Northern Ireland ‘backstop’ at the European Council meeting.
- Following the European Council, Donald Tusk **stated that** the Withdrawal Agreement and Political Declaration are not open for re-negotiation. He set out the EU's intention that the ‘backstop’ will be a temporary arrangement if it comes into force, and that the EU hopes to conclude arrangements for a future relationship that mean it is not needed.
- On 18 December, the UK Government agreed to implement its plans in the event of a ‘no deal’ Brexit in full. It approved allocations of £2 billion for UK Government departments to prepare for a ‘no deal’ scenario. Priority areas include borders, security and trade. It also agreed to communicate with businesses and individuals regarding preparations for a ‘no deal’ scenario.
- On 18 December, the House of Commons held an emergency debate on the Withdrawal Agreement and Political Declaration.

- On 19 December, the First Minister, Mark Drakeford AM **announced that** the Welsh Government would be further intensifying its preparations for a ‘no deal’ Brexit. He also met with the Prime Minister on 19 December and attended the Joint Ministerial Council (EN).
- On 19 December the UK Government published its White Paper on immigration.

## 2. Latest developments

### Withdrawal Agreement negotiations

The main development in this reporting period is the agreement of the **draft Withdrawal Agreement between the UK and EU**, with the UK Government Cabinet collectively signing this off on 14 November. Alongside the Withdrawal Agreement, a draft **'Outline of the Political Declaration'** on the framework for the future UK – EU relationship was also published. A shorter, 50 page, 'explainer' for the nearly 600 page long Withdrawal Agreement and a technical explanatory note on the Northern Ireland Protocol was **published the same day**.

The Prime Minister then **made a statement in Parliament** outlining key elements of the documents on 15 November, and a further **statement via a press conference** later that day. That same day Dominic Raab, then Secretary of State for Exiting the European Union and Esther McVey, then Secretary of State for Work and Pensions resigned from the Cabinet. They have been replaced by **Stephen Barclay** and **Amber Rudd** respectively.

**Explanatory slides on the Withdrawal Agreement** and the political declaration were published on 19 November by the UK Government. It then published a more detailed **'collection of documents'** designed 'to support understanding and assessment of the agreement' that the UK reached with the EU on 28 November. These documents included its 'long term economic analysis' of Brexit, which is covered in more depth in section 3 of this report.

Given the agreement on the Withdrawal Agreement and the outline political declaration, on 15 November, **Donald Tusk, the President of the European Council** called an emergency summit of the European Council, for 9.30am on 25 November. The aim of the summit was to finalise and sign off the deal at the political level.

The Prime Minister then met with the President of the EU Commission, Jean-Claude Juncker, to discuss the outline Political Declaration in more detail on 21 November. Immediately following that meeting, it **was reported that a further meeting** had been arranged between the two on 24 November for further Brexit related talks.

On 22 November as the agreed text of the **full Political Declaration was published**, the Prime Minister, Theresa May, made a statement in Parliament in which she said:

...the text we have now agreed would create a new Free Trade Area with the EU, with no tariffs, fees, charges or quantitative restrictions.

This would be the first such agreement between the EU and any advanced economy in the world, which will be good for jobs....

Crucially, the text we have agreed also has an explicit reference to development of an independent trade policy by the UK beyond this partnership with the EU.

The House of Commons Library published **its summary of the declaration** on 30 November. The Assembly Research Service's **analysis of the declaration's impact on Wales** can be found in section 3 of this report.

Given that the agreed Political Declaration was published on 22 November, with the intention of it being signed off alongside the Withdrawal Agreement at the European Council Summit, there was speculation as to the purpose of the follow-up meeting. It was then reported that Spain was concerned about the lack of specific reference to Gibraltar.

On 24 November the UK Government published **a letter it had sent to the EU to the EU Council** on the territorial scope of the UK's future agreements with the EU, and statement from Her Majesty's Government of Gibraltar. In that letter, the UK Government reported that it was prepared to take 'the same approach to the future relationship' as it had done with the Withdrawal Agreement in regards to Gibraltar i.e. negotiate and reach agreement directly with Spain.

