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European Union Committee

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Beyond Brexit: how to win friends and influence people

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The European Union Committee

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SUMMARY

This report looks beyond the continuing uncertainty over the terms of Brexit, indeed beyond Brexit itself. It explores how the UK and the EU's relationship will be conducted in the long term, once the UK is no longer 'in the room', having ceased to participate in the EU's institutions. Given the commitment of both sides to establishing an "ambitious, broad, deep and flexible" future partnership, both the UK and the EU need to take steps to re-establish effective channels of communication and cooperation after the fraught Brexit negotiations.

We identify three key elements to this future relationship. First, notwithstanding the uncertainty over the Withdrawal Agreement and Political Declaration, the governance mechanisms contained within them provide a structure for future dialogue that is likely to persist in any deal that is agreed. The Joint Committee, and the Specialised Committees that report to it, will be the principal formal means of UK-EU inter-governmental dialogue after Brexit takes effect. Their effectiveness will depend on the frequency of their meetings, the flexibility of their remit, senior political representation on both sides, and a mutual commitment to effective communication, appropriate powers, and full accountability.

Second, there are less formal means by which the UK may seek to exercise influence on the EU institutions and Member States. These include UK interaction with EU agencies, UK participation in EU programmes and other areas of cooperation, the evolving role of the UK Representation to the EU, the work of other Brussels-based UK offices and organisations, the role of the devolved administrations, and strong bilateral dialogue with EU Member States.

Finally, Parliament itself will have a key role. This can be broken down into four component parts:

- Parliament should continue to scrutinise EU legislative proposals;
- It should engage with and examine the work of the governance and institutional mechanisms established under the Withdrawal Agreement and Political Declaration;
- It should monitor and scrutinise the negotiations on the future UK-EU relationship;
- It should engage in enhanced inter-parliamentary dialogue with the European Parliament, EU Member State national parliaments, and the devolved legislatures.

The UK will inhabit a different world beyond Brexit. It will need to adapt quickly, working harder and more strategically to make use of all available tools to maximise its voice in Brussels and beyond. This in turn requires a long-term commitment, of energy, time and financial and human resources.

The current uncertainty is acute—but sooner or later it will end. The Government, Parliament and the EU all need to think carefully about what follows, and about how the inter-institutional mechanisms that will be established under any Withdrawal Agreement can be made to work most effectively. It is time to rebuild bridges.

Beyond Brexit: how to win friends and influence people

CHAPTER 1: INTRODUCTION

Background to the report

1. This report looks beyond Brexit, exploring how the UK and EU's relationship will be conducted in the long term, once the UK is no longer 'in the room', having ceased to participate in the EU's institutions.
2. Our intention had been to wait until the terms of the UK's withdrawal were finalised and approved before setting out our analysis of how future UK-EU inter-institutional relations would operate. But following the House of Commons' rejection of the Withdrawal Agreement and the Political Declaration for a second time on 12 March, and its subsequent support for a motion requesting an extension of Article 50, the uncertainty continues.
3. Nevertheless, an analysis of post-Brexit UK-EU inter-institutional relations is merited, given the likelihood that the governance structures proposed in the Withdrawal Agreement and Political Declaration will form part of whatever deal is ultimately reached. Furthermore, even if the UK leaves without any Agreement being ratified, the UK-EU relationship, however acrimonious in the short term, will continue to be important to both sides. Many of our conclusions apply with equal force to that scenario.
4. We have therefore taken the decision to publish our analysis now, to help prepare for the rapid establishment of new inter-institutional mechanisms if and when agreement on the terms of the UK's withdrawal is reached, and to inform decision-making within Parliament, including the House of Lords Liaison Committee's current review of investigative and scrutiny committees.
5. Chapter 2 examines the formal mechanisms for governance and dialogue set out in the Withdrawal Agreement and Political Declaration on future UK-EU relations, both during transition and post-transition, notably the proposed Joint Committee and Specialised Committee structures. Chapter 3 analyses other channels for inter-institutional relations, and asks how the UK can maximise its influence in Brussels and with EU Member States post-Brexit. Chapter 4 considers the implications for Parliament, both in scrutinising future UK-EU inter-institutional relations, and in developing inter-parliamentary dialogue with the European Parliament, EU Member State parliaments, and the devolved legislatures. While the report assumes a deal, many of the conclusions drawn could equally apply in the event of 'no deal'.
6. We have drawn on evidence heard in January and February 2019 from the Secretary of State for Exiting the EU, Rt Hon Stephen Barclay MP, the former UK Permanent Representative to the EU, Sir Ivan Rogers, and (with particular reference to the Protocol on Ireland/Northern Ireland) from a panel of academic, legal and trade experts. We also held a seminar on future inter-institutional relations with other academic and legal experts in

January 2019, a note of which has been published online.¹ Our deliberations have been informed by written correspondence with the Government, with committees in the devolved legislatures, and by informal discussions with key institutional stakeholders in the UK, Brussels and existing third countries. We are grateful to all of our interlocutors for their assistance.

7. **We make this report for debate.**

1 European Union Committee, Note on a roundtable seminar, 22 January 2019: <https://www.parliament.uk/documents/lords-committees/eu-select/interinstitutional-relations-inquiry/22-jan-roundtable.pdf> [accessed 19 March 2019]

CHAPTER 2: GOVERNANCE OF THE WITHDRAWAL AGREEMENT AND POLITICAL DECLARATION

The Withdrawal Agreement and Political Declaration

8. The proposed UK-EU Withdrawal Agreement and the accompanying Political Declaration setting out the framework for future UK-EU relations were presented to Parliament on 26 November 2018. Updated texts were presented on 11 March 2019. Taken together, these documents set out in varying levels of detail three distinct (yet interlocking) formal elements of post-Brexit UK-EU inter-institutional relations:
- The UK and the EU’s rights and duties during the transition period;
 - Governance structures for overseeing the implementation and application of the Withdrawal Agreement (including the Protocols on Ireland/Northern Ireland, the Sovereign Base Areas in Cyprus, and Gibraltar), notably the Joint Committee and Specialised Committees, and mechanisms for dispute resolution and arbitration;
 - Governance of the future UK-EU relationship, including a Joint Committee (distinct from the Joint Committee on the Withdrawal Agreement), and mechanisms for dispute resolution and arbitration.
9. In this chapter we consider each of these in turn. We use as a basis the analysis set out in our report on *Brexit: the Withdrawal Agreement and Political Declaration*, published on 5 December 2018.² We do so despite the House of Commons’ decision, on two occasions, to reject the Withdrawal Agreement and Political Declaration, since the governance mechanisms set out in the Withdrawal Agreement and Political Declaration are likely to underpin any deal on UK withdrawal that is ultimately reached.

The transition period

10. The Withdrawal Agreement states that the transition period³ will run from when the Agreement comes into force until 31 December 2020, with the possibility of a single extension “for up to one or two years”. During the transition period, all EU law (including both the full EU *acquis* at the point of UK withdrawal and new laws that come into force during the transition period) will continue to apply to the UK, producing “the same legal effects as those which it produces within the Union and its Member States”.⁴ The UK will lose its current right to opt into new Justice and Home Affairs (JHA)

2 European Union Committee, *Brexit: the Withdrawal Agreement and Political Declaration* (24th Report, Session 2017–19, HL Paper 76)

3 The Government has consistently described the period immediately following the UK’s exit from the EU as an ‘implementation period’. Successive drafts of the Withdrawal Agreement, on the other hand, have referred to a ‘transition period’, and although Article 126 of the current text refers to “a transition or implementation period”, the terms ‘transition’ is still used throughout the text. We therefore use the term ‘transition period’ in this report.

4 Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (11 March 2019), Articles 126–7, 132: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/785114/11_March_WA_-_WEB_VERSION.PDF [accessed 13 March 2019]

measures, but will be able to opt into measures that “amend, build upon or replace existing [JHA] measures.”⁵

11. While the Withdrawal Agreement in large part removes the UK’s rights as an EU Member State to participate in the EU’s institutions and agencies during the transition period, there are limited exceptions.⁶ The UK can be invited to send national experts to “meetings or parts of meetings” of “Commission expert groups” and/or EU “bodies, offices or agencies”,⁷ but only in exceptional circumstances and when the discussion involves legislation “to be addressed to the United Kingdom”,⁸ or where the presence of a UK expert “is necessary and in the interest of the Union”.⁹ UK experts will not have voting rights. The UK also has consultation rights in relation to fisheries and the negotiation and agreement of Total Allowable Catches (TACs) under the Common Fisheries Policy.¹⁰
12. **In our report on *Brexit: the Withdrawal Agreement and Political Declaration* we expressed concern about the sudden removal of the UK’s institutional privileges during the transition period, in particular given that all EU law will apply to the UK during this period. These changes mean that the UK will inevitably have less influence over the EU institutions and their deliberations during the transition period. Nevertheless, it is incumbent on the Government to take advantage of those limited opportunities that remain to seek to maximise the UK’s influence with the EU institutions.**

Governance of the Withdrawal Agreement

The Joint Committee on the Withdrawal Agreement

13. The main governance structure that would be established by the Withdrawal Agreement is the Joint Committee.¹¹ It would be the primary forum responsible for the implementation and application of the Withdrawal Agreement, and its main provisions are as follows:
 - Co-chaired by a member of the European Commission and a representative of the UK Government at ministerial level, or “high level officials designated to act as their alternatives”.¹² The Commission will represent the EU within the Joint Committee;¹³
 - Meetings at the request of the UK or the EU (hosted alternately), taking place at least once a year, with the meeting schedule adopted by

5 [Withdrawal Agreement](#) (11 March 2019), Article 127(5). The UK can also be compelled to participate by the Council in such measures where the UK’s non-participation “in the amended version of an existing measure makes the application of that measure inoperable” for the other EU Member States (Article 4a of Protocol (No 21) of the Treaty on the Functioning of the European Union).

6 European Union Committee, [Brexit: the Withdrawal Agreement and Political Declaration](#) (24th Report, Session 2017–19, HL Paper 76), paras 118–122

7 [Withdrawal Agreement](#) (11 March 2019), Article 128(5)

8 [Withdrawal Agreement](#) (11 March 2019), Article 128(5)(a)

9 [Withdrawal Agreement](#) (11 March 2019), Article 128(5)(b)

10 [Withdrawal Agreement](#) (11 March 2019), Article 130(2)

11 [Withdrawal Agreement](#) (11 March 2019), Article 164. See European Union Committee, [Brexit: the Withdrawal Agreement and Political Declaration](#) (24th Report, Session 2017–19, HL Paper 76), paras 24–29. We analyse the operation of Joint Committees at paras 54–57 and Boxes 2 and 3.

12 [Withdrawal Agreement](#) (11 March 2019), Annex VIII, Rule 1

13 Proposal for a Council Decision on the conclusion of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community, [COM \(2018\) 834](#)

mutual consent. Between meetings, the Joint Committee may adopt decisions or recommendations by written procedure;¹⁴

- Decisions and recommendations, which will be binding on both sides, will be reached by mutual consent;¹⁵
- A secretariat comprising Commission and UK Government officials, with responsibility for minuting meetings;¹⁶
- Meetings will be confidential, unless otherwise decided by the co-chairs. Each side will be able to decide (individually) whether to publish the decisions and recommendations adopted by the Joint Committee.¹⁷ Minutes will not be made publicly available, although summaries could be made public.¹⁸ As we explore in Chapter 4, this gives rise to significant concerns regarding the transparency and accountability of the Joint Committee;
- The Joint Committee will oversee the Specialised Committees (discussed below);¹⁹ issue an annual report on the functioning of the Agreement; and adopt decisions amending the Withdrawal Agreement for up to four years after the end of the transition period²⁰ where this is necessary to “address omissions or other deficiencies, or to address situations unforeseen when this Agreement was signed”, provided that such changes do not “amend the essential elements of the Agreement”;²¹
- Dispute resolution: consultations will take place in the Joint Committee “in good faith, with the aim of reaching a mutually agreed solution”. A party wishing to commence consultations will provide written notice to the Joint Committee, and if no mutually agreed solution has been reached within three months of a written notice being provided, either party may request the establishment of an arbitration panel;²²
- The Joint Committee will before 1 July 2020 make a single decision whether to extend the length of the transition period “for up to one or two years”;²³
- The Joint Committee will oversee certain provisions in relation to the Protocol on Ireland/Northern Ireland; it also has the power to review whether the provisions of the Protocol, either in whole or in part, should be brought to an end;²⁴

14 [Withdrawal Agreement](#) (11 March 2019), Article 164 and Annex VIII, Rules 4 and 9

15 [Withdrawal Agreement](#) (11 March 2019), Article 166

16 [Withdrawal Agreement](#) (11 March 2019), Annex VIII, Rule 2

17 [Withdrawal Agreement](#) (11 March 2019), Annex VIII, Rule 10

18 [Withdrawal Agreement](#) (11 March 2019), Annex VIII, Rule 8(5)

19 [Withdrawal Agreement](#) (11 March 2019), Article 164(4)

20 Save in relation to Part One (the Common Provisions, including definitions, scope etc.), Part Four (the Transition) and Part Six (the Institutional and Final Provisions) of the [Withdrawal Agreement](#) (11 March 2019).

21 [Withdrawal Agreement](#) (11 March 2019), Article 164(5)(d)

22 See European Union Committee, *Brexit: the Withdrawal Agreement and Political Declaration* (24th Report, Session 2017–19, HL Paper 76) and European Union Committee, *Dispute resolution and enforcement after Brexit* (15th Report, Session 2019–19, HL Paper 130).

23 [Withdrawal Agreement](#) (11 March 2019), Article 132(1)

24 [Withdrawal Agreement](#) (11 March 2019), Protocol on Ireland/Northern Ireland, Articles 6–7, 9, 13–15 and 20.

14. Beyond this outline structure, the precise *modus operandi* of the Joint Committee remains to be determined.

The Specialised Committees

15. Under the Withdrawal Agreement, Specialised Committees on the following themes would be established:
- citizens' rights;
 - “other separation provisions”;
 - the Protocol on Ireland/Northern Ireland;
 - the Protocol on the Sovereign Base Areas in Cyprus;
 - the Protocol on Gibraltar; and
 - the financial provisions.²⁵
16. The Joint Committee may establish additional Specialised Committees, dissolve any of them, and will decide on the tasks of Specialised Committees and supervise their work.²⁶
17. Specialised Committees will be co-chaired by representatives of the UK and EU (who will be represented by the Commission, albeit with some caveats²⁷), and both sides will ensure that their representatives have “appropriate expertise”.²⁸
18. The Joint Committee’s Rules of Procedure will also, broadly, apply to the Specialised Committees (unless the Joint Committee decides otherwise). They will meet at least once a year, and additional meetings may be held at the request of the EU, the UK or the Joint Committee. They will inform the Joint Committee of their meeting schedules and agenda in advance, and report to it after each meeting.²⁹

The Protocol on Ireland/Northern Ireland

The Specialised Committee on the Protocol on Ireland/Northern Ireland

19. The Specialised Committee on issues related to the implementation of the Protocol on Ireland/Northern Ireland will:
- (a) facilitate the implementation and application of the Protocol;
 - (b) examine proposals concerning the implementation and application of the Protocol from the North-South Ministerial Council and the North-South Implementation bodies set up under the 1998 Belfast/Good Friday Agreement;
 - (c) consider specific matters brought to its attention by the Northern Ireland Human Rights Commission, the Equality Commission for

25 [Withdrawal Agreement](#) (11 March 2019), Article 165. See European Union Committee, *Brexit: the Withdrawal Agreement and Political Declaration* (24th Report, Session 2017–19, HL Paper 76), paras 30–33.

26 [Withdrawal Agreement](#) (11 March 2019), Article 164

27 See paras 21, 33 and 37

28 [Withdrawal Agreement](#) (11 March 2019), Article 165(3)

29 [Withdrawal Agreement](#) (11 March 2019), Article 165 and Annex VIII, Rule 13

Northern Ireland, and the Joint Committee of representatives of the Human Rights Commissions of Northern Ireland;

- (d) discuss any point raised by either side of relevance to the Protocol that is giving rise to a difficulty; and
- (e) make recommendations to the Joint Committee regarding the functioning of the Protocol.³⁰

The Joint Consultative Working Group on the Protocol on Ireland/Northern Ireland

- 20. The Withdrawal Agreement will also establish a Joint Consultative Working Group on the implementation of the Protocol, to serve “as a forum for exchange of information and mutual consultation.” It will be co-chaired by the EU and UK, comprise representatives of the EU and the UK, and be supervised by and report to the Specialised Committee. It will meet at least once a month, unless decided otherwise by mutual consent. Within the working group, the EU and UK will exchange information about the implementation of relevant EU legislation.³¹

The composition of the delegations in matters pertaining to Northern Ireland

- 21. As we have noted, the Commission will represent the EU in the Joint Committee. However, Ireland may request that the Commission be accompanied by a representative of Ireland in the meetings of the Specialised Committee on issues related to the implementation of the Protocol on Ireland/Northern Ireland.³²
- 22. The exchange of letters between the Prime Minister and Presidents Tusk and Juncker on 14 January 2019 provided more detail on the composition of the UK delegation. The Prime Minister stated that “it is for the United Kingdom to decide how it is represented in the governance of the Protocol”, including “how the Northern Ireland Executive are represented in those forums where matters pertaining directly to Northern Ireland are discussed”.³³ Presidents Tusk and Juncker confirmed that the Withdrawal Agreement and Protocol “do not prevent the United Kingdom from facilitating, as part of its delegation, the participation of Northern Ireland Executive representatives in the Joint Committee, the Committee on issues related to the implementation of the Protocol on Ireland/Northern Ireland, or the joint consultative working group, in matters pertaining directly to Northern Ireland”.³⁴ This was subsequently confirmed in the 11 March Instrument relating to the agreement on the withdrawal of the UK from the EU.³⁵

30 [Withdrawal Agreement](#) (11 March 2019), Protocol on Ireland/Northern Ireland, Article 16

31 [Withdrawal Agreement](#) (11 March 2019), Protocol on Ireland/Northern Ireland, Article 17

32 Council decision on the conclusion of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community, [COM \(2018\) 834](#)

33 Letter from Rt Hon. Theresa May MP to President Tusk and President Juncker, 14 January 2019: <https://www.consilium.europa.eu/media/37878/20190114-letter-may-to-tusk-juncker-brexit.pdf> [accessed 6 March 2019]

34 Letter from Rt Hon. Theresa May MP to President Tusk and President Juncker, 14 January 2019: <https://www.consilium.europa.eu/media/37878/20190114-letter-may-to-tusk-juncker-brexit.pdf> [accessed 6 March 2019]

35 Instrument relating to the Agreement on the Withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (11 March 2019): https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/785121/2019-03-11_Instrument.pdf [accessed 14 March 2019]

23. Dr Katy Hayward, Reader in Law, Queen’s University Belfast, thought that input from the North-South institutions established under the 1998 Belfast/Good Friday Agreement would be “quite critical” for the Specialised Committee’s work. She also suggested that the Joint Committee could “allow the First Minister and deputy First Minister in Northern Ireland to be present and to have speaking rights if issues relating to Northern Ireland are being discussed”. If there was no devolved administration, she added, senior civil servants should have speaking rights.
24. Dr Hayward observed that the Joint Consultative Working Group was unprecedented in the EU’s relationships with third countries. She suggested that it could have a decision-shaping role as “the first point at which potential new legislation or the implications of EU legislation, or indeed legislation within Northern Ireland, could be considered and discussed in some detail”. She also suggested that business communities and the civic community could contribute to its deliberations.
25. Dr Hayward was confident that the new bodies did not contravene the Belfast/Good Friday Agreement, in particular in light of the January 2019 paper on *UK Government commitments to Northern Ireland and its integral place in the United Kingdom* (see Box 1).³⁶ The 11 March Instrument relating to the agreement on the withdrawal of the UK from the EU subsequently stated that “the Protocol does not affect or supersede the provisions of the 1998 Agreement in any way”, in particular the provisions of Strand Two of the Agreement that “areas of North-South cooperation in areas within their respective competences are matters for the Northern Ireland Executive and Government of Ireland to determine.” It also stated that any new EU act falling within the scope of the Protocol, but neither amending nor replacing an EU act listed in the Annexes to the Protocol, would require the agreement of the UK in the Joint Committee.³⁷

Box 1: UK Government commitments to Northern Ireland and its integral place in the United Kingdom

The January 2019 paper on *UK Government commitments to Northern Ireland and its integral place in the United Kingdom* includes commitments to:

- Ensure a strong role for the Northern Ireland Assembly before Northern Ireland-specific backstop provisions are given effect in domestic law;
- Seek the agreement of the Northern Ireland Assembly if the UK Government were ever to consider agreeing to new areas of law applying specifically to Northern Ireland to the Protocol;
- Provide a guarantee that nothing in the Protocol will change the scope, functions or remit of the North-South Ministerial Council or the North-South Implementation Bodies, or change any areas of North-South cooperation without explicit agreement from the Northern Ireland Executive;

³⁶ Oral evidence taken on 12 February 2019 (Session 2017–19), [QQ 5–6](#) (Dr Katy Hayward, David Henig, Marie Demetriou QC and Victoria Hewson)

³⁷ [Instrument relating to the Withdrawal Agreement](#) (11 March 2019)

- Agree a Memorandum of Understanding with a future Northern Ireland Executive setting out arrangements for the Executive’s role in respect of the Joint Committee, the Specialised Committee and the Joint Consultative Working Group, when issues relevant to Northern Ireland are discussed. The MoU “would also set out the agreed processes and forums to ensure effective dialogue and information-sharing with the Executive on the implementation of the Protocol”;
- Provide a guarantee that the UK will ensure that all engagement and dialogue under the governance arrangements applying to the Withdrawal Agreement will be consistent with the three-stranded approach set out in the Belfast/Good Friday Agreement, with no change to the role of the UK or Irish Government; and
- Ensure that the voice of a restored Northern Ireland Executive, along with the other devolved administrations, is at the heart of work on negotiations on the future UK-EU relationship.

