

# Negotiations on the UK's withdrawal from the EU

## Brexit Monitoring Report

22 January 2019



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 19 December 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

- In the House of Commons on 19 December there was an emergency debate on **Leaving the EU: No Deal**.
- On 19 December the **First Minister of Scotland, Nicola Sturgeon, said** that “the UK Government should move to extend the Article 50 process, to allow time for alternatives to be found to the Prime Minister’s proposed Brexit deal and a no-deal outcome”.
- On 19 December the European Commission issued its ‘no deal’ document, **Implementing the Commission’s Contingency Action Plan**. After setting out general principles it outlines citizens’ rights to stay and social security coordination, financial services, air transport, road haulage, customs and goods export, EU climate policy, and the Northern Ireland peace programmes.
- Also on 19 December, the Irish Government published its Contingency Action Plan – **Preparing for the withdrawal of the United Kingdom from the European Union on 29 March 2019**.
- On 20 December the Northern Ireland Affairs Committee welcomed the UK Government’s commitment (**Government Response** to ‘Brexit and Agriculture in Northern Ireland’) not to immediately impose additional checks on imports of agricultural products in the event of a no deal Brexit, but **stressed that cooperation from the EU is now essential**.
- On 21 December the UK Government issued an **update on its preparations for a ‘no deal’ scenario**.

- On 7 January the First Minister, Mark Drakeford, said in a **press release about 'no deal'**, "Such an outcome would be hugely damaging. Claims of a 'managed no-deal' need to be dismissed for the nonsense they are. Leaving without a deal would be hugely damaging and must be avoided."
- On 8 January the First Minister, Mark Drakeford, gave a statement in Plenary providing an **Update on EU Transition**.
- On 11 January the House of Commons' Exiting the EU Committee published the **Government Response to the Committee's Report on the rights of UK and EU citizens**.
- On 14 January the Prime Minister made a statement on **Leaving the EU**, which focussed on the 'Ireland-Northern Ireland backstop'.
- Also on 14 January, in a **joint letter**, European Council President Tusk and European Commission President Juncker wrote to the Prime Minister detailing the legal and political standing of the Political Declaration and the 'Ireland-Northern Ireland backstop'. The Prime Minister also **wrote to the two presidents**.
- On 15 January during the House of Commons debate on the **European Union (Withdrawal) Act**, the Government was defeated in the 'Meaningful Vote' by 432-202, and the Leader of the Opposition, Jeremy Corbyn, announced a no confidence motion. In a Point of Order after the vote, the Prime Minister said that she would make a statement about the way forward and table an amendable motion by Monday 21 January
- On 15 January President Juncker made a **statement on the Meaningful Vote defeat in the House of Commons**, and **Frans Timmermans and Michel Barnier spoke in the European Parliament**.
- Also, on 15 January the Counsel General Designate and Brexit Minister, Jeremy Miles, made a Plenary Statement on **the UK Government's current proposals for EU Withdrawal**.

- On 16 January the **motion of no Confidence in the Government** was defeated. Afterwards, **the Prime Minister said** that she would be "inviting MPs from all parties to come together to find a way forward. One that both delivers on the referendum and can command the support of Parliament. This is now the time to put self-interest aside. I have just held constructive meetings with the leader of the Liberal Democrats, and the Westminster leaders of the SNP and Plaid Cymru. From tomorrow, meetings will be taking place between senior Government representatives, including myself, and groups of MPs who represent the widest possible range of views from across Parliament – including our confidence and supply partners the Democratic Unionist Party".
- Also on 16 January, the Assembly **held a debate** on 'no deal' Brexit, and the First Minister answered a **topical question** on the UK Parliament Vote on the UK Government's Brexit Deal. The motion put forward for debate asking the Assembly to reject a 'no deal' Brexit and requesting that the First Minister calls for an emergency meeting of the Joint Ministerial Committee (Plenary) to take place was passed by 37-16.
- Additionally, on 16 January, the House of Commons' Exiting the EU Committee's published its report **Response to the vote on the Withdrawal Agreement and Political Declaration: Options for Parliament**.
- The First Minister **wrote to the Prime Minister** on 16 January setting out his views on the next steps the UK Government should take following the House of Commons vote.
- On 17 January the UK Government Leader of the House **announced that** the House of Commons would have a full day debate on 29 January in relation to the UK Government's statement and motion on the next steps it intends to take after losing the 'meaningful vote'.
- On 17 January, Leader of the Opposition Jeremy Corbyn **wrote to the Prime Minister** asking her to rule out a 'no deal' Brexit before meeting with him for discussions. The Prime Minister responded saying that that was an 'impossible condition'.
- On 21 January, the Prime Minister **made a statement** to the House of Commons, updating Members on discussions with party leaders and backbenchers. She said that she will continue to consider the issue of the 'backstop' in a way that can command the greatest possible support, and then take the conclusions of those discussions back to the EU.

