

# Negotiations on the UK's withdrawal from the EU

## Monitoring Report

22 October 2020



The Senedd and

**BREXIT**

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22 October 2020

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# 1. Introduction

This report provides a headline summary and analysis of the latest developments in the UK-EU negotiations, at the UK level and in Wales since 15 September.

## Summary of developments

**The EU and UK** Chief Negotiators have met virtually this week, following the Prime Minister's announcement that the UK should prepare for arrangements similar to those between the EU and Australia (trading on WTO terms). The announcement followed the EU Council meeting on 15-16 October, following which it issued a statement in support of continued negotiations and called on the UK to move its position. The UK responded by calling on the EU to change its approach to the negotiations. Meanwhile, EU leaders have stated that whilst an agreement is in the interests of both the EU and the UK, it will not be secured 'at any price'. The Chief Negotiators have both summarised continued areas of divergence, areas where progress has been possible and areas lacking in progress. The implementation of the Withdrawal Agreement continues with the latest Joint Committee and Specialised Committee meetings. The EU initiated its second infringement proceedings against the UK regarding the UK Internal Market Bill, which permits the UK to depart from its obligations under the Withdrawal Agreement. The UK has until the end of October to respond.

**At UK level**, the Internal Market Bill completed its stages in the House of Commons and passed to the House of Lords. The Scottish Parliament and Northern Ireland Assembly passed motions opposing the Bill. The Welsh Government also indicated its opposition to the Bill as drafted. The UK Government published its updated Border Operating Model and Reasonable Worst Case Scenario. It also wrote to VAT-registered businesses and began new communications campaigns for businesses and travellers on preparing for the end of the transition period. The International Trade Secretary set out a model for the scrutiny of international agreements. The UK Government published a revised common frameworks analysis and laid the provisional common framework for Nutrition for scrutiny. Brexit legislation continued to progress through Parliament, but proceedings on the Environment Bill remained suspended.

**In Wales**, the Welsh Government published proposed amendments to the Internal Market Bill. The Minister for European Transition said he had written to the UK Government calling on them to prioritise reaching agreement on a deal before the meeting of the European Council. A minor reshuffle of Welsh

Government Ministers was announced. Ministerial responsibility for international trade passed to the Counsel General and Minister for European Transition. The former Minister for International Relations and the Welsh Language said that the Welsh Government had seen the first ten chapters of the legally scrubbed UK-Japan agreement. The Welsh Government said that it would publish an overview of its end of transition plan in November. The Minister for European Transition said that around 60,000 people in Wales had applied for the EU settlement scheme and that he had written to the Home Office to ask that the deadline be extended. The Welsh Government expected 44 more UK and devolved statutory instruments to be required by the end of the year, with more depending on the outcome of negotiations..

## 2. UK-EU developments

### EU Council meeting 15-16 October

The latest **EU Council meeting took place** on 15-16 October, where EU27 leaders met to discuss the coronavirus pandemic, UK-EU negotiations, climate change and external relations. In his **invitation letter** to EU27 leaders on 13 October, the EU Council President, Charles Michel, advised that, whilst a UK-EU agreement is in the interests of both sides, it 'cannot come at any price'. This was echoed by EU Chief Negotiator, Michel Barnier, at the post-meeting **press conference** and later by EU Commission President, **Ursula Von Der Leyen**.

The Council **issued conclusions** on the UK-EU relationship, in which it requested that negotiations continue 'in the coming weeks' and called on the UK to 'make the necessary moves to make an agreement possible.' It specifically addressed the UK's Internal Market Bill and recalled how the Withdrawal Agreement, including its Ireland-Northern Ireland Protocol, must be 'fully and timely implemented.' In closing, the Council called for preparations for the end of the transition period to be stepped up for all outcomes and for the EU Commission to give 'timely consideration to unilateral and time-limited contingency measures that are in the EU's interest.'

Following the negotiations part of the meeting on 15 October, the EU Chief Negotiator, **Michel Barnier, advised** how he had proposed to the UK that intensive negotiations continue for the week commencing 19 October in London and move to Brussels for the following week.

### UK response

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Also on 15 October, UK Chief Negotiator, **Lord David Frost, tweeted** that he was 'disappointed' by the EU Council's conclusions, 'surprised' that they 'no longer committed' to the negotiators working intensively and at the assertion that it is the UK which must move its position to secure agreement. The **Prime Minister responded** on 16 October, telling Sky News that the EU:

[H]as refused to negotiate seriously for much of the last few months, and given that this summit appears explicitly to rule out a Canada-style deal, I have concluded that we should get ready for January 1<sup>st</sup> with arrangements that are more like Australia's, based on simple principles of global free trade.