In her **statement following the European Council Summit** on 25 November, the Prime Minister said:

We have ensured that Gibraltar is covered by the Withdrawal Agreement and by the Implementation Period.

Let no-one be in any doubt: for the future partnership the UK will be negotiating for the whole UK family, including Gibraltar.

I am proud that Gibraltar is British and its constitutional status will not change.

On 29 November 2018 the governments of the UK, Spain and Gibraltar, **concluded four Memoranda of Understanding (MoU)** on Gibraltar. These underpin the Gibraltar Protocol in the Withdrawal Agreement between the UK and the EU. These Memoranda relate to:

- citizens' rights;
- cooperation on environmental matters;
- cooperation in police and customs matters; and
- tobacco and other products.

Alongside the Memoranda, the governments of the UK and Gibraltar also published a Concordat on the implementation of the Gibraltar Protocol to the Withdrawal Agreement.

### European Council Summit on 25 November

Given the agreement on the Withdrawal Agreement and the outline political declaration, on 15 November, **Donald Tusk, the President of the European Council** called **a special summit of the European Council**, for 9.30am on 25 November. The aim of the summit was to finalise and sign off the deal at the political level.

**The EU Council endorsed** the Withdrawal Agreement and approved the political declaration and therefore invited the EU Commission Parliament to:

...take the necessary steps to ensure that the agreement can enter into force on 30 March 2019, so as to provide for an orderly withdrawal.

In **remarks following the Summit**, President Donald Tusk said:

Ahead of us is the difficult process of ratification as well as further negotiations. But regardless of how it will all end, one thing is certain: we will remain friends until the end of days, and one day longer.

The Prime Minister also made **a statement following the Summit**, in which she noted:

In any negotiation, you do not get everything you want. You need to identify what your vital interests are and stick to them, but be prepared to compromise in other areas in order to achieve a result. I think the British people understand that. When they look at this deal they will see it is a good one for our country and that it is in the national interest for everyone to get behind it.

Michel Barnier, the EU Commission's chief negotiator in the Brexit talks, provided an update **to the EU Parliament on 29 November**. In that statement he reported:

The time for negotiating the Withdrawal Agreement and the Political Declaration is over. It is now time for ratification by the British Parliament, and by the European Parliament and Council. Given the difficult circumstances of this negotiation, and given the extreme complexity of all the subjects related to the UK's withdrawal, the deal that is on the table – the draft Withdrawal Agreement and the Political Declaration – this deal is the only and the best deal possible.

### Parliamentary scrutiny of the deal

On 29 November the **House of Commons Liaison Committee** took oral **evidence from the Prime Minister on Brexit**. Questioning revolved around the possible outcomes of the upcoming 'meaningful vote' and more generally:

- Economy, business and trade;
- Security, defence and borders;
- Cross-border issues: Transport, science and health; and
- Constitution.

In that evidence the Prime Minister stated:

If Parliament votes down the deal on 11 December, there is a process—as you know—in legislation for the length of time given for the Government to come back and make a statement about the next steps. But the timetable is such that some people would need to take some practical steps in relation to no deal if Parliament were to vote down the deal on 11 December.

On **4 December, the Assembly debated** the draft EU Withdrawal Agreement and the political declaration. This was in line with **the First Minister's intention** that the Assembly would hold a vote on the agreement and political declaration before the 'meaningful vote' in the House of Commons.

As part of the **debate the Assembly approved Amendment 2** to the original motion. As a result the National Assembly:

- Rejects the Withdrawal Agreement and the political declaration on the future relationship between the UK and EU agreed by the European Council and the UK Government.

- Believes that the future relationship as envisaged by the political declaration falls short of the model for the UK – EU future relationship set out in Securing Wales' Future, which provides robust guarantees in respect of workers' rights, human rights, equalities legislation and citizens' rights.
- Notes that the UK Government's long-term economic analysis projects the UK economy will be worse off by 3.9 per cent over 15 years under the current Withdrawal Agreement and political declaration.
- Calls on the UK Government to seek UK membership of both the European Single Market and Customs Union.
- Calls for an extension to the Article 50 process.

