

Negotiations on the UK's withdrawal from the EU

Monitoring Report

30 June 2020



The Senedd and

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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 2 June.

Summary of developments

The fifth round of the **UK-EU future relationship negotiations** will take place from 29 June to 3 July in Brussels and another round will take place the following week in London. Both the UK and the EU agreed to intensify the negotiations throughout July, with 'restricted rounds' focusing on key areas of divergence. The rounds will be the first in person since the coronavirus pandemic took hold. Significant differences remain on both sides, including in key areas such as fisheries, competition ('level playing field'), governance, and police and judicial cooperation in criminal matters. The EU has now received formal notification from the UK that it will not seek to extend the transition period as the 1 July deadline approaches. EU Chief Negotiator Michel Barnier has advised that a full and final legal text will be needed before 31 October in order to complete the ratification process ahead of the 31 December end of the transition period. Meanwhile, the implementation of the Withdrawal Agreement continues, with the second meeting of the UK-EU Joint Committee having taken place in June.

At UK level, the Government started trade negotiations with Japan and published negotiating objectives for agreements with Australia and New Zealand. The Government announced that border controls for EU goods imported into Great Britain would be introduced in stages at the end of the transition period in order to 'give businesses affected by coronavirus more time to prepare'. Brexit legislation continued to progress through Parliament. Chairs of House of Commons committees wrote to the UK Government to seek information on the Shared Prosperity Fund.

In Wales, the Counsel General wrote jointly with Scottish Government Cabinet Secretary Michael Russell to the Chancellor of the Duchy of Lancaster to set out a series of demands for engagement in the negotiations. They also called for the UK Government to confirm that it will ask for the option for devolved administrations to continue participating in EU programmes and for the joint workstream on the Ireland and Northern Ireland Protocol to be started as a matter of urgency. The Minister for International Relations described engagement with the UK Government on negotiations with the US as 'very positive' and issued a statement responding to the opening of negotiations with Japan. The Counsel General

updated the Committee on Welsh Government preparations for the end of the transition period and said that he was 'not even remotely confident' that Welsh businesses would be able to prepare. The Counsel General said it would not be possible to complete the common frameworks programme by the end of the transition period and raised concerns about UK Government plans to legislate on the UK internal market.

2. Developments in the UK-EU negotiations

The fifth round of negotiations will take place between 29 June and 3 July. The **agenda is available** for what is described as a 'restricted round.' This refers to intensified negotiating rounds on key areas of divergence. This round will take place in person in Brussels, with **another round in London the following week**. The **fourth round of negotiations** took place between 2 and 5 June, following which the UK and EU acknowledged that insufficient progress was made. During the round, it was agreed to dedicate time to the four areas where progress was most needed:

1. Fisheries
2. Free and fair competition (level playing field)
3. Fundamental rights and freedoms underpinning close police and judicial cooperation in criminal matters
4. Governance of the future relationship

More detail on key points from the UK and the EU is provided in section 2.1 and 2.2 below.

High level meeting

The high level meeting anticipated in the Political Declaration took place on 15 June between the Prime Minister, European Commission President Ursula Von Der Leyen, European Council President Charles Michel, and European Parliament President David Sassoli. A UK-EU **joint statement was issued** following the meeting, stating that 'new momentum was required' and that talks would be intensified throughout July. Following the meeting, Prime Minister Boris Johnson **told the media** that both sides needed to 'put a tiger in the tank' and add a 'bit of oomph to the negotiations.'

Transition period extension

The EU formally noted the UK's decision not to extend the transition period at the **high level meeting on 15 June** and at the **UK-EU Joint Committee** meeting on 12 June. The EU confirmed that the transition period will end on 31 December 2020, in line with the Withdrawal Agreement. A **UK Government statement** following the Joint Committee meeting stated that 'there will be no further opportunities to extend the transition period.' Prior to both meetings, EU Chief Negotiator **Michel Barnier had advised** that the EU has always been open to a

one or two year extension and that 'our door remains open.' He added that if the transition period is not extended, a full legal text will be needed by 31 October in order to complete the ratification process before the 31 December deadline.