He repeated his **previous position** that the UK would 'prosper mightily' on such

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terms and encouraged stakeholders, including business and hauliers, to be ready for the end of the transition period. His comments were later released in an **official statement**. The **Prime Minister's spokesperson** later added that 'the talks are over' and that Lord David Frost had advised Michel Barnier that there was 'no basis' for the negotiations scheduled in person in London this week. Nevertheless, a **virtual meeting** between the Chief Negotiators was scheduled for 19 October, following which **Lord Frost tweeted** that the discussion had been 'constructive' and called on the EU to change its approach to the negotiations. A second meeting was scheduled for the following day, 20 October. Following this, **Michel Barnier tweeted** that negotiators should be 'making the most of the little time we have left.'

In the week prior to the EU Council meeting, the Prime Minister held several phone meetings with EU and European leaders, including **EU Council President, Charles Michel, German Chancellor Angela Merkel, and French President Emmanuel Macron**. During the calls, he emphasised the UK's desire to reach an agreement but that he was also prepared to end the transition period on 'Australia-style terms'. The Prime Minister was later accused of trying to divide the EU27 Member States by 'bilateralising' the negotiations by **Germany's Europe Minister, Michael Roth**, supported by EU Commission Vice-President **Maroš Šefčovič, who tweeted** that 'EU unity is solid.'

### Next EU Council steps

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The meeting was previously thought to be the first opportunity for EU27 leaders to consider a draft UK-EU agreement. This would have been on course with a **draft plan shared by Michel Barnier** on 24 July, which outlined the EU's ideal timeline for the completion of its ratification procedure ahead of 31 December. The next EU Council meeting is scheduled for 13-14 December, although additional meetings may be possible to allow for consideration of a draft agreement. The EU Council maintains a **timeline of its actions** relating to the negotiations and more information on the ratification of a future UK-EU agreement is provided in Senedd Research's **Brexit timeline blog**, published in July.

### Negotiating Round 9 (28 September – 2 October)

Negotiating Round 9 took place between **28 September and 2 October**. The UK and EU Chief Negotiators agreed that differences remained, however, both negotiators also listed areas where progress had been made and committed to further talks.

In his statement following the meeting, UK Chief Negotiator, **Lord David Frost**, stated that 'the outlines of an agreement are visible' and listed areas where agreement had been possible (trade in goods and services, transport, energy, social security, and participation in EU programmes). He noted also that progress on law enforcement had been made, as had convergence on the structure of the overall partnership. On fisheries, he described the gap between the two as 'very large' and 'risks being impossible to bridge' without movement from the EU.

In his statement, **EU Chief Negotiator, Michel Barnier** described points of convergence and positive new developments on some topics (including aviation safety and the respect of fundamental rights and freedoms), and also a lack of progress on others (such as data, climate change and carbon pricing). He also noted 'persistent serious divergences on matters of major importance to the EU' but did not provide more detail. He reiterated that the future UK-EU relationship is contingent on agreeing a level playing field, fisheries and governance, which is 'even more important' following the UK Government's introduction of the Internal Market Bill.

Ahead of Round 9, **the UK shared five new draft legal** texts on fisheries, the level playing field, law enforcement and judicial cooperation, civil nuclear cooperation and social security coordination. At the time of publication, the texts had not been published.

### **Prime Minister-EU Commission President meeting**

Following Round 9, the Prime Minister and EU Commission President, Ursula Von Der Leyen, held a **telephone meeting** on 3 October to take stock of progress. They agreed that, whilst progress had been made in recent weeks, 'significant gaps remained, notably but not only in the areas of fisheries, the level playing field and governance.' They approved one further month of negotiations, instructing the negotiating teams to intensify their efforts and agreed to speak on a regular basis.

On 14 October, the Prime Minister and the Commission President spoke again, with EU Council President Charles Michel present. Following the call, President **Von Der Leyen tweeted** that 'the EU is working on a deal, but not at any price' and that there was 'still a lot of work ahead for us.' The **Prime Minister's press release** stated that he was 'disappointed that more progress had not been made' and would reflect on the outcome of the EU Council meeting on 15-16 October before setting out the UK's next steps. Informal **negotiations resumed** until the EU Council meeting on 15-16 October. EU Chief Negotiator **Michel Barnier**

**confirmed** on 15 October that the Prime Minister and EU Commission President would remain in contact 'as often as necessary.'