## 2. Latest developments

### Withdrawal Agreement negotiations

#### House of Commons Debate on the Withdrawal Agreement and related developments

On 25 November the **Withdrawal Agreement** and **Political Declaration** on the future relationship between the UK and EU, as negotiated between the UK Government and European Commission, were endorsed by leaders of the EU-27 at a special summit of the European Council.

Under **section 13(1)(b) of the European Union (Withdrawal) Act 2018**, any withdrawal agreement and framework for the future relationship reached by the UK Government with the EU must be approved by a resolution of the House of Commons in order to be ratified. Starting on 4 December, the UK Government scheduled five days of debate on the ratification of the deal, with the vote due to take place on 11 December.

On 10 December, and after three days of debate, the Prime Minister made a [statement to Parliament](#) informing them that the vote would be deferred. She stated that, if the vote were to take place, “the deal would be rejected by a significant margin”. An obstacle to this approval was disagreement surrounding the possibility within the Prime Minister’s deal of the “Northern Irish backstop” and the Prime Minister announced that she was seeking further assurances from the EU about these arrangements. After discussions with the European Council, the Prime Minister **outlined** the Council’s “firm determination” to work on a subsequent agreement to avoid triggering the backstop. Moreover, the UK Government [published a paper](#) highlighting the internal UK Government commitments to Northern Ireland and its integral place in the UK.

Prior to the resumption of the ‘meaningful vote’ debate, on 8 January the House of Commons passed **an amendment put forward by MPs from the Conservative and Labour parties** to the Finance Bill (No 3) 2017-19 to limit the UK Government’s financial powers in the event of a ‘no deal’ Brexit. It would require the explicit consent of Parliament to implement ‘no deal’ provisions. The following day the UK Parliament voted in favour of an **amendment put forward by Dominic Grieve MP to the Business of the House motion** requiring the the UK Government to come back to the House of Commons to set out its next steps within 3 working days of the meaningful vote (i.e. by 21 January).

The debate in both the House of Commons and the House of Lords recommenced on 9 January. Throughout the debate, the “backstop” was the primary point of discussion. Alongside this, Welsh MPs raised concerns of the impact of the deal on Wales. **On the first day of debate**, Chris Elmore MP for Ogmore stated that this deal provided uncertainty for the 143,000 people employed by the manufacturing industry in Wales, as well as for the future of agricultural exports, with 90% of Welsh lamb exported outside the UK going to countries within the EU.

On 14 January the UK Government published an **exchange of letters** between the Prime Minister and the Presidents of the European Commission and European Council in relation to the Ireland-Northern Ireland ‘backstop’. The Prime Minister also made a **statement to the House of Commons** in relation to the ‘backstop’ on 14 January, stating that:

*We have spoken at length about why we want to avoid the backstop, but it is not in the EU's interests either, for this backstop gives the UK tariff-free access to the EU's market, and it does so with no free movement of people, no financial contribution, no requirement to follow most of the level playing field rules and no need to allow EU boats any access to our waters for fishing. Furthermore, under these arrangements, UK authorities in Northern Ireland would clear goods for release into the EU single market with no further checks or controls. This is unprecedented and means the EU relying on the UK for the functioning of its own market, so the EU will not want this backstop to come into force, and the exchange of letters today makes it clear that, if it did, the EU would do all it could to bring it to an end as quickly as possible.*

*Nevertheless, I fully understand that these new assurances still will not go as far as some would like.*

The vote took place on 15 January and the Prime Minister’s deal **was defeated**. MPs voted 432 to 202, with a majority of 230 votes rejecting the deal.

