

**CULTURE, TOURISM, EUROPE &  
EXTERNAL RELATIONS COMMITTEE**  
#SPICeBrexitWeekly

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# BREXIT UPDATE

SPICe weekly update

**DETERMINING SCOTLAND'S FUTURE  
RELATIONSHIP WITH THE EUROPEAN UNION**

**LORDS REPORTS:  
BREXIT AND THE EU BUDGET**

**EUROPEAN COMMISSION WHITE PAPER  
ON THE FUTURE OF EUROPE**

**SPICe**

The Information Centre  
An t-Ionad Fiosrachaidh

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The Scottish Parliament  
Pàrlamaid na h-Alba

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### About this paper

This regular paper produced by SPICe sets out developments in the UK's negotiations to leave the European Union which are expected to formally begin once the Prime Minister has triggered Article 50 which is likely to be before the end of March.

Ahead of the UK Government's triggering of Article 50, the updates will provide information on the UK Government's approach to leaving the EU, along with details of the Scottish Government and the other Devolved Administrations positions. The updates will also provide information on developments within the EU with regard to the UK's departure. Finally the update will provide information on the key issues likely to be at play during the negotiations and in developing the UK's future relationship with the European Union.

As was clear during the referendum campaign and since the decision to leave the EU was taken, there is an abundance of information and analysis available, and this SPICe paper will try to cover the key issues by drawing on that information and analysis. This week's update focuses on a number of Parliamentary Committee reports which have been published on Brexit related issues ahead of the likely triggering of Article 50 later this month.

## Article 50 Bill

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The [European Union \(Notification of Withdrawal\) Bill](#) was introduced on 26 January and is being fast tracked through the UK Parliament. The Bill was passed without amendment by the House of Commons on the evening of 8 February.

The Bill has now moved to the House of Lords for consideration. During the Committee stage in the House of Lords, the first amendment to the Bill was agreed. [The amendment was agreed](#) to guarantee the rights of EU and EEA citizens legally resident in the UK after Brexit. 358 voted for and 256 against so the change was made. This was the second largest House of Lords vote on record since 1999.

The UK Government said it was "disappointed" at the first defeat for its draft legislation. MPs will have the chance to remove the Lords' amendment when the bill returns to the House of Commons.

During the Committee stage of the Bill, the Lords has also [debated](#) issues including Northern Ireland, approval of the negotiations outcome, the effect of EU withdrawal on environmental regulation and the involvement of devolved administrations in withdrawal negotiations.

The House of Lords will [continue its examination](#) of the Bill on Tuesday 7 March in report stage and third reading. Report stage is a further chance to examine the bill and make changes, while third reading is an opportunity to 'tidy up' the bill. The two stages are scheduled to take place on the same day, which is unusual in the House of Lords.

Four possible [amendments](#) have been tabled for consideration during the report stage. One of those amendments proposes ensuring parliamentary approval is required on the outcome of negotiations with the European Union. The amendment states:

- (1) The Prime Minister may not conclude an agreement with the European Union under Article 50(2) of the Treaty on European Union, on the terms of the United Kingdom's withdrawal from the European Union, without the approval of both Houses of Parliament.
- (2) Such approval shall be required before the European Parliament debates and votes on that agreement.
- (3) The prior approval of both Houses of Parliament shall also be required in relation to an agreement on the future relationship of the United Kingdom with the European Union.
- (4) The prior approval of both Houses of Parliament shall also be required in relation to any decision by the Prime Minister that the United Kingdom shall leave the European Union without an agreement as to the applicable terms.

## Scottish Parliament European Committee publishes Brexit report

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On 5 March, the Scottish Parliament's Culture, Tourism, Europe and External Relations published "[Determining Scotland's future relationship with the European Union](#)". The Committee's report covers international trade, the structures of intergovernmental decision-making in the UK and the potential impact on devolution of the repatriation of powers from the EU. The report's publication follows the Committee's inquiry into [The EU referendum and its implications for Scotland](#).

