

Public Accounts Committee

Oral evidence: Defra's progress towards Brexit, HC 1514

Monday 15 October 2018

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Members present: Meg Hillier (Chair); Sir Geoffrey Clifton-Brown; Chris Evans; Anne Marie Morris; Lee Rowley.

Sir Amyas Morse, Comptroller and Auditor General, Adrian Jenner, Director of Parliamentary Relations, National Audit Office, Keith Davis, Director, NAO, and Marius Gallaher, Alternate Treasury Officer of Accounts, HM Treasury, were in attendance.

Questions 1–164

Witnesses

I: Clare Moriarty, Permanent Secretary, Department for Environment, Food and Rural Affairs, David Kennedy, Director General for Food, Farming, Animal and Plant Health, Department for Environment, Food and Rural Affairs, Sonia Phippard, Director General for Environment, Rural and Marine, Department for Environment, Food and Rural Affairs, Tamara Finkelstein, Director General for EU Exit Delivery, Department for Environment, Food and Rural Affairs.



Reports by the Comptroller and Auditor General

Department for Environment, Food and Rural Affairs: Progress
in Implementing EU Exit (HC 1498)

Implementing the UK's exit from the European Union: The
Department for Environment, Food and Rural Affairs (HC 647)

Examination of witnesses

Witnesses: Clare Moriarty, David Kennedy, Sonia Phippard and Tamara Finkelstein.

Chair: Good afternoon and welcome to the Public Accounts Committee on Monday 15 October 2018. We are here today to quiz senior officials at Defra about their preparedness for exiting the EU. We have had Defra in front of us a lot and we recognise that they have an enormous challenge in front of them, in what is a fast and constantly changing environment. From March this year to this weekend, we have seen a lot change—particularly, if we believe press reports, a lot has changed over the weekend. There is a big risk to the work that Defra does, 80% of which is related to the European Union. We want to quiz you on progress with that and see how realistic it is that you will be ready for the areas of work that you are responsible for when we leave the EU, in whatever capacity, on 29 March next year. Before we get into the main session, Sir Geoffrey Clifton-Brown has something he would like to raise with you.

Q1 **Sir Geoffrey Clifton-Brown:** Good afternoon, Ms Moriarty. I don't know whether this is a silly story or not, but there is an article from WalesOnline headed "Whitehall considering 'mass slaughter' of sheep heading for EU if there's a no-deal Brexit." Is there any truth in this story?

Clare Moriarty: No.

Sir Geoffrey Clifton-Brown: Thank you.

Q2 **Chair:** No dead sheep at the border, on your watch?

Clare Moriarty: No. I might ask my colleague, David Kennedy, to explain that there are very tight restrictions around the movement of live animals. Live exports are a very small proportion of total exports. We have mechanisms in place to ensure that no movements start without a log being authorised by the Animal and Plant Health Agency. In the event that we were to contemplate it, there would be delays. The Animal and Plant Health Agency simply wouldn't give the journey authorisations.

Q3 **Chair:** Thank you. Probably much more will come out during the hearing. I will introduce our witnesses—forgive me, I have not yet done that. From



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my left to right, we have Tamara Finkelstein, director general for EU exit delivery at Defra—just a little job there for you, Ms Finkelstein; Clare Moriarty, the permanent secretary at Defra; David Kennedy, the director general for food, farming, animal and plant health; and Sonia Phippard, director general for environment, rural and marine at Defra. I wanted to kick off by asking this: given the reports of we have had from Brussels over the weekend, are you fast-tracking any contingency planning now, today, as a result of recent developments?

Clare Moriarty: We have been fast-tracking our contingency planning for the last five or six weeks. As the Report highlights, we went through a process earlier in the year. We re-baselined to an implementation period, always being really clear that we could identify the contingency plans that we would need if, as we expected then, in October it might become apparent that there was going to be a no deal exit. Over the summer, as it emerged that clarity might well not be as early as October and we realised that some of those plans could not wait for clarity, we really stood up our no-deal preparations in consultation with Ministers. We have brought forward those contingency plans; we have put them into practice; we have stood up two new directorates, one for preparedness and response and one for business readiness and engagement; and we are going through a process at the moment of identifying where we need to put more people in our EU exit work, to be able to do things more quickly, with greater delivery confidence or with greater resilience. In some places we have simply looked at an individual who is carrying too much load and put another individual alongside them. We are looking at what we might need for instant management. For us, that is a process that has been going on for a number of weeks.

Q4 **Chair:** I will come on to staffing in a moment, but as from today, what needs to go live more urgently than it did five or six weeks ago? What is the thing you are re-basing now as a result of the rising likelihood of a no deal Brexit?

Clare Moriarty: I might get my colleague to give you the detail. There are a whole series of things that, if we were confident enough as we sit here now that there was definitely going to be an implementation period, we would not be doing, such as recruiting people who can manage a potential increase in our export health certificates; recruiting plant health inspectors who can deal with the plant side of things; and recruiting people who can accelerate the delivery of a number of our plans. Both David and Sonia are involved on a day to day basis.

Sonia Phippard: Perhaps I could give an example on the marine and fisheries side. One of the projects that the NAO looked at was control and enforcement. Original planning had assumed that we would wait until October before we launched recruitment for additional control and enforcement officers. We decided last month, as part of the accelerated process that Clare has described, to start that recruitment, and indeed launched it publicly last month, so we now are already reaching the point where we have got a large number of applications and can be shortlisting and bringing people in sooner.



Q5 **Chair:** We will come on to the detail of these actual policies; it's about how you are doing at the moment. Anne Marie Morris will come in on some of the specifics. David Kennedy?

David Kennedy: To give you a few more details, if we are going to have to produce export health certificates for our EU exports in a no-deal scenario from the end of March next year, we will need 50 people working in our Carlisle office to do the administration for that. We have moved forward with the hiring process. We have identified and made offers to 36 people. We have got other rounds of hiring going on at the moment. We would not need to do that if we were solely focused on an implementation period.

Q6 **Chair:** Ms Moriarty, or any of your team, is there anything that you feel is too late now to be deliverable by 29 March, because there just is not enough time to implement something?

Clare Moriarty: As we have gone along, some of the things that we thought we might do we have changed in order to make sure that we can implement things by 29 March. To some extent, what has changed is the scoping, and in some places we have come up with more imaginative solutions to do things. Again, in the export health certificates area, we thought we would need to change the wording on all the export health certificates. That was the stage we were at when we had the discussions with the NAO earlier in the year. As we have gone through and had more engagement with the other countries involved, they are not particularly keen and they do not feel it is necessary for us to change the wording. In some cases, without any reduction in the scope of what we are doing, just how we are doing it has changed over time as we have worked through the ways of achieving functionality on 29 March.

Q7 **Chair:** What are you each most worried about being ready for on 29 March? What is the biggest risk in your particular professional areas? You have got the whole lot on your shoulders, Ms Moriarty.