Key points: UK

Following the high level meeting on 15 June, the [Prime Minister told Sky News](#) that:

It's very clear what the UK needs and what our EU friends, I think, need to understand. We can't have the involvement of the European Court of Justice in this country, we can't have [...] a system whereby we continue to have to obey EU law even when we're out of the EU and we've got to get a great deal for our fish. We're taking back control of our fish.

Ahead of the fifth round of negotiations on 29 June, UK Chief Negotiator David Frost tweeted that 'this needs to be a real negotiation and some of the EU's unrealistic positions will have to change if we are to move forward.'

On 19 June, the House of Commons Committee on the Future Relationship with the European Union published its [report on the need for progress in the negotiations](#). EU Chief Negotiator Michel Barnier provided [oral evidence](#) to the Committee.

Key points: EU

Following the fourth round of negotiations, EU Chief Negotiator Michel Barnier [delivered a statement](#) in which he referred to the areas listed above as the 'four big sticking points' and outlined the latest position on each area as follows:

1. Fisheries: the UK showed no 'real willingness' to explore approaches other than zonal attachment and annual negotiations, whilst the EU would prefer a 'more stable economic partnership.'
2. Level playing field (LPF): No progress was made on LPF provisions, despite debating areas 'that should have been more consensual, such as non-regression mechanisms on social and environmental standards, climate change, taxation or sustainable development.'
3. Governance: No progress was made on the single, overarching governance structure proposed by the EU.

4. Police and judicial cooperation in criminal matters: a 'slightly more constructive discussion' was had on the question of the UK's commitment to the European Convention on Human Rights (ECHR), although the EU warns that 'important questions' remain as to how to reflect this in the future relationship agreement.
5. Michel Barnier reaffirmed that the Political Declaration 'is – and it will remain for us – the only valid reference, the only relevant precedent in this negotiation, as it was agreed by both sides.' He went on **to set out detailed examples** of how his UK counterparts have sought 'to distance themselves from this common basis' and 'continu[e] to backtrack' on prior commitments made. He added that the 'UK has refused to talk about our cooperation on foreign policy, development and defence,' included in the Political Declaration. In closing, he said:

It is clear that we are approaching a moment of truth: We expect the United Kingdom to respect its engagements – both when it comes to our, already ratified, Withdrawal Agreement, and to the precise content of the Political Declaration, which remains and will remain the basis and the framework for our negotiation.

If this is the case, and if we keep our mutual respect, our serenity and our determination, I have no doubt that we will find, in the course of the summer or by early autumn at the latest, a landing zone between the United Kingdom and the European Union. Then, finally, we will reach an agreement on our partnership for the future.

In **a speech on 10 June** to the European Economic and Social Committee Plenary Session, Michel Barnier advised that there is 'no need' to change the EU's mandate and that the EU 'cannot allow, and will not allow' the UK to cherry-pick parts of the EU's offer.

Data protection

At an event on 24 June, EU Commissioner for Justice Didier Reynders was **quoted by Euronews** as stating that the EU will expect 'proper application' of its data protection rules by the UK in the future. The UK Government is currently awaiting a **data equivalency decision** from the EU Commission. This is required by the EU from third states ahead of cooperation in certain areas, including for police and judicial cooperation.

European Parliament

On 18 June, the European Parliament **adopted a resolution** in support of a report of recommendations for the negotiations. It outlines MEPs' regret that no real progress has been made and that the differences between both sides remain

substantial and reiterates the 'full and unwavering support' of the Parliament of EU Chief Negotiator Michel Barnier. Several **MEPs advised** that they will not support a deal 'at any cost' in a debate ahead of the vote on 17 June.

Implementation of the Withdrawal Agreement

The second meeting of the UK-EU Joint Committee, which oversees the implementation of the Withdrawal Agreement, took place on 12 June. An **EU Commission statement** following the meeting describes the 'very good atmosphere' in which it took place, but acknowledged that the UK and the EU 'still have a lot of work to do.' Particular attention was drawn to the operational measures needed to put in place the Ireland-Northern Ireland Protocol. The Commission considers that the **UK Government's command paper** on the subject 'does not provide sufficient operational detail'. Progress on citizens' rights was also discussed, with the EU having taken measures to encourage individual EU27 Member States to begin their settlement scheme application processes for UK citizens. The Joint Committee also adopted its first formal decision, which was to make technical corrections to 'minor deficiencies and omissions' in the Withdrawal Agreement.