Quoted in the Committee's [news release](#), the Committee Convener Joan McAlpine MSP said:

*"We are calling for a bespoke solution that reflects Scotland's majority vote to remain in the single market. We've found there to be understanding within the EU of Scotland's position on Brexit and we believe a bespoke solution can be included in the UK's Article 50 settlement.*

*"Our committee has always argued that retaining access to the single market would be the best outcome for Scotland. However with the UK Government having ruled membership of the single market out for the UK, we have had no choice but to look at other options. Our evidence suggests that membership of the European Economic Area (EEA), for example, would be one route that could provide an easier transition out of the single market than a 'hard Brexit', which would have significant consequences for the Scottish economy."*

*The report covers international trade, the structures of intergovernmental decision-making in the UK and the potential impact on devolution of the repatriation of powers from the EU. It calls for the UK Government to respond to the Scottish Government's 'Scotland's Place in Europe' paper before Article 50 is triggered and for a means to be found for the Scottish Government to be involved in discussions on future trade deals."*

The report also examined the repatriation of powers that will take place once the UK leaves the EU. On this issue, Lewis Macdonald MSP, Deputy Convener of the Committee, said:

*"It's vital that we get clarity on EU powers that are to be devolved to the Scottish Parliament. We are clear in our report that any EU powers in devolved areas such as agriculture, fisheries, the environment and justice and home affairs must be repatriated to the Scottish Parliament. There also needs to be an appropriate funding mechanism for these powers to ensure that the Scottish budget and Scottish interests do not lose out."*

The Committee's conclusions are reproduced in full below.

On Scotland's current position in the European Union and its access to international markets, the Committee concluded:

*"In the 43 years that the UK has been part of the European Union, Scotland has benefited from increasing trade opportunities. The EU is now the single largest*

*market for Scottish exports outwith the UK. The EU is the biggest and most successful free-trade area in the world. It has abolished the tariffs and non-tariff barriers that restricted trade prior to the establishment of the single market in 1993 and has promoted regulatory harmonisation to support and promote free trade.*

*EU membership, and the access that it has provided to the single market, has been of vital importance to businesses in Scotland, though some sectors have benefited more than others. While some have flourished, others have found regulation burdensome and policies ill-suited to Scotland. One example of the latter is the fishing industry which has faced many challenges as a result of the terms of EU membership and the Common Fisheries Policy. The evidence from the fish-catching sector is that they want no return to either the CFP or the EU. However, the fish processing sector was supportive of remaining in the single market.*

*Overall however, Scottish businesses have become used to operating within a market without tariffs or non-tariff barriers. They can send a lorry full of Scottish produce across the continent without being hindered by any form of border control, thereby avoiding costs and delays. They work closely with colleagues from other EU countries. They can establish a business or a branch of their business in another Member State and they can provide their services anywhere across the Union. The EU's preferential trade agreements with 55 countries have opened up additional markets, providing greater opportunities for Scottish businesses to trade internationally. This has all become the accepted norm since the establishment of the single market and has been of significant net advantage to the Scottish economy”*

On the Scottish Government's proposals outlined in Scotland's place in Europe, the Committee concluded:

*“We echo the agreement of the Scottish Parliament that it is in the interests of the UK to remain in the single market, but this has now been ruled out by the UK Government. We believe that a bespoke solution that reflects Scotland's majority vote to remain in the single market should be explored with the EU 27 as part of the negotiations ahead, before and after the triggering of Article 50.*

*While there is no direct precedent for achieving this particular solution for Scotland, there are a variety of differentiated arrangements for territories that are part of current Member States and a majority of the Committee believe that a bespoke solution could be found within the EU to accommodate Scotland.*

*Moving from full EU membership to EEA membership would be an easier transition for Scottish businesses than leaving the EU completely as they would be able to remain in the single market. Membership of the EEA would also allow freedom of movement, which is very important to key parts of the Scottish economy as well contributing to Scotland's population growth. [Jackson Carlaw MSP and Rachael Hamilton MSP dissented from this paragraph].*

On the UK Government's proposal outlined in the White paper published at the beginning of February:

*“The European Economic Area offers the only alternative to membership of the EU which allows non-EU Member States to benefit from the single market on the same terms as the EU Member States. However, this option has also been rejected by the UK Government and in so doing it has lost the only opportunity for an easier Brexit. Instead it has decided to adopt the hardest Brexit and the most difficult course.*