December 4 also saw the start of the scheduled five days of debate in the House of Commons on **Section 13 (1)(b)** of the **European Union (Withdrawal) Act 2018** i.e. the ratification of the deal reached by the Prime Minister with the EU Council at the Summit on 25 November. However, on 10 December the UK Government announced that it was postponing the 'meaningful vote' to ratify the Withdrawal Agreement and Political Declaration. The Prime Minister **made a statement to Parliament** on 10 December on this postponement, stating that:

*It is clear that while there is broad support for many of the key aspects of the deal, on one issue – the Northern Ireland backstop – there remains widespread and deep concern.*

*As a result, if we went ahead and held the vote tomorrow the deal would be rejected by a significant margin.*

*We will therefore defer the vote scheduled for tomorrow and not proceed to divide the House at this time.*

The Parliamentary Under-Secretary of State for Exiting the EU, Robin Walker MP, **told MPs on 11 December** that, in keeping with the intention of the EU Withdrawal Act 2018, the UK Government will ensure that it brings the deal back to the House of Commons by 21 January 2019. In addition, he stated that, if there is no deal in place as at 21 January 2019, the UK Government will make a statement to the House of Commons.

Subsequently, the Prime Minister **told the House of Commons** on 17 December that the meaningful vote on the Withdrawal Agreement and Political Declaration would be in the week commencing 14 January 2019, after the debate restarting in the week commencing 7 January.

During the first day of debate on the Withdrawal Agreement in the House of Commons, the UK Government suffered a defeat when MPs voted in favour of Dominic Grieve's amendment to the motion to approve the withdrawal agreement and political declaration. The amendment means that MPs will be able to amend any motion that the UK Government brings to the House of Commons setting out its plan of action if the deal is voted down, and Robin Walker MP confirmed to the House of Commons on 11 December that such a motion will remain amendable if the deal is subsequently voted down when the debate resumes..

The **Scottish Parliament** voted on 5 December to reject the Withdrawal Agreement and Political Declaration. It passed a motion from the Scottish Government, supported by the Scottish Labour Party, Scottish Green Party and Scottish Liberal Democrats. This stated that a no deal outcome and the outcomes arising from the withdrawal agreement and political declaration setting out the framework for the future relationship between the EU and the UK would be damaging for Scotland and the nations and regions of the UK as a whole, and therefore recommends that they be rejected and that a better alternative be taken forward.

In terms of Committee scrutiny of Brexit, the House of Commons' Committee on Exiting the EU published its **report on the EU Withdrawal Agreement and Political Declaration** on 9 December. Committee Members unanimously concluded that the deal fails to offer sufficient clarity or certainty for the future of the UK. It stated that the Political Declaration is 'neither detailed nor substantive' and that people and businesses continue to face uncertainty.

On 11 December, the House of Commons' Treasury Committee published its **report on the economic implications of the Withdrawal Agreement and Political Declaration**. This found that the scenarios for which economic analysis has been undertaken by the UK Government cannot be used to inform the meaningful vote, expressed the Committee's disappointment that there was no analysis of the short-term impacts of the deal, and concluded that the UK Government should have modelled the effect of the 'backstop'.

The National Assembly's Children, Young People and Education Committee released its report on the **Impact of Brexit on Higher and Further Education in Wales** on 4 December. The report made eight recommendations and concluded:

...even with a broadly favourable Withdrawal Agreement it is probable that many key areas of university and college activity would still need to make changes. This was particularly true for the higher education sector where significant activity is currently linked to the free movement of UK and EU staff and students.

Despite Treasury funding guarantees, a no-deal scenario would be significantly disruptive to both sectors – deeply so for the higher education sector with its wide-range of international collaborations and participation in research networks....[and]

Evidence received identified few opportunities from either sector arising from Brexit in the short-term, and those that were raised, were done so in the context of making the best of Brexit.

### The law and Brexit

On 3 December, the UK Government published its paper: **EU Exit Legal position on the Withdrawal Agreement**. The UK's Attorney-General, Geoffrey Cox QC made an **oral statement on the legal paper** and the legal advice that underpins it in the House of Commons on the 4 December. Following a debate and a vote in the House of Commons, the UK Government then published the **Attorney General's full legal advice** on 5 December, accompanied by a **written statement from the Attorney General**.