The European Commission President Jean-Claude Juncker **responded** to the vote with the following:

*I urge the United Kingdom to clarify its intentions as soon as possible. Time is almost up.*

In response to the defeat, the Leader of the Opposition tabled a ‘vote of no confidence’ for the following day, 16 January. Following the motion being tabled, the Prime Minister promised:

*I will then hold meetings with my colleagues, our confidence and supply partner the Democratic Unionist party, and senior parliamentarians from across the House to identify what would be required to secure the backing of the House.*

She also promised to make a statement about the way forward and table an amendable motion by Monday 21 January.

On 16 January, the **motion of no confidence was defeated** with 306 votes in favour of the motion, and 325 votes in support of the Prime Minister. The Prime Minister reiterated her duty to identify a way forward that could secure the backing of the House, and outlined that she had proposed a series of meetings between senior parliamentarians and representatives of the Government over the coming days.

### 'No deal' preparations

Much of this analysis has been taken from **a Research Service article** published on 8 January, with some additional information from the External Affairs and Additional Legislation Committee session **on 7 January**.

Over the last month, the UK Government and European Commission have stepped up their preparations for the UK leaving the EU under a 'no deal' scenario. The UK Government has continued to update its **'no deal' technical notices**, with over 100 published.

On 18 December 2018, the UK Treasury committed more than £2 billion in additional funding across 25 government departments for 2019-20 to prepare for this scenario.

The most significant Brexit allocations include £480 million for the Home Office to increase the capacity of the Border Force, £410 million for the Department for Environment, Food and Rural Affairs to ensure 'uninterrupted trade' in agri-food and fisheries products, and £375 million for HM Revenue and Customs to employ additional staff for increased customs activity. The Barnett consequential to the Welsh Government resulting from this spending is £31 million.

The European Commission started to implement its 'no deal' contingency plan on 19 December, and **launched 14 'no deal' proposals** on 19 December. These include encouraging its Member States to take a generous approach to the rights of UK citizens in the EU, provided that this approach is reciprocated by the UK; allowing air services between the UK and EU to temporarily continue for 12 months after the UK leaves the EU, and ensuring that aviation licenses will temporarily remain valid for 9 months; and allowing UK road hauliers to temporarily carry goods into the EU, provided that the UK reciprocates.

The Irish Government has also published its **contingency plan for a 'no deal' Brexit**. This sets out its plans for such a scenario covering a number of policy areas. It states that additional checks and controls will be required on an East-West basis at ports and airports. Additional ports infrastructure is being planned for Dublin and Rosslare, and there are also proposals for Dublin Airport. The Irish Government is also keen to preserve the use of the UK's roads and ports as a 'landbridge' between Ireland and continental Europe. The UK has negotiated **continued membership of the Common Transport Convention** after Brexit, including in a 'no deal' scenario.

The First Minister told the External Affairs and Additional Legislation Committee on 7 January that the Welsh Government has been undertaking a number of actions to prepare for a 'no deal' Brexit. These include:

- Working with the UK Government in the preparation of its 'no deal' technical notices.
- Developing the £50 million EU transition fund, and holding back some of the money allocated to this to be used in the event of a 'no deal' Brexit.
- Using civil contingency preparations to address any immediate and emergency impacts of leaving the EU without a deal.

The Welsh Government has also rearranged **Plenary business for 22 January** so that there will be five statements on the impact of a 'no deal' Brexit from Ministers, as well as an update from the First Minister on the UK's withdrawal from the EU.