*The UK Government's decision to leave not only the EU but also the EEA, thereby relinquishing membership of the single market, will have profound consequences for Scotland's economy and future prosperity. The single market is the most successful example of a multilateral free trade area in the world. The UK has decided to abandon the advantages it currently enjoys as a member of the EU and EEA, not only through the single market but also through the trade agreements that the EU has with 55 countries. Instead it has decided to start from scratch in establishing free trade agreements with the EU and with other countries. The UK has decided to do this in a period when there are signs of the world becoming more —mercantilist and protectionist.*

*In addition, the UK Government has not made public any assessments of the time that it will take to reach new bilateral trade agreements and which countries it will aim to reach agreements with. Nor can the UK Government offer any clarity on whether these trade agreements can cover the same range of sectors as previous agreements did, whether services will be included or whether the UK will be subject to tariffs and non-tariff barriers where it was not before. These issues are all subject to negotiation and have no guaranteed result.*

*The UK Government has stated clearly that it wishes to regain control of the UK's own laws by leaving the European Union but its desire to protect its sovereignty may not be compatible with its global trade ambitions. We heard that the adoption of EU regulations and standards would be necessary to access the EU single market, as well as facilitating access to other international markets because of the recognition of EU standards internationally. The UK Government may find that if it wishes to have a deep and comprehensive trade agreement with the EU, then it will need not only to adopt EU laws and standards, but also to update them.*

*Furthermore, as the experience of the EEA EFTA states in negotiating the EEA agreement demonstrates, the European Union may insist on the establishment of a system of surveillance and the judicial settlement of disputes if the UK is seeking to have a barrier-free trading relationship with the EU. It is reasonable to anticipate that the EU will seek to protect its Member States from unfair competition by requiring adequate mechanisms for dealing with complaints and infringements, as well as preventing state aid from distorting competition.*

*The UK will not achieve a trade agreement that can be compared to the single market. The EU Member States may only be willing to negotiate for certain sectors and may impose tariffs or non-tariff barriers for access to other sectors. Additionally, the UK may be required to make financial contributions in order to access the single market. It is unclear how the UK can seek a new customs*

*agreement with the EU but not be bound by the EU's Common External Tariff or participate in the Common Commercial Policy.*

*There is a strong risk that the UK will have to revert to WTO rules at least for a period of time. Based on the evidence we heard from the European Parliament Constitutional Affairs Committee, there is already speculation that the EU may seek to agree the principles of the withdrawal agreement before starting the process of negotiating the future trade agreement. Some have said that the negotiations for the trade agreement could continue for years, thus the UK would leave the EU without a new trade agreement in place. On withdrawal, the UK would also no longer be party to the preferential trade agreements that the EU has with third countries. It is vital, therefore, that transitional agreements be requested by the UK in the Article 50 letter."*

Rachael Hamilton MSP and Jackson Carlaw MSP dissented from the conclusions on the UK Government's proposal instead presenting their own conclusion which stated:

*"The UK Government has developed an ambitious proposal to maintain a close trading relationship with the EU and to develop and deepen the UK's trade with other countries in the world.*

*The UK Government is right to identify a need to develop a future trading relationship that is not based on any existing model as the UK and the EU are deeply intertwined in their trading relationships and a pre-existing model would not be sufficient to allow those trading relationships to continue. That would be to the detriment of the economies of all of the EU Member States as well as the UK.*

*The Prime Minister's commitment to pursuing a —new, comprehensive, bold and ambitious free trade agreementll with the EU will ensure that Scotland and the UK can continue to trade in goods and services with the EU without tariffs or non-tariff barriers being imposed, thus reflecting the key interests of businesses in Scotland. The EU has a trade surplus with the UK so it will be in the EU's interests to ensure that there is frictionless trade between the EU and the UK in order that its own trade and businesses are not harmed.*