Clare Moriarty: If I give you the overview, my colleagues can comment. The thing that we are very conscious of is the fact that we are managing a huge amount of risk. We have got our 55 projects that we are monitoring very carefully. We have lots of detail and Tamara can talk about the way in which we are managing that. At any one time we will have some projects where we are looking at needing to put more intensive effort into them to make sure they are on track. On a lot of projects, including some of the ones that the NAO looked at, at the moment, if everything goes to plan, we will be in a position to bring them on stream, test them and get users involved, but we will not know until we get to certain stages whether there will be hidden issues. End-to-end testing is a classic area for IT systems where, even if all the component parts work absolutely fine, it is not until you put the whole thing together and do the end-to-end testing that you find there are some issues. It is almost unheard of to do end-to-end testing without finding new issues.

At a macro level, the thing that keeps me awake at night is the fact that we cannot know until we have gone through this process what we will find. Working to a fixed deadline and the huge scale and complexity of



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the projects mean we are carrying high risk. Even with all our resources focused on making sure that we can catch problems early and fix them, I cannot guarantee that there will not be something that gets through.

Q8 Chair: We will touch on some of the specifics later. David Kennedy, what are the biggest concerns in your area?

David Kennedy: It is the general issue of moving from having good plans, although I am confident we have got good plans to actually implement. The most important and most complex project that I am responsible for is the import notification system for food: the TRACES replacement. That is proceeding well for the time being, but there is more to do to complete the IT build. As Clare says, once we get into January and February, we will need to test the system, and we will have to see what that throws up. We have got contingency plans, depending on what those tests show us, but there are huge challenges in the months ahead to have a system that stands up and works. Where I am looking from now, it is proceeding well. We have an amber/green rating from the IPA on the build of that new IT system, but there is still a lot to do.

Chair: The words "Government" and "IT system" do not always go together very happily, though.

Q9 Sir Geoffrey Clifton-Brown: Reading between the lines of what Ms Moriarty was saying and what you are saying, Mr Kennedy, I understand that the IT system relating to TRACES interweaves with the Customs and Excise CDS system, and until you test the two together, you will not know, so what is the date of that? When will you know whether the two are going to work properly?

David Kennedy: There are three parts of the system. There is a front end, which is a portal where the import agents will put in the data about the consignments. That needs to be tested. There is a middle rules engine part of the system, which is what the port health authorities use as they process the imports coming into the country. Again, that needs to be tested. What is actually less concerning is the interface with the CHIEF system, which is the customs system. We have a good degree of confidence about that particular interface.

Q10 Sir Geoffrey Clifton-Brown: What is the practical effect if this thing does not work?

David Kennedy: We certainly need to be able to process imports as they come into the country from third countries, and ensure that we maintain the level of biosecurity risk that we currently face. We have to have a process for making sure that that happens. You ask, "What if the IT system did not work?" There may be different bits of it that do not work, and we will have to respond depending on whether some of those risks crystallise.

If it were the case that the rules engine that is used by the port health authorities did not work, then there are manual workarounds for that. If it were the case that the portal did not work because it could not interface with the broader Defra systems, there are actual IT workarounds that we



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have identified as contingencies. We are watching this very closely. There are a whole number of risks that we have identified, and there are contingencies for all of those risks.

- Q11 **Chair:** To pick up on staffing, you have 1,300 staff in the pipeline, and I see that you have actually managed to get most of them through and recruited as of June. Where are you at now?

Clare Moriarty: We recruited about 1,300 staff over the course of 2018-19. We have another 1,400 to recruit over the course of the current financial year, and we are about halfway through that process. Some of the people are in the building, and some of them are going through the pre-employment checks.

- Q12 **Chair:** You have a lot of new people coming in. You have lots of things for them to do, clearly, and you have lots of legislation to get through. How ready are these people to step up into these positions? What grades are they at? Are you getting people coming in at a higher level, or are they all new junior starters in the civil service?

Clare Moriarty: We have people coming in across the piece. We have taken quite a lot of people at the HEO level. We have taken quite a lot of relatively new graduates and people who have spent some time in other organisations. We have also brought more people in at more senior levels, particularly in our programme and project management areas, where we are having to grow new muscles quite fast.

- Q13 **Chair:** So you are specifically bringing in trained project managers—people who have dealt with and delivered big programmes.

Clare Moriarty: Yes.

- Q14 **Chair:** Where are they coming from? Are they straight from university, Ms Finkelstein, or not?

Tamara Finkelstein: No, a number of them are interims. They are experienced project managers in the market that we are bringing in, both into our portfolio management office and, even more importantly, embedding in projects. They are both programme management people and, importantly, some planners. We have some more planners coming on stream, but they are experienced people.

- Q15 **Chair:** Are you saying that the experienced people tend to be interims, or have I misread what you are saying?

Tamara Finkelstein: Some of them are interims, and we attract some from other Departments and other organisations as well, but all of those are experienced people.

- Q16 **Chair:** Is there not a danger that you are all fishing in the same pool, so to speak? You all want project managers to deliver IT projects; you have 14 IT projects, and other Departments have many. Are you struggling or managing? Are you confident that you are recruiting people?



Tamara Finkelstein: We are recruiting and we are getting people in. We also have strategic relationships with some suppliers who are providing people to work on the IT projects. We are trying to get ahead of the game, guessing at things that could go wrong and what we need further down the line, so that we can describe to them what we will need and they can be ready to provide that. That is quite important.

Q17 **Chair:** That sounds great, if you have experienced civil servants. I mean, your Department obviously works outward facing with lots of agencies all the time, so it has expertise. This is not to denigrate our brilliant graduate community, but if you have new graduates coming in with no experience of Defra, no experience of the agencies you are dealing with, no experience of policy—except that they have their brain—and no experience of project delivery, there is a long way between them and what you need to achieve. Can you convince us that you have the right skills in place that can ramp up all the things we were just talking about in time for 29 March?

Tamara Finkelstein: We have put in place some very good induction processes and learning to train people up. That is a part of it. There is a range of jobs that we need doing. Some of those are really well suited to new graduates, but not everyone who comes in is a new graduate. We are attracting people from a wide range of areas. On the policy side, we sometimes attract people from other Departments, but we also attract people who have worked in policy-type areas externally. There is a range of people that we are recruiting. We are also finding ways in which we can deploy them to more of our business-as-usual work and therefore release people who can be brought into some of the priority areas. We are trying a range of ways to get people in. The prioritisation work the Permanent Secretary described at the beginning has in part been about how we swiftly move even more people with experience from some of our other work into planning for a no deal scenario in particular, to help us get up to speed. We are using a range of ways.

Q18 **Chair:** Clare Moriarty, you are sitting at the top of an organisation that—this must be a dream for a Permanent Secretary—is actually growing exponentially, but that creates huge challenges, too. What are your biggest fears about this team of new people, a lot of whom are having to learn on the job?