Source: HM Government, UK Government commitments to Northern Ireland and its integral place in the United Kingdom (9 January 2019): https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/769964/NI_unilateral_commitments_-_9_January_FINAL.pdf [accessed 6 March 2019]

26. Victoria Hewson, Senior Counsel, Institute of Economic Affairs, in contrast, argued that “the new interactions of the institutions that will support the backstop, should it come into effect, will have definite effects on how the institutions of the Belfast agreement would work”. She argued that “the Government of Ireland and the Irish voters south of the border will have more say on those particular rules and regulations than the people in Northern Ireland will have themselves”, and also that Strand Three of the 1998 Agreement, covering intergovernmental relations between London and Dublin, had been “completely written out not only of the Article 50 negotiations but the whole way that the backstop will work going forward”.³⁸
27. While the governance mechanisms under the backstop have been broadly supported by nationalist and other parties, unionist parties, in particular, have expressed concern that they would create a democratic deficit. We wrote to the Speaker of the Northern Ireland Assembly to invite the views of the political parties represented in the Assembly on the proposed governance structures. The Ulster Unionist Party responded, as follows:

“For the first time in our history, decisions on areas of law affecting Northern Ireland would be decided not by our Government at Westminster, nor by our locally elected representatives in the Northern Ireland Assembly, but by 27 other Governments, including the Republic of Ireland. The role of the Committees that would have a say in our affairs after Brexit, were the Backstop to be initiated, removes even the thinnest veneer of democratic accountability from our affairs. Our form of governance in Northern Ireland acknowledges the need for cross-community legitimacy in decision making, therefore it is concerning that areas of law making could take place over our heads with no democratic scrutiny or accountability.”³⁹

38 Oral evidence taken on 12 February 2019 (Session 2017–19), [QQ 5–6](#) (Dr Katy Hayward, David Henig, Marie Demetriou QC and Victoria Hewson)

39 Letter from Ulster Unionist Party to Lord Boswell of Aynho, 21 February 2019: <https://www.parliament.uk/documents/lords-committees/eu-select/interinstitutional-relations-inquiry/UUP-response.pdf> [accessed 19 March 2019]

Conclusions

28. **The new governance mechanisms envisaged under the Protocol on Ireland/Northern Ireland would mark a significant development in the inter-institutional structure governing relations between Northern Ireland and Ireland. These structures are among the most well-defined of the inter-institutional mechanisms set out in the Withdrawal Agreement and Political Declaration. They will also be supported by particularly intensive dialogue, as shown by the fact that the Joint Consultative Working Group, itself an innovation, will meet monthly.**
29. **There is a possibility within these mechanisms to give Northern Ireland institutions and stakeholders a voice in the development of UK-EU relations, in particular in the context of bilateral relations with Ireland. We welcome the Government's commitment to ensure that the Northern Ireland Executive will have a role in relation to the Specialised Committee, Joint Consultative Working Group and relevant discussions in the Joint Committee, and urge it to go further and consider how large and small businesses, employee representatives and civic groups can contribute to the work of the new structures, and in particular the work of the Joint Consultative Working Group.**
30. **In our 2017 report on *Brexit: devolution* we highlighted the "delicate equilibrium" established by the Belfast/Good Friday Agreement, and urged all sides not to weaken this equilibrium or the confidence of both unionist and nationalist communities in the political process. The history of the peace process demonstrates that new institutions will only succeed if both communities in Northern Ireland support and are willing to participate in them. In that context, we note with concern the perceptions of a lack of democratic accountability within the new inter-institutional structures envisaged under the Protocol on Ireland/Northern Ireland.**
31. **We note the Government's assurances set out in its January 2019 paper on *UK Government commitments to Northern Ireland and its integral place in the United Kingdom*, and urge all sides to engage in continued dialogue to ensure that the new institutions secure the democratic legitimacy that they will need if they are to function effectively. Their interaction with the institutional framework of the 1998 Agreement therefore requires careful examination and continuous review. This in turn underlines the urgent need to re-establish the power-sharing institutions of the Northern Ireland Assembly and Executive.**

The Specialised Committee on the Sovereign Base Areas in Cyprus

32. Article 165 of the Withdrawal Agreement establishes a Specialised Committee on the implementation of the Protocol on the Sovereign Base Areas in Cyprus. The Protocol itself states that Cyprus and the UK shall cooperate to ensure the effective implementation of the Protocol on the Sovereign Base Areas in Cyprus, in particular with a view to countering fraud and other illegal activities. The Government of Cyprus and the UK may make further arrangements concerning the implementation of any of the provisions of the

Protocol, which the Government of Cyprus shall inform the Commission of before they come into force.⁴⁰

33. In parallel with the provisions of the Protocol on Ireland/Northern Ireland, while the Commission will represent the EU on the Specialised Committee, the Republic of Cyprus may request that one of its representatives accompany the Commission at meetings of the Specialised Committee.⁴¹
34. **We welcome the proposal to establish a Specialised Committee on the Sovereign Base Areas in Cyprus, and note that its success both depends on, and can help ensure, the continued maintenance of effective UK-Cypriot bilateral relations and communication.**

The Specialised Committee on Gibraltar

35. The Protocol on Gibraltar sets out specific provisions in relation to citizens' rights, air transport law, fiscal matters and protection of financial interests, environmental protection and fishing, and cooperation in police and customs matters. The Withdrawal Agreement also states that there will be close cooperation between Spain and the UK, including the establishment of coordinating committees as a forum for regular discussion between the competent authorities to monitor matters relating to employment and labour conditions; waste management, air quality, scientific research and fishing; and police and customs matters. Other than in relation to employment and labour conditions, the EU will be invited to participate in meetings of the coordinating committees.⁴²
36. These coordinating committees will report on a regular basis to the Specialised Committee on Gibraltar. As well as examining these reports, the Specialised Committee will facilitate the implementation and application of the Protocol on Gibraltar, discuss any issues giving rise to difficulty raised by either side, and make recommendations to the Joint Committee on the functioning of the Protocol.⁴³
37. As is the case in the provisions on Ireland/Northern Ireland and the Sovereign Base Areas in Cyprus, the Commission will represent the EU in the Specialised Committee on Gibraltar, but the Kingdom of Spain may request that the Commission be accompanied by its representative. However, no reference is made to the participation of the Government of Gibraltar.⁴⁴
38. **We call on the UK Government to confirm that the Government of Gibraltar will fully participate in (and where appropriate lead) the work of the Specialised Committee on Gibraltar and associated coordinating committees, and to explain the means by which it will do so.**

40 [Withdrawal Agreement](#) (11 March 2019), Article 165 and Protocol relating to the Sovereign Base Areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus

41 Council decision on the conclusion of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community, [COM \(2018\) 834](#)

42 [Withdrawal Agreement](#) (11 March 2019), Protocol on Gibraltar

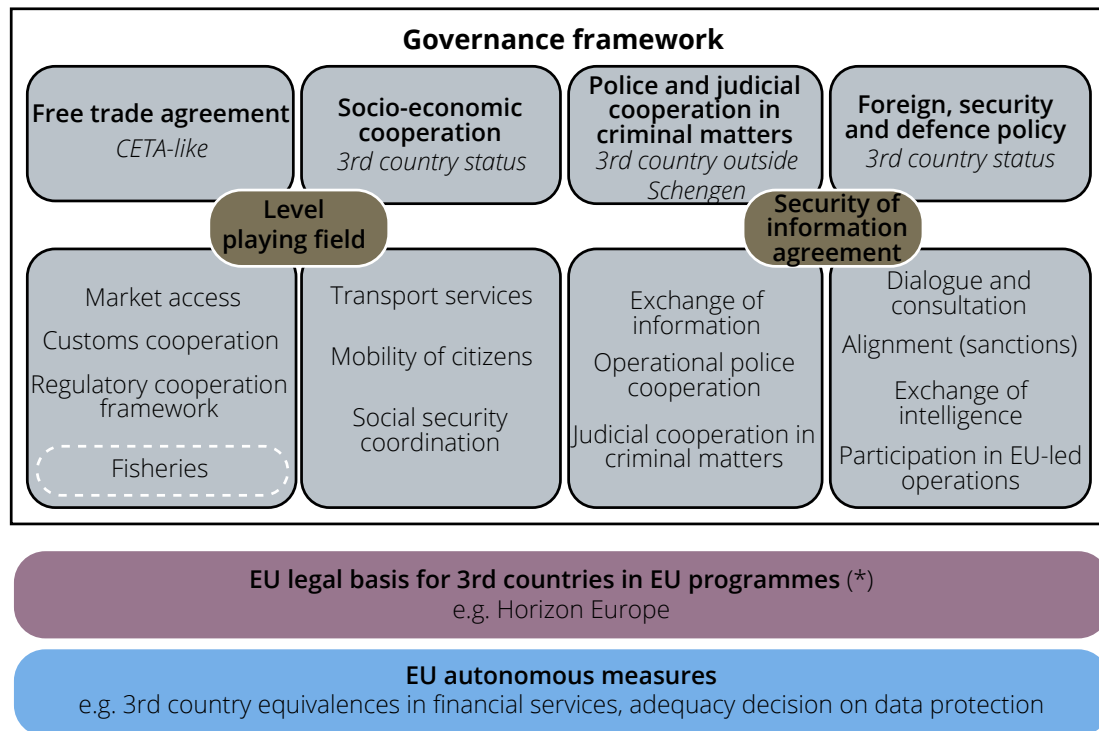
43 *Ibid.*

44 Council decision on the conclusion of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community, [COM \(2018\) 834](#)

Governance of the negotiations on the future relationship

39. The precise structure of the negotiations on the future relationship has yet to be set out. However, in July 2018, the EU's Chief Brexit Negotiator, Michel Barnier, gave some indication of the Commission's thinking when he presented to the Committee the following possible framework for the future partnership discussions.

Figure 1: EU/UK possible framework for the Future Partnership Discussions proposed by the European Commission (July 2018)



(*) To be discussed in the Multiannual Financial Framework context

Source: Task Force on Article 50 negotiations with the United Kingdom, Slide on the EU/UK Possible Framework for the Future Partnership Discussions (15 May 2018): <https://ec.europa.eu/commission/sites/beta-political/files/eu-uk-possible-framework-for-the-future-relationship.pdf> [accessed 6 March 2019]

40. The Political Declaration subsequently set out three substantive elements to the future relationship:
- Economic partnership, including goods, services and investment, financial services, capital movements and payments, intellectual property and public procurement, mobility, transport, energy, fishing opportunities, and level playing field for open and fair competition;
 - Security partnership, including law enforcement and judicial cooperation in criminal matters, foreign policy, security and defence, and thematic cooperation;

- Institutional and other horizontal arrangements, including the overall institutional framework, governance (including the proposed Joint Committee on the future relationship) and dispute settlement.⁴⁵
41. Part V of the Political Declaration sets out the steps that will be taken by the Parties to prepare for the negotiations.⁴⁶ The 14 January 2019 joint letter from Presidents Tusk and Juncker subsequently expressed the EU's commitment to:
- embark on preparations for a future partnership with the United Kingdom immediately after signature of the Withdrawal Agreement;
 - set up the negotiating structure for these negotiations directly after signature to ensure that formal negotiations can start as soon as possible after the withdrawal of the United Kingdom;
 - propose provisional application of relevant parts of the future relationship, should national ratifications be pending at that moment; and
 - engage with the UK Government on a work programme as soon as Parliament has signalled its agreement in principle to the Withdrawal Agreement and the European Parliament has approved it.⁴⁷
42. The 11 March 2019 Joint Statement supplementing the Political Declaration, and Instrument relating to the Withdrawal of the UK from the EU, confirmed the two sides' commitment, "immediately following the United Kingdom's withdrawal ... [to] take the steps necessary to begin formal negotiations", including "by setting up their respective negotiating structures and discussing logistical arrangements". The Joint Statement also set out both sides' commitment expeditiously to identify those areas likely to require the greatest consideration, and the associated technical and legal issues that will need to be addressed, and to draw up a full schedule for the negotiations, taking into account the European Parliament elections (in May 2019) and the appointment of a new Commission (in the second half of 2019). The documents stated that "negotiations on the various strands of the future relationship will then proceed in parallel", and that efforts should be "redoubled should the negotiations not be concluded within one year from the date of the United Kingdom's withdrawal."
43. The 11 March documents also stated that a specific negotiating track, to be "embedded in the overall negotiation structure", will be established at the outset of negotiations, on alternative arrangements to replace the customs and regulatory alignment in goods elements of the Protocol on Ireland/Northern Ireland, including comprehensive customs arrangements, and "the potential of all existing and emerging facilitative arrangements and technologies to replace the backstop in whole or in part." This strand will

45 Political Declaration setting out the framework for the future relationship between the European Union and the United Kingdom (11 March 2019): https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/785113/11_March_PD_-_WEB_VERSION.pdf [accessed 18 March 2019]

46 [Political Declaration](#) (11 March 2019), Part V

47 Letter from President Tusk and President Juncker to Rt Hon Theresa May MP, 14 January 2019 <https://www.consilium.europa.eu/en/press/press-releases/2019/01/14/joint-letter-of-president-tusk-and-president-juncker-to-theresa-may-prime-minister-of-the-united-kingdom/> [accessed 6 March 2019]

take account of progress in the wider negotiations, in particular on goods regulations and customs. This will involve consultation by both sides with “private sector experts, businesses, trade unions, the institutions established under the Good Friday or Belfast Agreement, and appropriate involvement of parliaments.”⁴⁸

The high-level conference

44. Part V of the Political Declaration also envisages that a high-level conference will take place at least every six months from the date of UK withdrawal, to take stock of progress and agree, as far as possible, actions to move forward.⁴⁹ The 11 March documents stated that progress concerning alternative arrangements to the backstop solution in the Protocol on Ireland/Northern Ireland will be assessed at the first high-level conference, and at each subsequent conference, “to ensure that the negotiations are concluded in good time.” Both sides also agreed “to convene immediately, upon the request of either party and at short notice, additional extraordinary high-level conferences at any moment.”⁵⁰
45. Aside from any governance arrangements deriving from the still-to-be-determined structure of the negotiations, this appears to be the only formal intergovernmental mechanism thus far envisaged to oversee the *negotiations* on the future relationship (as opposed to oversight of the future relationship itself).
46. It has not been confirmed who will be the ‘principals’ in this high-level conference. On the EU side, this will be an early and important indicator of who within the EU institutions will have overall responsibility for the maintenance of future UK-EU relations. In that context, we note that on 11 March, President Juncker stated that the Commission’s team for the future relationship negotiations would be led by the EU’s Chief Brexit Negotiator, Michel Barnier.⁵¹
47. **We await further details on the structure and governance of the negotiations on the future relationship, although we note that the Political Declaration proposes specific strands on an economic partnership, a security partnership, institutional and other horizontal arrangements. We also note the commitment to a specific negotiating track on alternative arrangements to the backstop solution in the Protocol on Ireland/Northern Ireland, and welcome the commitment by both sides within this track to engage with private sector experts, businesses, trade unions, the institutions established under the Belfast/Good Friday Agreement, and parliamentarians.**
48. **We welcome the commitment to a high-level conference at least every six months to review the progress of negotiations on the future relationship. We call on the Government to confirm who will lead the UK delegation. We note that the EU’s Chief Brexit Negotiator, Michel Barnier, will lead the Commission’s future relationship negotiating team. In that context, we urge the Government urgently**

48 [Instrument relating to the Withdrawal Agreement](#) (11 March 2019). See further paras 135 and 138.

49 [Political Declaration](#) (11 March 2019), Part V

50 [Instrument relating to the Withdrawal Agreement](#) (11 March 2019)

51 President Jean-Claude Juncker, Remarks at today’s joint press conference with UK Prime Minister Theresa May, 11 March 2019: http://europa.eu/rapid/press-release_SPEECH-19-1635_en.htm [accessed 14 March 2019]

to seek clarification from the EU on who will represent it in this high-level conference, and who will have overall responsibility for the maintenance of future UK-EU relations.