On 17 June, the House of Lords European Union Committee **wrote to the Chancellor of the Duchy of Lancaster**, Michael Gove, criticising the UK Government for what it describes as a 'lack of transparency and accountability' in relation to the Joint Committee's work. The letter describes in detail how the Committee is reliant on documentation published by the EU in order to understand the work of the Joint Committee and its six Specialised Committees and describes this situation as 'unfortunate.'

3. Developments in the UK

International negotiations

The UK continued negotiations with the US, began trade negotiations with Japan and published negotiating objectives for agreements with Australia and New Zealand. **Secretary of State Liz Truss gave evidence** on the negotiations to the House of Commons International Trade Committee on 24 June. The same **Committee wrote** to the Secretary of State to make proposals on Commons scrutiny of international agreements on 18 June.

USA

In evidence to the House of Representatives Ways and Means Committee on 17 June, **US Trade Representative Robert Lighthizer said** '[t]he United States will not agree to a trade deal with the United Kingdom unless that country lowers barriers to US meat imports the US believes are not based on sound science'. He said it was unlikely that agreement would be reached in time for Congress to consider it this year.

The **Telegraph reported on 3 June** that the UK Government is prepared to permit imports of chlorinated chicken and hormone-fed beef from the US as part of a free trade agreement. However, a 'dual tariff' would be applied on products that do not meet UK animal welfare standards in order to minimise the impact on UK farmers by making it uneconomical for US producers to export them to the UK. The UK Secretary of State for International Trade, Liz Truss, and Secretary of State for the Environment, Food and Rural Affairs, George Eustice, **published a joint letter on 5 June** responding to the reports. The letter states that the UK Government will not compromise on its high environmental, food safety and animal welfare standards.

Japan

The first round of negotiations for a free trade agreement between the UK and Japan began on 9 June. In a speech announcing the commencement of the negotiations, **Liz Truss stated** that both parties 'share a desire to have this agreement in force by the end of the Transition Period, if at all possible'. The UK Government's **negotiating objectives** were published on 13 May. The negotiating objectives estimate that the UK-Japan agreement could increase UK GDP in the long-term (15 years) by around 0.07 per cent and Wales' GVA between 0.05 per cent and 0.15 per cent.

Japan's **chief negotiator Hiroshi Matsuura** told the *Financial Times* that negotiations had to be completed by the end of July for the Japanese parliament to ratify the agreement by the end of the year. He said that 'the shortage of time means that both sides will have to limit their ambitions.'

Australia and New Zealand

The **UK Government published** negotiating objectives for trade talks with Australia and New Zealand on 17 June and said that negotiations would begin shortly. The UK Government's analysis suggests that a **UK-Australia** agreement could increase UK GDP by between 0.01% and 0.02% (£200m or £500m) over the long term. The projected impact of an agreement with **New Zealand** on UK GDP in the long-run is 0%. The Government also reaffirmed its interest in joining the **Comprehensive and Progressive Agreement for Trans-Pacific Partnership** free trade area.

UK legislation

Agriculture Bill

The **Agriculture Bill** had its second reading in the House of Lords on 10 June. Following Government amendments in the House of Commons, the Welsh Government laid a supplementary **Legislative Consent Memorandum** for the Bill on 11 June.

This states that the Welsh Government still has concerns about 'the Secretary of State's powers to make subordinate legislation under the identification and traceability of animals (clause 32) and the regulation of organic products (clause 36 and 37) and the absence of appropriate requirements to obtain the Welsh Ministers' consent in certain circumstances'.

Fisheries Bill

Report Stage for the **Fisheries Bill** in the House of Lords took place between 22 and 24 June. The UK Government **suffered a number of defeats** so that the Bill:

- focuses on sustainability of fisheries and aquaculture by giving precedence to environmental sustainability and making sustainability the primary fisheries objective of the Bill's eight objectives (**Amendment 2**);
- requires the Secretary of State to consult on and establish a 'national landing requirement' to ensure that a minimum percentage of fish caught

in UK waters by domestic and foreign vessels is landed in ports in the UK, Isle of Man, Guernsey or Jersey (**Amendment 22**);

- requires the Secretary of State to establish a minimum quota of fishing opportunities for both new entrants to the sector and fishing boats of up to 10 metres in length, which will be reviewed annually with statements laid before parliament (**Amendment 29**);
- requires all fishing vessels over 10 metres in length that fish in UK waters to use remote electronic monitoring of their fishing activities, and that plans be published to extend this to all vessels (**Amendment 52**) .