*A new customs agreement with the EU will ensure that UK companies are not subject to rule of origin requirements and that keys sectors and their supply chains are not impacted. Freedom from the EU's Common External Tariff and participation in the Common Commercial Policy will allow the UK to negotiate independent trade agreements with third countries to replace the preferential trade agreements that currently exist between the EU and other counties. These new trade agreements can be better suited to the UK's economy and there is less risk that negotiations will stall as the UK will be negotiating on its own behalf, rather than 28 different countries.*

*The UK Government has the objective of agreeing a frictionless comprehensive free trade agreement with the EU within two years and proposes phasing arrangements to ensure that there is a smooth transition. This can provide certainty and security to businesses.*

*The UK has a network of offices in over 100 countries that provide a sound base for further developing the UK's trading links, and Scotland can benefit from these."*

On the impact of withdrawing from the European Union on the devolution settlement, the Committee concluded:

*"It is vital that there is clarity on policy functions that are repatriated from the EU and the funding that is provided to them. We believe that any power currently a competence of the EU that is to be repatriated after Brexit and which is not currently listed in schedule 5 of the Scotland Act 1998 should be fully devolved, alongside a funding mechanism, resulting in no detriment to Scotland.*

*There is a very significant risk to EU competitive funding streams, agricultural support and structural funding in Scotland following withdrawal from the EU. In relation to agriculture and structural funding, it is not yet clear whether the UK Government will continue to provide funding in these area-based policies to the same extent as the European Union did. Any move towards a territorial funding framework within the UK that is based in population share rather than the allocation system currently in use would see Scotland's agricultural sector, for example, lose hundreds of millions of pounds."*

Finally, on the way in which Brexit will impact on intergovernmental relations, the Committee concluded:

*"It has never been more important that the mechanisms for intergovernmental relations between the Scottish Government, the UK Government and other devolved administrations are fully effective. This was already the case with the growth of the shared space and powers that have come from enhanced devolution arrangements and the Scotland Act 2016. Brexit has increased this need exponentially.*

*The UK's withdrawal from the European Union will be the most significant change to this country for decades. It will fundamentally alter Scotland's place in the world and impact on the devolved competences of the Scottish Parliament whether that is in terms of the UK's new relationship with the EU, the repatriation of previously EU competences (for example in agriculture or fisheries) or the process of establishing new free trade agreements with other countries.*

*The Scottish Government has always, to some degree, been involved alongside UK Government ministers in negotiations with their counterparts in other Member States in meetings of the Council of Ministers. Scottish Ministers have participated in negotiations following the prior agreement of a UK negotiating line and set of priorities. This principle should apply to the withdrawal agreement and any new free trade agreements.*

*In relation to negotiations prior to the triggering of Article 50, we support the intensification of discussions in the joint ministerial committees, in bilateral meetings and at the official level. These meetings should be approached in a constructive spirit by all parties. The Committee is concerned that this may not always have been the case.*

*Given that the terms of reference of the Joint Ministerial Committee (European Negotiations) commits all governments to —discuss each government’s requirements of the future relationship with the EU and seek to agree a UK approach to, and objectives for, Article 50 negotiations, **we expect the UK Government to provide a response to the Scottish Government on Scotland’s Place in Europe before Article 50 is triggered. We also expect the UK Government to say whether the Scottish Government’s objectives for a differentiated solution will be set out in the letter from the UK Government to the EU to trigger Article 50.***

*Once the UK has agreed its negotiating position and Article 50 has been triggered, we recommend that ways are found to involve the Scottish Government and its officials in the negotiations that follow with the EU, both at the high-level and on the technical detail. Such involvement has been commonplace in the past in areas such as fisheries, agriculture, regional development, judicial co-operation etc. in the Council of Ministers and various working groups. Brexit should be no different.*

*As the negotiations on withdrawal proceed, it is already apparent that the UK Government, and the Department of International Trade in particular, is participating in preparatory discussions with third countries on new free trade agreements. We are encouraged to hear from the Cabinet Secretary for the Economy, Jobs and Fair Work that some joint working is already underway. This should be built upon and intensified.*

*We recommend that a means is found to involve the Scottish Government in bilateral and quadrilateral discussions on future trade deals. This could include the creation of a Joint Ministerial Committee on International Trade. This could also include government officials and organisations such as Scottish Development International meeting regularly with their UK counterparts.*

*Finally, in relation to parliamentary scrutiny and accountability, we believe that it is important that the recently established Written Agreement is augmented to ensure the flow of appropriate information from the Scottish Government to this and other parliamentary committees once Article 50 is triggered and also in relation to discussions on future free trade agreements.”*

## **House of Lords EU Financial Affairs Sub-Committee report on Brexit and the EU budget**

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On 4 March, the House of Lords EU Financial Affairs Sub-Committee published its report on [Brexit and the EU budget](#).