On 4 December the Court of Justice of the European Union's (CJEU) Advocate General, Campos Sanchez-Bordona, **published his opinion** which:

...proposes that the Court of Justice should declare that Article 50 TEU allows the unilateral revocation of the notification of the intention to withdraw from the EU.

On 10 December the Full Court of the CJEU **published their judgement** that the UK is free to revoke unilaterally the notification of its intention to withdraw from the EU. The judgement **stated that**:

Article 50 TEU must be interpreted as meaning that, where a Member State has notified the European Council, in accordance with that article, of its intention to withdraw from the European Union, that article allows that Member State – for as long as a withdrawal agreement concluded between that Member State and the European Union has not entered into force or, if no such agreement has been concluded, for as long as the two-year period laid down in Article 50(3) TEU, possibly extended in accordance with that paragraph, has not expired – to revoke that notification unilaterally, in an unequivocal and unconditional manner, by a notice addressed to the European Council in writing, after the Member State concerned has taken the revocation decision in accordance with its constitutional requirements. The purpose of that revocation is to confirm the EU membership of the Member State concerned under terms that are unchanged as regards its status as a Member State, and that revocation brings the withdrawal procedure to an end.

### Legislation

The **Agriculture Bill** completed its Committee Stage in the House of Commons on 20 November. A date for the Report Stage and Third Reading is yet to be announced. The Bill aims to provide the legal framework for leaving the Common Agricultural Policy and establishing new systems for agricultural and land management support across the UK. Schedule 3 of the Bill applies specifically to Wales and these powers were included at the request of the Welsh Government. These powers allow Welsh Ministers to continue making payments to farmers and land managers after Brexit, to make changes to current schemes and to implement replacement schemes. These powers are intended to be time-limited until the Welsh Government brings forward its own Agriculture Bill, which is expected before the end of this Assembly. The Assembly's Climate Change, Environment and Rural Affairs (CCERA) Committee have taken evidence on the Bill from Lesley Griffiths AM, the Cabinet Secretary for Energy, Planning and Rural Affairs. The committee will be reporting on the Legislative Consent Memorandum (LCM) on the Bill by the reporting deadline of 4 January 2019.

The **Fisheries Bill** passed its Second Reading without division in the House of Commons on 21 November, and is currently in the Committee Stage with the Public Bill Committee scheduled to report to the House of Commons by 19 December. The main aims of the Bill are to control access to UK waters, to ensure that the UK can set its own fishing quota, to protect the marine environment, and to set out how the UK Government and the devolved administrations will work together on fisheries management. As with the Agriculture Bill, this Bill contains provisions relating to Wales at the request of the Welsh Government. An LCM in relation to the Bill was laid before the Assembly on 15 November. The Cabinet Secretary states that she believes that it is appropriate to deal with these provisions in this UK Bill to ensure a UK-wide approach to creating the fisheries framework, although the Welsh Government has two concerns in relation to the Bill which it is working to resolve with the UK Government. However, as in the case of the Agriculture Bill, the Welsh Government has stated that it will bring forward a Welsh Fisheries Bill in the future. The CCERA Committee, External Affairs and Additional Legislation Committee and Constitutional and Legislative Affairs Committee will consider the LCM, and will report to the Assembly by 12 February 2019.

The **Healthcare (International Arrangements) Bill** completed its Committee Stage on Thursday 29 November, when it was reported without amendment. A date has not been announced for the Report Stage and Third Reading. The Bill provides the Secretary of State with powers to fund and arrange healthcare outside the UK and to give effect to reciprocal healthcare agreements between the UK and other countries. An LCM for the Bill was tabled on 15 November. In the memorandum, Vaughan Gething, the Cabinet Secretary for Health, says that it is appropriate to deal with this subject in a UK Bill due to the urgency of the legislation and the preference for a consistent approach across the UK. The Health, Social Care and Sport Committee will be considering the LCM and will be reporting to the Assembly by 22 January 2019.