Third reading is **scheduled for 1 July**.

Environment Bill 2019-21

A **programme motion** was tabled on 22 June in relation to the **Environment Bill**. On 18 June, Secretary of State for the Environment, Food and Rural Affairs, **George Eustice, advised** the House of Commons Environmental Audit Committee that the Bill is unlikely to return to Parliament until after the Summer recess. In Wales, the Senedd's **Climate Change, Environment and Rural Affairs Committee** and the **Legislation, Justice and Constitution Committee** have been considering the Welsh Government's Legislative Consent Memorandum.

Trade Bill

The House of Commons Public Bill Committee on the **Trade Bill** reported on 25 June without making any amendments. The date for report stage is yet to be announced. In Wales, the Senedd's **External Affairs and Additional Legislation Committee** and the **Legislation, Justice and Constitution Committee** have been considering the Welsh Government's Legislative Consent Memorandum.

Other Bills

The Private International Law (Implementation of Agreements) Bill had its Report Stage in the House of Lords on 17 June. Clause 2, which would have created a new delegated power to implement certain private international law agreements using secondary legislation, was **removed by amendment**. This followed widespread calls for the removal of Clause 2, including from three House of Lords Committees. Third reading is **scheduled for 29 June**.

The House of Commons Public Bill Committee on the **Immigration Bill** reported on the Bill without amendment. The date for report stage is yet to be announced.

The **Extradition (Provisional Arrest) Bill** completed its passage through the House of Lords. The Bill would enable the police to arrest a person from a specified 'category 2 territory' without a warrant from a UK judge. It specifies these countries as Australia, Canada, Liechtenstein, New Zealand, Switzerland and the US and gives the Secretary of State powers to change the list. The House of Lords agreed an amendment to require the Secretary of State to meet certain requirements, including consulting with the devolved governments, before making regulations to change the list of territories. They also agreed an amendment to ensure that only one new territory could be added to the list with each set of regulations. The aim of this amendment was to allow Parliament to reject a particular territory. The Bill has now passed to the House of Commons and had its second reading there on 22 June.

The **Medicines and Medical Devices Bill** completed its passage through the House of Commons on 23 June, with some Government amendments. It will now pass to the House of Lords.

The UK Government published information on planned changes to **financial services regulation** on 23 June. A Financial Services Bill is expected this year.

House of Lords Constitution Committee

The House of Lords Constitution Committee reported on **Brexit Legislation: Constitutional Issues** on 9 June. The Committee finds that 'many of the powers in the Brexit bills were too broad' and expresses concern that powers in Brexit bills are not subject to the same sifting process as powers in the EU (Withdrawal) Act. The Committee also concludes that 'it is regrettable that legislative consent was not achieved for many of the Brexit bills'. It recommends that the Procedure Committee consider 'how legislative consent could be given greater prominence in the legislative process at Westminster' and that powers for UK ministers to make delegated legislation in devolved areas 'should include a requirement either to consult devolved ministers or to seek their consent'.

Preparedness

On 12 June, the **UK Government announced** that border controls for EU goods imported into Great Britain will be introduced at the end of the transition period in stages in order to 'give businesses affected by coronavirus more time to prepare'.

Under the UK Government's plans, new border controls will be introduced in three stages up until July 2021:

- 1. From January 2021:** Traders importing standard goods, covering everything from clothes to electronics, will need to prepare for basic customs requirements, such as keeping sufficient records of imported goods, and will have up to six months to complete customs declarations. While tariffs will need to be paid on all imports, payments can be deferred until the customs declaration has been made. There will be checks on controlled goods like alcohol and tobacco. Businesses will also need to consider how they account for VAT on imported goods. There will also be physical checks at the point of destination or other approved premises on all high risk live animals and plants.
- 2. From April 2021:** All products of animal origin – for example meat, pet food, honey, milk or egg products – and all regulated plants and plant products will also require pre-notification and the relevant health documentation.
- 3. From July 2021:** Traders moving all goods will have to make declarations at the point of importation and pay relevant tariffs. Full Safety and Security declarations will be required, while for SPS commodities there will be an increase in physical checks and the taking of samples: checks for animals, plants and their products will now take place at GB Border Control Posts.