The Committee’s [key findings](#) were:

- The budget is going to be a contentious early issue during the UK’s negotiations over leaving the EU. It is crucial for both parties. The UK provides approximately 12% of the EU’s budget, and is a significant net contributor. The Government has stated that it is open to making payments towards specific programmes in order to cement a cooperative future relationship with the EU, but there are already demands from the EU for much wider contributions.

- There are strong advantages to negotiating an orderly exit in the form of a withdrawal agreement as envisaged under Article 50. This would mean that the apportionment of existing commitments and, potentially, the EU's assets, would be a matter for political negotiation. Any such division would be enormously complex and there are disagreements over how any final 'bill' could be determined.
- A demand of €60 billion is being currently attributed to the Commission, but we find that it is possible to arrive a wide range of figures for any possible EU claim. However, it should be noted that the strictly legal position of the UK on this issue appears to be strong. Article 50 also provides for a 'guillotine' after two years if a withdrawal agreement is not reached. Although there are competing interpretations, legal evidence suggests that if agreement is not reached, all EU law will cease to apply, and the UK would not have an obligation to make any financial contribution at all—although this would only apply in a 'disorderly' or 'cliff-edge' Brexit.
- This possibility must be set against the immense damage to UK-EU relations that a disorderly withdrawal would inevitably cause. If the Government wishes to include future market access on favourable terms as part of the discussions on the withdrawal agreement, it is likely to prove impossible to do so without also reaching agreement on the issue of the budget.

Commenting on the report, [Baroness Falkner of Margravine](#), Chair of the EU Financial Affairs Sub-Committee, said:

*"The UK appears to have a strong legal position in respect of the EU budget post-Brexit and this provides important context to the Article 50 negotiations.*

*"Even though we consider that the UK will not be legally obliged to pay in to the EU budget after Brexit, the issue will be a prominent factor in withdrawal negotiations. The Government will have to set the financial and political costs of making such payments against potential gains from other elements of the negotiations.*

*"The forthcoming negotiations will be more than just a trial of strength. They will be about establishing a stable, cooperative and amicable relationship between the UK and the EU. This will not be possible without good will on both sides."*

## **Exiting the European Union Committee calls for guarantees for EU citizens in the UK**

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On 5 March 2016, the House of Commons Exiting the European Union Committee published a report examining [the Government's negotiating objectives: the rights of UK and EU citizens](#).

The committee's key [conclusion](#) was:

*"The result of the referendum and subsequent debate in the UK and across the EU have created a great deal of anxiety and uncertainty for EU citizens resident in*

*the UK and for UK citizens in the EU. EU nationals in the UK did not have a vote in the referendum. They came to the UK legally and have contributed to the UK economically and culturally and enriched UK society. The vast majority have worked hard, paid their taxes, integrated, raised families and put down roots. It is difficult to see what more the UK could have asked of them. The result of the referendum, however, has made them very unsure of their future. Although the Government has said it wants EU citizens to be able to remain, the Committee notes that this has not offered sufficient reassurance that the rights and status that they have enjoyed will be guaranteed.*

*A major concern for EU citizens in the UK is that they will not be able to continue to work in the UK in the future, and that their right to work will not be protected after the UK leaves the EU.”*

Leading from this, on the status of EU nationals in relation to the negotiations, the Committee concluded:

*“There appear to be differences between the prime negotiators, the UK Government and the EU Commission as to the sequencing of negotiations. It would be unconscionable for EU citizens in the UK and UK citizens in the EU not to have clarity about their status for another two years.”*

The Committee called for the rights of EU nationals living in the UK for more than five years to be guaranteed and said that the process for securing permanent residence in the UK (following five years of continuous living) is not fit for purpose. Consequently the Committee called on the Government to “streamline the system as a matter of urgency if it intends the permanent residence system to be the basis for enabling EU to stay in the UK after Brexit”.