Governance of the future relationship

49. Part IV of the Political Declaration envisages a structure for governance of the future relationship, including “dialogue between the Parties at summit, ministerial and technical level, as well as at parliamentary level”. The summit and ministerial levels should oversee the future relationship, provide strategic direction and discuss opportunities for cooperation in areas of mutual interest, and “enable the partnership to evolve in response to changing and unforeseen circumstances”. The Declaration also calls for “specific thematic dialogues at ministerial and senior official level” as part of the economic and security partnerships, taking place “as often as is necessary for the effective operation of the future relationship”.⁵²
50. **We welcome the proposals for intergovernmental dialogue at summit, ministerial, official and technical level as part of the governance of the future UK-EU relationship. In particular, we welcome the acknowledgement of the potential for evolution of the relationship, and for thematic dialogue in relation to its specific strands. The closer the dialogue, the more likely it is to fulfil the aspiration of both sides for “an ambitious, broad, deep and flexible partnership”.**

The Joint Committee on the future relationship

51. Paragraph 129 of the Political Declaration states that a Joint Committee will be established, to manage and supervise the implementation and operation of the future relationship, and to facilitate the resolution of disputes. It will comprise the Parties’ representatives at an appropriate level, establish its own rules of procedure, reach decisions by mutual consent, and meet as often as required. It could also establish sub-committees.⁵³ Paragraph 132 of the Declaration states that “arrangements for dispute settlement and enforcement will be based on those in the Withdrawal Agreement”.⁵⁴
52. While neither the Withdrawal Agreement nor the Political Declaration specify this in terms, the Joint Committees on the Withdrawal Agreement and on the future relationship appear to be envisaged as distinct entities. The Joint Committee on the Withdrawal Agreement will be established more quickly, for obvious reasons, but given that issues pertaining to the Withdrawal Agreement are likely to be long-lasting, the two Joint Committees (and their respective Specialised/Sub-Committees) will probably operate in parallel for a considerable period.
53. Moreover, paragraphs 129 and 132 seem to imply that the Rules of Procedure and *modus operandi* of the Joint Committee on the future relationship will draw on the precedent of the Joint Committee on the Withdrawal Agreement. In light of this, there may be scope for a streamlined approach: for instance, it may be practicable for the same principals to be involved in both Joint Committees, and for meetings to be coordinated.

52 [Political Declaration](#) (11 March 2019), Part IV

53 [Political Declaration](#) (11 March 2019), para 129

54 [Political Declaration](#) (11 March 2019), para 132

Analysis of the Joint Committee and Specialised Committee models

54. The proposed Joint Committees (and the Specialised Committees) are the most significant, and the most fleshed out, of the new formal inter-institutional governance structures. Joint Committees are a common tool in international agreements (including those made by the EU), and two examples are set out in Boxes 2 and 3. However, they are less familiar in the UK.

Box 2: The EEA Joint Committee

This Joint Committee is responsible for the management of the EEA Agreement. The parties are the EU, represented by the European External Action Service (EEAS),⁵⁵ and EEA EFTA States, represented by their Ambassadors to the EU. The Joint Committee “typically meets six to eight times a year”, and is “a forum in which views are exchanged and decisions are taken by consensus to incorporate EU legislation into the EEA Agreement.”⁵⁶ Its Rules of Procedure are published,⁵⁷ as are agendas, conclusions (upon agreement with the EU), a list of adopted Joint Committee Decisions (JCDs),⁵⁸ an annual report⁵⁹ and a schedule of meetings.⁶⁰ Minutes are restricted, but can be requested.

Four sub-committees assist the Joint Committee (on the free movement of goods; the free movement of capital and services including company law; the free movement of persons; and horizontal and flanking policies). Numerous expert and working groups report to these sub-committees.

Box 3: EU-Switzerland Joint Committees

There are over 20 Joint EU-Swiss Committees, covering the majority of bilateral agreements between the parties. According to the Swiss Government: “The joint committees serve as a platform for the exchange of information, for advice and for consultation. They also play a key role should differences of opinion arise. Decisions are made unanimously within the scope of the powers afforded by the respective agreement. Neither Switzerland nor the EU can amend the agreements unilaterally. Any changes always require the consent of both contracting parties. Automatic amendment is not possible.”⁶¹

Switzerland and the EU are currently in negotiations over a new overarching institutional framework agreement, one key element of which would be a new dispute resolution procedure. This may result in significant changes to the current Joint Committee structure.

55 Or, before the Lisbon Treaty came into force in 2010, by the Commission.

56 European Free Trade Association, *EEA Joint Committee*: <https://www.efta.int/eea/eea-institutions/eea-joint-committee> [accessed 6 March 2019]

57 Decision of the EEA Joint Committee No 1/94 of 8 February 1994 Adopting the Rules of Procedure of the EEA Joint Committee, *OJ L 85* (30 March 1994), p 60

58 See for example for 2019: European Free Trade Association, *Overview of adopted JCDs* (8 February 2019): <https://www.efta.int/sites/default/files/documents/legal-texts/eea/other-legal-documents/List-Adopted-Joint-Committee-Decisions/2019%20list%20of%20Adopted%20Joint%20Committee%20Decisions.pdf> [accessed 6 March 2019]

59 European Free Trade Association, *Annual Report of the EEA Joint Committee 2019: The Functioning of the EEA Agreement (Article 94(4))* (4 February 2019): <https://www.efta.int/sites/default/files/documents/eea/eea-institutions/18-4960%20EEA%20Joint%20Committee%20-%208%20February%202019%20-%20Annual%20Report%202018.pdf> [accessed 6 March 2019]

60 European Free Trade Association, *Standing Committee / Joint Committee meeting schedule: first half of 2019*: <https://www.efta.int/sites/default/files/documents/eea/eea-institutions/Joint-Committee-meeting-schedule-first-half-2019.pdf> [accessed 6 March 2019]

61 Swiss Confederation, Federal Department of Foreign Affairs, *Switzerland and the European Union (2016)*: https://www.eda.admin.ch/dam/eda/en/documents/publications/EuropaeischeAngelegenheiten/Schweiz-und-EU_en.pdf [accessed 6 March 2019]

55. The EEA and Swiss examples illustrate the scope to adapt the format and procedure of the Joint Committee model. Much depends on the commitment to dialogue of either side, and the strength and stability of the bilateral relationship. Joint Committee meetings in both the EEA and Swiss examples can often be formal, straightforward (and therefore brief) affairs. It is possible that the UK-EU Joint Committees will follow the same model. Yet as the primary means of formal communication and exchange between the parties, the Joint Committee could be more than the sum of its parts. It will be, in short, what the two parties decide to make of it.
56. Sir Ivan Rogers, former UK Permanent Representative to the EU, told us:
- “There has to be an overarching political appetite from the top, in the institutions and Member States and here ... to say that we must end up with a world where we cannot just treat the Brits as any other third-country partner ... You need some sort of privileged relationship outside the room, but the construction of that needs a lot of thought. Why would Prime Minister-level people, or Foreign Secretary-level people, really devote energy and attention to that unless it really matters? If it is just some sort of technocratic make-work exercise where, on a six-monthly routine, they invite us in on a Saturday afternoon, it is obviously not going to cut it.”⁶²
57. **The effectiveness of the Joint Committees envisaged under the Withdrawal Agreement and Political Declaration, and the bodies that will report to them, will depend on:**
- **Frequency of meetings: the minimum requirement of annual meetings will be insufficient to give the Joint Committees (and Specialised Committees) any significant role in building effective bilateral relationships. The EEA/EU Joint Committee, in contrast, meets around eight times a year.**
 - **Remit: the Joint Committee on the Withdrawal Agreement has an ostensibly narrow remit, yet it has the potential to lay strong foundations for governance of the future relationship, including the operation of the Joint Committee on the future relationship.**
 - **Senior representation: the Joint Committee’s impact will be in direct correlation to the political seniority of the co-chairs and other participants. We urge the Government to consider and clarify which senior ministerial postholder will be the lead UK representative in the Joint Committee. To ensure an effective balance, a representative of equivalent stature needs to represent the EU. The same principle, by extension, will apply to the bodies that report to the Joint Committee: senior representation will be essential to forming effective bilateral relationships. There will also have to be effective interaction, both at ministerial and official level, between meetings. We therefore welcome the provision for decisions to be made in writing between meetings, which should help to streamline the work of the Joint Committee.**
 - **Commitment to dialogue: a Joint Committee (or Specialised/ Sub-Committee) that simply meets briefly and formally or acts**

62 Oral evidence taken on 20 February 2019 (Session 2017–19), [Q 8](#) (Sir Ivan Rogers)

as a rubber stamp is unlikely to help develop positive bilateral working relationships. There needs to be a mutual commitment to use the Joint Committee (and Specialised Committees) as a forum in which to discuss topical issues or concerns, and to strengthen bilateral contacts.

- **Powers: it is proposed that the Joint Committee on the Withdrawal Agreement should have significant powers, to make necessary amendments to the Withdrawal Agreement, to engage in dispute resolution, to approve an extension to the transition period and to review the Protocol on Ireland/Northern Ireland. The Joint Committee on the future relationship could have similarly significant powers, as part of its responsibility for managing and supervising the implementation and operation of the future relationship, facilitating the resolution of disputes and making recommendations concerning the evolution of the future relationship.**
- **Accountability: the more powerful and effective the Joint Committee is, the more important effective scrutiny and transparency will be.**

CHAPTER 3: OTHER INTER-INSTITUTIONAL MECHANISMS

Introduction

58. Aside from the formal inter-governmental mechanisms set out in the Withdrawal Agreement and Political Declaration, there are other means by which the UK may be able to exercise influence on the EU institutions and Member States. These include:
- Interaction with EU agencies;
 - Participation in EU programmes and other areas of cooperation;
 - Through the UK Representation to the EU (UKRep);
 - The work of other Brussels-based UK offices and organisations;
 - The role of the devolved administrations;
 - Bilateral dialogue with EU Member States.

UK interaction with EU agencies

59. As an EU Member State, the UK participates in the work of over 40 EU agencies.⁶³ The extent and means of any future UK interaction with these agencies remains unclear. In its July 2018 paper on *The future relationship between the United Kingdom and the European Union*, the Government proposed:
- UK participation in “those EU agencies that provide authorisations for goods in highly regulated sectors—namely the European Chemicals Agency, the European Aviation Safety Agency, and the European Medicines Agency”;
 - UK participation in Europol and Eurojust, on the basis that “it is in the mutual interests of the UK and the EU for the UK to continue close cooperation with EU law enforcement and criminal justice agencies”; and
 - Bilateral cooperation with EU agencies in a number of other policy fields.
60. The paper noted that the UK would not be able to have voting rights, and that its participation in EU agencies would involve a number of commitments, including a financial contribution, respecting the rules under which EU agencies operated, and respect for the remit of the CJEU.⁶⁴
61. As we have seen, the terms of the transition period envisage possible limited UK national expert participation in EU agencies.⁶⁵ Under the terms of the

63 For a full list, see European Union, ‘Agencies and other EU Bodies’ (12 December 2017): https://europa.eu/european-union/about-eu/agencies_en [accessed 14 March 2019].

64 HM Government, *The future relationship between the United Kingdom and the European Union*, Cm 9593, July 2018: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/725288/The_future_relationship_between_the_United_Kingdom_and_the_European_Union.pdf [accessed 14 March 2019]

65 See para 11.

Protocol on Ireland/Northern Ireland, the EU's executive agencies would also enjoy their normal powers within Northern Ireland.⁶⁶

62. The Political Declaration on the future relationship refers to the possibility of UK cooperation with EU agencies, with specific reference to the European Medicines Agency, European Chemicals Agency and European Aviation Safety Agency.⁶⁷ There are also commitments to “work together to identify the terms for the United Kingdom’s cooperation via Europol and Eurojust”,⁶⁸ cooperation and information exchange with the European Maritime Safety Agency⁶⁹ and European Border and Coastguard Agency,⁷⁰ collaboration in projects of the European Defence Agency,⁷¹ and possible participation in certain activities of the European Union Agency for Network and Information Security.⁷² However, the terms of such cooperation remain undefined, and the EU has consistently stressed that the autonomy of EU decision-making excludes the possibility of UK participation in the decision-making of EU agencies.
63. **The UK has made a significant, and in many areas leading, contribution to the work of EU agencies during the period of its EU membership. This contribution will necessarily be curtailed following Brexit. While we welcome the commitments to future UK participation in and cooperation with certain EU agencies, the terms of such engagement are ill-defined. It is questionable whether the extent of UK participation that is envisaged will be sufficient to ensure that UK interests are represented and fully taken into account.**

Participation in EU programmes and other areas of cooperation

64. The Withdrawal Agreement and Political Declaration present a wide-ranging, yet uneven and imprecise, picture of other potential areas of future UK-EU engagement and cooperation. The following summary illustrates the multi-layered complexity of this planned interaction.

Citizens’ rights

65. The European Commission and a UK “independent authority” will ensure effective implementation and application of citizens’ rights in their respective jurisdictions, possessing equivalent powers to investigate complaints, conduct inquiries and bring legal actions. The two bodies will each report annually on citizens’ rights to the Joint Committee, which will review the UK’s independent authority after eight years, and could then decide on its abolition.⁷³

66. [Withdrawal Agreement](#) (11 March 2019), Protocol on Ireland/Northern Ireland, Article 14(5)

67. [Political Declaration](#) (11 March 2019), para 24

68. [Political Declaration](#) (11 March 2019), para 88

69. [Political Declaration](#) (11 March 2019), para 65

70. [Political Declaration](#) (11 March 2019), para 116

71. [Political Declaration](#) (11 March 2019), para 104

72. [Political Declaration](#) (11 March 2019), para 111

73. [Withdrawal Agreement](#) (11 March 2019), Article 159. For further discussion, see European Union Committee, *Brexit: acquired rights* (10th Report, Session 2016–17, HL Paper 82) and Letter from Baroness Kennedy of The Shaws to Rt Hon Sajid Javid MP, Home Secretary (27 February 2019): <https://www.parliament.uk/documents/lords-committees/eu-justice-subcommittee/CWM/HKtoSJ-SettledStatus-260219.pdf>. [accessed 19 March 2019]

The transition period

66. As set out in Chapter 2, the terms of the transition period envisage possible limited UK national expert participation in meetings of Commission expert groups and/or EU bodies and offices.⁷⁴

The Protocol on Ireland/Northern Ireland

67. The Protocol on Ireland/Northern Ireland envisages:
- UK compliance on taxation overseen by the Joint Committee;
 - UK to ensure effective administrative and judicial proceedings against violations of principles of environmental protection and labour and social standards;
 - the establishment of a UK public body on environmental protection;
 - UK labour and social standards to be monitored by an effective system of labour inspections;
 - the establishment of UK independent authorities on State Aid control and competition law, cooperating closely with the European Commission and with equivalent powers and functions;⁷⁵ and
 - Full jurisdiction for the CJEU to oversee the operation of the EU law applying to Northern Ireland, with the UK participation in relevant judicial proceedings.⁷⁶

*The Political Declaration**Overarching provisions*

68. The overarching provisions of the Political Declaration on the future relationship include:
- A general commitment to “civil society dialogue” and “appropriate cooperation between regulators”;⁷⁷
 - The establishment of “principles, terms and conditions” for UK participation in EU programmes, including in science and innovation, youth, culture and education, overseas development and external action, defence capabilities, civil protection and space;⁷⁸
 - The possibility of UK participation in the European Research Infrastructure Consortia (ERICs), and a more detailed commitment

74 See para 11.

75 [Withdrawal Agreement](#) (11 March 2019), Protocol on Ireland/Northern Ireland, Article 10 of Annex 4

76 [Withdrawal Agreement](#) (11 March 2019), Protocol on Ireland/Northern Ireland, Article 14(7)

77 [Political Declaration](#) (11 March 2019), paras 10, 125. For further discussion, see European Union Committee, [Brexit: Agriculture](#) (20th Report, Session 2016–17, HL Paper 169), paras 203 and 207 (on EFSA); European Union Committee, [Brexit: energy security](#) (10th Report, Session 2017–19, HL Paper 63), Box 3 and paras 93, 95–6 and 101 (on ACER); and European Union Committee, [Brexit: plant and animal biosecurity](#) (21st Report, Session 2017–19, HL Paper 191), paras 69–71 (on the Working Party of Chief Veterinary Officers).

78 [Political Declaration](#) (11 March 2019), para 11. For further discussion, see European Union Committee, [Brexit: energy security](#) (10th Report, Session 2017–19, HL Paper 63), paras 104–112; European Union Committee, [Brexit: plant and animal biosecurity report](#) (21st Report, Session 2017–19, HL Paper 191), paras 80–89; European Union Committee, [Brexit: the Erasmus and Horizon programmes](#) (28th Report, Session 2017–19, HL Paper 283).

to a future PEACE PLUS programme in Northern Ireland, maintaining current funding proportions;⁷⁹

- Opportunities for cooperation in culture, education, science and innovation, including the mobility and temporary movements of objects and equipment.⁸⁰

The economic partnership

69. The economic partnership provisions of the Political Declaration envisage:

- The UK's intention to explore options for a future relationship with the European Investment Bank (our report on *Brexit: the European Investment Bank* criticised the lack of clarity on how this future relationship would work);⁸¹
- A framework for voluntary regulatory cooperation in services;⁸²
- On financial services, agreement to cooperate in international bodies, regulatory and supervisory cooperation, including on equivalence decisions, information exchange and regulatory initiatives;⁸³
- Maritime safety and security cooperation;⁸⁴
- A technical cooperation framework between electricity and gas networks operators and organisations;⁸⁵
- A wide-ranging Nuclear Cooperation Agreement between EURATOM and the UK, to enable cooperation on exchange of information, trade in nuclear materials and equipment, monitoring and exchanging information on levels of radioactivity in the environment, and EURATOM research and training programmes;⁸⁶
- International cooperation, including through the G7 and G20, on climate change; sustainable development; cross-border pollution; public health and consumer protection; financial stability; the fight against trade protectionism; and possible cooperation on carbon pricing.⁸⁷

79 [Political Declaration](#) (11 March 2019), paras 12–13. For further discussion, see European Union Committee, [Brexit: UK-Irish relations](#) (6th Report, Session 2016–17, HL Paper 76), paras 184–194.

80 [Political Declaration](#) (11 March 2019), para 14. For further discussion, see European Union Committee, [Brexit: EU student exchanges and funding for university research](#) (28th Report, Session 2017–19, HL Paper 283), Chapter 4.

81 [Political Declaration](#) (11 March 2019), para 15. For further discussion, see European Union Committee, [Brexit: the European Investment Bank](#) (25th Report, Session 2017–19, HL Paper 269), paras 57–65.

82 [Political Declaration](#) (11 March 2019), paras 33–36

83 [Political Declaration](#) (11 March 2019), para 39. For further discussion, see European Union Committee, [Brexit: the future of financial regulation and supervision](#) (11th Report, Session 2017–19, HL Paper 66), Chapter 6.

84 [Political Declaration](#) (11 March 2019), paras 64–65

85 [Political Declaration](#) (11 March 2019), paras 66–67. For further discussion, see European Union Committee, [Brexit: energy security](#) (10th Report, Session 2017–19, HL Paper 63) Box 3 and paras 93–6, 101.

86 [Political Declaration](#) (11 March 2019), paras 68–71. For further discussion, see European Union Committee, [Brexit: energy security](#) (10th Report, Session 2017–19, HL Paper 63), paras 170, 177–183.

87 [Political Declaration](#) (11 March 2019), paras 72, 77–78. For further discussion, see European Union Committee, [Brexit: environment and climate change](#) (12th Report, Session 2016–17, HL Paper 109), paras 117–135.