The most recent Bill to be introduced in Westminster is the **Financial Services (Implementation of Legislation) Bill**. Its purpose is to provide the Government with the power to implement and make changes to financial services legislation for two years after the UK's withdrawal from the European Union. It will only be needed in a no-deal scenario. The Second Reading took place in the House of Lords on 4 December and the Committee Stage is yet to be scheduled. The areas that the Bill covers are not devolved to Wales, and therefore a legislative consent process will not be required.

In terms of **subordinate legislation**, UK Government Ministers **have said that** they expect to lay around 700 Statutory Instruments (SIs) to prepare the statute book for exit day. So far, 242 Brexit-related SIs have been laid since the EU Withdrawal Act received Royal Assent on 26 June 2018, and 53 have completed their passage through Parliament. Assembly Standing Order 30C requires that, for regulations made by UK Ministers under the EU Withdrawal Act, the Welsh Government must lay a written statement notifying the Assembly of the regulations in question. Where the regulations amend primary legislation, the Welsh Government must also lay a Statutory Instrument Consent Memorandum (SICM). The Welsh Government has now laid nine SICMs and written statements in relation to 57 regulations to be made by UK Ministers in devolved areas.

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

#### The latest position on the vote to ratify the Withdrawal Agreement and Political Declaration

The following analysis is taken from a [Research Service article published](#) on 11 December.

After three days, on Monday 10 December, the Prime Minister announced her intention to postpone the crucial vote. She stated her belief that the deal 'would be rejected by a significant margin', because too many MPs object to the proposals for the 'backstop'—the plan to avoid a hard border on the island of Ireland in the event of no deal. The Prime Minister did not say when the vote will be rescheduled.

Looking back to the first day of debate on 4 December, a significant development was MPs voting in favour of an amendment to the business motion tabled by Dominic Grieve. Under section 13 of the EU (Withdrawal) Act, if the approval motion is rejected, the Government will have 21 days to make a statement on how it intends to proceed, and then move a motion for the House of Commons to 'take note' of that statement. This means that no amendments may be tabled to the motion. Dominic Grieve's amendment, however, means that this rule does not apply in this scenario, which means that Parliament would be able to amend a motion setting out the Government's plan of action if the deal is voted down.

#### The potential impact of the Withdrawal Agreement on specific policy areas in Wales

The following analysis is taken from a [Research Service article published](#) on 30 November.

The Assembly's External Affairs and Additional Legislation Committee published its analysis of [the impact of the Withdrawal Agreement and political declaration on Wales](#) on 29 November. This highlighted the following key points in respect of the Withdrawal Agreement:

- **In relation to the Welsh economy**, during the transition period the UK will continue to be part of the single market and customs union, with arrangements for a free trade area for goods and co-operation on trade in services beyond this still to be determined beyond the potential 'backstop'. The vast majority of [the evidence the Committee has heard](#) states that ensuring frictionless access to the single market without tariffs or non-tariff barriers is of crucial importance to the Welsh economy.
- **In respect of Welsh ports**, the arrangements set out in the 'backstop' solution for Ireland and Northern Ireland will be of interest. If this comes into force, there will be a UK-EU customs territory, but with Northern Ireland additionally remaining aligned to most EU rules concerning trade in goods and animals. As a result, there will be no new checks or controls on goods crossing the border between Ireland and Northern Ireland, however there will be checks on goods coming from the rest of the UK to Northern Ireland.
- **Welsh food and drink products protected by geographical indicators**, such as Welsh lamb, will automatically obtain both equivalent protection within the UK and maintain the existing protection in the EU as set out in Article 54 of the Withdrawal Agreement.
- The Committee [has also heard concerns about the impact of Brexit on NHS Wales' workforce planning](#). The proposals set out in the Withdrawal Agreement state that all EU citizens lawfully residing in the UK at the end of the implementation period will be able to stay in the UK and will be guaranteed broadly the same rights as they currently have, including the right to work or be self-employed.
- In terms of **continued availability of medicines for NHS Wales**, medicines and medical devices placed on the market before 31 December 2020 will continue to circulate freely between the UK and the EU and will not require product modifications or relabelling. Any compliance activity already undertaken for these goods, such as conformity assessments, will continue to be recognised in both the UK and the EU.