Publishing the Committee’s report, the Committee Chair, Hilary Benn MP said:

*“EU citizens who have come to live and work here have contributed enormously to the economic and cultural life of the UK. They have worked hard, paid their taxes, integrated, raised families and put down roots.*

*They did not have a vote in the referendum, but the result has left them living under a cloud of uncertainty. They are understandably concerned about their right to remain, and their future rights to access education and healthcare. Equally, Brits who live and work on the continent are worried about their right to work and access healthcare after Brexit.*

*EU nationals in the UK and UK nationals in the EU are aware of the forthcoming negotiations, but they do not want to be used as bargaining chips. Although the Government has said it wants EU citizens to be able to remain, this has not offered sufficient reassurance that the rights and status that they have enjoyed will be guaranteed. It should now do so.”*

Following publication of the Exiting the EU Committee report, Professor Jonathan Portes writing on the UK in a Changing Europe website welcomed the report as a [“welcome contribution to a debate that has so far generated rather more heat than light”](#).

On the report's headline conclusion Professor Portes wrote:

*"The headlines will be for its recommendation that "the UK should now make a unilateral recommendation to safeguard the rights of EU nationals living in the UK" (in other words, that the government should accept at least the spirit of the Lords' amendment passed last week).*

*This is entirely sensible; the government's line that we need to hold back on this commitment to use as a "bargaining chip" (regardless of what you think of the morality of this approach) is flimsy at best. For it to be a useful bargaining chip, we would need a credible threat; since there is neither the political will or the administrative capacity to deport large numbers of EU citizens, this does not exist.*

*In the meantime, the government's refusal to commit is damaging the UK, both directly and in terms of the UK's image. In fact, this line is dictated far more by domestic politics – in particular, the need to show that it is the government, not Parliament, that will shape our approach to Brexit – than by the Article 50 negotiation strategy."*

Professor Portes also welcomes the Committee's recommendation that the UK Government reforms or (preferably) replaces entirely the current permanent residency application process.

## **House of Lords EU Home Affairs Sub-Committee report on future EU immigration**

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On 6 March, the House of Lords EU Home Affairs Sub-Committee published a report on [Brexit: UK-EU movement of people](#). The Committee [concluded](#) that:

*"Offering preferential treatment to EU nationals compared to non-EU nationals in the UK's future immigration regime could increase the likelihood of securing reciprocal preferential treatment for UK nationals in the EU and improve the prospects achieving the UK's objectives on access to the Single Market."*

Commenting on the report, Baroness Prashar, Chairman of the Sub-Committee, said:

*"The precise manner in which the Government proposes to "end" free movement is a pivotal aspect of the United Kingdom's approach to negotiations with the European Union and could have far-reaching consequences for the UK's future trading relationship with the EU.*

*"Crucial sectors of the economy depend on EU migrant labour, so it is essential that any changes don't endanger the vibrancy of the UK economy. We therefore recommend a phased transition to avoid the short-term shocks to particular sectors.*

*"The Committee was struck by the weaknesses and gaps in the UK's migration statistics. Different measures of who counts as a migrant sow confusion in public debate, and contribute to a gap between perceptions and reality.*

*"If the Government's ultimate objective is to reduce dependency on low-cost migrant labour, it needs to look beyond immigration policy. We need a reassessment of the Government's industrial strategy, its education and skills policy, and its public spending plans."*

### **House of Lords Constitution Committee's Brexit Report**

On 7 March, the House of Lords Constitution Committee published its report into the [Great Repeal Bill and delegated powers](#). The Committee's report proposes new measures to safeguard the rights of Parliament as the process of Brexit gets underway. The Committee's report also argues that Parliament should make sure the Government does not use delegated powers in the forthcoming 'Great Repeal Bill' as a way of changing the law in areas currently governed by the EU, without proper parliamentary scrutiny.