The security partnership

70. The most detailed provisions on future cooperation fall under the security partnership section of the Political Declaration, which envisages a “broad, comprehensive and balanced security partnership”,⁸⁸ including:
- Law enforcement and judicial cooperation in criminal matters: establishing reciprocal arrangements for the exchange of Passenger Name Record (PNR) data, and of DNA, fingerprints and vehicle registration data through the Prüm system; other arrangements for data exchange which could “approximate” EU mechanisms; terms for the UK’s operational cooperation via Europol and Eurojust;⁸⁹ the establishment of “effective arrangements” on extradition; an intention to continue joint investigation teams (JITs) that “approximate those enabled by relevant Union mechanisms”; international cooperation (including through NATO and the UN) to promote international peace and security, and to fight money laundering and terrorist financing; and a Security of Information Agreement for the handling and protection of classified information;⁹⁰
 - Foreign policy, security and defence: cooperation on external action; a Political Dialogue on Common Foreign Security Policy (CFSP) and Common Security and Defence Policy (CSDP); the possibility of UK participation in informal EU ministerial meetings to discuss matters of foreign policy, security, and defence; possible cooperation on sanctions; a proposed Framework Participation Agreement that would enable the UK to participate “on a case by case basis in CSDP missions and operations”, and at different stages of their planning process; possible UK collaboration in European Defence projects; agreement to the voluntary exchange of intelligence as appropriate, especially in the areas of counter-terrorism, hybrid threats, cyber-threats and space-based imagery, and to support those CSDP missions to which the UK is contributing; consideration of “appropriate arrangements for cooperation on space”; and possible UK contribution to EU development instruments and mechanisms, including coordination with EU delegations in third countries;⁹¹
 - Thematic cooperation in areas of common interest, including on cyber-security; UK participation as a “participating state” in the EU’s Civil Protection Mechanism; cooperation on health security; cooperation

88 [Political Declaration](#) (11 March 2019), paras 80–81. For further discussion, see European Union Committee, [Brexit: the proposed UK-EU security treaty](#) (18th Report, Session 2017–19, HL Paper 164).

89 See paras 59 and 62.

90 [Political Declaration](#) (11 March 2019), paras 82–91. For further discussion, see European Union Committee, [Brexit: future UK-EU security and police cooperation](#) (7th Report, Session 2016–17, HL Paper 77) and European Union Committee, [Brexit: judicial oversight of the European Arrest Warrant](#) (6th Report, Session 2017–19, HL Paper 16).

91 [Political Declaration](#) (11 March 2019), paras 92–109. For further discussion, see European Union Committee, [Brexit: Common Security and Defence Policy missions and operations](#) (16th Report, Session 2017–19, HL Paper 132). The EU External Relations Sub-Committee is currently undertaking an inquiry into UK-EU international development cooperation after Brexit. See EU External Relations Sub-Committee ‘UK-EU international development cooperation after Brexit’: <https://www.parliament.uk/business/committees/committees-a-z/lords-select/eu-external-affairs-subcommittee/inquiries/parliament-2017/international-development-cooperation-after-brexit/> [accessed 14 March 2019].

in tackling illegal migration; and cooperation on “counter-terrorism, countering violent extremism and emerging threats”.⁹²

Conclusion

71. **The Withdrawal Agreement and Political Declaration set out a complex, yet uneven and imprecise, picture of potential future UK-EU cooperation across a range of policy areas. The commitments and proposals set out vary considerably in terms of the level of cooperation; the extent to which commitments go beyond the rights and obligations of existing third countries; the extent to which either side is obliged to cooperate; the likely financial obligations; the criteria for deciding whether to proceed with potential cooperation; and the actors on either side who will be engaged. While we welcome the proposed mechanisms for cooperation as far as they go, given the lack of detail it is highly uncertain if they will be sufficient to serve the UK’s national interest.**
72. **We welcome the commitment to continued UK-EU cooperation in international fora, including the G7, the G20, NATO and the United Nations, in relation to climate change, sustainable development, cross-border pollution, public health and consumer protection, financial stability, the fight against trade protectionism, and the promotion of international peace and security. The UK will continue to make a strong contribution to international dialogue in these arenas.**

The work of UKRep and other Brussels-based UK offices and organisations

The role of UKRep

73. As an EU Member State, the UK has sought to exert an influence through its dialogue with the EU institutions and other Member States, for instance in forging alliances with like-minded countries on proposals relating to the EU budget, the Single Market, financial services regulation and security cooperation. UK ministers and officials have in the process been able to form productive working relationships with their EU and Member State counterparts. This work has been led by the UK Representation to the EU in Brussels (UKRep).
74. Brexit will fundamentally change UKRep’s role. Not only will a change in nomenclature from a UK Representation to a UK Mission or Delegation be required, but the entire role and focus of UKRep will need to change from that of a Member State representation to a third country mission. UKRep will no longer have automatic access to information, for instance on the progress of legislative files or on issues under discussion. UK ministers and officials will no longer be able to conduct discussions in the margins (and have the same opportunities to build working relationships) with counterparts in the EU institutions and Member States.
75. As a result, the UK will need to learn to use alternative tools in seeking to exert influence and obtain information. This includes building and maintaining contacts with the EU institutions, including the European Parliament, and Member State Representations, to influence their consideration of draft

92 [Political Declaration](#) (11 March 2019), paras 110–117

EU legislation that will have implications for the UK. These are techniques already practised by existing third countries such as Switzerland and Norway. The Swiss and Norwegian missions in Brussels are among the largest of their diplomatic representations, reflecting the importance that both countries place on their bilateral relationship with the EU.

76. Sir Ivan Rogers, former UK Permanent Representative to the EU, told us:

“EU knowledge, international knowledge and negotiating knowledge has become very ghettoised, both at the centre and in departments ... Fewer and fewer people understand both international negotiation generally and the EU. It has become a rarefied art ... That will not work when you are on the outside.”⁹³

77. Sir Ivan observed that UKRep would face the challenge of continuing to attract high-calibre officials when the UK was “no longer in the room”:

“If you are Swiss or Norwegian, the most glamorous post you could ever occupy at the top of the service is obviously the one in Brussels, because it is the most important. I do not think that will be the culture of the Foreign Office. People will always think that it is more glamorous being in Washington, Paris, Berlin or Beijing than in Brussels ... We are going to have to persuade the next generation across domestic departments and in the Foreign Office that it is absolutely critical work for the future economic and security prosperity of the country. I think we will need more people in UKDel than we had in UKRep, and we are going to need them to be better plugged in.”⁹⁴

78. In its January 2019 response to the House of Commons Foreign Affairs Committee report on *Delivering Global Britain: FCO Skills*, the Government stated:

“29 March is the deadline for implementing changes to the Mission [to the EU] in advance of the implementation period. The size, structure and work of the future Mission will however, continue to evolve as we embed the UK’s future relationship with the EU. UKRep has already increased in size from over 120 to over 150, and will exceed 180 people.

“UKRep has already consulted widely with Third Country Missions in Brussels. As a result, we have carried out work including a robust business planning process for the implementation period and beyond, a programme to ensure staff have the specialist skills needed to deliver in the new working environment, and created a dedicated Public Diplomacy function to support new ways of working. Whilst UKRep will be a Third Country Mission, it will be in a unique position with its experience of, and relationships in, the EU Institutions providing a platform to promote UK interests.”⁹⁵

79. **The UK has, through the UK Representation to the EU (UKRep), sought to maximise the UK’s influence over the EU institutions and Member States. After Brexit UKRep will need to adjust to no longer being in the room, and losing the benefits of automatic access**

93 Oral evidence taken on 20 February 2019 (Session 2017–19), [Q 10](#) (Sir Ivan Rogers)

94 *Ibid.*

95 Foreign Affairs Committee, *Delivering Global Britain: FCO Skills: Government response to the Committee’s Fourteenth Report of Session 2017–19* (Nineteenth Special Report, Session 2017–19, HC 1937)

to information and the formal and informal dialogue with the EU institutions and Member States that membership brings. UKRep's new status as a third country mission will present a different set of diplomatic challenges, in finding new ways to exert UK influence, gain access to information, and build relationships. The experience of other third countries suggests that the UK Government will, paradoxically, need to enhance its diplomatic presence in Brussels post-Brexit, and ensure that its officials are equipped with a different set of skills. We welcome the steps already taken to increase UKRep's staffing, to train its officials, and to adapt its structure and focus: this must remain a top priority in coming months, and the Government must ensure that UKRep has sufficient staff and financial resources to undertake this crucial work.

Other Brussels-based UK offices and organisations

80. As well as UKRep, there is a breadth and mix of governmental and non-governmental expertise of various UK (and UK-linked) offices and organisations in Brussels. Each of the devolved administrations maintains an office in Brussels, as do the Governments of Gibraltar and the Crown Dependencies, the City of London, a number of regional and local authorities; and a wide range of business, cultural, education and other sectoral representatives.
81. Many of these bodies are in turn part of European sectoral networks, across a variety of policy spheres. Examples include;
- Agrifood: FoodDrinkEurope, COPA-COGECA;
 - Broadcasting: European Broadcasting Union;
 - Chemical: European Chemical Industry Council (CEFIC);
 - Digital and communications: DigitalEurope, GSMA Europe;
 - Employers' and employees' organisations: BusinessEurope, Eurochambres, European Trade Union Confederation;
 - Energy: Eurelectric, Eurogas, European Federation of Energy Traders (EFET), FuelsEurope;⁹⁶
 - Environment and climate change: EurEau;⁹⁷
 - Financial services: Association for Financial Markets in Europe (AFME), European Banking Federation (EBF), European Fund and Asset Management Association (EFAMA);
 - Local and regional authorities: The Committee of the Regions (we note that the Committee of the Regions has proposed to set up a contact group for its relations with UK local and regional authorities⁹⁸);

96 See European Union Committee, *Brexit: energy security* (10th Report, Session 2017–19, HL Paper 63), paras 99 and 102

97 See European Union Committee, *Brexit: environment and climate change* (12th Report, Session 2016–17, HL Paper 109), paras 142–4, 146

98 European Committee of the Regions, Minutes of 188th meeting of the Bureau of the European Committee of the Regions, 5 February 2019, available at <https://mempportal.cor.europa.eu/Agenda/Documents?meetingId=2152295&meetingSessionId=2188822> [accessed 14 March 2019]

- Pharmaceuticals: European Federation of Pharmaceutical Industries and Associations;
 - Research and education: Science Europe, European Students' Union, European University Association;⁹⁹
 - Services: Accountancy Europe, Eurocommerce, Insurance Europe;
 - Transport: European Passenger Transport Operators, European Road Haulers Association.
82. These networks vary in terms of their formal status, the depth of their activity, the breadth of their membership, and whether participation is dependent on EU membership (some networks are pan-European, while some are EU-specific). However, continued participation in all such networks will remain an important tool for the UK post-Brexit.
83. Brexit has already provided an impetus to greater coordination between representatives of UK interests in the EU. Since November 2018, an informal network of officials of Brussels-based UK offices and organisations has been meeting, to build relationships, discuss issues of common interest arising from Brexit, and consider ways in which affected bodies and organisations might be able to work together more effectively to maximise their collective influence post-Brexit. The network is at an early stage of development, and does not yet have formal terms of reference or a permanent secretariat. However, it is considering ways in which its work might be formalised in the coming months.
84. **The ability to exert influence post-Brexit will not be limited to the UK Government. There is a wide range of expertise and participation in EU networks, thanks to the numerous Brussels-based offices and organisations representing various UK interests. All have a part to play in maintaining UK influence and access to information.**
85. **We note in particular the important work undertaken by the offices of the devolved administrations in Brussels, and stress the role that they can play in contributing to and complementing the work of UKRep, including through effective engagement and exchange between officials.**
86. **Brussels-based UK offices and organisations are active and influential members of a wide range of European sectoral networks. It is vital that they should be able to maintain membership of and cooperation with such networks post-Brexit. We urge the Government to work with sectoral representatives to ensure that such cooperation can continue after Brexit, in particular in those cases where their participation in these networks is formally dependent on UK membership of the EU.**
87. **We welcome the establishment of an informal network of Brussels-based UK offices and organisations as a means of sharing expertise and seeking to coordinate the work of UK (or UK-linked) Brussels-based organisations. We look forward to seeing how the work of this group develops.**

⁹⁹ See European Union Committee, *Brexit: the Erasmus and Horizon programmes* (28th Report, Session 2017–19, HL Paper 283)

The role of the devolved administrations

Involvement in the Withdrawal Agreement inter-institutional structures

88. As we outlined in Chapter 2, the UK Government envisages the Northern Ireland Executive playing an important role in the formal inter-institutional structures (the Joint Committee, and the Specialised Committee and Joint Consultative Working Group envisaged under the Protocol on Ireland/Northern Ireland) that relate to Northern Ireland.
89. The Government does not, however, appear to envisage extending such involvement in overseeing the Withdrawal Agreement to the other devolved administrations. In its January 2019 paper on *UK Government commitments to Northern Ireland and its integral place in the United Kingdom*, the Government stated: “This will apply solely to Northern Ireland specific issues—UK wide provisions are rightly a matter for the UK Government.”¹⁰⁰ This statement appears to have been directed more to the Scottish and Welsh Governments than the Northern Ireland Executive.
90. While we understand the UK Government’s wish to ensure that it retains responsibility for UK-wide issues under discussion in the inter-institutional fora, we are not convinced that it is either realistic or wise to seek to carve out a role for the Northern Ireland Executive on Northern Ireland-specific issues without giving thought to the role that the devolved administrations as a whole might play. While most issues covered by the Joint Committee and Specialised Committee structure relate to UK competences, they will nevertheless engage the interests of the devolved administrations—citizens’ rights being a case in point.
91. The National Assembly of Wales External Affairs and Additional Legislation Committee called for the Welsh Government to be part of the decision-making process that underpins the UK’s participation in UK-EU governance mechanisms. It also argued that there was a case for Welsh ministers to represent an agreed UK position, or for officials from devolved administrations to sit on technical committees.¹⁰¹
92. **We acknowledge that the UK Government should assume overall responsibility for formal inter-institutional dialogue with the EU institutions as set out under the Withdrawal Agreement. Nevertheless, there remains a case for the devolved administrations to be ‘in the room’, if only in an observer capacity, whenever their interests (as well as their competences) are engaged, or when their technical expertise could be brought to bear. We urge the Government, in dialogue with the devolved administrations, to give careful thought to how this might be facilitated. We also stress the importance of effective communication and exchange between UK and devolved administration officials.**

100 HM Government, *UK Government commitments to Northern Ireland and its integral place in the United Kingdom* (9 January 2019): https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/769964/NI_unilateral_commitments_-_9_January_FINAL.pdf [accessed 14 March 2019]

101 Letter from the National Assembly for Wales External Affairs and Additional Legislation Committee, (11 February 2019): <https://www.parliament.uk/documents/lords-committees/eu-select/interinstitutional-relations-inquiry/welsh-external-affairs-response.pdf> [accessed 19 March 2019]

Involvement in the negotiations on the future relationship

93. Our *Brexit: devolution* report reflected on the dissatisfaction of the Scottish and Welsh Governments about the extent and nature of the UK Government's engagement with them in the first phase of the Brexit negotiations.¹⁰² But on 21 January 2019 the Prime Minister made the following commitment, in a statement to the House of Commons, regarding the next phase of negotiations:

“While it will always be for Her Majesty's Government to negotiate for the whole of the UK, we are also committed to giving the devolved Administrations an enhanced role in the next phase, respecting their competence and vital interests in these negotiations.”¹⁰³

94. This commitment appeared to reflect a recognition that engagement with the devolved administrations thus far had been deficient. It also echoed the January 2019 paper on *UK Government commitments to Northern Ireland and its integral place in the United Kingdom*:

“It will ... ultimately be in the development of our future relationship with the EU where it is most essential to establish the means for Belfast, Cardiff, Edinburgh and Westminster to come together to deliver growth and prosperity right across the UK. And we will ensure those interests are properly represented and reflected as we negotiate that future partnership with the EU. This will be alongside our existing commitment to ensure that all devolved institutions and interests are properly represented as we take forward our independent trade policy.”¹⁰⁴

95. The Secretary of State for Exiting the EU, Rt Hon Stephen Barclay MP, acknowledged the concerns of the devolved administrations over the consultation process, and said that “the challenge is how we have quality [of dialogue] rather than just quantity”. One specific issue was the “tension between what you share with the House here and what you share with the devolved administrations. Obviously, there is a timing issue if you share with one and not the other, so it is about how we bridge that. But we are talking to them ... There is an active programme to look at how we get a better relationship.”¹⁰⁵

96. **We welcome the Prime Minister's commitment to enhancing the role of the devolved administrations in the negotiations on the future relationship. But actions speak louder than words. The Government needs to explain what it means by an “enhanced role”, and then implement this commitment, both in the context of the negotiations on the future relationship and in the oversight of the relationship itself. At the very least, this should involve a role for the devolved administrations in the dialogue at “summit, ministerial and technical level” envisaged in the Political Declaration, including the proposed Joint Committee on the future relationship. The devolved administrations need to reciprocate by playing a constructive role in**

102 European Union Committee, *Brexit: devolution* (4th Report, Session 2017–19, HL Paper 9), Chapter 7

103 HC Deb, 21 January 2019, [col 27](#)

104 HM Government, *UK Government commitments to Northern Ireland and its integral place in the United Kingdom* (9 January 2019): https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/769964/NI_unilateral_commitments_-_9_January_FINAL.pdf [accessed 9 January 2019]

105 Oral evidence taken on 23 January 2019 (Session 2017–19), [Q 5](#) (Stephen Barclay MP)

the negotiations in the interests both of their own nations and regions, and of the UK as a whole.

97. **The Government must also ensure that it continues to take into account and represent the interests of Gibraltar, the other Overseas Territories and the Crown Dependencies in relation to the negotiations on the future UK-EU relationship.**
98. We consider the role of the devolved legislatures in Chapter 4.

Bilateral dialogue with EU Member States

99. The recalibration of bilateral relationships with individual Member States will also be an important aspect of post-Brexit UK-EU relations. As we have seen, the fact that the UK will no longer be ‘in the room’ means that an important means of formal and informal dialogue with EU Member States, both on EU-related matters and other issues of bilateral interest, will be lost. The Government needs to consider how bilateral relations can nonetheless be reinvigorated.
100. In its March 2018 response to the House of Commons Foreign Affairs Committee (FAC) report on *The future of UK diplomacy in Europe*, the Government set out the steps it had taken “to strengthen bilateral relationships with our European partners”:
- Upgrading of seven Ambassador posts so that all Ambassadors across the EU are at the senior management level;
 - Creation of an additional 50 diplomatic positions in UK Embassies across Europe, funded by “internal reprioritisation”. Implementation will continue until March 2020.
 - Following the securing of funding from HM Treasury, work to create more than 150 additional positions in London and overseas to support EU Exit.¹⁰⁶
 - Decisions on longer-term staffing levels to be taken in due course, depending on the nature of the UK’s future relationship with the EU.¹⁰⁷
101. **We welcome the Foreign and Commonwealth Office’s emphasis on revitalising bilateral links with EU Member States, and the increased resourcing of diplomatic missions across Member State capitals. Effective means for channelling information and knowledge between diplomatic missions and Whitehall will be equally important in years to come.**

A case study: the UK-Ireland bilateral relationship

102. In response to a request from the FAC, the Government has produced a detailed analysis of the current status of the UK-Ireland bilateral relationship, and objectives for its post-Brexit evolution across all areas of common interest.