### Negotiations: more detail

#### Chief Negotiators

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UK Chief Negotiator Lord David Frost advised the **House of Commons Future Relationship Committee** on 7 October that a deal is 'eminently achievable.' He advised that he sees fisheries as 'the most difficult' issue remaining and, later that day, added governance and the level playing field as areas where 'big gaps' exist between the UK and EU during evidence to the **House of Lords' EU Committee**. He also advised the Future Relationship Committee that the UK-EU agreement:

[I]s much more than a pure free trade agreement. This agreement is huge in breadth and, as well as trade, it covers road haulage, air transport, energy, social security, law enforcement and so on. It's much, much broader.

And that, even if no future trade agreement is agreed, he envisages that both sides will continue to discuss 'quite a lot of practical issues,' such as for aviation and road haulage.

On 13 October, the **Guardian reported** how EU Chief Negotiator, Michel Barnier, told a meeting of EU's **General Affairs Council** that the two sides were not in a position to enter the final stages of the negotiations, referred to as the 'tunnel.' He advised that a deal is 'very difficult but still possible' and that sufficient time remained to reach agreement. In a **press conference** following the EU Council meeting on 15 October, he advised that there is agreement, question marks and points of difference across 'a number of topics' each. There are also 'three topics on which the gap is 'too wide at present' – these are the level playing field, governance and fisheries.

#### Fisheries

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On fisheries, the **Guardian reported** that UK's latest fisheries draft text proposes a three-year, phased approach to any new UK-EU arrangements between 2021-2024. According to the report, this would offer time for European coastal communities to adapt to the changes. On 7 October, during evidence to the **House of Commons' Future Relationship Committee**, UK Chief Negotiator Lord David Frost stated that:

The problem that we face and the opportunity that we have with fishing in future is that the EU fish nearly half the fish in our waters

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at the moment and we've made clear that there needs to be a huge change in that situation in future and that's something we intend to cure. Now obviously there's going to be an effect on EU fishing communities from that, and it seems entirely reasonable to us that, providing the end point is one we wish to get to that there could be some glide path to get there.

On the EU's response to a transition period, he advised that UK-EU discussions were ongoing.

The UK's new proposals followed the conclusion of a **new UK-Norway fisheries agreement** on 30 September. The **text of the agreement** confirms that the UK has secured annual negotiations for fisheries access and quota on the basis of zonal attachment for shared stocks - terms which the UK seeks for future fishing arrangements with the EU. The agreement shall remain in force initially until 31 December 2026 and thereafter for consecutive periods of four years unless terminated by either Party.

Meanwhile, **Politico reported** that EU Chief Negotiator, Michel Barnier, advised coastal state EU27 leaders that concessions may be needed, including negotiating larger quotas for the UK. Mr Barnier asked the leaders to provide their 'red lines' for consideration and for regular meetings.

### Law enforcement and judicial cooperation

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For the EU, future UK-EU law enforcement and judicial cooperation, including access to EU databases, is conditional on the UK's level of data protection and data adequacy, its continued adherence to the European Convention on Human Rights (ECHR) and the UK giving continued effect to related domestic legislation (including the Human Rights Act 1998). The **EU has warned** that it would suspend UK-EU security cooperation if the UK fails to meet these conditions.

On data, the UK Government **submitted its documents** seeking a data adequacy decision from the EU Commission in March and launched its new **National Data Strategy** on 9 September. However, EU Chief Negotiator Michel Barnier stated at the end of negotiating Round 9 that there had been a 'lack of progress' on data.

On access to the **EU's Schengen Information System**, Lord Frost explained to the **House of Commons' Future Relationship Committee**, on 7 October, that the EU's position of prohibiting third country access for legal reasons 'appears to be a constraint', and that alternatives were being considered. He confirmed that UK negotiators were seeking a separate agreement for this. Later that day, whilst giving evidence to the **House of Lords' EU Committee**, he added that the UK was seeking to retain access or involvement in '10 to 12 specific capabilities'.

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On the ECHR, Lord Frost advised the **House of Lords' EU Committee** that the question of how a future UK-EU agreement would refer to the ECHR and to its domestic implementation in the UK had been 'bedevilling' the negotiations. However, he advised that negotiators were in the process of 'untangling' this discussion and that he believed a satisfactory outcome was in sight.

Provisions relating to the ECHR and related UK domestic legislation are included in the UK Government's UK Internal Market Bill. Part 5 of the Bill provides for the implementation of the Ireland-Northern Ireland Protocol and permits the UK to depart from its obligations under the Withdrawal Agreement and other domestic and international obligations. More information is included in section 3.1 below.