Specifically on the relationship with the devolved administrations, the Committee concluded:

*"The UK's exit from the EU will provide the devolved legislatures with the freedom to legislate in devolved areas that are currently circumscribed by EU law. This will mean that the UK Government and the devolved administrations will need to manage new interfaces—and potentially overlapping responsibilities—between reserved matters and devolved competence in areas where the writ of EU law no longer runs. The UK Government and devolved administrations will need to agree, before Brexit, how those new interfaces will be managed. (Paragraph 114 of the report)*

*The UK Government should make clear whether the 'Great Repeal Bill' will provide for the UK Government to amend the whole body of EU law in preparation for the UK's exit from the EU, following which the devolved institutions will take responsibility for those matters that fall within devolved competence, or whether they intend that the 'Great Repeal Bill' will leave to ministers in the devolved administrations the ability to prepare amendments to those elements of EU law that will, following Brexit, fall within their competence. (Paragraph 121)*

*If the former, then the devolved institutions will need to be appropriately consulted on the amendments to EU law in areas that fall within their jurisdiction. If the latter, it is essential that the devolved institutions work closely with the UK Government to ensure that EU law does not 'fall between the cracks' of their respective jurisdictions and that decisions on the repeal or adoption of domesticated EU law are taken in a way that has regard to the coherence of the Union. (Paragraph 122)"*

Publishing the report, the Committee's Chairman, Lord Lang of Monkton [commented](#):

*"The 'Great Repeal Bill' is likely to be an extremely complicated piece of legislation. It will bring into UK law legislation that is not currently on our statute book but that is directly applicable to the UK. It will also provide for the amendment of literally thousands of pieces of EU law that will need to be adapted to make sense in a post-Brexit UK. No one should underestimate the challenge of that process."*

*"The intention should be to convert the existing body of EU law into UK law with as few changes as possible. The Government may need to be granted wide-ranging powers to accomplish that task. Those powers should not, however, be used to pick and choose which elements of EU law to keep or replace—that should be done only through primary legislation that is subject to proper Parliamentary scrutiny.*

*"Scrutiny must not be side-lined. There must be: a clear limit on what the delegated powers in the Bill can be used to achieve; a requirement for Ministers to provide Parliament with certain information when using those powers; and enhanced Parliamentary scrutiny of the exercise of those powers. Use may need to be made of sunset clauses to ensure that after Brexit the laws brought over from the EU are reviewed and, if necessary, amended without undue delay rather than being left to drift into permanence.*

*"We feel that, taken together, these measures should ensure that the cry of the Brexit campaign in the referendum, that the UK Parliament should 'take back control', isn't lost before the UK has even left the EU."*

## **UK Government response to House of Lords EU External Affairs and EU Internal Market Sub-Committees report**

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On 28 February, the UK Government [responded](#) to the House of Lords EU External Affairs and EU Internal Market Sub-Committees report on [Brexit – the options for trade](#).

The Government response is 33 pages and deals with each of the Committees 46 recommendations. The response also provides as an annex details of the Department for Exiting the EU's ministerial meetings between July and September 2016.

In its opening paragraphs, the response – from Lord Bridges of Headley MBE, Parliamentary Under-Secretary of State, Department for Exiting the EU, and Lord Price CVO, Minister of State for Trade Policy, Department for International Trade – seeks to outline the UK Government's overarching position on future trade:

*"We are looking for a deal that works for the whole of the United Kingdom, to become stronger, fairer, more united and more outward-looking than ever before. As we develop a future trading framework we are committed to ensure that the interests of the Devolved Administrations are taken into account. We will also take into account the priorities of Crown Dependencies and the Overseas Territories, including Gibraltar, as the UK looks to establish new trade and investment arrangements with the wider world."*

## **European Commission White Paper on the future of Europe**

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On 1 March, the European Commission published its [White Paper on the future of Europe](#). The White Paper sets out the main challenges and opportunities for Europe in the coming decade. It presents five scenarios for how the Union could evolve by 2025

depending on how it chooses to respond. According to the European Commission, the [scenarios](#) cover a range of possibilities and are illustrative in nature. They are neither mutually exclusive, nor exhaustive.