Clare Moriarty: It is an absolutely massive challenge. Most of us are used to phases when we are reducing the size of Departments. There are phases when we are increasing them somewhat, but generally speaking you increase them from a base that means the number of people you are bringing in is much smaller than the size of the Department. We have gone way beyond that position.

We have brought in fabulous people from other Departments, and Tamara of course is one example of that, so we certainly are not relying only on either interims or people coming in straight out of university. We have had a fantastic success rate with recruiting very good people from around Whitehall who have knowledge and experience of the civil service. We



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have very good people who have a lot of subject matter expertise within Defra. We are trying to make sure that we use people's expertise in the best possible area so that our new joiners can learn from the experience of people who are already in the organisation.

It is a very big challenge. We are running very big capability programmes. Induction is the starting point, but we have been running programmes to give people training in how you understand the EU, how you understand legislation, how you understand Parliament and how you understand devolution—all the component parts. We take bright graduates in through the fast stream all the time and we expect them to hit the ground running and be able to perform quickly, and they do, so there is an element that we are used to doing. But we need to make sure that we have the capability and corporate knowledge and that people understand quickly enough some of the necessary ways of doing things, and to create a culture that is open enough to lots of new people while retaining those core strengths. It is—I am not going to pretend—an anxiety that we are doing these very, very large-scale and very complex projects and we have a different mix of people from what the Department is used to.

Q19 Chair: We will come back to how you are managing legislation with some of these people. Do you have any sense of whether you are denuding some of the other agencies you are working with of their skills? If you are bringing people with knowledge of Defra responsibilities into the Department, are you taking them from a pool of people that those other agencies themselves will have to backfill?

Clare Moriarty: We did quite a lot of thinking about this in the early stages, and in some of the work that David did, when we looked at the areas that most needed expertise. We have tried to think a bit strategically about which are the areas where we most need people who have experience, and about putting people with medium experience into the areas where we need more experience and then backfilling into the types of roles where people can learn and become competent more quickly. There has been quite an interesting process of trying to make sure that we are both getting the right capability in the right place and, as you say, not leaving our agencies unduly exposed. David may have examples from APHA and places like that.

David Kennedy: Absolutely. What I worry about has changed over time. A year and a half ago, we were really strong on policy—what is the direction?—but less strong on project and programme management skills. We had a real focus on bringing those people in. Some of them are interims, particularly in the key positions, but we have really good operational delivery people in the Animal and Plant Health Agency and the Rural Payments Agency, so we have said, "Who could we move across without damaging the work of those operational delivery bodies?" Then we have worked with the operational delivery profession across Whitehall. So I am confident we have got good PPM capabilities, but you move on. As we get into project implementation, what I have worried about more recently is business readiness, and have we got the comms people to go through all the various channels and get our messages out to people who will need



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to use the import control system? So we are now ramping up, and have been over the last few weeks, our resource there.

Chair: All this sounds great, but with six months to go, I think we are all a bit nervous. I now hand over to Sir Geoffrey Clifton-Brown.

Q20 Sir Geoffrey Clifton-Brown: Could I just follow up that answer, Mr Kennedy? The 1,300 or thereabouts whom you have recruited is quite a lot of people. Do you envisage their working for the Ministry in the longer term, or will they be there only during the implementation—up to the end of the implementation phase, whenever that is?

David Kennedy: From a departmental perspective, I would pass that to Clare. As far as we are concerned, there is a significant amount of work to do to no deal and beyond no deal, if that is the scenario we are in. If we were in an implementation period, we would need those people right through and beyond. There is a point where there will have been a bulge, which we can manage down over time, but I wouldn't have thought it would be exactly at the end of an implementation period, if that is the scenario we are in.

Clare Moriarty: That's right. As you say, we have hugely increased our numbers. In the initial phase, that was very much in the core Department; now, more of those numbers are in some of our delivery bodies that are most heavily affected. There will certainly come a point when we reach peak Defra, and our numbers will then go down. I don't expect them to go down to the level that they were previously at, because we are repatriating responsibilities that sat with the EU.

The future farming programme is our programme to replace the common agricultural policy. That is a programme where we have set out an agricultural transition period over seven years. A lot of the work of that will be frontloaded in that period, but we are not in a situation where there is this amount of work to do and at the end of an implementation period it suddenly all falls away. Different pieces of work have different profiles, and the nature of the long-term economic partnership that we find ourselves in with the EU will also determine, in some cases, whether we need a small handful of people or a much bigger group of people to undertake service delivery.

Q21 Sir Geoffrey Clifton-Brown: While you are on your feet, so to speak, let me ask this. You mentioned at the beginning of the session that you have established a new commission for stakeholder engagement. I had one of my key meetings with my farmers on Friday, and there was a lot of apprehension. I think it has been calmed a bit by the Agriculture Bill, because it gives a pathway for the single farm payment, but with the Cotswolds being a very big sheep-producing area, there was a lot of apprehension about the exports of sheep, so the question that I asked at the beginning was not entirely off the wall. I wonder whether you could do more to reassure farmers in the livestock industry of what the likely scenario is going to be in a no-deal situation, because I can tell you that at the moment there is a lot of apprehension out there.



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Clare Moriarty: That is something that we are actively looking at. Obviously, there are the projects where we know that we need to put something in place—those are things that are within our control; those are areas where it is the UK's decisions, which we are then implementing and turning into service delivery. There are other areas, where we are negotiating with the EU, and, to some extent, the scenario that we will face will be a product of that negotiation and decisions that are taken by the EU. At the moment, as part of a Government-wide effort, we are looking at a range of scenarios and working through what the position might be.

What we have done through the technical notices is to set this out as clearly as possible, for the benefit of all those people who are rightly concerned to understand what may happen. We have tried to set out what we understand the position to be. What we are now doing is trying to look at that in terms of scenario planning, but there are a lot of moving parts and we are not yet in a position where we can say, "It's definitely going to look like that."

- Q22 **Sir Geoffrey Clifton-Brown:** Once more, we could do this in the farming press, to try to avoid some of the more sensationalist stuff. If people know what is going on, they tend to be less apprehensive. If they get sensationalised stuff from the media, it makes them very apprehensive. Could you do more to give a more rounded portrayal of what is likely to happen?

Clare Moriarty: Yes, that is a very good point. Unfortunately, in some cases, the media print things that, as I said at the beginning, are patently untrue. However, we are certainly working closely with the farming industry to try to make sure that we have as good a shared understanding as possible. David, do you want to add anything on that?

David Kennedy: We are working closely. I am meeting Minette Batters tomorrow to talk about lamb exports and what the likely situation will be. There are different scenarios and things that the Government can do with the levers available. Any of those levers in the CAP legislation will roll over, and we may want to use them. That is an ongoing discussion within the Government and also between us and the industry. However, I think you are right: we need to communicate this better.