#### The Future relationship: What does the Brexit political declaration mean for Wales?

The following analysis is taken from a [Research Service article published](#) on 30 November.

In terms of the economy, the declaration states that arrangements will be put into place to create a free trade area for trade in goods, that combines deep regulatory and customs co-operation, and that this will be underpinned by provisions ensuring a level playing field for open and fair competition. The aim is that there will be no tariffs, fees, charges, quotas or the equivalent across all sectors of goods. While the EU and UK will each be able to set their own rules on quality standards, etc, they will put in place provisions to avoid unnecessary barriers to trade in goods. On services, however, the declaration does not aim at the same degree of closeness, aiming, instead, at a 'level of liberalisation in trade...well beyond the [EU and UK's] World Trade Organisation commitments'.

Another key section of the declaration for Wales relates to fisheries. The declaration notes that the UK will no longer be part of the Common Fisheries Policy, but instead will be an independent coastal state that can set its own rules. However, the declaration states that the UK and the EU will aim for co-operation bilaterally and internationally to ensure sustainable fishing. The UK and the EU intend to use their 'best endeavours' to conclude a new fisheries agreement covering access to waters and quotas in time to determine fishing opportunities for the first year after the transition period.

In terms of the environment, the declaration includes key areas for environmental co-operation in the areas of climate change, sustainable development and cross-border pollution. Specifically on climate change, it states that the future relationship should reaffirm the commitments that the EU and the UK have made to international climate change pledges such as the Paris agreement. As noted above, however, the declaration is not legally binding.

In terms of future co-operation in the area of health, the declaration states that the UK and EU should co-operate in the same way that the EU does in its existing arrangements with third countries. This would involve co-operation in international fora on prevention, detection, preparation for and response to established and emerging threats to health security.

On citizens' rights, the political agreement states that an essential prerequisite to any future relationship will be that it is underpinned by long-standing commitments to the fundamental rights of individuals, including continued adherence to the European Convention on Human Rights and its system of enforcement—i.e. respecting judgments of the European Court of Human Rights. In terms of specifics going beyond what is in the draft Withdrawal Agreement, it aims at visa-free travel between the UK and the EU for short visits (like holidays). It also envisages undefined "arrangements" for people who move between the two for a period because of their jobs or businesses.

To ensure the functioning of the future relationship, institutional arrangements will be made for its management, supervision, implementation and development over time, as well as for the resolution of disputes and enforcement.

### Economic assessments of Brexit

The following analysis of the UK Government's economic analysis is taken from a [Research Service article published](#) on 3 December.

The UK Government published its [long-term economic analysis for EU exit](#) on 28 November, ahead of the 'meaningful vote' on 11 December. This estimates the impact of a number of different Brexit scenarios on the UK's Gross Domestic Product (GDP) in comparison to EU membership over a 15 year period.

The UK Government analysis considers the impact of the different Brexit scenarios for the UK nations and English regions. However, this only takes into account changes as a result of trade policy, and do not consider the potential economic impacts of changes to migration arrangements or regulatory flexibilities.

The UK Government's modelling suggests that if there is less migration into the UK from EEA workers, both total GDP and GDP per capita will be lower than if there is no change to migration arrangements in all of the Brexit scenarios identified.

The UK Government states that in a 'no deal' scenario Wales would see a sizeable reduction in its Gross Value Added (GVA), as Wales' larger share of manufacturing would be particularly affected by this scenario. However, in a scenario where the UK Government White Paper policy reflects the UK's trading arrangements, it states that this would result in moderately lower GVA for Wales than under EU membership as Wales has a relative specialisation in the energy sector. This is expected by the UK Government to perform well under the White Paper scenario, creating a smaller impact for Wales than other parts of the UK.

The UK Government's initial estimate of the economic impact of Brexit scenarios on the devolved nations and English regions set out in the [EU Exit Analysis: Cross-Whitehall Briefing](#) from January 2018 also sets out estimates of the impact of various scenarios on GVA. This did consider factors such as migration and regulation, however it did not consider region-specific effects of customs arrangements or supply chain effects. It also did not analyse the impact of the UK Government's White Paper policy.