The **BBC reported on 12 June** that the EU stated that it would implement full checks on UK exports into the EU when the transition period comes to an end.

The announcement on 12 June also included a UK Government commitment to build new border facilities in Great Britain in order to carry out regulatory checks such as Sanitary and Phytosanitary (SPS) checks. The announcement specifies that where there is no space at ports for new infrastructure, the Government will build new sites inland where checks can take place. It further states that the UK Government is consulting with ports across the UK to agree what infrastructure is required.

Shared Prosperity Fund

On 9 June, the **Chairs of the Welsh Affairs Committee and three other House of Commons Committees wrote** to the Secretary of State for Housing, Communities and Local Government to seek information on the UK Shared Prosperity Fund. This is due to replace EU structural funding from January 2021. In response, the Minister **Simon Clarke confirmed** that decisions on the Fund would be made through a UK Government spending review later in the year. He said that decisions on the administration of the Fund would be made following the spending review.

Intergovernmental Relations

The **Joint Ministerial Committee (European Negotiations) met** in late May for the first time since January.

In a statement after the meeting, the **Counsel General and Minister for European Transition stated** that the UK Government had only shared its draft legal texts for the future relationship with the EU and its command paper on the Northern Ireland and Ireland Protocol within a day of their publication. He called for more engagement with the devolved governments on the negotiations and progress on the Intergovernmental Relations Review.

The **First Ministers of Wales and Scotland wrote jointly** to the Prime Minister on 12 June to call for him to extend the transition period in light of the coronavirus pandemic, 'in order to provide a breathing space to complete the negotiations, to implement the outcome, and the opportunity for our businesses to find their feet after the enormous disruption of recent months.'

In a letter to the Counsel General and Minister for European Transition and Scottish ministers on 14 June, the **Chancellor of the Duchy of Lancaster Michael Gove said** that the UK would not extend the transition period because that was a manifesto commitment and set out in the EU (Withdrawal Agreement) Act. He said that he was 'disappointed' that Welsh and Scottish ministers had not joined a meeting with the Paymaster General on 12 June and that it was 'inaccurate' that the views of the devolved governments were dismissed before being discussed. He set out when the UK Government had communicated its position to the devolved governments and said that there had been 'ample opportunities' to discuss the issue.

The **Counsel General and the Scottish Government Cabinet Secretary Michael Russell wrote** to the Chancellor of the Duchy of Lancaster on 17 June. This sets out a series of demands and proposals for the engagement of the devolved governments in future relationship negotiations, including that the JMC (EN) chaired by the Chancellor of the Duchy of Lancaster should meet in mid-July and before one or two other key decision making points during the negotiations over the summer and before and after each scheduled negotiation round. It also calls for the UK Government to confirm that it will ask for the option for devolved administrations to continue participating in EU programmes even when it is not asking for England to do so.

The Scottish Government introduced the **UK Withdrawal from the European**

Union (Continuity) Scotland Bill on 18 June. This is to enable the Scottish Government to 'keep pace' with developments in EU via secondary legislation. The **Counsel General said** in February that the Welsh Government had decided against introducing legislation to this effect in February and would seek to align with EU law in other ways where considered necessary.

4. Developments in Wales

EU future relationship negotiations

In evidence to the Committee on 2 June, the **Counsel General and Minister for European Transition said:**

essentially, the UK Government is fundamentally uninterested.

In a statement on 3 June on the late May meeting of the Joint Ministerial Committee (European Negotiations), **the Counsel General said** that the devolved governments had received the UK's draft legal texts only one day before they were published and that this was 'completely unacceptable'. He said that the Welsh Government 'fundamentally disagree[s]' with the UK Government approach.

We have repeatedly stated that as we have responsibility for implementing many aspects of the future relationship the UK Government and the EU need assurance that whatever eventually emerges from the negotiations can be implemented across all parts of the UK.

The **Chair of the Committee wrote** to the Chancellor of the Duchy of Lancaster on 9 June to call for the devolved governments to be 'meaningfully engaged' in the negotiations through 'robust and structured intra-UK intergovernmental relations'. The **Chancellor of the Duchy of Lancaster responded** to the Committee's letter on 21 June. The letter states that while international relations are reserved, the UK Government remains committed to regular engagement with the devolved governments on the negotiations.