- Q23 **Chair:** We have been raising concerns about that communication for a while, and some of the evidence we have received ahead of this sitting underlines that. I will pick one out, from Greener UK. Its chair, Shaun Spiers, wrote to you, Ms Finkelstein, on 4 October, saying that meetings have been arranged by Defra officials on some FIs, "but it has been difficult to provide any considered analysis, owing to the nature of the material which has been made available and the circumstances in which it has been shared. Our ability to provide any useful feedback to Defra is hampered."

That feeds into the press reports about non-disclosure agreements and secrecy about what is going on in Whitehall. Have you been hampered by



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any other part of Government in sharing information with the agencies and organisations that you deal with?

Tamara Finkelstein: We have been having conversations through lots of our usual forums. We have obviously worked cross-government ahead of putting out the technical notices, to ensure that those are co-ordinated and that we are putting out the right information.

Q24 **Chair:** Have you been hampered, compared with your normal activity?

Tamara Finkelstein: Not hampered. We have worked cross-government—organised by DExEU, which has that co-ordination role—to ensure that we can put out information through the technical notices that picks up the different elements across Government that are suitable for each sector. On the basis of the technical notices, the new directorate that we are now building will step up the regularity and the content of the engagement that we can have with businesses. I think we can do that off the back of the technical notices. We are building that now, and we will move to a much more regular—

Q25 **Chair:** Have any of those organisations been required to sign non-disclosure agreements if they are having discussions with the Department?

Tamara Finkelstein: There is the option of a non-disclosure agreement when it is a good basis on which to have a more detailed conversation, but—

Q26 **Chair:** Can you give us any examples of areas that people aren't able to discuss in the open?

Clare Moriarty: Non-disclosure agreements have certainly been used in areas of commercial sensitivity. To some extent, that has been to allow businesses to give us information that they would not necessarily want to share more widely.

Q27 **Chair:** But the non-disclosure agreements are about them not being able to disclose the conversations they have had with you, rather than you not disclosing the private and commercial information. We heard about this around the borders, for instance, that some companies—

David Kennedy: I think that is a good example. Non-disclosure agreements have been signed with various organisations, such as the British Retail Consortium, for those border discussions. I would distinguish between—

Q28 **Chair:** Can you explain how they work? It sounds like they are being gagged if they are signing non-disclosure agreements about discussions they are having about preparedness for EU exit. The British Retail Consortium represents a large number of businesses. For clarity, does that mean that it cannot go and talk about those discussions with its members or in public?

David Kennedy: To give you an example, about a month ago we brought in the British Retail Consortium and various other organisations to have a



frank, open and detailed discussion about the borders arrangements, and particularly the import arrangements—partly our import control system and partly the customs approach that we will have. That was for us to get a first reading of the industry's reaction and its planning. It was not for them to tell all of that to their members; that was to come after the technical notices were published, which they recently were.

- Q29 **Chair:** It is not rocket science to work out. We now have the list in the appendix to the NAO Report of your work streams and details, thanks to Sir Geoffrey's doggedness; it took some effort to get some of that out of the Cabinet Office. The NAO can get a lot of that. However, none of it was difficult to have worked out, and I am sure that the EU27 have worked out a lot of this. I am not quite sure what it is in those discussions that is so secret that businesses cannot discuss it among themselves?

David Kennedy: That is true, to an extent. If I take export health certificates as an example—the NAO picked it up—we have not had a public dialogue about vets signing export health certificates. On the other hand, we have had dialogue over the last months with the vet service providers. They have not signed NDAs, and we have had open and frank conversations, and built up a picture of the situation in the industry.

- Q30 **Chair:** Just put yourselves in the shoes of a business or organisation having to deal with exports and imports, or any of the areas under your responsibility. You would have to be quite a big player to have somebody who can understand how Whitehall works at this point. If you are a small or medium-sized business, you are a bit in the dark, aren't you? With these non-disclosure agreements with their umbrella bodies, how is a small business supposed to know what is going on, and we are only six months away?

Clare Moriarty: The non-disclosure agreements particularly helped before the technical notices were published, and in order to be able to give some industry partners very granular levels of detail. At the event that David referred to, we were not saying, "In broad terms, this is what we are going to do." That was a very detailed walk-through by customs experts, in order to test and understand what the implications of routes might be. The value of a private conversation is to be able to test some of that—

- Q31 **Chair:** What would have been the honest damage done to any business, if discussion about how borders would work was in the public domain? There is speculation out there; maybe the facts would be more helpful. What damage were you guarding against with non-disclosure agreements, which are all merrily defending secrecy in Whitehall? It is not a good look.

Clare Moriarty: I see that. Like all these things, there are phases of work. We are now trying to get into a phase of work where we can have the maximum number of conversations with the widest possible range of people. There is detailed work to be done. To some extent, the press article that Sir Geoffrey mentioned at the beginning—pieces of information slightly randomly put together can lead people to draw misleading conclusions. We are trying to test the detail, particularly where there are



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still some decisions to be taken about the precise way of doing things, to make sure that those are informed by industry before we get to the stage of doing everything in public. I do take your point—we are trying to get to the point where we can have as open discussions as possible.

- Q32 **Chair:** I have to say, you talk about “in public” as though it is a bad thing. However, let’s be honest, most citizens would not be that interested in the detail of a veterinary certificate, but the businesses and agencies involved in that would be very interested. I would have thought that having that discussion openly could only help you do your business. The worry is that if you draw in your tentacles, and keep everything secret and inside Whitehall, you are not having that wider dialogue and, therefore, there is a risk that you will come across a hurdle that you had not expected. Which bit of Whitehall is encouraging these non-disclosure agreements? Is it something that you, Ms Moriarty, and your Department have come up with, or is something that the Cabinet Office or DExEU is driving through Whitehall?

Clare Moriarty: It is not something we have come up with ourselves. As all parts of Government have worked through lots of different scenarios planned at once, it has been a way that has evolved. To be honest, I could not tell you exactly where it has come from, but I completely take your point that the sooner—

- Q33 **Chair:** Sorry, you cannot tell us where it has come from, but you are the permanent secretary of the Department, so you did not decide off the top of your head to start signing non-disclosure agreements, did you? It has come from somewhere.

Clare Moriarty: There are non-disclosure agreements that have been signed in the context of the border work, which I assume have been under the aegis of the border delivery group.

- Q34 **Chair:** Because Jon Thompson chairs the border group, so that would be under his aegis, but potentially the Cabinet Office. Anything else? Any other areas that are definitely from other parts of Whitehall? Ms Finkelstein?

Clare Moriarty: To be honest, I am not aware of other non-disclosure agreements that we have used.

- Q35 **Chair:** So you are just talking about the border one. You were talking about the British Retail Consortium earlier, which was under the border. So that is the only non-disclosure agreement that you are aware of that your Department has required organisations to sign.