### Legislation

The **Agriculture Bill** has completed its Committee Stage in the House of Commons. 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 are intended to be time-limited until the Welsh Government brings forward its own Agriculture Bill. The Assembly's Climate Change, Environment and Rural Affairs Committee (CCERA) and Constitutional and Legislative Affairs Committee (CLAC) have both reported on the **Legislative Consent Memorandum** (LCM) in relation to the Bill. The **CCERA committee** has recommended that the Assembly should consent to the provisions in the Bill, subject to wide-ranging conditions, including that that Welsh Government should seek amendments to the UK Bill and should give various commitments to the Assembly. If the conditions cannot be satisfied, the Committee recommends that consent should

be limited to the provisions in Part 2, Schedule 3 of the Bill, which enable the immediate continuation of financial support after Brexit. In **its report**, CLAC states that it is concerned that the Welsh Government did not introduce its own Bill for scrutiny in the Assembly. It states that, until a response is received from the Welsh Government, it is not in a position to formulate a view as to whether the Assembly should provide its consent to the clauses of the Bill referred to in the LCM.

The **Fisheries Bill** has also completed its Committee Stage in the House of Commons. It provides a number of powers that will enable UK and Welsh Ministers to introduce secondary legislation. The Bill contains a number of broad delegated powers and does not set out detailed policy. 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, and a **supplementary LCM** was laid on 10 January. 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. 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 House of Commons Environment, Food and Rural Affairs Committee launched a **short inquiry** on the proposed scope, provisions and powers in the Bill, and **the Bill as amended** was published on 18 December. The CCERA committee took evidence on the LCM from stakeholders **on 16 January**.

The **Healthcare (International Arrangements) Bill** is at the same point in its parliamentary journey, having completed its Committee Stage on 29 November. 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 it, the Welsh Government agrees that the Bill is necessary to ensure residents can continue to benefit from reciprocal healthcare arrangements, and states its preference for a consistent UK-wide approach. However, it also raises concerns about the extent to which the Welsh Government will be involved in shaping the healthcare arrangements to be delivered under the Bill. In early January 2019, the Minister for Health and Social Services, Vaughan Gething, has given evidence on the LCM to the **Health, Social Care and Sport Committee** and the **Constitutional and Legislative Affairs Committee**.

The **Trade Bill** was introduced in November 2017 and provides powers for the implementation of international trade agreements and makes provision for establishing a trade remedies authority. It touches on devolved matters in a number of areas. The Welsh Government **laid an LCM** before the Assembly in December 2017, but said it could not recommend that the Assembly gave legislative consent to the Bill at that time. Both the **External Affairs and Additional Legislation Committee** and the **Constitutional and Legislative Affairs Committee** published reports on the LCM. In July 2018 the Welsh Government stated that it welcomed amendments made to the Bill. In **evidence** to the External Affairs and Additional Legislation Committee, the then First Minister stated that he welcomed the amendments tabled by the UK Government, however he outlined one remaining area of concern around the proposed trade remedies authority. On 8 October, the Assembly's Constitutional and Legislative Affairs Committee **published its report** on the Scrutiny of regulations made under the Trade Bill. The Committee Stage of the Bill in the House of Lords began on 21 January, where Peers voted in favour of an amendment that means that the Bill will be halted after its Committee Stage and not progress to Report Stage until the government has presented proposals for a process for making international trade agreements after Brexit.

The most recent Brexit Bill to be introduced is the **Immigration and Social Security Co-ordination (EU Withdrawal) Bill**, which had its first reading in the House of Commons on 20 December. The Bill will provide the legal framework for the future immigration system once the UK leaves the EU. It ends free movement and protects the status of Irish citizens in UK immigration law. The Bill will also enable changes to be made to the current rules for social security co-ordination, maintaining consistency between the future immigration system and the UK's future arrangements on social security. In the view of the UK Government, the immigration matters to which the provisions of the Bill relate are not within the legislative competence of the Assembly.

On 19 December, the UK Government published its **Draft Environment (Principles and Governance) Bill 2018** to address the environmental 'governance gap' following Brexit. Its publication was a requirement of the **European Union (Withdrawal) Act 2018**. Aspects of the draft Bill apply in Wales, including the Office for Environmental Protection and the environmental principles, but only in relation to reserved matters. The draft Bill includes that Ministers of the Crown will 'have regard to' environmental principles when making decisions. The Secretary of State for Environment, Food and Rural Affairs, Michael Gove, has invited the devolved administrations to join DEFRA's proposals. Therefore, the scope of the draft Bill could be extended to cover devolved areas if the Welsh Government chooses to adopt a joint approach. The Welsh Government is yet to announce its plans. The Chair of the CCERA Committee, Mike Hedges AM, has **written** to the Minister for Environment, Energy and Rural Affairs to determine the Welsh Government's approach.