106 These staff are being deployed to UK missions in Ankara, Athens, Belgrade, Berlin, Berne, Bratislava, Brussels, Bucharest, Budapest, Copenhagen, Dublin, Helsinki, Istanbul, Lisbon, Ljubljana, Luxembourg, Madrid, Nicosia, Oslo, Paris, Prague, Riga, Rome, Skopje, Sofia, Stockholm, Tallinn, The Hague, Tirana, Valletta, Vienna, Vilnius, Warsaw and Zagreb, as well as to the UK Permanent Representation to the EU in Brussels, and to the UK Mission to the UN in Vienna.

107 Foreign Affairs Committee, *The future of UK diplomacy in Europe: Government response to the Committee’s Second Report* (Fifth Special Report, Session 2017–19, HC 514)

The document expresses support for the Irish Government's proposal for a regular joint inter-governmental meeting as a way of maintaining bilateral dialogue.¹⁰⁸

103. At its meeting in November 2018, the British-Irish Inter-governmental Conference (one of the east-west institutions established under Strand Three of the Belfast/Good Friday Agreement) discussed “possible models for ensuring that the high level of bilateral co-operation between the United Kingdom and Ireland is maintained and strengthened following the departure of the United Kingdom from the European Union”. The Conference agreed that these new structures should:

“Clearly demonstrate the strength and depth of the relationship; provide opportunities for ministers and officials to continue to engage both formally and informally with each other; and to maintain the spirit of cooperation that has been engendered through such contacts in an EU context; as well as provide an overall architecture for cooperation that is both meaningful and sustainable in the future.”

Officials were asked to take forward more detailed work in this area for consideration at a future meeting.¹⁰⁹

104. **In our December 2016 report on *Brexit: UK-Irish relations*, we concluded that closer UK-Irish relations were too important to be put at risk by Brexit. We therefore welcome the commitment of both the UK and Irish Governments to developing that relationship post-Brexit, and to considering proposals for regular ministerial and official-level exchanges, including regular inter-governmental meetings. We invite the Government to provide an update on the form this dialogue might take.**
105. **Although the UK-Ireland bilateral relationship is uniquely close, there could be merit in applying aspects of this model to other key bilateral relationships with EU Member States, in particular those with whom the UK shares close geographical, economic, societal and security links. We urge the Government to engage with remaining EU Member States to seek to establish mechanisms for regular bilateral inter-governmental dialogue at both ministerial and official level.**

108 Foreign and Commonwealth Office, *Analysis of UK-Ireland Relationship* (24 July 2018): [https://www.parliament.uk/documents/commons-committees/foreign-affairs/Correspondence/2017-19/OFFICIAL-Analysis-of%20UK-Ireland-bilateral-relationship-\(FAC\)-Final.pdf](https://www.parliament.uk/documents/commons-committees/foreign-affairs/Correspondence/2017-19/OFFICIAL-Analysis-of%20UK-Ireland-bilateral-relationship-(FAC)-Final.pdf) [accessed 7 March 2019]

109 HM Government, ‘Joint communique of the British-Irish intergovernmental conference 2 November 2018’, (2 November 2018): <https://www.gov.uk/government/news/joint-communique-of-the-british-irish-intergovernmental-conference-2-november-2018> [accessed 7 March 2019]

CHAPTER 4: INTER-PARLIAMENTARY RELATIONS AND THE ROLE OF PARLIAMENT

Introduction

106. Parliament has an important role to play, both in scrutinising UK-EU relations and their evolution, and in developing its own channels for effective inter-parliamentary engagement. We identify four key tasks for Parliament:
- Scrutiny of EU legislative proposals, at least during the transition period;
 - Scrutiny of and dialogue on the governance and institutional mechanisms established under the Withdrawal Agreement and Political Declaration;
 - Scrutiny of and dialogue on negotiations on the future relationship; and
 - Enhanced inter-parliamentary liaison with the European Parliament, national parliaments of EU Member States (and third countries in the European neighbourhood), and the devolved legislatures.

Scrutiny of EU legislative proposals

Transition

107. The Withdrawal Agreement states that during the transition period, the UK Parliament will “not be considered to be a national Parliament of a Member State”, and will lose its privileges, for example to issue Reasoned Opinions.¹¹⁰ The UK Parliament will continue, however, to receive consultation documents (Green and White Papers and Communications) directly from the Commission,¹¹¹ along with draft legislative acts placed in the public domain.¹¹²
108. In July 2018 our Chair, Lord Boswell of Aynho, along with the Chair of the House of Commons European Scrutiny Committee, Sir William Cash MP, wrote a joint letter to the then Secretary of State for Exiting the EU, Rt Hon Dominic Raab MP, to express their Committees’ resolve “to maintain a strong and effective scrutiny system during any post-exit transition or implementation period agreed as part of the withdrawal negotiations”.
109. The Chairs invited Mr Raab to confirm that the Government would a) continue to provide extensive access to information and documentation, as at present, and draw up guidance for Departments accordingly; and b) produce Explanatory Memoranda (EM), on a similar timescale to now, on all new EU documents published during the transition or implementation period that affect the UK.¹¹³

110 Under Protocol (No 2) to the [Treaty on the Functioning of the European Union](#) on the Application of the Principles of Subsidiarity and Proportionality. See [Withdrawal Agreement](#) (11 March 2019), Article 128.

111 Article 1 of Protocol (No 1) to the [Treaty on the Functioning of the European Union](#) on the Role of National Parliaments in the European Union

112 [Withdrawal Agreement](#) (11 March 2019), Article 128(2)

113 Letter from Sir William Cash MP, Chair of the European Scrutiny Committee and Lord Boswell of Aynho, Chair of the European Union Committee to Rt Hon Dominic Raab MP, Secretary of State for Exiting the European Union (24 July 2018): <https://www.parliament.uk/documents/lords-committees/eu-select/scrutiny-brexite-negotiations/joint-letter-eu-scrutiny.pdf> [accessed 19 March 2019]

110. In his reply of 5 September 2018 the Secretary of State wrote:

“Where available, as per the terms of the Withdrawal Agreement, it is our intention to continue to be able to provide the committees with a wide range of proposals and other documents during the implementation period, subject to any changes we might agree on the scope of documents which will continue to be subject to scrutiny.

“It has been the Government’s working assumption that we would continue with the current model for providing written evidence to the committees through Explanatory Memoranda (EMs). Over the years the Government has worked with the committees to adapt the structure and content of EMs, and the criteria for the deposit of documents, to ensure that the process concentrates on what is important and relevant. That should be the principle which underpins any considerations of further streamlining ...

“We will work closely with Parliament to agree upon a scrutiny system which, in the first instance, facilitates Parliament’s role in scrutinising EU proposals that may affect the UK during the implementation period. The Government has always been committed to the principle of effective scrutiny and I can reaffirm that the Government fully recognises the value of such scrutiny ... the Government will continue to support and facilitate a strong parliamentary scrutiny process for as long as EU legislation will continue to affect the UK.”¹¹⁴

Post-transition

111. The extent to which it will be necessary to scrutinise EU legislation after the end of the transition period is difficult to predict, but the closer the UK’s relationship with the EU is, the more necessary parliamentary scrutiny of EU legislation will be. This is particularly so should the Protocol on Ireland/Northern Ireland come into force, given the obligations that would apply to the UK as a whole under the terms of the single customs territory, and the additional regulatory and technical responsibilities deriving from EU law that would apply to the UK in respect of Northern Ireland.
112. Furthermore, on 6 March 2019, the Government published a Command Paper on *Protecting and Enhancing Worker Rights after the UK Withdrawal from the European Union*. This stated: “Parliament should have the opportunity to consider any future changes to EU law after the Implementation Period which strengthen employment or workplace health and safety standards.” The paper set out draft clauses to “provide for a process to enable Parliament to consider whether the UK should align with EU employment and health and safety rules on a case-by-case basis”.¹¹⁵

114 Letter from Rt Hon Dominic Raab MP, Secretary of State for Exiting the European Union, to Sir William Cash MP, Chair of the European Scrutiny Committee and Lord Boswell of Aynho, Chair of the European Union Committee (5 September 2018): <https://www.parliament.uk/documents/lords-committees/eu-select/scrutiny%20work/dominic-raab-scrutiny-letter.pdf> [accessed 7 March 2019]

115 Department for Business, Energy and Industrial Strategy, *Protecting and Enhancing Worker Rights after the UK Withdrawal from the European Union*, CP 66, 6 March 2019: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/783866/protecting-enhancing-worker-rights-after-uk-withdrawal-from-eu.pdf [accessed 7 March 2019]. The EU noted this commitment in the March 2019 Joint Statement supplementing the political declaration setting out the framework for the future relationship between the European Union and the United Kingdom of Great Britain and Northern Ireland: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/785120/2019-03-11_Statement.pdf [accessed 14 March 2019].

Conclusions

113. **During the transition period the UK will continue to be bound by EU laws, including new laws as they come into force. Even though UK Ministers will no longer be able to vote on new EU laws, some form of continuing parliamentary scrutiny of those laws will be essential to maintain transparency and to draw significant changes to the attention of Parliament and the wider public prior to their implementation in domestic law.**
114. **We therefore welcome the Government’s continued commitment to the principle of effective scrutiny of EU documents for as long as EU legislation affects the UK. We particularly welcome its commitment to provide the scrutiny Committees of both Houses with relevant documentation and Explanatory Memoranda on new EU legislative proposals during the transition period.**
115. **The terms of the future UK-EU relationship will determine whether or not, and the extent to which, it will be necessary to scrutinise EU legislation after the end of the transition period. The Government has already committed to providing Parliament with a mechanism to consider whether the UK should align with future EU employment and health and safety rules. We will engage in continued dialogue with the Government and with our House of Commons counterparts, with a view to reaching conclusions on any future scrutiny of EU legislation before the future relationship negotiations are completed.**

Scrutiny of the formal inter-institutional governance mechanisms under the Withdrawal Agreement

116. Parliament will also wish to scrutinise the work of the institutional and governance mechanisms under the Withdrawal Agreement, namely the Joint Committee, Specialised Committees, and the Joint Consultative Working Group on the Protocol on Ireland/Northern Ireland.
117. In our report on *Brexit: the Withdrawal Agreement and Political Declaration*, we described the lack of transparency in these mechanisms as an “unsatisfactory state of affairs”. We called on members of both Houses to “consider the appropriate level of, and structure for, parliamentary oversight of the Joint Committee, and seek undertakings from the Government on this question”.¹¹⁶ In their joint letter to the then Secretary of State, the Chairs of the Lords and Commons Committees called on the Government to make meeting schedules and agendas available in sufficient time for Parliament to consider (and comment on) them; formally to deposit draft decisions, recommendations or proposed changes by the Joint Committee to the Withdrawal Agreement; and to undertake that a Minister would appear in person before the Scrutiny Committees in advance of Joint Committee meetings and report on the outcome afterwards.
118. The Chairs also stated:

“The Joint Committee provides a forum in which to raise concerns about the management and operation of the Withdrawal Agreement during the transition/implementation period. The possibility to raise concerns

¹¹⁶ European Union Committee, *Brexit: the Withdrawal Agreement and Political Declaration* (24th Report, Session 2017–19, HL Paper 245), paras 37–8

about the impact on the UK of specific new EU laws being negotiated or proposed during the transition/implementation period creates a direct link with the document scrutiny work of the European Scrutiny Committee in the Commons and the European Union Committee in the Lords.”

119. The Chairs envisaged “establishing a new mechanism to enable either House (acting on a recommendation from the relevant scrutiny committee) to require the Government, in good time, to: a) raise concerns about specific EU legislative proposals which may have a detrimental impact on the UK; and b) place a particular issue on the agenda of the Joint Committee (or a specialised committee) for discussion”. In effect, such a mechanism would replace the existing Reasoned Opinion procedure, whereby national parliaments are able formally to register concerns over new EU legislative proposals, concerns to which the European Commission are required to respond.¹¹⁷
120. In his reply, the then Secretary of State “noted with particular interest” the Chairs’ proposals:
- “Mechanisms for scrutiny are a matter for Parliament but the Government agrees that any mechanism should enable Parliament to express views on laws that affect the UK and for those views to inform the representations made by the Government at EU level. In circumstances where the Government agrees with the concerns raised by Parliament, we agree that the Government should use appropriate channels to raise such concern with the EU. This could include discussion in the Joint Committee or a specialised sub-committee, if that is the appropriate mechanism to resolve the concerns. ... I recognise that Parliament will rightfully expect that it will be able to undertake informed scrutiny of the Government’s approach and ... this will naturally need to be underpinned by full and proper ministerial accountability to Parliament.”¹¹⁸
121. We note that the European Parliament has also sought a role in relation to scrutiny of the governance of the Withdrawal Agreement, including the Joint Committee. The proposal for a Council Decision on the conclusion of the Withdrawal Agreement (amended on 9 January 2019) states that “the European Parliament is to be immediately and fully informed, as provided for in Article 218(10) TFEU, on the basis of practical modalities of cooperation allowing it to exercise fully its prerogatives in accordance with the Treaties”, and that “the European Parliament shall be put in a position to exercise fully its institutional prerogatives throughout the process in accordance with the Treaties”.¹¹⁹

117 Letter from Sir William Cash MP, Chair of the European Scrutiny Committee and Lord Boswell of Aynho, Chair of the European Union Committee to Rt Hon Dominic Raab MP, Secretary of State for Exiting the European Union (24 July 2018): <https://www.parliament.uk/documents/lords-committees/eu-select/scrutiny-brexit-negotiations/joint-letter-eu-scrutiny.pdf> [accessed 19 March 2019]

118 Letter from Rt Hon Dominic Raab MP, Secretary of State for Exiting the European Union, to Sir William Cash MP, Chair of the European Scrutiny Committee and Lord Boswell of Aynho, Chair of the European Union Committee (5 September 2018): <https://www.parliament.uk/documents/lords-committees/eu-select/scrutiny%20work/dominic-raab-scrutiny-letter.pdf> [accessed 7 March 2019]

119 Council Decision on the conclusion of the Agreement on the withdrawal of the United Kingdom of Great Britain of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community, [2018/0427 \(NLE\)](#)

122. **We remain concerned at the lack of transparency in the work of the governance mechanisms established in the Withdrawal Agreement, including the Joint Committee, Specialised Committees and Joint Consultative Working Group on the Protocol on Ireland/Northern Ireland.**
123. **While we welcome the then Secretary of State’s commitment to “full and proper ministerial accountability to Parliament”, the Government has not offered detail on how it will be accountable to Parliament for the work of the Joint Committee and Specialised Committees. We regret that the Government has thus far only committed to raising issues in the Joint Committee “where the Government agrees with the concerns raised by Parliament”.**
124. **We reiterate our view that a new mechanism should be adopted to enable either House (acting on a recommendation from the relevant scrutiny committee) to require the Government, in good time, to: a) raise concerns about specific EU legislative proposals which may have a detrimental impact on the UK; and b) place a particular issue on the agenda of the Joint Committee (or a Specialised Committee) for discussion. Such a formal mechanism is essential, given that the Houses will lose the power, guaranteed hitherto under EU law, to lodge formal concerns over new legislative proposals with the EU institutions by means of Reasoned Opinions.**
125. **We further recommend that, in order to facilitate effective scrutiny, the Government should: a) ensure that meeting schedules and agendas are made available in sufficient time for Parliament to consider (and comment on) the items to be discussed; b) formally deposit draft decisions, recommendations or proposed changes by the Joint Committee to the Withdrawal Agreement; and c) undertake that a Minister will appear in person before the Scrutiny Committees in advance of Joint Committee (and, when necessary, Specialised Committee and Joint Consultative Working Group) meetings and report on the outcome afterwards.**

Scrutiny of the future relationship

126. Parliament will also need to scrutinise a) the negotiations on the future relationship, b) the working of the future relationship itself, and c) UK participation in and cooperation with EU agencies and programmes under the future relationship.

Scrutiny of the future relationship negotiations

127. There have been many complaints, both inside and outside Parliament, about the lack of transparency of the negotiations on the Brexit Withdrawal Agreement.
128. Our October 2016 report on *Brexit: parliamentary scrutiny* stressed the vital role to be played by Parliament

“in offering constructive and timely comment on both the process and the substance of the negotiations. Such scrutiny will contribute to a greater sense of parliamentary ownership of the process, strengthening

the Government’s negotiating position and increasing the likelihood that the final agreement will enjoy parliamentary and public support.”¹²⁰

129. Following a commitment made to us by the then Secretary of State for Exiting the EU, Rt Hon David Davis MP, to “certainly match and, hopefully, improve on what the European Parliament sees”, we invited the Government to provide relevant committees with access, if necessary in confidence, to a wide range of documents; to supply documents in sufficient time for committees to be able to express their views and for the Government to be able to take these views into account; to respond to any formal recommendations made by committees, and, if recommendations are rejected, explain why; and to work with Parliament to adopt procedures to safeguard confidential information.¹²¹
130. Mr Davis’ commitment was not fulfilled. Instead, the Committee faced repeated delays in arranging evidence sessions with both Mr Davis and Mr Raab, a succession of delayed and poor quality Government responses to Committee reports and correspondence, and a reluctance to share confidential information with the Committee until obliged to do so by motions passed in the House of Commons.
131. Following Mr Raab’s refusal in autumn 2018 to appear before the Committee until a deal with the EU had been finalised, our Chair wrote to him describing this as “unacceptable. Your response inhibits the Committee in fulfilling its obligations in scrutinising the progress of Brexit negotiations at this vital stage.”¹²² A further failure to respond to the Committee’s letter prompted the Chair to ask a Private Notice Question on 31 October 2018 seeking further undertakings from the Government regarding parliamentary scrutiny of the Brexit negotiations.¹²³
132. Sir Ivan Rogers told us:
- “Secrecy does not really work, either inside the Executive or with the legislature. It has been a serious mistake even in this process, and it would be an even more serious mistake in the [future relationship negotiations] ... We need a more open, honest and serious debate about what form of Brexit we want, what trade-offs we face and what counts most for us and why.”¹²⁴
133. In her statement to the House of Commons on 21 January 2019, the Prime Minister appeared to acknowledge this deficiency:
- “Given the breadth of the negotiations, we will seek input from a wide range of voices from outside Government. That must include ensuring Parliament has a proper say, and fuller involvement, in these decisions. It is Government’s responsibility to negotiate, but it is also my responsibility to listen to the legitimate concerns of colleagues, both those who voted

120 European Union Committee, *Brexit: parliamentary scrutiny* (4th Report, Session 2016–17, HL Paper 50), Summary

121 *Ibid.*

122 Letter from Lord Boswell of Aynho, Chair of the European Union Committee, to Rt Hon Dominic Raab MP, Secretary of State for Exiting the European Union (23 October 2018): <https://www.parliament.uk/documents/lords-committees/eu-select/scrutiny-brexit-negotiations/scrutiny-withdrawal-agreement-raab.pdf> [accessed 19 March 2019]

123 HL Deb, 31 Oct 2018, [cols 1359–1363](#)

124 Oral evidence taken on 20 February 2019 (Session 2017–19), [Q 6](#) (Sir Ivan Rogers)

leave and those who voted remain, in shaping our negotiating mandate for our future partnership with the EU. So the Government will consult this House on their negotiating mandate, to ensure that Members have the chance to make their views known and that we harness the knowledge of all Select Committees across the full range of expertise needed for this next phase of negotiations, from security to trade. This will also strengthen the Government's hand in the negotiations, giving the EU confidence about our position and avoiding leaving the bulk of parliamentary debate to a point when we are under huge time pressure to ratify ...