Clare Moriarty: Not the only agreement, but the context, as far as I am aware—I take the criticism you are giving us and I will establish whether there are any other areas where we have signed. But in terms of the areas of discussion where there have been non-disclosure agreements, that is the one that I am aware of.

Chair: Okay. We will come back to communications a little later, so we might pick up more of this then.



Q36 Anne Marie Morris: Ms Moriarty, I will go very quickly through the four workstreams that are identified for a particular level of scrutiny by the NAO. For me, the most important will be the chemicals, because I think that is where there are most problems. However, I will start with food imports. You have told us where you are with TRACES and we have looked at the technology issues. However, you have said that you have put in place some contingency programmes. If we don't have an IT system, what would the contingency programmes be? Will we use pen and ink? And what about physically—for example, the roll-on roll-off boats? What is going to happen?

Clare Moriarty: I will give you the header and then David can provide some detail.

This is not about not having an IT system; as David was saying, this is about understanding that there may be elements where the IT system does not do everything that we would want to—maybe. We do not know at the moment. I went up on Friday and walked through the system myself, and at the moment it all seems to be absolutely fine. But until we complete the end-to-end testing, we do not know if there might turn out to be a problem with an interface between different parts of the system. So we need to understand what area a problem might arise in and then establish what the issue might be.

Q37 Anne Marie Morris: Let us, for the sake of argument, just say that all of those integrations between the systems, which is what you are talking about, do not in fact work. What then?

David Kennedy: Okay. I talked about the front, middle and back of the system. If you take the middle, which is what the port health authorities use to do their processing, at the moment TRACES, which is the EU system, goes down for several days and there are manual workarounds. So there are processes in place that could be invoked. It would not be ideal if you were to invoke them for a longer period of time, but we have been through and asked, "Could that happen?" The answer is, "Yes, it could happen".

Q38 Anne Marie Morris: Okay. And you have got the resources? Have you upped the resources, so that if it did happen you could actually do it?

David Kennedy: There needs to be flexibility in the resourcing and you would need more people if you were going to have a manual workaround. If you are asking, "Is the lead time sufficient that we could bring those people in?", it is. As we get closer to exiting the EU, the lead time is obviously getting a bit compressed then.

I will give just one other example. We talked about the back end of the system, which is the interface to CHIEF. We are confident that is going to work, actually, but if it were not to, then the most simple solution would be an email that you send from the port health authority to HMRC to say, "As far as we are concerned, this consignment has now cleared all of the processing and can be released, subject to customs aspects".



- Q39 **Anne Marie Morris:** What assumptions have you made in terms of what the French will do, because the roll-on roll-off—where are they going to come from? Are you expecting the French just to carry on as normal and assume we have got a system running, or not to send boats across, or to send them to different places? What do you expect them to do?

Clare Moriarty: It is worth saying that on day one the import notification system will not be used in relation to imports from the EU. So the current system is used for imports from third countries. The system we are building will have the capability for pre-notification of imports from EU countries, but if we exit without a deal then on 29 March 2019 we will not be seeking to have pre-notified imports from the EU.

- Q40 **Anne Marie Morris:** What does that mean—that nothing comes in from the EU?

David Kennedy: No. The policy approach has been designed on the assumption, which we think is a valid one, that the risk from EU imports is no different on day one in that scenario to day zero, and that would stay the same for the foreseeable future, because we have got regulatory alignment. So, we would allow stuff from the EU to come into the country; it would not have to be pre-notified; and it would not have to be checked at the border inspection post either. So the flow would carry on.

- Q41 **Anne Marie Morris:** I get that. Brilliant. What about if the French start playing difficult? What is it they could do, in terms of the way they manage their exports and our imports that would give us a problem? You may say, “Nothing”, but I am asking the question.

Clare Moriarty: Imports coming through ro-ro ports will not be subjected by us to any checks, and they are not subjected to checks on the French side, so we can make our decisions about how those imports come through.

- Q42 **Anne Marie Morris:** Are you seeing any particular risks then with the ro-ro imports?

David Kennedy: The ro-ro imports should flow as now; that is the policy design.

- Q43 **Anne Marie Morris:** But you are not going to put in place any checks, so is anyone going to be very clever and try to put something through a ro-ro that they would not have done before?

Clare Moriarty: One of the areas where we are doing work across Government is to understand what the impact may be at ro-ro ports, but I do not think we expect in the short term that people will suddenly decide to send things via ro-ro ports. We will, as soon as we can, be introducing a requirement to pre-notify high-risk imports, and we will over time—this is a system which can be used to pre-notify all EU imports, but what we are doing is prioritising flow over the checking in the short term. We are constantly making risk assessments, and the risk assessment there favours flow.



Q44 **Anne Marie Morris:** What plans have you got to collect or assess tariffs on imports from the EU in a no-deal scenario?

Clare Moriarty: Tariffs is essentially a matter for HMRC. We are working with HMRC and I know we have another session on borders in a few weeks, so they are responsible for the processes which will determine how people make declarations before they come into the country and how tariffs are collected within the country.

Q45 **Anne Marie Morris:** So no change, no problem, all okay—yes, Ms Moriarty?

Clare Moriarty: I am not going to risk straying into HMRC's territory, particularly as I am, as I say, back here in three weeks' time with colleagues from HMRC when I am sure those questions will arise.

Anne Marie Morris: Fair comment.

Q46 **Sir Geoffrey Clifton-Brown:** On the ro-ro issue, Ms Moriarty, we received evidence from HMRC that, at least for a time, the port manifest system as to what is actually on the ro-ro ferry is not going to be working; so if you are not going to carry out any checks, how do we know that what, ostensibly, an individual lorry is carrying is actually what it is carrying and, therefore, that we are not impinging on public safety, or having a huge amount of smuggling of stuff that should not be on that lorry?

Clare Moriarty: Well, we don't. Effectively that is exactly the situation that we are in at the moment. There are a set of official controls on how food is produced, which apply across the EU, so they apply in the UK and they apply in the EU27. They will continue to apply in the EU27. So what we are saying—and I do accept that there is a risk involved in this, but it is a risk that we believe represents the best balance between disruption to flow and maintaining biosecurity—is that the existing controls that are there within the EU27 on the production of food and the checks imposed at the border of the EU on food coming from outside the EU mean that there is not a step change in risk of a no deal at the moment. So it is not something that we regard as the enduring solution, but what we are trying to do is to make sure that we can operate a system on 29 March 2019 in the unlikely event that we exit the EU without a deal.

Q47 **Sir Geoffrey Clifton-Brown:** There clearly is a risk to public safety. Maybe now—I hear what you say—is not this a priority that even whether it is a no-deal scenario, or a transition scenario, or whatever, that Defra ought to be addressing to try and see how we can toughen up so we know what is coming in and out of this country?