In terms of **subordinate legislation**, in January 2019, the number of UK Brexit statutory instruments needed to prepare the statute book for Brexit was revised down from 800 to '**fewer than 600**'. So far, 322 Brexit-related SIs have been laid in the UK Parliament since the EU Withdrawal Act received Royal Assent on 26 June 2018, and 76 have completed their passage through Parliament. In terms of regulations made by Welsh Ministers, 12 proposed negative instruments have been tabled for consideration, out of a total of '**around 50**'.

Assembly Standing Order 30C now requires that, for regulations made in devolved areas 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 written statements in relation to 75 regulations to be made by UK Ministers in devolved areas, as well as 14 SICMs. In **Plenary on 16 January**, Suzy Davies tabled a Statutory Instrument Consent Motion on the **Marine Environment (Amendment) (EU Exit) Regulations 2018**. During the debate on the motion, she highlighted the Welsh Government's approach to Brexit subordinate legislation and the ability of the Assembly to scrutinise statutory instruments effectively.

In relation to Assembly scrutiny of Brexit legislation more generally, in December the Llywydd **wrote a letter** to the then First Minister Carwyn Jones, outlining issues raised at a Chairs' Forum meeting on 28 November, when the role of the Assembly in scrutinising Brexit-related legislation was discussed. The letter states that Chairs raised concerns about the role of the Assembly in the process of legislating for

Brexit. This included the fact that the Welsh Government has sought delegated powers for Welsh Ministers in a number of UK Bills, rather than bringing forward its own Bills for scrutiny by the Assembly. It also mentioned the fact that Welsh Ministers have agreed to a significant proportion of Brexit subordinate legislation being made by UK Ministers, using concurrent powers on behalf of Welsh Ministers. The new First Minister, Mark Drakeford, responded on 11 January and stated that the Welsh Government's approach reflects the need to respond to the 'extraordinary circumstances' surrounding Brexit, rather than any attempt to frustrate the Assembly's role as a legislature. Although he agreed that the legislative consent procedure does not allow Members to carry out the same detailed level of scrutiny that they are able to do for Assembly legislation, he stated the Welsh Government would not have been able to bring this volume of legislation before the Assembly in such a compressed time period.



### 3. Next steps following the meaningful vote

The Prime Minister will make a statement to the House of Commons on the next steps following the meaningful vote and table an amendable motion by Monday 21 January. It is difficult to say what will happen next beyond this, and that the Prime Minister intends to meet with her party colleagues, her confidence and supply partners in the Democratic Unionist Party and senior parliamentarians to seek a way forward.

The House of Commons' Exiting the EU Committee's **report published on 16 January** suggests that MPs should be able to vote on four options on what happens next in the Brexit process. These are:

- A second vote in Parliament on the Government's deal;
- To leave the EU with no deal on 29 March 2019;
- To call for the UK Government to re-negotiate the deal to achieve a specific outcome; or
- In addition to voting on the policy choices for leaving the EU, whether the UK parliament should hold a second referendum either to decide on the type of Brexit or whether to remain or leave the EU.

Additionally, four backbench MPs—Nick Boles, Yvette Cooper, Geraint Davies and Dominic Grieve—have presented Bills before the House of Commons. Nick Boles' **European Union (Withdrawal) (No. 2) Bill** had its first reading before the House of Commons on 15 January. Under this if the UK Government did not come up with a deal acceptable to the House of Commons then the Liaison Committee would be able to develop a deal which would be voted on by the House of Commons, with the UK Government required to implement its provisions if it was successfully passed. However, the Liaison Committee rejected its proposed involvement on 16 January. Yvette Cooper's EU (Withdrawal) (No. 3) Bill was **presented to the House of Commons** on 21 January. Nick Boles has indicated that this No. 3 Bill will be a revised version of his Bill and will, for all practical purposes, supersede it. It omits the role set out for the Liaison Committee in the No. 2 Bill and would give the Government until 26 February to get parliamentary approval for a Withdrawal Agreement, allowing Parliament to vote on an extension of Article 50 if it fails. Dominic Grieve has **also tabled two Bills**, with one calling for preparation for a second referendum and the other calling for a second referendum. **Geraint Davies' Bill** to require the holding of a referendum to endorse the United Kingdom and Gibraltar's exit deal from the EU or to decide to remain in the EU will receive