“As the negotiations progress, we will also look to deliver confidential Committee sessions that can ensure Parliament has the most up-to-date information, while not undermining the negotiations. And we will regularly update the House, in particular before the six-monthly review points with the EU foreseen in the agreement.”¹²⁵

134. The new Secretary of State for Exiting the EU, Rt Hon Stephen Barclay MP, subsequently confirmed that these commitments applied to committees of both Houses. He stressed that he was seeking a “step change” in the quality of the Government's engagement, and that there was “a huge opportunity to work much more closely”.¹²⁶ We also note that, in relation to free trade agreement negotiations between the UK and third countries, the Government has stated that parliamentary committees “could have access to sensitive information that is not suitable for wider publication and could receive private briefings from negotiating teams”.¹²⁷
135. As we have seen, the 11 March Joint Statement supplementing the Political Declaration referred to “appropriate involvement of parliaments” in both sides' consultations on alternative arrangements to the ‘backstop’. On 7 March, the Secretary of State wrote to the Committee setting out the Government's intention to establish, alongside an expert advisory group of technical experts and a business and trade union engagement group, a “parliamentary engagement group to allow Government to consult with Members of Parliament from across both Houses with an interest in the work”. He wrote that the Government would discuss with parliamentarians how best to constitute this group, and stressed that it would not affect the Government's ongoing engagement with existing parliamentary committees.¹²⁸
136. As we have seen, the precise structure of the future relationship negotiations has yet to be outlined. While these are matters for decision by the Government and the EU, those decisions will also have implications for Parliament, as Sir Ivan Rogers told us:

“A trade negotiation all comes together as a single extremely complex bundle, which means that at political level, underneath the Prime Minister, you need a very effective machine that enables the Prime

125 HC Deb, 21 January 2019, [col 27](#)

126 Oral Evidence taken on 23 January 2019 (Session 2017–19), [Q 4](#) (Rt Hon Stephen Barclay MP)

127 Department for International Trade, *Processes for making free trade agreements after the United Kingdom has left the European Union*, CP 63, February 2019: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/782176/command-paper-scrutiny-transparency-27012019.pdf [accessed 7 March 2019]. See further paras 177 and 183.

128 Letter from Rt Hon Stephen Barclay MP, Secretary of State for Exiting the European Union, to Lord Boswell of Aynho, 7 March 2019: <https://www.parliament.uk/documents/lords-committees/eu-select-scrutiny-brexit-negotiations/eu-exit-letter-070319.pdf> [accessed 19 March 2019]

Minister and the immediate team around her to understand all the moving parts of the trade negotiation. There will be hundreds of moving parts, many of which are extremely technically complex. The House needs to develop its own conception of what matters most to it and why.”¹²⁹

137. **We are disappointed at the Government’s failure to honour its commitment at the outset of the Brexit negotiations to support parliamentary committees in their scrutiny of the Brexit negotiations. We therefore welcome the Prime Minister’s commitment to enhanced dialogue with Parliament, and with committees, during negotiations on the future UK-EU relationship. We also welcome her commitment to ensure more effective oversight of the Government’s negotiating position as it develops. In particular, committees must have access to a wide range of relevant documents and must receive documents in good time to be able to set out their views. The Government in turn must take those views into account and respond in a timely manner to any formal recommendations made by committees.**
138. **We note the Government’s proposals for a parliamentary engagement group on alternative arrangements to replace the backstop solution in the Protocol on Ireland/Northern Ireland. In light of the commitment of both the UK and the EU to “appropriate involvement of parliaments”, we stress the importance of inter-parliamentary dialogue with the House of Commons, Northern Ireland Assembly, Irish Oireachtas and European Parliament in relation to this strand of the future relationship negotiations.**

Scrutiny of the future relationship

139. Parliament will also wish to scrutinise the future UK-EU relationship once it has been agreed and implemented. While it is too early to confirm how that relationship will be governed, as we set out in Chapter 2 it is likely that the Joint Committee on the Withdrawal Agreement will set a precedent for the Joint Committee on the future relationship. It is therefore important that the principles of accountability, transparency and access to information, as applied to governance of the Withdrawal Agreement, also apply to governance of the future relationship—not least, because that relationship is likely to be dynamic, not static.
140. **The principles of parliamentary accountability, transparency and access to information that we have recommended in relation to the Joint Committee (and Specialised Committees) on the Withdrawal Agreement should equally be applied to parliamentary scrutiny of the governance mechanisms (including the Joint Committee on the future relationship) established to oversee the future UK-EU relationship.**

Scrutiny of UK interaction with EU agencies and programmes

141. Parliament will also have a role to play in scrutinising the UK’s interaction with EU institutions, agencies and programmes, both during the transition period and in the future relationship. This is particularly important given:
- The number of new UK institutions (or institutional responsibilities) created as a result of Brexit;

129 Oral evidence taken on 20 February 2019 (Session 2017–19), [Q 6](#), (Sir Ivan Rogers)

- The terms of UK participation in EU programmes and agencies, which will either change markedly or have yet to be defined;
- The complex web of proposed inter-agency and inter-programme cooperation;
- The varying intensity of such relationships across different policy fields;
- The budgetary implications of such cooperation; and
- The prospect that many of these relationships and partnerships will evolve over time.

142. **The Political Declaration proposes a complex web of future UK interaction with EU agencies and programmes. Effective and proportionate parliamentary scrutiny of these interactions will be vital.**

Inter-parliamentary liaison

143. The UK Parliament will also contribute to inter-institutional relations in its own right, including through:
- Formal inter-parliamentary dialogue between the UK Parliament and the European Parliament;
 - Informal inter-parliamentary liaison with MEPs;
 - UK participation in inter-parliamentary conferences with EU Member State national parliaments;
 - Bilateral inter-parliamentary dialogue with Member State national parliaments;
 - Engagement with the devolved legislatures.

Formal inter-parliamentary dialogue

144. The Political Declaration proposes “the establishment of a dialogue between the European Parliament and the Parliament of the United Kingdom, where they see fit, in order for the legislatures to share views and expertise on issues related to the future relationship”.¹³⁰
145. Rules 212 and 214 of the European Parliament Rules of Procedure cover the mechanisms for inter-parliamentary dialogue (see Box 4). These include a structure for inter-parliamentary delegations, and more intensive engagement for joint parliamentary committees.

Box 4: European Parliament Rules of Procedure on inter-parliamentary dialogue

Rule 212, on ‘Setting-up and duties of inter-parliamentary delegations’, states that “on a proposal from the Conference of Presidents, Parliament shall set up standing inter-parliamentary delegations and decide on their nature and the number of their members in the light of their duties. The members shall be elected during the first or second part-session following the re-election of Parliament for the duration of the parliamentary term.”

¹³⁰ [Political Declaration](#) (11 March 2019), para 128

Members of the delegations shall be elected following the submission of nominations to the Conference of Presidents by the political groups. The Conference of Presidents seeks to ensure that “Member States and political views are fairly represented”.

The European Parliament determines the general powers of the individual delegations, including decisions to increase or restrict those powers.

Chairs of delegations are required regularly to report back to the committee responsible for foreign affairs on the activities of the delegation. Chairs also have a right to be heard by a committee when an agenda item touches on the delegation’s area of responsibility.

Rule 214, on ‘Joint parliamentary committees’ states that “the European Parliament may set up joint parliamentary committees with the parliaments of States associated with the Union or States with which the Union has commenced accession negotiations”. The responsibilities of joint parliamentary committees are “defined by the European Parliament, in accordance with the agreements with the third countries”.

Joint parliamentary committees are governed by the procedures laid down in the relevant agreement, “based on the principle of parity between the delegation of the European Parliament and that of the parliament involved”.

Joint parliamentary committees draw up their own rules of procedure and submit them for approval to the European Parliament and the third country Parliament. European Parliament delegation members are elected in the same way as for inter-parliamentary delegations.

Source: European Parliament, ‘Rules of Procedure of the European Parliament’ (July 2018): <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+RULES-EP+20180731+RULE-212+DOC+XML+V0//EN&language=EN&navigationBar=YES> [accessed 7 March 2019]

146. On the European Parliament side, the Conference of Presidents decides on the number of delegations to third countries (there are currently 44). While the European Parliament and third country delegations are numerically equal, their size varies depending on the size and resources of the third country.
147. Joint Parliamentary Committees are co-chaired by a member of the European Parliament and of the national parliament of the third country. They typically meet twice a year (once in Brussels or Strasbourg, and once in the third country) to discuss the implementation of the Association Agreement (or accession negotiations) and other bilateral issues. Meetings usually take place over consecutive half-days, and result in the production of a joint text in the form of recommendations and reports, which are transmitted to the Commission and the government of the third country. Each side provides its own secretarial support. A Joint Parliamentary Committee agrees its own Rules of Procedure, and minutes of its meetings are normally published.
148. The key determinative distinction between the Joint Parliamentary Committee and inter-parliamentary delegation mechanisms is whether the third country in question has either concluded an Association Agreement with the EU or has commenced accession negotiations. The Political Declaration envisages “an overarching institutional framework covering chapters and linked to agreements relating to specific areas of cooperation”, which “could take the form of an Association Agreement”—so there is some

prospect that future UK-EU inter-parliamentary dialogue could take place within a Joint Parliamentary Committee.¹³¹

149. This Committee has expressed support for a UK-EU Association Agreement, because such agreements “are by their nature dynamic and evolutionary, and such a model fits well with the commitment by both sides to keep the future relationship under review”.¹³² But it remains unclear what form parliamentary dialogue might take in the period immediately following UK withdrawal, during the transition period, and while the terms of the future relationship (and any Association Agreement) are under negotiation.
150. The UK Parliament will thus need to consider a number of practical issues:
- Whether it wishes to establish formal mechanisms for inter-parliamentary dialogue with the European Parliament a) during and b) after the conclusion of negotiations on the future relationship, and, if so, what form those mechanisms should take;
 - How both Houses should be represented in the UK delegation, and how they should coordinate their work in relation to the delegation;
 - How UK Parliament representatives to the delegation should be chosen, and whether its membership should comprise representatives of Committees of the two Houses with responsibility for scrutinising UK-EU relations, or be drawn from the wider membership of the Houses;
 - How secretarial and administrative support to the UK delegation should be provided;
 - The relationship between the work of the parliamentary delegation and the wider work of the two Houses and their committees, and any mechanisms that should be established to formalise this relationship;
 - Whether and how far the devolved legislatures should be involved in the work of the parliamentary delegation.¹³³
151. **We welcome the support in the Political Declaration for the establishment of a dialogue between the European Parliament and the UK Parliament. The precise details of this dialogue are still to be determined, and are a matter for the two Houses and the European Parliament. We have identified the following principles:**
- **Of the two models set out under the European Parliament’s Rules of Procedure, a UK-EU Joint Parliamentary Committee would be preferable;**
 - **Such a mechanism should be established as soon as possible after UK withdrawal, and assuming that both sides’ objective of concluding an Association Agreement is confirmed, the establishment of a Joint Parliamentary Committee should not wait for negotiations on the future UK-EU relationship to be completed;**

131 [Political Declaration](#) (11 March 2019), paras 120–3

132 European Union Committee, *Brexit: the Withdrawal Agreement and Political Declaration* (24th Report, Session 2017–19, HL Paper 76), para 298

133 See paras 167 and 174.

- **The UK delegation should include equal representation of the two Houses;**
- **In the case of the House of Lords delegation, we believe that there is a strong case for its membership to include representatives of any committee with responsibility for scrutiny of future UK-EU relations;**
- **The House should consider mechanisms to engage the devolved legislatures in the work of the delegation.**

Informal liaison with MEPs

152. The European Parliament's mechanisms for formal inter-parliamentary dialogue are typically complemented by informal contacts, including liaison between parliamentary committees and reciprocal visits to Brussels and third country national capitals. Equally important are interpersonal contacts between individual parliamentarians, including between members of affiliate party groups.
153. **Alongside formal mechanisms for inter-parliamentary dialogue, informal contact between MEPs and UK parliamentarians will be important. This Committee has long benefited from such contacts, and we will seek to draw on them, and to prioritise continued exchanges with the European Parliament, in order to build the foundations for continuing bilateral Westminster-European Parliament dialogue in the years to come.**

UK participation in inter-parliamentary conferences

154. The national parliament of the Member State holding the rotating presidency of the Council of the EU organises a series of inter-parliamentary conferences (normally in their national capital and/or seat of their Parliament) for representatives of Member State national parliaments, including Committees responsible for scrutiny of European affairs. These conferences, at which the European Parliament is also represented, include:
- The Conference of Parliamentary Committees for Union Affairs of Parliaments of the European Union (COSAC);
 - The meeting of the Chairpersons of the Committees for Union Affairs (referred to as the COSAC Chairpersons Conference);
 - The Inter-parliamentary Conference on Stability, Economic Coordination and Governance in the EU;
 - The Inter-parliamentary Conference for the Common Foreign and Security Policy (CFSP) and the Common Security and Defence Policy (CSDP);
 - The Joint Parliamentary Scrutiny Group on Europol;
 - The meeting of the Secretaries General of EU Parliaments;
 - The Conference of Speakers of the EU Parliaments.

155. These ‘permanent’ conferences are supplemented by *ad hoc* inter-parliamentary conferences organised by the Presidency Parliament or by European Parliament Committees.
156. The House of Lords has tasked this Committee with representing the House in inter-parliamentary conferences and events. We have always sought to prioritise attendance and participation in these events, and while the character of our participation has inevitably changed since the referendum, attendance at inter-parliamentary conferences has continued to form a vital aspect of our work, providing an invaluable forum for exchange of views on the Brexit negotiations and the future UK-EU relationship.
157. Representatives of third countries in the European neighbourhood, including Switzerland, Norway, Iceland, Turkey, the Western Balkan states, Ukraine and Georgia, attend some or all of these inter-parliamentary conferences. They do not have an automatic right to attend, but on request are invariably invited. While they formally participate as observers, without voting rights, in practice third country representatives are able to make regular oral contributions in the plenary sessions.
158. In autumn 2018, COSAC representatives were invited to respond to a questionnaire asking for their views on future UK participation in inter-parliamentary conferences. A clear majority of respondents were in favour of continued UK participation post-Brexit.¹³⁴
159. **We are grateful for the support other national parliaments have given to the suggestion of continued UK participation in COSAC and other inter-parliamentary conferences. We remain firmly committed to continuing House of Lords representation in these important fora for inter-parliamentary dialogue.**

Bilateral relations with Member State national parliaments

160. In Chapter 3 we set out the importance of bilateral inter-governmental dialogue. Such dialogue needs to be complemented by effective bilateral inter-parliamentary liaison with Member State national parliaments.
161. Our dialogue with committees in other national parliaments has intensified during the Brexit negotiations. Since June 2016 we have sent delegations to several other national parliaments to discuss Brexit, and have welcomed parliamentary delegations to Westminster from a large number of EU Member States. We have also welcomed representatives of other third countries in the EU neighbourhood, including the EEA/EFTA States and Turkey, and of regional legislatures from across the EU.
162. There are also more formal means of bilateral inter-parliamentary engagement. Committee members participate in a biannual inter-parliamentary defence meeting with representatives of Committees in the House of Commons and the French Assemblée Nationale and Sénat. Parliamentarians from Westminster, the Irish Oireachtas, the Scottish Parliament, National Assembly for Wales, Northern Ireland Assembly and the legislatures of the Crown Dependencies, participate in the British-Irish Parliamentary Assembly (BIPA). There are also several active All Party Parliamentary

¹³⁴ COSAC, *30th Bi-annual report: Development in European Union Procedures and Practices relevant to Parliamentary Scrutiny* (November 2018) available at: <http://www.cosac.eu/60-austria-2018/lx-cosac-18-20-november-2018-vienna/> [accessed 14 March 2019]

Groups (APPGs) at Westminster, cultivating effective bilateral links with other countries, in the EU and beyond. Several EU national parliaments have their own active UK friendship groups, and we regularly meet delegations in the context of their visits to London.

163. **We have long recognised the importance of effective formal and informal bilateral inter-parliamentary dialogue, to which the Brexit negotiations have provided an added impetus. Bilateral inter-parliamentary dialogue will become even more important post-Brexit, and we will continue to prioritise it.**

Engagement with the devolved legislatures

164. In Chapter 3, we reflected on the importance of the UK Government’s post-Brexit engagement with the devolved administrations. This needs to be complemented by effective inter-parliamentary dialogue with the devolved legislatures in relation to future UK-EU relations.
165. In that context, we sought written evidence from Committees in the devolved legislatures (and from the political parties represented in the Northern Ireland Assembly). The Scottish Parliament Culture, Tourism, Europe and External Affairs Committee has also heard evidence on many of the issues considered in this report.¹³⁵
166. The National Assembly for Wales External Affairs and Additional Legislation Committee stated:
- “As a minimum, the existing lines of communication that have been developed between the committees of UK’s legislatures principally charged with scrutiny of European Affairs must be preserved to ensure a shared understanding of these issues wherever possible. Thought could also be given to removing any procedural barriers that might exist to these committees acting jointly should circumstances suggest that this would offer the best scrutiny outcome.”
167. The Committee also stressed the importance of the Assembly’s bilateral engagement with the European Parliament as a means of allowing it “to directly represent the interests of the people of Wales in the European legislative process and facilitate a dialogue between the European Parliament and Welsh stakeholders”. While the Committee acknowledged that the UK delegation to the European Parliament would comprise members of the House of Commons and House of Lords, it raised the possibility of either “a multilateral ‘sub delegation’ comprising ... members of the devolved legislatures or three separate ‘sub delegations’ that provided bilateral engagement from each of the devolved legislatures with the European Parliament”.¹³⁶

135 See Scottish Parliament Culture, Tourism, Europe and External Affairs Committee, Official Report: <http://www.parliament.scot/parliamentarybusiness/report.aspx?r=12004> [accessed 20 March 2019].