### Withdrawal Agreement implementation

The latest **UK-EU Joint Committee** meeting was held on 19 October. Following this, the EU Commission Vice-President, Maroš Šefčovič announced intensified preparations to ensure the Withdrawal Agreement is 'fully operational' as of 1 January 2021. He welcomed the 'clear political steer and commitment' to reach mutually agreed solutions from the UK's representative, the Chancellor of the Duchy of Lancaster Michael Gove.

The previous **UK-EU Joint Committee meeting** was held on 28 September, following which EU Commission Vice-President Maroš Šefčovič called for an acceleration of the end of transition preparations. The third meetings of the **Specialised Committees** on citizens' rights and the Ireland-Northern Ireland Protocol took place in October and are summarised below.

### Citizens' rights

The third meeting of the Specialised Committee on Citizens' Rights took place on 8 October via videoconference. The **joint statement** issued after the meeting confirms that 'a number of' EU Member States also attended alongside UK and EU representatives. Those in attendance considered social security coordination and the Committee's awaited joint report on the issuance of residence documents. The report will be used to monitor the progress in implementing the UK and EU Member State's new residence schemes, as well as the number of EU citizens in the UK and UK nationals in the EU who secured residence rights under the Withdrawal Agreement. It was confirmed following the 19 October **Joint Committee meeting** that the report will be published in the coming days and will be updated every three months until the end of 2021. It was also confirmed that

the EU27 Member States are on course to fully deploy their residence schemes and the UK provided assurances that EU citizens with residence status will fully benefit from the same set and level of rights provided in the Withdrawal Agreement.

The meeting follows the launch of EU infringement proceedings against the UK on 14 May, summarised in June's **Brexit Negotiations Monitoring Report**. On 14 October, the UK Government **introduced statutory instruments** which provide more information on the position of EU citizens in the UK, including how it is possible for applicants to the EU Settlement Scheme (EUSS) to remain in the UK after the 30 June 2021 application deadline if a decision has not yet been made on their application. For an update on the UK and EU Member State residence schemes, see Senedd Research's latest blog post on **Brexit and citizens' rights**.

## Ireland-Northern Ireland Protocol

### UK-EU Joint Committee

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The UK-EU Joint Committee held an extraordinary meeting on 10 September following the introduction of the UK Government's **UK Internal Market Bill**, which permits the UK to depart from its Withdrawal Agreement obligations relating to the Ireland-Northern Ireland Protocol. At the meeting, the **EU requested** that certain provisions be removed from the Bill by the end of September. The Joint Committee met again on 28 September as part of its regular schedule. On the Bill, **EU Commission Vice-President, Maroš Šefčovič** stated that:

We maintain that the Bill, if adopted in its current form, would constitute an extremely serious violation of the protocol as an essential part of the Withdrawal Agreement and of international law [...] the Withdrawal Agreement is to be implemented, not to be renegotiated, let alone unilaterally changed, disregarded or disappplied. It cannot be stressed enough that the Protocol is specifically designed to protect the Good Friday (Belfast) Agreement and the achievements of the peace process.

In his statement following the meeting, the UK's Chancellor of the Duchy of Lancaster, Michael Gove, **advised that** he had:

[R]eiterated that the measures set out in the Internal Market Bill are designed to create a 'safety net' to ensure the communities of Northern Ireland are protected. The UK is clear that those measures would not be withdrawn.

Senedd Research has published a **summary of the Bill**, including its provisions relating to the Ireland-Northern Ireland Protocol.



## New infringement procedure launched against the UK

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Following the passing of the EU's deadline, on 1 October, the EU Commission launched infringement proceedings against the UK. In a **statement President Ursula Von Der Leyen** advised that the Bill 'by its very nature' constitutes a breach of the 'good faith' obligation contained in Article 5 of the Withdrawal Agreement. The EU sent a **formal notice of infringement** requiring a response from the UK Government within one month. On 7 October, the UK's Chancellor of the Duchy of Lancaster, Michael Gove, confirmed to the **House of Commons' Future Relationship Committee** that the UK Government was seeking to 'ensure that the need for any legal action on the part of the EU disappears.'

Meanwhile, the **European Parliament warned** that it would not ratify a UK-EU agreement if the UK breaches, or threatens to breach, the implementation of the Withdrawal Agreement. The European Parliament's consent is required for a future UK-EU agreement. The Chair of the Parliament's **UK Coordination Group, David McAllister** also added that the Parliament requires more time than the House of Commons to consider any draft agreement.