Clare Moriarty: Yes, and that is exactly what we are doing. What we have to do is sequence and manage the risk, so when we look at the risk of a no-deal exit the first thing we have to concentrate on is the third country imports, which we do currently subject to checks; so we need to make sure that we have the ability to pre-notify and check those imports. So the first bit of the sequencing is "Let's make sure that we have got a system which replicates the biosecurity regime that we currently have in



relation to third country imports". By definition, not having checks replicates the biosecurity regime that we currently have for imports from the EU.

You are absolutely right that we then immediately move on to the question of how we ensure that we can have greater understanding of imports coming into the UK from the EU. Again, we are trying to do that in two stages; so not everything that comes in from the EU has the same level of risk, so we are trying to go through some work to identify what the high-risk products are, and prioritise them, in terms of a pre-notification regime, but move to a pre-notification regime which will cover all imports from the EU; but in reality we have to keep making judgments about how fast we can go and how much risk we import into the system. So if we try to do everything at once there is a greater risk of falling over than if we do the thing that we know we have to do, followed by the next thing, followed by the next thing.

Q48 Sir Geoffrey Clifton-Brown: A final question on this very important subject. Supposing there was a consignment of food coming from Turkey into the EU—into Germany or Greece, or up through Europe—would that be classed as an import coming from the EU, or would it be classed as an import coming from a third country? I can imagine what the EU would do. They would say, "This is from Turkey. The manifest says it is going to the UK. We are not interested in this."

Clare Moriarty: And that exact risk is one of the risks we have identified as needing to be addressed immediately on day one. Transit goods that we would previously have accepted if they were brought into circulation in another EU country—we would have said, "That is fine, we will treat them like EU imports"—will be treated as third-country goods. They will need to come in through a border inspection post and they will be subject to pre-notification and checks. I do not know whether there is anything I have missed there, David.

David Kennedy: We think there are around 4,000 consignments that come in currently on the routes you mentioned. They may be coming across the channel. Those will not be allowed to come in on those routes any more. They will have to enter the UK through a border inspection post and go through the normal third-country checks.

Just to add, we have a dedicated project for day one in a no-deal scenario that asks, "What about after day one? What is the enduring regime?" It picks up exactly the questions you have identified, such as, "What are the risks of smuggling? What other things can we do better than the current EU border regime, which we would be free of in that scenario?" It is about more risk-based controls, for example. There is a dedicated project, but if you are thinking about what we have prioritised for day one, we have prioritised day one and not the enduring regime that will come after. When I say it will come after, it should not be too long after. We will turn our focus to that.

Q49 Anne Marie Morris: Mr Kennedy, I want to ask about vets. There was a



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very positive approach to developments from Ms Moriarty and yourself earlier. How many do you need and how many have you got to carry out the inspections that you predict will be needed? This is in regard to food exports.

David Kennedy: In terms of numbers—let us be clear that this is a job for the private sector.

Q50 **Chair:** You are not recruiting vets directly?

David Kennedy: We are not recruiting vets, but we have been working very closely with the vet industry to see whether they will be able to scale up. There are probably three headlines from that conversation, which has been going on over the past three months. First, they are preparing to ramp up to meet additional demand. Secondly, they do not want any Government intervention in that market, which they would see as distorting things in a very unhelpful way. Thirdly, they very much value the support we are making available not only for vets to have the specialist training, which takes about six hours online, but for non-vets. There is a discussion we are having with the Royal College—it is referred to in the NAO Report—about using non-vets.

To answer your question about numbers, we think that fewer than 50 full-time equivalent posts will be needed for EU export health certificates. To give you a sense of the magnitude, there are about 200 or fewer full-time equivalents at the moment. They are all vets, we think. They are going into processing export health certificates for non-EU countries. There are 600-plus vets who are actively working on that area. They are doing it as part of a portfolio. It is 600 vets, but they represent 200 FTEs, so people are not doing it full-time, on average. There are 6,000-plus vets who have the basic exports qualification. With the six hours training, they would be able to sign the export health certificates. It is 50 FTEs. There is a pool who are already qualified and not fully utilised in doing this. Then there are 6,000-plus who could quite easily work in this area. That is why the industry is telling us that they do have the flexibility. This is not about them going to Spain or eastern Europe or wherever and quickly hiring a load of vets. There is capacity in the existing system.

Q51 **Anne Marie Morris:** I understand that, Mr Kennedy. My concern is about what comfort you are going to get. It is woulds and shoulds you are talking about. It is great to quote the numbers, but at the end of the day, you need to know that Mr X and Ms Z are going to be there, where you need them, to do these certificates. Where are you going to get that comfort from? It is all warm words, is it not?

David Kennedy: Well, it is very detailed conversations with the industry about the kind of numbers we have talked about to get an understanding of the flexibility and capacity in the system.

Q52 **Anne Marie Morris:** You do not understand it enough. You need a list, you need names, you need telephone numbers and you need people to get into contact with.



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Clare Moriarty: If you think about the circumstances in which someone is going to need an export health certificate, it would be because they were exporting products of animal origin. If they were rearing those products of animal origin, that means livestock, so they would have a relationship with a vet.

We are not conjuring up vets to do something different. It will mean the company doing the export ringing up a vet with whom they probably have a pre-existing relationship and saying, "I need you to come and do this piece of work," in the same way that they might say, "I need you to come and check over the livestock." We are not creating a whole new set of people to do something different. Some people may find that they spend a bit more of their time doing export health certificates. Some vets who have previously—

Anne Marie Morris: But the challenge is that the fact that they may be able to do it is not the same as their necessarily having the time available to do it.

Chair: Or in the right part of the country.

Q53 **Anne Marie Morris:** Indeed. Also, what do you pay for doing something like that? It may be that doing cats and dogs is more remunerative and lucrative than this, so the fact that it is possible and that there is a pre-existing relationship does not give me the comfort that the resource will be available. What comfort have you sought to ensure that these people have the capacity and will accept the price you are prepared to pay?

Clare Moriarty: Again, as David said, it is not the price we are prepared to pay; it is the price the exporters are prepared to pay. The exporter has the responsibility: they get the blank certificate or the filled-out certificate from the Animal and Plant Health Agency and they then have to get a vet. To some extent, there is probably a bit of supply and demand in the market, so if it is something that the—

Q54 **Anne Marie Morris:** Are you saying that the prices are going to go up, Ms Moriarty?

Clare Moriarty: I don't know. I do know that there is a great deal of conversation going on with the veterinary profession and that the veterinary profession are not saying to us that they think this will be a problem. You are quite right: until it happens, we can't know, but I do not think it is for Defra to have a list of vets who we certify to do the work. We make sure that there are qualified—

Q55 **Anne Marie Morris:** And do you not feel exposed because you don't know who? You are just relying on an association to say, "It'll be all right on the night, chaps."