The Bank of England also published [analysis of the impact of different Brexit scenarios on the UK's monetary and financial stability](#) on 28 November. The report noted:

Brexit is unique. Large negative supply shocks are relatively rare, and there is no precedent of an advanced economy withdrawing from a trade agreement as deep and complex as the European Union.

As the United Kingdom's (UK) trading relationship with the EU changes, the reduction in openness will act to reduce the UK economy's productive capacity and in most scenarios its rate of growth in the short term.

Leaving the EU abruptly, without a withdrawal agreement and implementation period, would amplify these effects...

However, monetary and financial stability are necessary but not sufficient conditions for long term prosperity. The economic consequences of Brexit over the longer-term will depend on the nature of the UK's future trading relationships, other government policies, and ultimately the ingenuity and enterprise of the British people.

## 4. Welsh Government response

On 15 November, the then First Minister, [Carwyn Jones AM, issued a written statement](#) following a meeting of the British-Irish Council held on the Isle of Man the previous week. The representations he made included:

- highlighting the impact Brexit uncertainty was having on investment and jobs in Wales, and sharing concerns about the risks of the growing view from businesses that the UK would have to be treated as a separate market from the EU;
- emphasising the importance of ensuring that the UK Government's future approach to migration protects labour supply for both professional and lower skilled jobs; and
- reaffirming the view that failing to achieve a deal with the EU would be completely unacceptable, and reiterating the importance of the UK Government involving the devolved administrations when negotiating international agreements which have implications for devolved competence.

The Welsh Government published its [assessment of the Withdrawal Agreement and political declaration](#) in a written statement by the then First Minister on 27 November. It highlighted the view of the Welsh Government that, while it recognises the importance of the building blocks of the Withdrawal Agreement, some elements of it are problematic. In its view, some of these difficulties are caused by the UK Government's position, and how this has shaped the political declaration.

The specific concerns that the Welsh Government has about the Withdrawal Agreement are set out in the assessment, and also by the then First Minister in [his statement to the Assembly](#) on 20 November. These include:

- **The lack of permanence of the arrangements in the Withdrawal Agreement** – the First Minister stated that “the agreement kicks the can down the road”, and that there are questions around whether the UK will be in the same position as it is now in 2020 without a permanent agreement on its relationship with the EU.

- **Limitations on extending the transition period** – the Welsh Government states that while the Withdrawal Agreement includes a mechanism to extend the transition period, this should not just apply to circumstances where the UK Government wishes to avoid initiating the ‘backstop solution’ set out in the Ireland-Northern Ireland protocol. It believes that there is likely to be a number of areas where the negotiations may require additional time to ensure the right deal is agreed beyond matters affecting trade, and that there should not be a time restriction to extending the transition period.
- **Environmental and labour protections** – the Withdrawal Agreement commits that, during any backstop period, the UK and EU will not reduce the levels of environment and labour protections as they stand at the end of transition. However, the Welsh Government supports an alternative approach whereby the UK would continue to align with future EU environmental and labour standards, to continue what it sees as the high levels of protections for the environment and workers’ rights that have been in place while the UK has been a member of the EU.

The Welsh Government’s assessment concludes that:

The UK Government must embrace the future relationship with the EU set out in *Securing Wales’ Future*. If this is adopted then the Withdrawal Agreement, which the EU is reluctant to reopen, could remain largely unchanged.

Following **a joint letter from the First Ministers of Wales and Scotland** to the Prime Minister, criticising the lack of engagement with the devolved administrations prior to the UK Cabinet’s agreement on the Withdrawal Agreement on 16 November, **a JMC (EN) was arranged for 19 November**. Prior to that meeting, in which the Withdrawal Agreement and the political declaration were discussed, the then Cabinet Secretary for Finance, **Mark Drakeford was reported as saying** the Withdrawal Agreement:

...does not go as far as it needs to go to secure our agreement, and the very flimsy future relationship document is certainly not in a position that we could agree to support it.