136 Letter from the National Assembly for Wales External Affairs and Additional Legislation Committee, (11 February 2019): <https://www.parliament.uk/documents/lords-committees/eu-select/interinstitutional-relations-inquiry/welsh-external-affairs-response.pdf> [accessed 19 March 2019]

The Inter-parliamentary Forum on Brexit

168. Our July 2017 *Brexit: devolution* report concluded:

“We recommend that the structures for inter-parliamentary dialogue and cooperation be strengthened, and invite the House to consider how this might be achieved. In the short term, the priority is to engage in closer inter-parliamentary dialogue regarding the Brexit negotiations themselves and the accompanying domestic legislation. We will therefore seek to develop and broaden our well-established mechanisms for collaboration with our colleagues in the devolved legislatures. Working in conjunction with other Committees of the House, we will propose more regular joint meetings with members of cognate Committees with responsibility for Brexit-related issues in the Scottish Parliament, National Assembly for Wales and Northern Ireland Assembly, and in the House of Commons, for the duration of the Brexit negotiations. These joint meetings could provide an opportunity to hear informally from UK and devolved Government Ministers, and to discuss issues of mutual interest and concern.”¹³⁷

169. This conclusion led directly to the formation of the ‘Inter-parliamentary Forum on Brexit’. The Forum comprises the Chairs/Conveners and/or other senior representatives of the Committees with responsibility for scrutinising Brexit-related issues in the House of Commons, House of Lords, Scottish Parliament and National Assembly for Wales. Because the Northern Ireland Assembly is currently suspended, Assembly officials attend in an observer capacity. The House of Lords has been represented by the Senior Deputy Speaker, and the Chairs or other representatives of the European Union, Constitution, Secondary Legislation Scrutiny, and Delegated Powers and Regulatory Reform Committees.
170. The Forum first met in October 2017, and has met six times in total. Each chamber or legislature takes it in turn to host. It provides an invaluable forum for an informal exchange of views on Brexit-related issues, and of information on the work and concerns of the various Committees and legislatures.¹³⁸
171. The post-Brexit evolution of the Forum, and the possibilities for enhanced parliamentary dialogue more generally, are under active discussion both in the Forum and beyond. The National Assembly for Wales External Affairs and Additional Legislation Committee has argued that the Forum “has the potential to offer an overarching structure from which further inter-parliamentary engagement can develop”, while the National Assembly for Wales Constitutional and Legislative Affairs Committee has called for the establishment of a Speakers’ Conference to determine how best to develop UK inter-parliamentary working.¹³⁹

137 European Union Committee, *Brexit: devolution* (4th Report, Session 2017–19, HL Paper 9), para 297

138 See for instance the statement published following the sixth meeting of the Forum on 17 January 2019: Interparliamentary Forum on Brexit, ‘6th Meeting 17 January 2019’ (17 January 2019): <https://www.parliament.uk/documents/lords-committees/eu-select/interparliamentary-forum-on-brexit/ipd-sixth-statement-jan.pdf> [accessed 7 March 2019].

139 Letter from the National Assembly for Wales External Affairs and Additional Legislation Committee to Lord Boswell of Aynho (11 February 2019): <https://www.parliament.uk/documents/lords-committees/eu-select/interinstitutional-relations-inquiry/welsh-external-affairs-response.pdf> [accessed 19 March 2019] and letter from the National Assembly for Wales Constitutional and Legislative Affairs Committee to Lord Boswell of Aynho (11 February 2019): <https://www.parliament.uk/documents/lords-committees/eu-select/interinstitutional-relations-inquiry/mick-antoniw-response.pdf> [accessed 19 March 2019]

172. While the arrangements for post-Brexit inter-governmental and inter-parliamentary dialogue within the UK fall in some respects beyond the scope of this report, we emphasise that such dialogue will, in at least the short to medium term, be heavily focused on Brexit and on the shape of future UK-EU relations.
173. **Given the scope and complexity of the forthcoming negotiations on the future UK-EU relationship, dialogue between the UK Parliament and the devolved legislatures on the nature of that relationship should continue to be strengthened. The Inter-parliamentary Forum on Brexit has developed into a useful tool, and there is a case now to formalise this dialogue, define its remit more closely and to address issues such as membership and resourcing. We invite the House authorities, together with counterparts in the House of Commons and the devolved legislatures, to consider these questions as a matter of urgency.**
174. **We also see merit in engaging with the devolved legislatures in relation to the formal UK Parliament-European Parliament dialogue. We invite the House authorities, in reflecting on the structure for that dialogue, also to consider ways in which this can be achieved.**

The future of the EU Committee

The Liaison Committee Review of the House of Lords' investigative and scrutiny committees

175. In January 2018 the House of Lords Liaison Committee launched a review of the House's investigative and scrutiny committees, the first full review for 25 years. The review is considering the strengths and weaknesses of the current Committee structure, and what should change. While not its sole focus, the review has sought to be mindful of the implications of Brexit for the future work of House of Lords Committees.¹⁴⁰
176. In March 2018 we made an interim submission to the Liaison Committee Review. We concluded that, during the transition period, a Committee or Committees of the House would be required:
- To monitor and report on significant changes in EU law, and to make recommendations to Ministers on when to make representations on or object to such changes;
 - To scrutinise the ongoing negotiations with the EU, and to report on any draft agreements that emerge from those negotiations, so as to inform debates or votes in the House;
 - To scrutinise negotiations with third countries, and to report on any draft agreements that emerge from those negotiations;

¹⁴⁰ Liaison Committee, 'Select Committee review in the House of Lords launched' (18 January 2019): <https://www.parliament.uk/business/committees/committees-a-z/lords-select/liaison-committee/news-parliament-2017/lords-committee-review/> [accessed 7 March 2019]

- To represent the House in inter-parliamentary fora within the EU, with a particular view to developing the structures for ongoing UK-EU inter-parliamentary cooperation.¹⁴¹
177. We also stressed the need for effective parliamentary scrutiny of trade negotiations with third countries, which has hitherto been an exclusive EU competence. In that context, we note that in February 2019, the Department for International Trade published its proposals on *Processes for making free trade agreements after the United Kingdom has left the European Union*. The Department suggested that the Government should liaise with a specific parliamentary committee in each House to ensure effective scrutiny of future Free Trade Agreements.¹⁴²
 178. We expressed our intention to provide a further submission to the Liaison Committee when the outcome of Brexit negotiations became clearer, but the continued uncertainty has delayed this further submission. While significant uncertainties remain, we judge that the risk of further delay in clarifying arrangements for post-Brexit scrutiny of UK-EU relations now outweighs the risk of being overtaken by events.
 179. This risk is demonstrated by the now urgent need to take decisions on the future of the UK National Parliament Office (NPO) in Brussels. The NPO currently comprises two House of Commons and one House of Lords official, supported by UKRep, and with office accommodation provided by the European Parliament, alongside representatives from other EU Member State national parliaments. The NPO acts as the Committee's primary point of contact with the EU institutions (including distributing reports and arranging meetings); facilitates visits to Brussels; provides updates and briefings on topical discussions and developments in the EU institutions; monitors the progress of negotiations on particular legislative proposals; facilitates the Committee's representation at inter-parliamentary conferences; and, via the network of national parliament representatives, provides a means for the exchange of information with other Member State national parliaments.
 180. All these facets of the work of the NPO will be more important than ever as the UK enters into what is likely to be a long and complex negotiation on the future UK-EU relationship. Against this backdrop, it would be unfortunate if Parliament were, by failing to take timely decisions, prematurely to reduce its engagement in Brussels during this far-reaching negotiation.
 181. The Parliament of Norway (the Storting) provides an important precedent: notwithstanding Norway's status as a non-EU Member state, it employs a National Parliament Officer, who maintains an office in the European Parliament in Brussels, works closely with the other National Parliament Officers, and provides an important channel of communication with the EU institutions and Member States.

141 Written evidence submitted to the Liaison Committee from European Union Committee ([RIS0012](#)). We note that in its own written evidence, the Hansard Society reached similar conclusions. See written evidence submitted to the Liaison Committee from the Hansard Society ([RIS0048](#)).

142 Department for International Trade, *Processes for making free trade agreements after the United Kingdom has left the European Union*, CP 63, February 2019: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/782176/command-paper-scrutiny-transparency-27012019.pdf [accessed 7 March 2019]

Conclusions

182. **There will be an important role for House of Lords Committees in scrutinising future UK-EU relations, particularly in the following areas:**
- **Scrutiny of negotiations on the UK-EU future relationship;**
 - **Scrutiny of EU legislative proposals during the transition period (and possibly beyond);**
 - **Scrutiny of the formal UK-EU governance mechanisms set out in the Withdrawal Agreement and Political Declaration; and**
 - **Enhanced inter-parliamentary dialogue within the EU with the European Parliament, EU national parliaments and (in the context of future UK-EU relations) the devolved legislatures.**
183. **We also reiterate our conclusion, in our evidence to the House of Lords Liaison Committee, that the House should, through a designated committee, scrutinise negotiations with third countries, and any agreements that emerge from those negotiations. We note the proposal of the Department for International Trade that committees in each House should undertake this task, in respect of trade agreements, a proposal that provides a good starting point for more detailed consideration of the scrutiny of international agreements generally.**
184. **At the same time, we believe that there is a strong case for the European Union Committee, or a successor committee, to be appointed in the new parliamentary session with a remit to undertake all the EU-related scrutiny tasks that we have identified in a coordinated manner.**
185. **The scale of the tasks we have identified means that there is a strong argument for any EU-focused committee to retain a sub-committee structure; this could be somewhat scaled back from the EU Committee's current six sub-committees, but we emphasise that the negotiations on future UK-EU relations will extend across almost the entire breadth of government, and that committee scrutiny will need to be proportionately resourced, at both Member and staff level.**
186. **The intensity of this work, and the fact that the UK will have to work harder to obtain information and maintain relationships in the post-Brexit environment, leads us also to conclude that the National Parliament Office in Brussels should be maintained. We urge the House authorities to take this issue forward in dialogue with the European Parliament, the House of Commons and the Foreign and Commonwealth Office.**
187. **There are still major uncertainties about post-Brexit UK-EU inter-institutional relations. Many of the findings and conclusions of this report are made on the assumption of a deal being reached. Should the current uncertainty about the outcome of the Brexit process persist, then these assumptions may shift. Nevertheless, the risk of any further delay in determining and planning for the post-Brexit framework outweighs that of being overtaken by events. It is in that spirit that we make this report for debate.**

SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS

Governance of the Withdrawal Agreement and Political Declaration

1. In our report on *Brexit: the Withdrawal Agreement and Political Declaration* we expressed concern about the sudden removal of the UK's institutional privileges during the transition period, in particular given that all EU law will apply to the UK during this period. These changes mean that the UK will inevitably have less influence over the EU institutions and their deliberations during the transition period. Nevertheless, it is incumbent on the Government to take advantage of those limited opportunities that remain to seek to maximise the UK's influence with the EU institutions. (Paragraph 12)
2. The new governance mechanisms envisaged under the Protocol on Ireland/Northern Ireland would mark a significant development in the inter-institutional structure governing relations between Northern Ireland and Ireland. These structures are among the most well-defined of the inter-institutional mechanisms set out in the Withdrawal Agreement and Political Declaration. They will also be supported by particularly intensive dialogue, as shown by the fact that the Joint Consultative Working Group, itself an innovation, will meet monthly. (Paragraph 28)
3. There is a possibility within these mechanisms to give Northern Ireland institutions and stakeholders a voice in the development of UK-EU relations, in particular in the context of bilateral relations with Ireland. We welcome the Government's commitment to ensure that the Northern Ireland Executive will have a role in relation to the Specialised Committee, Joint Consultative Working Group and relevant discussions in the Joint Committee, and urge it to go further and consider how large and small businesses, employee representatives and civic groups can contribute to the work of the new structures, and in particular the work of the Joint Consultative Working Group. (Paragraph 29)
4. In our 2017 report on *Brexit: devolution* we highlighted the "delicate equilibrium" established by the Belfast/Good Friday Agreement, and urged all sides not to weaken this equilibrium or the confidence of both unionist and nationalist communities in the political process. The history of the peace process demonstrates that new institutions will only succeed if both communities in Northern Ireland support and are willing to participate in them. In that context, we note with concern the perceptions of a lack of democratic accountability within the new inter-institutional structures envisaged under the Protocol on Ireland/Northern Ireland. (Paragraph 30)
5. We note the Government's assurances set out in its January 2019 paper on *UK Government commitments to Northern Ireland and its integral place in the United Kingdom*, and urge all sides to engage in continued dialogue to ensure that the new institutions secure the democratic legitimacy that they will need if they are to function effectively. Their interaction with the institutional framework of the 1998 Agreement therefore requires careful examination and continuous review. This in turn underlines the urgent need to re-establish the power-sharing institutions of the Northern Ireland Assembly and Executive. (Paragraph 31)
6. We welcome the proposal to establish a Specialised Committee on the Sovereign Base Areas in Cyprus, and note that its success both depends on,

and can help ensure, the continued maintenance of effective UK-Cypriot bilateral relations and communication. (Paragraph 34)

7. We call on the UK Government to confirm that the Government of Gibraltar will fully participate in (and where appropriate lead) the work of the Specialised Committee on Gibraltar and associated coordinating committees, and to explain the means by which it will do so. (Paragraph 38)
8. We await further details on the structure and governance of the negotiations on the future relationship, although we note that the Political Declaration proposes specific strands on an economic partnership, a security partnership, institutional and other horizontal arrangements. We also note the commitment to a specific negotiating track on alternative arrangements to the backstop solution in the Protocol on Ireland/Northern Ireland, and welcome the commitment by both sides within this track to engage with private sector experts, businesses, trade unions, the institutions established under the Belfast/Good Friday Agreement, and parliamentarians. (Paragraph 47)
9. We welcome the commitment to a high-level conference at least every six months to review the progress of negotiations on the future relationship. We call on the Government to confirm who will lead the UK delegation. We note that the EU's Chief Brexit Negotiator, Michel Barnier, will lead the Commission's future relationship negotiating team. In that context, we urge the Government urgently to seek clarification from the EU on who will represent it in this high-level conference, and who will have overall responsibility for the maintenance of future UK-EU relations. (Paragraph 48)
10. We welcome the proposals for intergovernmental dialogue at summit, ministerial, official and technical level as part of the governance of the future UK-EU relationship. In particular, we welcome the acknowledgement of the potential for evolution of the relationship, and for thematic dialogue in relation to its specific strands. The closer the dialogue, the more likely it is to fulfil the aspiration of both sides for "an ambitious, broad, deep and flexible partnership". (Paragraph 50)
11. The effectiveness of the Joint Committees envisaged under the Withdrawal Agreement and Political Declaration, and the bodies that will report to them, will depend on:
 - Frequency of meetings: the minimum requirement of annual meetings will be insufficient to give the Joint Committees (and Specialised Committees) any significant role in building effective bilateral relationships. The EEA/EU Joint Committee, in contrast, meets around eight times a year.
 - Remit: the Joint Committee on the Withdrawal Agreement has an ostensibly narrow remit, yet it has the potential to lay strong foundations for governance of the future relationship, including the operation of the Joint Committee on the future relationship.
 - Senior representation: the Joint Committee's impact will be in direct correlation to the political seniority of the co-chairs and other participants. We urge the Government to consider and clarify which senior ministerial postholder will be the lead UK representative in the Joint Committee. To ensure an effective balance, a representative of equivalent stature needs to represent the EU. The same principle, by

extension, will apply to the bodies that report to the Joint Committee: senior representation will be essential to forming effective bilateral relationships. There will also have to be effective interaction, both at ministerial and official level, between meetings. We therefore welcome the provision for decisions to be made in writing between meetings, which should help to streamline the work of the Joint Committee.

- **Commitment to dialogue:** a Joint Committee (or Specialised/Sub-Committee) that simply meets briefly and formally or acts as a rubber stamp is unlikely to help develop positive bilateral working relationships. There needs to be a mutual commitment to use the Joint Committee (and Specialised Committees) as a forum in which to discuss topical issues or concerns, and to strengthen bilateral contacts.
- **Powers:** it is proposed that the Joint Committee on the Withdrawal Agreement should have significant powers, to make necessary amendments to the Withdrawal Agreement, to engage in dispute resolution, to approve an extension to the transition period and to review the Protocol on Ireland/Northern Ireland. The Joint Committee on the future relationship could have similarly significant powers, as part of its responsibility for managing and supervising the implementation and operation of the future relationship, facilitating the resolution of disputes and making recommendations concerning the evolution of the future relationship.
- **Accountability:** the more powerful and effective the Joint Committee is, the more important effective scrutiny and transparency will be. (Paragraph 57)

Other inter-institutional mechanisms

12. The UK has made a significant, and in many areas leading, contribution to the work of EU agencies during the period of its EU membership. This contribution will necessarily be curtailed following Brexit. While we welcome the commitments to future UK participation in and cooperation with certain EU agencies, the terms of such engagement are ill-defined. It is questionable whether the extent of UK participation that is envisaged will be sufficient to ensure that UK interests are represented and fully taken into account. (Paragraph 63)
13. The Withdrawal Agreement and Political Declaration set out a complex, yet uneven and imprecise, picture of potential future UK-EU cooperation across a range of policy areas. The commitments and proposals set out vary considerably in terms of the level of cooperation; the extent to which commitments go beyond the rights and obligations of existing third countries; the extent to which either side is obliged to cooperate; the likely financial obligations; the criteria for deciding whether to proceed with potential cooperation; and the actors on either side who will be engaged. While we welcome the proposed mechanisms for cooperation as far as they go, given the lack of detail it is highly uncertain if they will be sufficient to serve the UK's national interest. (Paragraph 71)
14. We welcome the commitment to continued UK-EU cooperation in international fora, including the G7, the G20, NATO and the United Nations, in relation to climate change, sustainable development, cross-border pollution, public health and consumer protection, financial stability,

the fight against trade protectionism, and the promotion of international peace and security. The UK will continue to make a strong contribution to international dialogue in these arenas. (Paragraph 72)

15. The UK has, through the UK Representation to the EU (UKRep), sought to maximise the UK's influence over the EU institutions and Member States. After Brexit UKRep will need to adjust to no longer being in the room, and losing the benefits of automatic access to information and the formal and informal dialogue with the EU institutions and Member States that membership brings. UKRep's new status as a third country mission will present a different set of diplomatic challenges, in finding new ways to exert UK influence, gain access to information, and build relationships. The experience of other third countries suggests that the UK Government will, paradoxically, need to enhance its diplomatic presence in Brussels post-Brexit, and ensure that its officials are equipped with a different set of skills. We welcome the steps already taken to increase UKRep's staffing, to train its officials, and to adapt its structure and focus: this must remain a top priority in coming months, and the Government must ensure that UKRep has sufficient staff and financial resources to undertake this crucial work. (Paragraph 79)
16. The ability to exert influence post-Brexit will not be limited to the UK Government. There is a wide range of expertise and participation in EU networks, thanks to the numerous Brussels-based offices and organisations representing various UK interests. All have a part to play in maintaining UK influence and access to information. (Paragraph 84)
17. We note in particular the important work undertaken by the offices of the devolved administrations in Brussels, and stress the role that they can play in contributing to and complementing the work of UKRep, including through effective engagement and exchange between officials. (Paragraph 85)
18. Brussels-based UK offices and organisations are active and influential members of a wide range of European sectoral networks. It is vital that they should be able to maintain membership of and cooperation with such networks post-Brexit. We urge the Government to work with sectoral representatives to ensure that such cooperation can continue after Brexit, in particular in those cases where their participation in these networks is formally dependent on UK membership of the EU. (Paragraph 86)
19. We welcome the establishment of an informal network of Brussels-based UK offices and organisations as a means of sharing expertise and seeking to coordinate the work of UK (or UK-linked) Brussels-based organisations. We look forward to seeing how the work of this group develops. (Paragraph 87)
20. We acknowledge that the UK Government should assume overall responsibility for formal inter-institutional dialogue with the EU institutions as set out under the Withdrawal Agreement. Nevertheless, there remains a case for the devolved administrations to be 'in the room', if only in an observer capacity, whenever their interests (as well as their competences) are engaged, or when their technical expertise could be brought to bear. We urge the Government, in dialogue with the devolved administrations, to give careful thought to how this might be facilitated. We also stress the importance of effective communication and exchange between UK and devolved administration officials. (Paragraph 92)