## Specialised Committee meeting

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On 10 October, the **third meeting** of the Specialised Committee on the Ireland-Northern Ireland Protocol took place. On the Bill, the **EU's statement** following the meeting reiterated the deadline for a UK response to the infringement notice by the end of October. It also stated that, following consideration of the UK's response, or if no response is received, the EU may decide to issue a **Reasoned Opinion** to the UK. Reasoned Opinions are formal requests from the EU Commission to Member States requesting that they comply with EU law. The process can culminate in the matter being referred to the Court of Justice of the European Union (CJEU). Whilst the UK is no longer an EU Member State, it agreed to this arrangement in the **Withdrawal Agreement**.

The **EU's statement** also advises that 'significant gaps remain' in the UK's progress in implementing the Protocol 'despite intensified efforts.' The EU called on the UK to take a number of actions relating to border readiness, including providing a timeline for their implementation. The statement also lists a number of tasks requiring Joint Committee action before the end of the transition period:

- agreeing working arrangements to ensure that the rights of EU representatives to be present when UK authorities implement the Protocol are operational and effective;

- determining 'goods not at risk' of moving from Great Britain to Northern Ireland;
- determining agricultural subsidies and tariff exemptions for fisheries in Northern Ireland.

The **UK-EU Joint Committee meeting** on 19 October reviewed the progress of the Specialised Committee. Following the meeting, the EU confirmed that it will provide the UK with access to the necessary IT systems, databases and networks needed to fulfil its obligations under the Protocol. The EU called on the UK to 'substantially accelerate' its implementation of the Protocol, as set out above.

## 3. Developments in the UK

### UK Internal Market Bill

The Internal Market Bill **passed its third reading in the House of Commons by 340 votes to 256** on 29 September. On 20 October, the **House of Lords voted** by 395 votes to 169 in favour of an amendment to the motion to grant the Bill a second reading to regret that 'Part 5 of the bill contains provisions which, if enacted, would undermine the rule of law and damage the reputation of the United Kingdom.'

The **Scottish Parliament passed a motion declining consent** to the Internal Market Bill on 7 October. The **Northern Ireland Assembly** passed a motion opposing the Bill on 22 September. The Welsh Government also indicated its opposition to the Bill as drafted (see section 4.1 below).

The **House of Lords Constitution Committee reported** on the Bill on 16 October, raising concerns about the implications for devolution and for the rule of law.

### Market access

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The House of Commons made a number of amendments to parts 1-4 of the Bill on market access on the recommendation of the Government, including to:

- remove manner of sale requirements from the mutual recognition principle;
- enable the Secretary of State to issue guidance on the operation of the market access principles; and
- enable the Secretary of State to constitute an Office for the Internal Market Panel.

### Ireland and Northern Ireland Protocol

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The House of Commons also made changes to Part 5 of the Bill on the Ireland and Northern Ireland Protocol on the recommendation of the Government, including to:

- exempt public authorities, including Ministers, from their duty under section 6(1) of the Human Rights Act 1998 (HRA98) to act in accordance with ECHR rights when making regulations under clauses 44(1) and 45(1);
- provide that regulations under clauses 44(1) and 45(1) are to be treated

as primary legislation for the purpose of the HRA98. Section 21(1) of the HRA98 defines primary legislation, which does not include an order or other instrument made under primary legislation by Welsh Ministers.

- provide that the standard time limit for application for judicial review of regulations under clauses 44 and 45 cannot be extended.

The **UK Government published a statement** on 17 September on Clauses 42, 43 and 45 of the Bill. This states that:

HMG will ask Parliament to support the use of the provisions in Clauses 42, 43 and 45 of the UKIM Bill, and any similar subsequent provisions, only in the case of, in our view, the EU being engaged in a material breach of its duties of good faith or other obligations, and thereby undermining the fundamental purpose of the Northern Ireland Protocol.

The **House of Lords Constitution Committee wrote** to the Lord Chancellor to ask how he believed the Bill complies with international law. The **Lord Chancellor responded** on 29 September, stating that the passing of the Bill did not constitute an exercise of the powers in the Bill and that the Bill was an 'insurance policy'. The **Joint Committee on Human Rights also wrote** to the Business Secretary on 29 September to express concern about the amendments, stating that 'the need for these amendments indicates an acceptance on your part that human rights may be violated'. The **Business Secretary responded** on 10 October.

The **House of Lords European Union Committee reported** on Part 5 of the Bill on 16 October. It concluded that the Bill was incompatible with the Withdrawal Agreement and that 'in principle, if not in intent, it could pose a threat [...] to the maintenance of the Belfast/Good Friday Agreement.'