its Second Reading in the House of Commons on 25 January. Since these are not UK Government Bills, there are limited opportunities for MPs to debate and vote on them. For example, the Bill introduced by Geraint Davies that is referred to above received its First Reading in the House of Commons in September 2017.

Following her defeat in the 'meaningful vote', the First Minister **wrote to the Prime Minister on 16 January**. He highlights the need to work in the interest of the UK as a whole and reach out to compromise across the political spectrum, with both political leaders across the House and with the devolved administrations. The First Minister calls for an urgent meeting of the JMC Plenary and outlines a number of steps that should be taken in this meeting:

- Rule out a 'no deal' outcome to the negotiations;
- Commit to an immediate series of cross-party discussions in Parliament and joint working with the devolved institutions to agree a new way forward, which must include a renegotiation based around a firm commitment to participation in the single market and a customs union or a return to the citizens of the UK through commitment to a General Election or a public vote;
- Request an extension of the Article 50 process to facilitate this;
- Legislate to remove the reference to 29 March 2019 as Exit Day in the EU (Withdrawal) Act.

## 4. Other areas of interest to the External Affairs Committee

### New Welsh Government Cabinet

On 13 December 2018, the First Minister, Mark Drakeford, **appointed his Cabinet** following his election as First Minister.

The First Minister has appointed Eluned Morgan to lead a new portfolio as **Minister for International Relations and the Welsh Language**, and she will be responsible for International Trade promotion; Wales in Europe; and maximising the potential of Wales' overseas offices.

**Counsel General Designate and Brexit Minister** Jeremy Miles will lead the Welsh Government's Brexit work. He will be responsible for representing the Welsh Government on the JMC(EN) and Ministerial Forum on EU Negotiations; the Shared Prosperity Fund; and overseeing Brexit related legislation.

Jane Hutt has been appointed as **Deputy Minister to work directly for the First Minister**. The First Minister and Deputy Minister will work together on a range of areas including Constitutional Affairs and inter-governmental relations, with there being flexibility as to which one will lead on issues at a particular time according to governmental priorities.

### International trade arrangements

On 28 December, the House of Commons' International Trade Select Committee published its report on **UK trade policy transparency and scrutiny**. The Welsh Government provided **written evidence** to the Committee.

In relation to the involvement of devolved administrations in developing trade policy, the Committee concluded that:

*It is crucial that the Government take account of the views of each nation and region within the United Kingdom in formulating an independent trade policy. Current structures are not sufficiently robust to provide for structured engagement and extensive consultation.*

It recommends that the UK Government forms a statutory UK intergovernmental international trade committee. The Committee considers that the UK Government should have a duty to consult the committee on the mandate for future trade negotiations; regularly update the committee on progress with negotiations; and consult the committee on the final text of an agreement prior to ratification. In addition, it recommends that a representative from each of the devolved administrations and the Local Government Association should be included on the UK Government's Strategic Trade Advisory Group, to allow for detailed consultation throughout the negotiation process.

### Intergovernmental relations

The House of Commons' Scottish Affairs Committee is undertaking an inquiry into **the relationship between the Scottish and UK Governments** that covers many of the themes emerging from the Committee's work on intergovernmental relations and Brexit. Its terms of reference cover the effectiveness of intergovernmental machinery such as the Joint Ministerial Committee, whether Brexit might necessitate changes to this particularly around common UK frameworks, and whether lessons can be learned from other countries. The inquiry has taken evidence from academics, and also the Belgian and Canadian Governments.