Scenario 1: Carrying On - The EU27 focuses on delivering its positive reform agenda in the spirit of the Commission's New Start for Europe from 2014 and of the Bratislava Declaration agreed by all 27 Member States in 2016. By 2025 this could mean:

- Europeans can drive automated and connected cars but can encounter problems when crossing borders as some legal and technical obstacles persist.
- Europeans mostly travel across borders without having to stop for checks. Reinforced security controls mean having to arrive at airports and train stations well in advance of departure.

Scenario 2: Nothing but the Single Market – The EU27 is gradually re-centred on the single market as the 27 Member States are not able to find common ground on an increasing number of policy areas. By 2025 this could mean:

- Crossing borders for business or tourism becomes difficult due to regular checks. Finding a job abroad is harder and the transfer of pension rights to another country not guaranteed. Those falling ill abroad face expensive medical bills.
- Europeans are reluctant to use connected cars due to the absence of EU-wide rules and technical standards.

Scenario 3: Those Who Want More Do More – The EU27 proceeds as today but allows willing Member States to do more together in specific areas such as defence, internal security or social matters. One or several "coalitions of the willing" emerge. By 2025 this could mean that:

- 15 Member States set up a police and magistrates corps to tackle cross-border criminal activities. Security information is immediately exchanged as national databases are fully interconnected.
- Connected cars are used widely in 12 Member States which have agreed to harmonise their liability rules and technical standards.

Scenario 4: Doing Less More Efficiently - The EU27 focuses on delivering more and faster in selected policy areas, while doing less where it is perceived not to have an added value. Attention and limited resources are focused on selected policy areas. By 2025 this could mean

- A European Telecoms Authority will have the power to free up frequencies for cross-border communication services, such as the ones used by connected cars. It will also protect the rights of mobile and Internet users wherever they are in the EU.
- A new European Counter-terrorism Agency helps to deter and prevent serious attacks through a systematic tracking and flagging of suspects.

Scenario 5: Doing Much More Together – Member States decide to share more power, resources and decision-making across the board. Decisions are agreed faster at European level and rapidly enforced. By 2025 this could mean:

- Europeans who want to complain about a proposed EU-funded wind turbine project in their local area cannot reach the responsible authority as they are told to contact the competent European authorities.
- Connected cars drive seamlessly across Europe as clear EU-wide rules exist. Drivers can rely on an EU agency to enforce the rules.

Writing for the UK in Changing Europe website, senior fellow Professor Iain Begg asked [What might have been...](#) Professor Begg used some of his blog to reflect on the UK's decision to vote to leave the EU and suggest some of the scenarios for the future of the EU27 might have been acceptable to the UK:

*“As we all know, having been told so endlessly, ‘Brexit means Brexit’, but an intriguing question is nevertheless how good a fit the various scenarios would be for the UK. One, a retreat to ‘nothing but the single market’ could well appeal to all but the most extreme Brexiteers.*

*It envisages an EU focused on free movement of goods and capital, but with restrictions on movement of services and people, alongside no common migration and refugee policy. Ironically, the prospect of restrictions on free movement of services might even be too little for those in the UK concerned to curb migration, but still anxious to optimise access to the EU market for the City of London.*

*Arguably, a majority in the UK would be happy, too, with the scenario entitled ‘those who want more do more’ insofar as it enshrines the principles of what is known as differentiated integration, under which some groups of EU Member States collaborate more intensively, while others do not. It is, manifestly, contrary to the notion of ‘ever closer union’ that elicited so much opposition in the UK during the referendum. Indeed, the section on the way forward reiterates the alternative slogan of ‘unity with diversity’, so often overlooked in UK debate on the EU.*

*Among the other three scenarios, it is hard to believe that ‘carrying-on’ with its mix of status quo and muddling-through is convincing: surely the one conclusion to be drawn from the years of drift is that something has to change. The UK would feel most uncomfortable with ‘doing much more together’, but then so would several other Member States.*

*That leaves ‘doing less more efficiently’ which combines some ambitious elements (such as a European defence union) likely to be unappealing to the UK, with a much reduced role in employment and social policy that would be welcome on this side of the Channel.”*

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