Clare Moriarty: As David said, we can estimate the additional veterinary capacity that we think would be needed and we can—

Q56 **Anne Marie Morris:** Forgive me, Ms Moriarty, I do not like to interrupt you. I apologise, but you are not giving me the answer I am looking for. I



cannot see in what you have said anything that gives me comfort that there will be the vet capacity there, it will not distort the market and there will not be opportunity taken by some to jack up the price, which would make a huge difference to the sector.

David Kennedy: If it were hundreds of vets we were talking about I would be very concerned, but it is 50, and potentially quite a lot less than 50, relative to a market that is already a decent size—

Q57 **Chair:** You might get 50 in Devon but not in the Cotswolds or in rural Wales or somewhere. It seems to me that you have no control over where the vets who agree to do this training will be and how quickly they can turn around an export licence. Some of this foodstuff will be quite time-sensitive.

David Kennedy: We don't, but we know that there are 6,000 across the country, so there is a distribution of vets who could do this job with very limited training across the country. Will it distort the market or change the market fundamentals? There will be increased demand for signing an export health certificate. Could that push the price up? It could. In terms of whether that is going to impact the price of exports and make them uncompetitive, I don't think so, because signing the export health certificate is a very small proportion of the overall cost.

Q58 **Anne Marie Morris:** Is that something you have actually discussed with the vets?

David Kennedy: With the vet service providers?

Anne Marie Morris: Yes.

David Kennedy: We have discussed whether they see a good business opportunity and they do see a good business opportunity.

Q59 **Anne Marie Morris:** Do they also say whether they are going to increase the cost and whether they are going to accept that? Effectively, as a governing body that is speaking on behalf of the vets, they must have a view—you'd have thought—as to pricing. Opportunity can sound like "double your money—fantastic!"

David Kennedy: In the market, the vet service providers, to the extent that they need to attract capacity from within the system, will have to pay for it. Is that going to be an exorbitant increase? I don't think it will be.

Q60 **Sir Geoffrey Clifton-Brown:** I wonder whether it is that you are making light of this problem or whether there is a real problem. We have had evidence from NOAH, representing companies that do research, manufacture. They say, and I quote exactly from their evidence: "Emergency planning at this very late stage should focus on what activities can be delivered by other qualified professionals in partnership with vets to free veterinary capacity". Do you think it will be necessary to use other qualified, but not veterinary, people to do this work?

David Kennedy: I think it will be very helpful. If we were not able to use vets to do part of the process—and I have said that that is a discussion we



are having with the Royal College at the moment, a discussion that will conclude in November as currently scheduled—it would be very helpful if we could use the non-vets. Then you ask whether there is sufficient lead time for those non-vets to be able to be trained and be part of that process, and the answer is yes, because—

- Q61 **Sir Geoffrey Clifton-Brown:** This is critical to exporting: what are some of our more difficult EU partners going to make of somebody who is not a qualified vet signing an export certificate?

David Kennedy: Within the international regime, it is a standard thing. It is more that we need to get the Royal College to feel comfortable with this, and that is an ongoing discussion, as I say. If that were not to conclude favourably, do we have enough vets in the system? Is there enough capacity and flexibility? I think the answer is yes, but this will help, and it will ease the impact that we have talked about, which is the excess demand and that demand feeding through to the prices.

Clare Moriarty: I hope we are not giving the impression that we are making light of this problem at all. We have taken all these issues and tried to work through them, and—as with everything else—tried to understand where there are very definite issues where we need to have some intervention, and where we need to make sure that we can put the right mechanisms in place. Our best understanding, as David says, from the extensive conversations with the veterinary profession is that this is an area where there will be sufficient capacity through a combination of non-vets and vets, but we continue to look at this all the time because, as you say, we need to make sure that it does not become the critical factor in terms of exports.

Chair: I think we are going to move on from vets, but it just sums up the challenge you have. This one small but important area of work is taking up such a lot of time, and is not yet resolved. That is just one of the many strands of work that you are doing.

- Q62 **Anne Marie Morris:** Before we move off export certificates, I think Ms Moriarty said that you were discovering rather a better scenario than you had expected, and you were not going to have to change them. Tell me: what will you have to change, and what will you not have to change now?

David Kennedy: These are the export health certificates that we have with a whole range of countries. The ideal, enduring solution is that we will have UK-specific export health certificates that refer to UK legislation. Those are the statutory instruments that we will be putting through Parliament over the next months, and we had planned that we would do that in a no-deal scenario. Given the pressures in a no-deal scenario, we have gone back and asked, “Is it absolutely vital that we change those certificates now, or can we leave that to the future?”

We have done two things. We have taken legal advice, and the legal advice is, “No, we do not have to change the certificates. We can continue to use the current set without changing them.” Then we tested it with our largest trading partners: “Is it okay with you if we carry on using the

existing health certificates?" They have said two things: either, "We would rather that you did," or, "We are indifferent whether you do or whether you change it." Nobody has said, "We don't want you to carry on with the current certificates."

Q63 **Anne Marie Morris:** Right, that is the 15 countries. Is that right?

David Kennedy: We have tested with the 15 that account for about 90% of our trade. There is a whole bunch of other countries that we now need to work through and say, "This is our proposed approach. We will carry on with the current export health certificates." If they say that is a problem, we have already identified the changes that we would need to make to those export health certificates, so we will change them. Our working assumption, based on those discussions that we have had with the key trading partners, is that we are not expecting to have to make many changes, but as I say, we stand ready to make those changes if we need to. We will then move to our own export health certificates in due course.

Q64 **Anne Marie Morris:** Okay. As I understand it, there are some issues around re-registration, so the impact on business will be significant. What are you doing to look at the challenge for re-registration, and are you looking for alternatives that would, if you like, get us around the problem?

Clare Moriarty: I will ask Sonia to comment on that.

Sonia Phippard: There is re-registration in two different directions for UK companies. The immediate requirement will be re-registration for companies currently registered through a UK address with the European Chemicals Agency. Obviously, the European Chemicals Agency owns the rules for that, but they did issue guidance as long ago as September last year on what companies need to do, and they have been updating it.

As for what we are doing there, the technical notice obviously sets out the requirements, but we are working very closely with the Chemicals Industry Association and the other bodies to make sure that the requirements are understood and companies have thought through the practicalities. We know that quite a lot of companies are already looking to make sure that they are in a position to put in their bid for the EU 27 as soon as the European Chemicals Agency, as it were, opens the door.

Q65 **Anne Marie Morris:** How long is that going to take? I understood it was about six or seven months.

Sonia Phippard: No, it does not take enormously long, because obviously third countries do it all the time when they want to register something new.

Q66 **Anne Marie Morris:** So how long does it take?

Sonia Phippard: In this case, you have all the data already. Companies are saying that, depending on how they do it, it is weeks, not months, of work, because this is about people who already have a registration but effectively want to change the address at which they are registered. In

some cases, they need to develop a new relationship, because they are not working internationally at the moment, so they need to identify a new representative and they will have to pay a fee for registering that way, but it is not a huge cost.