On 20 November, the then **First Minister made a statement in Plenary** on the draft Withdrawal Agreement. In that statement he noted:

The real failure of the current deal is the worrying lack of progress in and lack of clarity of the political declaration [...] Rather than platitudes under subject headings, with next to nothing on key issues like future migration and participation in programmes such as Horizon or Erasmus+, the political declaration needs to be based on a firm, mutual commitment from the UK and the EU-27 to a future relationship grounded in long-term participation in a customs union and the single market across all sectors.

The following day he met with the Prime Minister in London. A **statement published following that meeting** noted:

They agreed that the priority remained to finalise a deal that will provide certainty and stability for people and businesses across the whole of the UK, including Wales.

On 26 November, during the EAAL Committee’s meeting, Mark Drakeford **indicated** that there were positive aspects to the Withdrawal Agreement such as the customs arrangement. However, he stated:

It very specifically falls short of the Welsh Government’s ambitions in relation to the way that it treats rights that Welsh citizens enjoy through our membership of the European Union—consumer rights, environmental rights, workers’ rights and so on. A non-regression clause, which is what the withdrawal agreement has, is not satisfactory.

With regard to the political declaration, Mark Drakeford reiterated the First Minister’s call for a long-term, permanent customs union in which the United Kingdom has a say. He went on to state that the political declaration does not resolve issues, but rather merely identifies them and “wish-lists them into the future”.

On 4 December, the Welsh Government published its **economic analysis of UK Government’s proposals for the UK’s exit from the EU**. It emphasises that predictions are bound to be uncertain. Its key conclusions are that **in the short/medium term**:

- The range of potential scenarios is very wide, as the impact on the economy could reflect both extreme reactions by consumers and businesses to unpredictable political events. It could also depend on the nature and extent of any mitigation undertaken by the UK Government.
- The Bank of England has described the worst case as being a scenario where GDP is between 7 ¾ per cent and 10 per cent lower than in May 2016 by end 2023. This is a more severe contraction than experienced in the recession that started in 2008.

- On the other hand, under a “close” economic partnership between the UK and EU (including comprehensive arrangements for free trade in goods and some trade in business and financial services) by end 2023 GDP could be 1 ¾ per cent higher than forecast in the November 2018 Inflation Report (though still lower than expected in March 2016, before the referendum). A “less close” partnership (with customs checks and greater barriers to trade) could result in GDP being ¾ per cent lower than forecast.

While **in the long term**:

- Economic benefits from trade arrangements made possible under the White Paper or under a ‘no deal’ scenario would be ‘minimal’ compared to the losses associated with leaving the EU. This, naturally, is due to the geographical distance between the UK and countries with which it would make new trade arrangements.
- UK Government analysis of the economic impact on its countries and regions shows that Wales could be affected a little less than the UK as a whole. Welsh Government, however, believes that this should be given little credence due to the difference being minor and the uncertain circumstances.
- Welsh Government’s analysis concludes that the negative effects for Wales are likely to be similar to the effects on the UK as a whole.

During **the Plenary debate on 4 December**, Mark Drakeford reiterated many of the points above, stating that three ways that the Withdrawal Agreement did not meet the needs of Wales included:

- Only committing to maintaining existing environmental and labour standards rather than agreeing to align with any improvements to standards in the EU.
- Not dealing with issues facing the services sector, which is the largest part of the Welsh and UK economy, and not guaranteeing that access to the EU market will not be significantly restricted.
- The way that the Ireland-Northern Ireland ‘backstop’ has been constructed may be injurious to Wales due to the regulatory border in the Irish Sea.

He was also particularly critical of the lack of detail contained in the Political Declaration, stating that:

What sort of security does the political declaration provide to Welsh employers and Welsh workers, particularly those in industries reliant on just-in-time supply chains or whose business model is based on embedding services in their offer, that, at the end of the transition period, their investment and their jobs are safe...

Llywydd, if the withdrawal agreement has serious flaws, the political declaration would need to be rewritten wholesale if we as a Government were to consider supporting its approval.

On 12 December (the day he became First Minister), Mark Drakeford **stated that** the Prime Minister should extend Article 50, and call a General Election.