International negotiations

The **Minister for International Relations and the Welsh Language gave evidence** to the Committee on 16 June. She said that the concordat for international trade between the UK and devolved Governments had not yet been signed. However, she said that:

The UK Government is acting as though the concordats are already in place. And, therefore, there are already discussions at a ministerial level happening regularly. In terms of the Trade Bill, they have pledged that there will be a despatch box commitment that will, more or less, set out what we expect to see in the concordat. [...]

Well, what we've been pushing for is that there should be a role for Wales in terms of the pre-negotiations; what happens if we don't reach agreement—what the dispute mechanism is—that there should be a

forum established for trade; that details as to how we share information are provided. All of that, more or less, is happening. So, from that perspective, we're quite comfortable. All that remains for us to agree is what our role in the negotiations themselves should be.

She said that engagement with the UK Government on **negotiations with the US** had been 'very positive'. Draft mandates had been shared with the Welsh Government for comment at the same time as UK Government departments and she had met with the new UK Minister for Trade Policy, Greg Hands. She outlined the Welsh Government's priorities and said that the Welsh Government would hold the UK Government to the commitments it had made on food standards. The Minister said that if there were to be full tariff elimination in areas such as agriculture, the Welsh Government would want there to be a transition period because this would 'have a disproportionate impact on Wales.'

The Minister also gave evidence on engagement with the UK Government on **negotiations with Japan**. She said that the Welsh Government had discussed priorities with the UK Government and had seen changes to the negotiating mandate on the issue of climate change.

The **Minister issued a statement** on 18 June following the UK Government's publication of negotiating objectives for agreements with **Australia and New Zealand**. She said that the objectives were 'a reasonable starting point' but stressed 'the potential damage that could be done to our agri-food sector if the deal is not negotiated to the benefit of the whole of the UK'.

In a **letter to the Committee on 5 June**, the Minister said that the UK Government was continuing work on its **Trade Continuity Programme** during the pandemic, but that it was 'highly unlikely' that all agreements would be rolled over by 31 December. In evidence to the Committee, the Minister said that she was 'particularly concerned' that continuity agreements with Turkey and Canada might not be reached.

The Committee provided **evidence to the House of Lords International Agreements sub-committee** on the scrutiny of international agreements.

Implementation of the Withdrawal Agreement

In evidence to the Committee on 2 June, the **Counsel General and Minister for European Transition said** there had been intergovernmental 'discussions' on the implementation of the Withdrawal Agreement, but that these had not been 'granular'.

Ireland and Northern Ireland Protocol

The **Counsel General said** that a joint workstream on the **implementation of the Ireland and Northern Ireland Protocol** had been agreed at the January meeting of the Joint Ministerial Committee (European Negotiations), but that this had not been put in place. The **Counsel General and Scottish Government Cabinet Secretary Michael Russell asked** that the joint workstream begin as a matter of urgency in their letter to the Chancellor of the Duchy of Lancaster on 17 June.

The Counsel General said that the UK Government's **command paper** on the implementation of the Protocol had left questions unanswered and said that the Welsh Government was 'not in a position [...] to form an assessment of the impact on the Welsh economy'.

In his statement on the Joint Ministerial Committee (European Negotiations) meeting, the **Counsel General said** that the UK Government had shared its command paper 'only hours' before publication. He called for the UK Government to 'provide urgent clarity on the implications of the protocol on Welsh ports and on Welsh businesses.'

Preparedness

In his statement on the Joint Ministerial Committee (European Negotiations) meeting, **the Counsel General said** that he 'welcomed the sharing of information on some of the projects the UK Government has established for the end of the transition period.' He said no further time should be lost and called on the UK Government 'to recognise the importance of establishing effective joint work on preparedness matters building on the approach that was in place during the 'no deal' planning work.'

In his evidence to the Committee on 2 June, **the Counsel General said** that the Welsh Government was preparing for the end of the transition period on the basis of two possible scenarios: a no trade-deal Brexit, and a limited agreement. He said that although 'there has been a certain amount happening at the portfolio level, where relationships are relatively good', 'nothing has been happening centrally through the Cabinet Office since January'.