## Common frameworks and intergovernmental relations

In September, the **UK Government published** an updated common frameworks analysis, alongside its **eighth progress report** on the EU (Withdrawal) Act and Common Frameworks. The new frameworks analysis sets out plans for 18 legislative and 13 non-legislative common frameworks for Wales. The **Counsel General and Minister for European Transition made a statement** noting their publication on 9 October, saying that the UK Internal Market Bill 'severely undermines' collaboration on common frameworks.

The UK Government published the **provisional framework for nutrition-related composition, standards and labelling** on 9 October. The provisional framework will now enter the **parliamentary scrutiny process** in all four legislatures.

The **Counsel General and Minister for European Transition wrote** to the Chairs of the EAAL and LJC Committees on 17 September to confirm that intergovernmental relations ministers held a second meeting to discuss machinery and dispute avoidance and resolution on 10 September. On 21 October, the **Financial Times reported** that the Chancellor of the Duchy of Lancaster had said the review of intergovernmental relations would be 'accelerated'.

### Preparedness

#### Ports and borders

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The UK Government published its updated **Border Operating Model** on 8 October. This provides further detail on the operation of the border between Great Britain and the EU after the end of the transition period. It confirms that hauliers will need a Kent Access Permit for access to the short-straits Channel crossings and that EU, EEA and Swiss national ID cards will no longer be valid for travel to the UK from October 2021. It also maps out the locations of intended customs infrastructure in Great Britain (see section 4.4 below).

On 23 September, the UK Government published its **Reasonable Worst Case Scenario**, which outlines the government's planning assumptions. The document states that in a reasonable worst case scenario, on 1 January 2021 40-70 per cent of trucks travelling to the EU might not be ready for new border controls. It estimates that queues of up to 7000 port-bound trucks in Kent could result in delays of up to two days.

Separately, on 24 September the **Permanent Secretary of the Northern Ireland Department of Agriculture** told the Northern Ireland Assembly Agriculture Committee that it would be 'almost impossible' to have checks in place at Northern Ireland ports for the end of the transition period.

#### Business preparedness

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On 23 September, the **Chancellor of the Duchy of Lancaster, Michael Gove MP, made a statement** in the House of Commons on the end of the transition period. He said that survey data indicated that 24% of businesses believed they were fully ready for the end of the transition period and that 43% believed that the transition period would be extended even though the date was fixed.

On 18 October, the UK Government began a **'time is running out'** campaign, urging businesses to prepare for the end of the transition period. It confirmed

that the XO Cabinet Committee would now meet daily and focus on business preparedness. **HMRC wrote to VAT-registered businesses** on 14 September and 18 October to ask businesses to prepare for new checks on goods moving between Great Britain and the EU from 1 January, including requirements to have a UK Economic Operator Registration and Identification (EORI) number. These are needed to complete customs declarations. On 18 September, the UK Government also began a **communications campaign** to help travellers prepare for changes when visiting Europe from 1 January.

## UK legislation

### Agriculture Bill

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The **House of Lords considered the Agriculture Bill** at report stage and third reading. The House of Lords voted against the Government to make a number of amendments to the Bill, including on standards and trade agreements. The House of Commons disagreed to the Lords amendments in 'ping pong' on 12 October.

In Wales, the **Senedd agreed a legislative consent motion** on 29 September. The Welsh Government published its **third** and **fourth supplementary consent memorandums** on amendments at committee and report stage in the House of Lords on 25 and 28 September. The Welsh Government also published its response to its **consultation on sustainable farming** on 8 July. This confirms that the Welsh Government will bring forward a white paper on agricultural support before the end of the Senedd term.

### Fisheries Bill

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The **Fisheries Bill** had its report stage and third reading in the House of Commons on 13 October. It will now return to the House of Lords for 'ping pong'.

In Wales, the Senedd agreed a **legislative consent motion** on the Bill on 6 October. The Welsh Government laid its **third** and **fourth supplementary legislative consent memorandums** on 16 September and 1 October. The **Legislation, Justice and Constitution Committee** and **Climate Change, Environment and Rural Affairs Committee** published their reports on the Welsh Government's supplementary legislative consent memorandum in September. The Welsh Government also published a summary of responses to the **Brexit and Our Seas consultation** on 15 September.



### Trade Bill

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The House of Lords completed its consideration of the **Trade Bill** at committee stage. The Bill was reported without amendment. The date for report stage is yet to be announced. In Wales, the **EAAL Committee laid its report** on the Welsh Government's **Legislative Consent Memorandum** for the Bill.