21. We welcome the Prime Minister's commitment to enhancing the role of the devolved administrations in the negotiations on the future relationship. But actions speak louder than words. The Government needs to explain what it means by an "enhanced role", and then implement this commitment, both in the context of the negotiations on the future relationship and in the oversight of the relationship itself. At the very least, this should involve a role for the devolved administrations in the dialogue at "summit, ministerial and technical level" envisaged in the Political Declaration, including the proposed Joint Committee on the future relationship. The devolved administrations need to reciprocate by playing a constructive role in the negotiations in the interests both of their own nations and regions, and of the UK as a whole. (Paragraph 96)
22. The Government must also ensure that it continues to take into account and represent the interests of Gibraltar, the other Overseas Territories and the Crown Dependencies in relation to the negotiations on the future UK-EU relationship. (Paragraph 97)
23. We welcome the Foreign and Commonwealth Office's emphasis on revitalising bilateral links with EU Member States, and the increased resourcing of diplomatic missions across Member State capitals. Effective means for channelling information and knowledge between diplomatic missions and Whitehall will be equally important in years to come. (Paragraph 101)
24. In our December 2016 report on *Brexit: UK-Irish relations*, we concluded that closer UK-Irish relations were too important to be put at risk by Brexit. We therefore welcome the commitment of both the UK and Irish Governments to developing that relationship post-Brexit, and to considering proposals for regular ministerial and official-level exchanges, including regular inter-governmental meetings. We invite the Government to provide an update on the form this dialogue might take. (Paragraph 104)
25. Although the UK-Ireland bilateral relationship is uniquely close, there could be merit in applying aspects of this model to other key bilateral relationships with EU Member States, in particular those with whom the UK shares close geographical, economic, societal and security links. We urge the Government to engage with remaining EU Member States to seek to establish mechanisms for regular bilateral inter-governmental dialogue at both ministerial and official level. (Paragraph 105)

Inter-parliamentary relations and the role of Parliament

26. During the transition period the UK will continue to be bound by EU laws, including new laws as they come into force. Even though UK Ministers will no longer be able to vote on new EU laws, some form of continuing parliamentary scrutiny of those laws will be essential to maintain transparency and to draw significant changes to the attention of Parliament and the wider public prior to their implementation in domestic law. (Paragraph 113)
27. We therefore welcome the Government's continued commitment to the principle of effective scrutiny of EU documents for as long as EU legislation affects the UK. We particularly welcome its commitment to provide the scrutiny Committees of both Houses with relevant documentation and Explanatory Memoranda on new EU legislative proposals during the transition period. (Paragraph 114)

28. The terms of the future UK-EU relationship will determine whether or not, and the extent to which, it will be necessary to scrutinise EU legislation after the end of the transition period. The Government has already committed to providing Parliament with a mechanism to consider whether the UK should align with future EU employment and health and safety rules. We will engage in continued dialogue with the Government and with our House of Commons counterparts, with a view to reaching conclusions on any future scrutiny of EU legislation before the future relationship negotiations are completed. (Paragraph 115)
29. We remain concerned at the lack of transparency in the work of the governance mechanisms established in the Withdrawal Agreement, including the Joint Committee, Specialised Committees and Joint Consultative Working Group on the Protocol on Ireland/Northern Ireland. (Paragraph 122)
30. While we welcome the then Secretary of State's commitment to "full and proper ministerial accountability to Parliament", the Government has not offered detail on how it will be accountable to Parliament for the work of the Joint Committee and Specialised Committees. We regret that the Government has thus far only committed to raising issues in the Joint Committee "where the Government agrees with the concerns raised by Parliament". (Paragraph 123)
31. We reiterate our view that a new mechanism should be adopted to enable either House (acting on a recommendation from the relevant scrutiny committee) to require the Government, in good time, to: a) raise concerns about specific EU legislative proposals which may have a detrimental impact on the UK; and b) place a particular issue on the agenda of the Joint Committee (or a Specialised Committee) for discussion. Such a formal mechanism is essential, given that the Houses will lose the power, guaranteed hitherto under EU law, to lodge formal concerns over new legislative proposals with the EU institutions by means of Reasoned Opinions. (Paragraph 124)
32. We further recommend that, in order to facilitate effective scrutiny, the Government should: a) ensure that meeting schedules and agendas are made available in sufficient time for Parliament to consider (and comment on) the items to be discussed; b) formally deposit draft decisions, recommendations or proposed changes by the Joint Committee to the Withdrawal Agreement; and c) undertake that a Minister will appear in person before the Scrutiny Committees in advance of Joint Committee (and, when necessary, Specialised Committee and Joint Consultative Working Group) meetings and report on the outcome afterwards. (Paragraph 125)
33. We are disappointed at the Government's failure to honour its commitment at the outset of the Brexit negotiations to support parliamentary committees in their scrutiny of the Brexit negotiations. We therefore welcome the Prime Minister's commitment to enhanced dialogue with Parliament, and with committees, during negotiations on the future UK-EU relationship. We also welcome her commitment to ensure more effective oversight of the Government's negotiating position as it develops. In particular, committees must have access to a wide range of relevant documents and must receive documents in good time to be able to set out their views. The Government in turn must take those views into account and respond in a timely manner to any formal recommendations made by committees. (Paragraph 137)

34. We note the Government's proposals for a parliamentary engagement group on alternative arrangements to replace the backstop solution in the Protocol on Ireland/Northern Ireland. In light of the commitment of both the UK and the EU to "appropriate involvement of parliaments", we stress the importance of inter-parliamentary dialogue with the House of Commons, Northern Ireland Assembly, Irish Oireachtas and European Parliament in relation to this strand of the future relationship negotiations. (Paragraph 138)
35. The principles of parliamentary accountability, transparency and access to information that we have recommended in relation to the Joint Committee (and Specialised Committees) on the Withdrawal Agreement should equally be applied to parliamentary scrutiny of the governance mechanisms (including the Joint Committee on the future relationship) established to oversee the future UK-EU relationship. (Paragraph 140)
36. The Political Declaration proposes a complex web of future UK interaction with EU agencies and programmes. Effective and proportionate parliamentary scrutiny of these interactions will be vital. (Paragraph 142)
37. We welcome the support in the Political Declaration for the establishment of a dialogue between the European Parliament and the UK Parliament. The precise details of this dialogue are still to be determined, and are a matter for the two Houses and the European Parliament. We have identified the following principles:
- Of the two models set out under the European Parliament's Rules of Procedure, a UK-EU Joint Parliamentary Committee would be preferable;
 - Such a mechanism should be established as soon as possible after UK withdrawal, and assuming that both sides' objective of concluding an Association Agreement is confirmed, the establishment of a Joint Parliamentary Committee should not wait for negotiations on the future UK-EU relationship to be completed;
 - The UK delegation should include equal representation of the two Houses;
 - In the case of the House of Lords delegation, we believe that there is a strong case for its membership to include representatives of any committee with responsibility for scrutiny of future UK-EU relations;
 - The House should consider mechanisms to engage the devolved legislatures in the work of the delegation. (Paragraph 151)
38. Alongside formal mechanisms for inter-parliamentary dialogue, informal contact between MEPs and UK parliamentarians will be important. This Committee has long benefited from such contacts, and we will seek to draw on them, and to prioritise continued exchanges with the European Parliament, in order to build the foundations for continuing bilateral Westminster-European Parliament dialogue in the years to come. (Paragraph 153)
39. We are grateful for the support other national parliaments have given to the suggestion of continued UK participation in COSAC and other inter-parliamentary conferences. We remain firmly committed to continuing House of Lords representation in these important fora for inter-parliamentary dialogue. (Paragraph 159)

40. We have long recognised the importance of effective formal and informal bilateral inter-parliamentary dialogue, to which the Brexit negotiations have provided an added impetus. Bilateral inter-parliamentary dialogue will become even more important post-Brexit, and we will continue to prioritise it. (Paragraph 163)
41. Given the scope and complexity of the forthcoming negotiations on the future UK-EU relationship, dialogue between the UK Parliament and the devolved legislatures on the nature of that relationship should continue to be strengthened. The Inter-parliamentary Forum on Brexit has developed into a useful tool, and there is a case now to formalise this dialogue, define its remit more closely and to address issues such as membership and resourcing. We invite the House authorities, together with counterparts in the House of Commons and the devolved legislatures, to consider these questions as a matter of urgency. (Paragraph 173)
42. We also see merit in engaging with the devolved legislatures in relation to the formal UK Parliament-European Parliament dialogue. We invite the House authorities, in reflecting on the structure for that dialogue, also to consider ways in which this can be achieved. (Paragraph 174)
43. There will be an important role for House of Lords Committees in scrutinising future UK-EU relations, particularly in the following areas:
 - Scrutiny of negotiations on the UK-EU future relationship;
 - Scrutiny of EU legislative proposals during the transition period (and possibly beyond);
 - Scrutiny of the formal UK-EU governance mechanisms set out in the Withdrawal Agreement and Political Declaration; and
 - Enhanced inter-parliamentary dialogue within the EU with the European Parliament, EU national parliaments and (in the context of future UK-EU relations) the devolved legislatures. (Paragraph 182)
44. We also reiterate our conclusion, in our evidence to the House of Lords Liaison Committee, that the House should, through a designated committee, scrutinise negotiations with third countries, and any agreements that emerge from those negotiations. We note the proposal of the Department for International Trade that committees in each House should undertake this task, in respect of trade agreements, a proposal that provides a good starting point for more detailed consideration of the scrutiny of international agreements generally. (Paragraph 183)
45. At the same time, we believe that there is a strong case for the European Union Committee, or a successor committee, to be appointed in the new parliamentary session with a remit to undertake all the EU-related scrutiny tasks that we have identified in a coordinated manner. (Paragraph 184)
46. The scale of the tasks we have identified means that there is a strong argument for any EU-focused committee to retain a sub-committee structure; this could be somewhat scaled back from the EU Committee's current six sub-committees, but we emphasise that the negotiations on future UK-EU relations will extend across almost the entire breadth of government, and that committee scrutiny will need to be proportionately resourced, at both Member and staff level. (Paragraph 185)

47. The intensity of this work, and the fact that the UK will have to work harder to obtain information and maintain relationships in the post-Brexit environment, leads us also to conclude that the National Parliament Office in Brussels should be maintained. We urge the House authorities to take this issue forward in dialogue with the European Parliament, the House of Commons and the Foreign and Commonwealth Office. (Paragraph 186)
48. There are still major uncertainties about post-Brexit UK-EU inter-institutional relations. Many of the findings and conclusions of this report are made on the assumption of a deal being reached. Should the current uncertainty about the outcome of the Brexit process persist, then these assumptions may shift. Nevertheless, the risk of any further delay in determining and planning for the post-Brexit framework outweighs that of being overtaken by events. It is in that spirit that we make this report for debate. (Paragraph 187)

APPENDIX 1: LIST OF MEMBERS AND DECLARATIONS OF INTEREST

Members of the European Union Select Committee

Baroness Armstrong of Hill Top
 Lord Boswell of Aynho (Chair)
 Baroness Brown of Cambridge
 Lord Cromwell
 Baroness Falkner of Margravine
 Lord Jay of Ewelme
 Baroness Kennedy of The Shaws
 The Earl of Kinnoull
 Lord Liddle
 The Earl of Lindsay
 Baroness Neville-Rolfe
 Baroness Noakes
 Lord Polak
 Lord Ricketts
 Lord Soley
 Baroness Suttie
 Lord Teverson
 Baroness Verma
 Lord Whitty

Declarations of interest

Baroness Armstrong of Hill Top
Joint owner of a property in Spain

Lord Boswell of Aynho (Chair)
In receipt of salary as Principal Deputy Chairman of Committees, House of Lords
Shareholdings as set out in the Register of Lords' Interests
Income is received as a Partner (with wife) from land and family farming business trading as EN & TE Boswell at Lower Aynho Grounds, Banbury, with separate rentals from cottage and grazing
Land at Great Leighs, Essex (one-eighth holding, with balance held by family interests), from which rental income is received
House in Banbury owned jointly with wife, from which rental income is received
Lower Aynho Grounds Farm, Northants/Oxon; this property is owned personally by the Member and not the Partnership

Baroness Brown of Cambridge
Vice Chair of the Committee on Climate Change
Chair of the Adaptation Sub-Committee of the Committee on Climate Change
Chair of the Henry Royce Institute for Advanced Materials
Chair of STEM Learning Ltd
Non-Executive Director of the Offshore Renewable Energy Catapult
Chair of The Carbon Trust
Council member of Innovate UK

Lord Cromwell

Employment, partnership, business interests and shareholdings as set out in the Register of Lords' Interests

Patron of Wildlife Vets International

Baroness Falkner of Margravine

Member, British Steering Committee: Koenigswinter, The British-German Conference

Member, Advisory Board, Demos

Lord Jay of Ewelme

Trustee (Non-Executive Director), Thomson Reuters Founders Share Company

Vice Chairman, European Policy Forum Advisory Council

Member, Senior European Experts Group

Trustee, Magdalen College, Oxford Development Trust

Baroness Kennedy of The Shaws

President, Justice, UK arm of International Commission of Jurists

Chancellor, Sheffield Hallam University

The Earl of Kinnoull

Farming interests as principal and as charitable trustee, in receipt of agricultural subsidy

Chairman, Culture Perth and Kinross, in receipt of governmental subsidy

Chairman, United Kingdom Squirrel Accord, in receipt of governmental monies

Director, Horsecross Arts, in receipt of governmental subsidy

Shareholdings as set out in the Register of Lords' Interests

Lord Liddle

Member, Cumbria County Council

Pro-Chancellor (Chair of Board), Lancaster University

Co-Chair, Policy Network

The Earl of Lindsay

Chairman, United Kingdom Accreditation Service (UKAS)

Chairman, BPI Pension Trustees Limited

Farmer, in receipt of CAP support

Baroness Neville-Rolfe

Former Commercial Secretary, HM Treasury

Former Minister of State for Energy and Intellectual Property

Chair, Assured Food Standards Ltd

Non-Executive Director, Capita Plc

Non-Executive Director, Secure Trust Bank

Governor, London Business School

Shareholdings as set out in the Register of Lords' Interests

Trustee (Non-Executive Director), Thomson Reuters Founders Share Company

Baroness Noakes

Director, Royal Bank of Scotland Group plc

Interests in a wide range of listed companies as disclosed in the Register of Lords' Interests

Lord Polak

Employment and business as set out in the Register of Lords' Interests

Lord Ricketts

Non-Executive Director, Group Engie, France

Strategic Adviser, Lockheed Martin UK

Charitable activities as set out in the Register of Lords' Interests

Lord Soley

Member: International Institute for Strategic Studies, Royal College of Defence Studies, Chatham House

Baroness Suttie

Associate with Global Partners Governance Limited

Trustee, Institute for Public Policy Research (IPPR)

Lord Teverson

Trustee, Regen SW

In receipt of a pension from the European Parliament

Baroness Verma

No relevant interests declared

Lord Whitty

Vice President, Chartered Trading Standards Institute

Chair, Road Safety Foundation

Vice President, Local Government Association

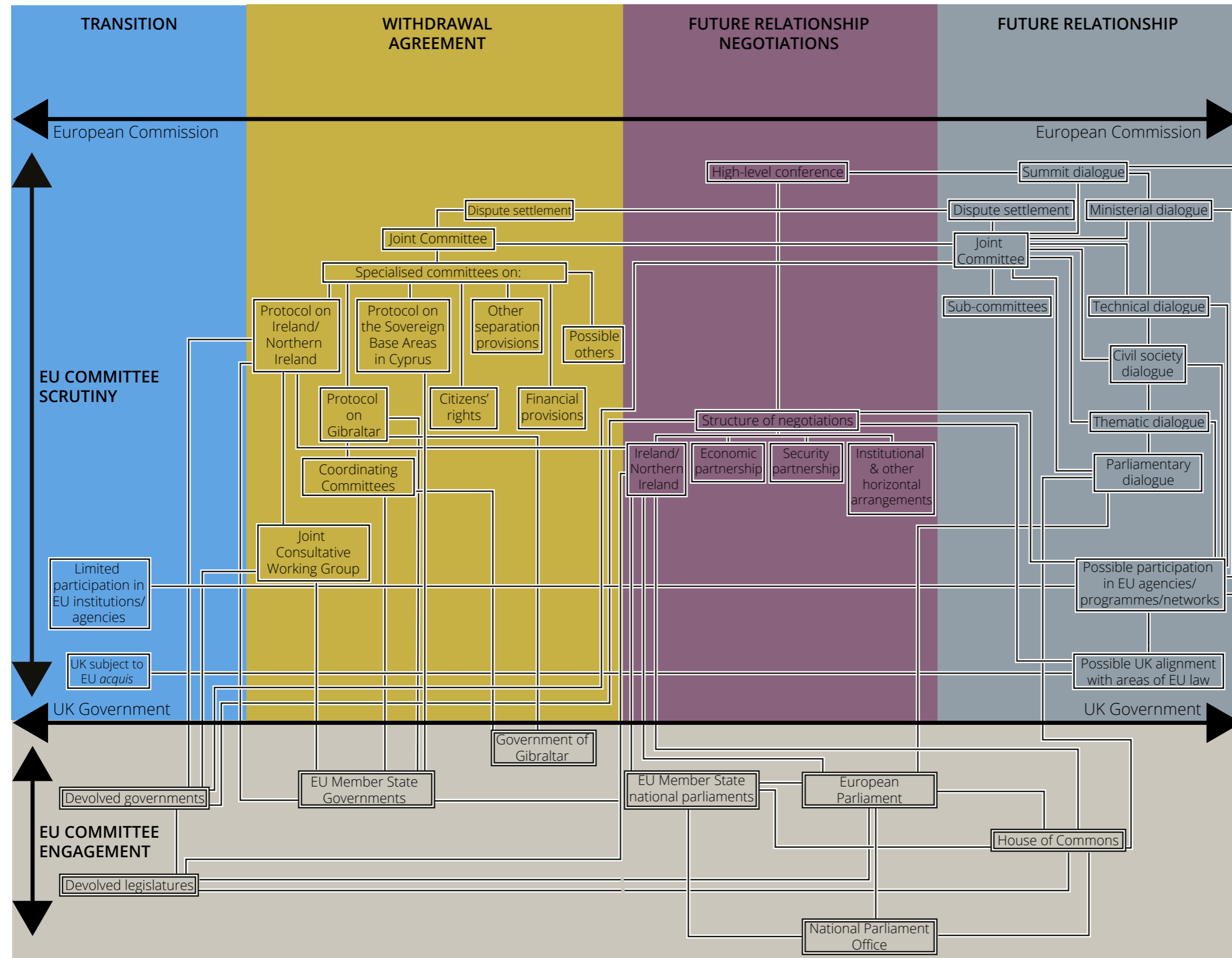
President, Environmental Protection UK

Member, GMB

Vice President, British Airline Pilots Association

A full list of Members' interests can be found in the Register of Lords' Interests: <http://www.parliament.uk/mps-lords-and-offices/standards-and-financial-interests/house-of-lords-commissioner-for-standards-/register-of-lords-interests/>

APPENDIX 2: INTER-INSTITUTIONAL STRUCTURES



Note: This diagram sets out formal mechanisms and stakeholders in future UK-EU dialogue.