The Committee also asked the Counsel General about preparedness for businesses. The Counsel General said that he was 'not even remotely confident' that businesses would be able to prepare for the end of the transition period.

Common frameworks and intergovernmental agreements

Common frameworks

The Committee questioned the Counsel General on the progress of the common frameworks programme and the impact of COVID-19 on 2 June. The **Counsel General said that:**

it's essentially impossible to deliver the common frameworks programme in the way that it was originally envisaged by the end of this year.

He said that the governments had decided which frameworks would be prioritised and that he expected:

- **two to three priority frameworks** to be presented to legislatures for scrutiny by the end of the year;
- **other priority frameworks** to be agreed as outline frameworks by the Joint Ministerial Committee (European Negotiations) by the end of the year, to be subject to scrutiny and stakeholder engagement in 2021;
- **interim arrangements** to be put in place for other framework areas. These could include 'a timeline for resolution, a mechanism for resolving disputes, a mechanism for managing divergence, perhaps, and an overarching statement of purpose for each of those areas'.

The Counsel General also said the UK Government had plans to legislate on the UK internal market and raised concerns about the implications for the devolution settlement:

Currently, the UK Government's preference is for there to be a statutory underpinning to aspects of the internal market, rather than a kind of framework-based, economic co-operation-based approach, which is our preference. And the risk there, I think—and it's a risk that we all need to focus on—is that one of their current proposals is a sort of mutual recognition principle, so that goods put on the market in any parts of the UK, compliant with local regulatory environment, would be required to be accepted in any part of the UK.

The Counsel General said that in this case 'you can easily imagine that, whilst our rights to regulate differently under the devolved settlement are technically and legally protected, the economic imperative, across the UK, would be to produce to the lower standard, which puts in question the purpose of those powers that we have'. He said that this was a 'fundamental question about the nature of the devolved settlement and how that relates to the economy'.

In a letter to the Legislation, Justice and Constitution Committee on 11 June, the **First Minister said** that the Welsh Government remained committed to the frameworks programme. On the scrutiny of frameworks, he said:

Common Frameworks are the subject of intergovernmental negotiations and their shape and content are by no means entirely within the gift of the Welsh Government.

[...]

So, while the Senedd and the other legislatures will be able to propose amendments or changes to the Frameworks, it may be difficult for amendments advocated by only one legislature to be accepted. It would therefore seem appropriate for the legislatures to work together in their scrutiny of draft Frameworks, as far as this is practicable.

Intergovernmental agreements

In his letter to the Legislation, Justice and Constitution Committee on 11 June, the **First Minister said** that the Welsh Government 'would prefer not' to resort to intergovernmental agreements on the use of powers in legislation. The Welsh Government has done this for the EU (Withdrawal) Act, the Healthcare (EEA and Switzerland Arrangements) Act and the Agriculture Bill, and intends to do the same for the Fisheries Bill.

He said that:

[...] where the UK Government is not prepared to agree the inclusion of such provisions on the face of its Bills, the Welsh Government faces a difficult choice. On the one hand, we could recommend that the Senedd does not consent to a UK Bill, with the clear risk that the UK Government will invite Parliament to ignore the withholding of consent, thus further undermining the inadequate Sewel convention. On the other, we could look to non-legislative solutions, such as an intergovernmental agreement to enable a recommendation that the Senedd consents to the Bill. In the current constitutional and political circumstances, with a Government with a large majority in the House of Commons and facing significant policy and legislative challenges arising from the UK's departure from the EU, there are likely to be some occasions when we favour the latter option.

The First Minister said that intergovernmental agreements on legislation did not have 'helpful features' like the common frameworks programme, with 'compressed timescales' and competing negotiating positions'. He said that the Welsh Government would provide 'early notification' on the need for negotiations and their priorities where possible and would 'always aim' to provide the finalised agreement to inform the legislative consent decision.

Legislation

The **Committee asked the Counsel General** about legislating for the end of the transition period on 2 June. He said that it was not possible to know how much legislation would be required until the terms of the future relationship with the EU were known. He expected that around 500 statutory instruments would be required for the end of the transition, not accounting for legislation needed to implement future EU or international agreements. Not all of those statutory instruments would be in devolved areas. Senedd Committees also considered Legislative Consent Memorandums on UK Parliament Brexit Bills (see above, section 3.2).