### Environment Bill

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Consideration of the **Environment Bill** in the House of Commons remains suspended. The Bill Committee is now due to report by 1 December. The Welsh Government **is seeking to appoint** an Interim Environmental Protection Assessor to oversee an interim complaints procedure to replicate the role currently played in environmental governance by the European Commission '[i]n order to bridge the gap between the end of the transition period and the implementation of a permanent environmental governance mechanism for Wales.'

### Other Bills

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The **Immigration and Social Security Co-ordination (EU Withdrawal) Bill** had its third reading in the House of Lords on 12 October. The House of Lords voted against the Government to make a number of amendments to the Bill, including on family members of EU and EEA citizens in the UK, children of EU and EEA citizens in care in the UK, child refugees and victims of modern slavery. The House of Commons disagreed to the Lords amendments in 'ping pong' on 19 October.

The **Private International Law (Implementation of Agreements) Bill** completed its House of Commons stages on 6 October. It will now return to the House of Lords for 'ping pong'.

The House of Lords is considering the **Medicines and Medical Devices Bill** at committee stage. The **Extradition (Provisional Arrest) Bill** completed its passage through Parliament on 14 October and will now move to Royal Assent.

### International negotiations

The International Trade Secretary made a **statement on scrutiny arrangements** for international trade agreements on 12 October. This sets out that the UK Government will share future trade agreements with the international trade committees in both Houses of Parliament, together with an impact assessment. It says the UK Government will endeavour to ensure they have ten sitting days

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to consider these on a confidential basis. The final agreement will then be laid in Parliament and subject to the Constitutional Reform and Governance Act scrutiny procedure.

### UK-Japan Agreement

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The text of the UK-Japan agreement is due to be published in October. The **International Trade Secretary wrote** to the House of Commons International Trade Committee on 12 October to confirm that the text would be shared with the Committee on or around that date.

### UK-US negotiations

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The **International Trade Secretary made a statement** on the progress of the US-UK trade negotiations on 22 September. The statement confirmed that the fourth round of negotiations took place between 8 and 18 September and listed workstreams discussed. She said that negotiators had exchanged their first tariff offers and were in the process of consolidating text for most chapters. The next round of talks was scheduled for mid- to late October.

The **BBC reported** on 17 September that the Speaker of the US House of Representatives, Nancy Pelosi, and the Democrats' Presidential candidate Joe Biden had stated that agreement to a UK-US trade deal is contingent on the UK Government 'respecting the Good Friday Agreement'.

### Trade Agreement Continuity Programme

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Further trade continuity agreements are expected to be signed before the end of the transition period. The **Minister for Investment at the Department for International Trade, Lord Grimstone, wrote** to the House of Lords International Agreements sub-committee to provide an update on the trade continuity programme on 17 September.

In her **evidence to the House of Commons Public Accounts Committee** on 14 September, the Permanent Secretary for the UK Government's Department for International Trade, Antonia Romeo, stated that the UK Government no longer 'segregate' between the trade continuity agreements and other trade agreements the UK are currently negotiating. She stated that the 'priorities now are the FTAs', but that more continuity agreements would be reached by the end of the year.

## 4. Developments in Wales

### UK Internal Market Bill

The Welsh Government published its **legislative consent memorandum** on the Bill on 25 September. This states that the Welsh Government objects to every part of the Bill and that it will not recommend consent to the Bill unless it is substantially amended. The Welsh Government **proposed amendments** for Members of the House of Lords to table to the Bill on 15 October. The **Counsel General and Minister for European Transition discussed** the proposed amendments with Members in Plenary on 20 October.

The **Counsel General and Minister for European Transition gave evidence** to the Legislation, Justice and Constitution Committee on the Bill on 21 September, explaining his view that 'the Bill seeks to hollow out devolution'.

The Senedd's **Legislation, Justice and Constitution Committee wrote to the Secretary of State for Wales** to ask about the application of the legislative consent convention to the Bill. In reply, the **Secretary of State said** the UK Government was 'working closely' with the Welsh Government to understand and respond to its concerns. The **Committee issued a statement on the Bill** on 24 September, saying that the Bill 'appears to be an attempt to recentralise control in Westminster'.

### EU negotiations

In a statement on 20 October, the **Minister for European Transition said** that he was not able to update Senedd Members 'with any certainty on the outcome of negotiations though the deadlines set by the UK Government have now passed and we are rapidly approaching the end of the transition period.' He said that:

In the absence of a meeting of the Joint Ministerial Committee (EU Negotiations) prior to the European Council last week, I wrote to the UK Government calling on them to prioritise reaching agreement on a deal and setting out clearly what the UK Government should do in the best interests of businesses and communities in Wales, and across the UK.