## 5. Welsh Government response

On 13 December, the Supreme Court handed down its **judgment** following the referral made by the UK Government in relation to the Scottish Government's Continuity Bill. The Welsh Government responded in a **written statement** on 20 December by the Counsel General Designate and Brexit Minister Jeremy Miles, who intervened in the proceedings. He stated that:

- The intervention in the proceedings was not in relation to the Welsh Government's now-repealed Continuity Act, which it confirms was only a fall back option;
- In his view, had the Welsh Government's Continuity Bill remained in force, it would in all likelihood also have been rendered inoperable; and
- It is now time to move on and focus on the bigger picture.

On 7 January, following the meeting of the Joint Ministerial Committee (Plenary) (the JMC (P)) on 19 December, the First Minister published a **written statement** outlining discussion on two agenda items.

Firstly, after the Prime Minister called for the devolved governments to back her deal, the First Minister emphasised the rejection of the current deal by the Assembly and urged her to change the UK Government's approach to the negotiations. The statement noted that, while avoiding no deal is of vital importance, he called for greater intergovernmental collaboration to plan for that scenario.

Secondly, following an update on the review of intergovernmental relations commissioned by JMC(P) in March 2018, the First Minister said that he underlined the need for this review to proceed at pace, given the significant load the intergovernmental machinery will need to bear after the UK leaves the EU.

On 8 January, the First Minister made an **oral statement** updating on EU transition. He criticised the approach of the UK Government towards the devolved administrations:

The UK Government has made no attempt to build a cross-party consensus for its strategy and neither has it made any serious attempt to agree an approach to the negotiations with the devolved administrations.

The First Minister also discussed a 'no deal' Brexit, and stated that the passage of legislation necessary to prepare for Brexit is a heavy burden of unscheduled work for the Welsh Government and the National Assembly. With large proportions of preparations for a 'no deal' Brexit in the hands of the UK Government, he stated that they have found the UK Government, "too opaque, too slow and sometimes downright secretive" and that now is the time for real openness and full co-operation. He concluded by calling for the UK Government to ask the EU for an extension of article 50 to enable a general election or a public vote if it was unable to perform its role.

The Minister for Environment, Energy and Rural Affairs Lesley Griffiths **raised concerns about the impact** on Welsh farming and fisheries of a 'no deal Brexit' on 14 January in advance of a meeting with her counterparts in the UK Government and Devolved Administrations at Westminster. The Minister stated that a 'no deal' scenario should be avoided at all costs to protect Welsh rural and coastal communities. She highlighted a number of issues of concern in a 'no deal' scenario:

- 90% of red meat and shellfish exports go to the EU so the prospects of high tariffs with 'no deal' will add to the cost of exporting;
- Welsh shellfish are currently transported live and delivered to EU markets within 24 hours. Delaying this supply chain will lead to lower prices for producers due to poorer quality shellfish and an increase in shellfish mortality; and
- Calais does not have a Border Inspection Post, which would be needed for live animal exports and products of animal origin, and this will add to the costs of "production and bureaucracy".

On 15 January, the Counsel General and Brexit Minister made an **oral statement** on the UK Government's current proposals for the UK's withdrawal from the EU, stating that:

Importers and exporters have no assurance on what basis they can conduct their business in just a few weeks' time. Agricultural produce faces crippling tariffs, and the risk of chaos around our ports could impact on supplies of anything from spare parts for cars to medicines to fresh fruit and vegetables.

The Counsel General and Brexit Minister was critical of the UK Government's lack of clear position throughout negotiations, comparing it to the Welsh Government's clear proposals. He concluded by restating the Welsh Government position:

We believe Wales's vital interests are best preserved through participation in the single market across the whole economy, including services. That's what business wants and that's what investors need. We should remain in a customs union, which is essential to avoid increased friction at the border, and which delivers free trade with so many countries.

On 18 January, the Welsh Government launched the **Preparing Wales** website. Its purpose is to inform citizens and organisations about the work that the Welsh Government is doing to prepare for a 'no deal' Brexit. **Brexit Minister Jeremy Miles said** that there was no need for people to make changes in their day-to-day lives to get ready for a possible 'no deal', and stressed that the purpose of the website was to describe the Government's work in this area.