In evidence to the EAAL Committee on 17 September, the **Minister for European Transition said** that he had not received a briefing at ministerial level on the outcome of the eighth round of negotiations, but discussions were 'ongoing'

on holding another meeting of the Joint Ministerial Committee (European Negotiations). The Joint Ministerial Committee (European Negotiations) was updated on the negotiations by Lord David Frost when it last **met on 3 September**.

## International negotiations

The First Minister made **changes to ministerial responsibilities** for international relations on 10 October. The Counsel General and Minister for European Transition has been given responsibility for shadowing the UK Government's trade negotiations, while the First Minister has taken on responsibility for other aspects of international relations.

The **EAAL Committee took evidence from the then Minister for International Relations** on 24 September. She confirmed that the Welsh Government officials had seen the first ten chapters of the UK-Japan agreement, as they had been subject to legal scrubbing.

## Preparedness

### Welsh Government

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The **Minister for European Transition gave evidence** on preparedness to the EAAL Committee on 17 September. He said that the Welsh Government was 'amending and refining' its plans for a no-deal exit from 2019 and **will publish** an overview of its 'end of transition plan' in November which will outline the 'new and continuing actions that will be needed in addition to UK wide interventions.'

On 17 September, the Counsel General released a **written statement** providing an update on preparing for the end of the transition period. The statement made reference to 70 UK Government end of transition preparedness projects that the Welsh Government had seen, based on the UK Government's assessment of whether there was a devolved interest. A further 130 projects exist. The Welsh Government has asked to see these in order to 'understand the interdependencies between projects'.

### Ports and borders

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The UK Government's updated **Border Operating Model** states that the UK Government is working with the Welsh Government to confirm new requirements for customs infrastructure at Holyhead and ports in South West Wales for July

2021. The **Minister for European Transition said in Plenary** on 7 October that he had written to the UK Government to 'get some assurance that the same kinds of checks happen in England and Scotland, to avoid a situation where there is an incentive for lorries to go on different routes'.

The UK Government's **Reasonable Worst Case Scenario** states that some port operators away from the short-straits crossings have indicated they will deny boarding to freight vehicles without the documents to enter the EU. It says that this could result in queues and delays at such ports, but it was unlikely that there would be 'significant, sustained' disruption.

The **EAAL Committee took evidence** from the Road Haulage Association, Logistics UK and the British Ports Association on 1 October. At Westminster, the **Welsh Affairs Committee** took evidence from stakeholders from the ports sector on the implications of Brexit for trade in Wales on 1 October.

### Business preparedness

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The **Minister for European Transition said in Plenary** on 7 October that the Welsh Government's confidence in the level of business preparedness remained 'very low'.

The EAAL Committee took evidence from stakeholders from the **food, fisheries and agriculture sectors** on 8 October and from stakeholders in the **medicines sector** on 15 October. At Westminster, the **Welsh Affairs Committee** heard evidence on the pharmaceutical, car and steel industries on Brexit and trade on 8 October.

### EU settlement scheme

The **Minsiter for European Transition was asked** about the EU settlement scheme in Wales in Plenary on 7 October. He said that there were about 70,000 people in Wales eligible for the scheme and that about 60,000 applications had been made. He said he had written to the Home Secretary to call for an extension of the deadline for applications to the scheme past the end of June 2021, in light of the temporary closure of Home Office and support services due to COVID-19 (see section 2.3).

### Legislation

The Welsh Government made a number of **written statements under Standing**

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**Order 30C** notifying the Senedd of UK statutory instruments under the EU (Withdrawal) Act within devolved competence.

In Plenary on 20 October, the **Counsel General and Minister for European Transition said** that he expected the UK Government to make a further 22 statutory instruments in devolved areas by the end of the transition period and ten more in the new year. He also expected the Welsh Government to make around 22 by the end of the year. He said there was 'potentially a significant body of work that'll come forward as a consequence of whatever the outcome is of those negotiations, and that may well happen in very short order'.

The **Legislation, Justice and Constitution Committee took evidence** from the Counsel General and Minister for European Transition on legislation for the end of the transition period on 21 September. He said that the Welsh Government considered that there were 'fallback options' in the event that any of the Fisheries, Trade or Environment Bill not be granted Royal Assent by the end of the transition period, but that the Welsh Government would need to bring forward a standalone Bill on direct payments for farmers if the Agriculture Bill were not granted Royal Assent in time (see section 3.4).