The key requirement there is to keep working with the European Chemicals Agency to make sure that firms have long enough to finally make that formal submission. The formal submission will be quick because it is on the basis of data that has already been accepted, but none of us wants all that to happen on 28 March next year. We and the industry are encouraging the European Chemicals Agency to come forward with further guidance and a date, and their website says that they are going to do that. We keep talking to them.

The second angle is the other way round. In other words—in a no-deal scenario—what do companies who wish to trade in chemicals here need to do? What we have said in the technical notice is that, again, for companies currently registered as part of REACH with the European Chemicals Agency, we will ask them to put in some basic data quickly—within 60 days for companies who have an existing registration in their own right, and 180 days for importers who would now be required to have a registration. That is basic information about who they are and what they trade in. We then suggested two years for the production of the full dossier—the database into the UK—

Q67 Anne Marie Morris: Six weeks is still a long time, so what will happen during that six-week period?

Sonia Phippard: During the 60 days that they have to get the basic information?

Anne Marie Morris: You have 60 days and then you talked about six weeks—there were two different periods of time.

Sonia Phippard: They have 60 days to get in their initial basic information, and two years to complete the full dossier. That is obviously for companies and products that are already fully registered in the European Chemicals Agency, so at the point of no-deal change, all that information is there, but they need to put it back together—particularly the detailed technical information—in a format that they can then put into our UK system.

Q68 Anne Marie Morris: And you are saying that that will take 60 days?

Sonia Phippard: For the initial information, we are giving them 60 days—

Q69 Anne Marie Morris: So what will actually happen while that data is going in, assuming that you cannot start doing it until—

Sonia Phippard: They can continue to trade as now, because remember this is about imports. Rather as David was explaining on the food side, as long as they abide by that 60-day requirement, they will be able to continue to import freely during that period.



Q70 **Anne Marie Morris:** Import freely during that period—from day one, 30 March—

Clare Moriarty: From the end of March to the end of May—

Sonia Phippard: They can import completely freely. From the end of May, we will need to double check—which will be a very simple check—that they have put in that basic registration, which is just, as I say, some very basic information about themselves and what they are importing. And remember we can cross check that with the publicly available data that is on the European Chemicals Agency.

Q71 **Anne Marie Morris:** That is coming this way, but is there a problem going that way—

Sonia Phippard: The problem going that way is the one where they do have to do something from 29 March. If a product is going out into the EU, they need to re-register, but in that instance, they have all the data, because the European Chemicals Agency already holds it. What they need is an address in the EU 27.

Q72 **Anne Marie Morris:** What will be done to facilitate that? Is there some entrepreneurial body out there setting up addresses for sale?

Sonia Phippard: There are already entrepreneurial bodies that do exactly that, called only representatives. Both they and, in a lot of cases, the partners of the exporting body are ready to work with them. You can register through an only representative or through an affiliate. You could register through your European importer and, at the moment, you could all be part of one organisation, but you would use your European importer as your formal point of registration. But all the data is there.

In that direction, you have a time pressure, but not a data difficulty. Coming towards us, ultimately, we need to collect all the data into the UK system to ensure that we can satisfy ourselves that all our chemicals are safe, but we are giving people more time to get that information in.

Q73 **Anne Marie Morris:** Going the other way, I am concerned about the SME. If you are a large company, what you describe is entirely possible and doable, but if you are a very small SME—and many of these chemicals companies are very small SMEs—you are asking quite a lot. Is the Government giving them any help or guidance?

Sonia Phippard: We are working closely with the chemical industry's professional bodies, because the best way of getting this information to them is probably via a mix of Government and the industry associations. We are also working with the larger bodies, because many of the smaller bodies are themselves suppliers to the larger companies. We are trying first of all to make sure that the information is out there and understood. We will produce additional guidance as far as we can on the requirements in both directions on the back of the discussions we have been having on the technical notice that was issued a couple of weeks ago.

Q74 **Anne Marie Morris:** And when will that be?



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Sonia Phippard: Next month.

Q75 **Anne Marie Morris:** What happens to the small SMEs that are not members of any of these bodies you have referred to?

Sonia Phippard: HSE is their point of contact in this country, because that is where they are registered at the moment. We can use our channels through HSE. We are holding stakeholder forums. We are planning with the chemicals organisations to hold stakeholder events around the country. It is quite a geographically clustered sector, so we will obviously go to the north-east and the north-west and to the other areas where there are concentrations.

Quite a lot of the more specialist producers are in turn members of more specialist bodies and organisations. We are making sure that we work not only with the Chemical Industries Association, but with the body that represents paint manufacturers and the more specialist organisations.

Q76 **Anne Marie Morris:** So assuming there is no deal on 29 March, are you telling me there will not be a problem for chemicals going one way or the other because both sides of the border are going to allow the hereditary systems of data that they have got to continue?

Sonia Phippard: What I am saying is that we understand what is necessary to make that happen, but you have put your finger on the key area. This is an area where the Government have said they want a negotiated settlement that allows continued access to the European Chemicals Agency, and the industry is very strongly in favour of that outcome. So the big challenge is communicating the "what if?", particularly given the fact that that has become a much more obvious risk. That is why we and the industry bodies want to work so hard to make sure that everybody understands, because, particularly in terms of flows out to Europe, it is the individual companies that have to take action.

Q77 **Chair:** How much is it costing to do that?

Sonia Phippard: Our estimate is that it is between about £200 and about £1,200 for moving the registration. You have to register as an entity, but if you have got several chemicals, you only have to register once as an entity.

Q78 **Chair:** So is the entity not for each export? Of course, there might be export duties on top of that.

Sonia Phippard: The tariffs in the chemical sector are capped under WTO rules, so on the whole, the industry does not see the tariffs as the huge challenge that they are for some other sectors. It is more about the complexity of the changed rules.

Q79 **Chair:** So there will be a cost, but it is capped. Do you have an idea of the cost of that?

Sonia Phippard: I'm afraid not.

Q80 **Anne Marie Morris:** I asked you whether, on day one of no deal, with no agreement with the agency, everything would continue as before, and



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you told me both parties were working hard to ensure that that did not happen, which is not an answer to the question. So, in the case of no deal and no arrangement with the various bodies, what will happen on day one?

Clare Moriarty: I think it comes back to the fact that we cannot know. As Sonia has described, we know what companies will need to do to register for the export side. The import side is within our control, so imports will flow. On the export side, we know what companies will need to do. We can find all the ways we can of getting to them. We are dependent on the European Chemicals Agency delivering on its promise of opening up the registration process with sufficient time to be able to process the registration. I cannot sit here and say I definitely know that there will not be a problem. I think we can say we are doing everything we possibly can to make sure that, both through giving information to companies and also through the discussions that are going on with the industry, the companies are in the best possible place, but there are elements of this that are the EU's choices rather than our choices.

Q81 **Anne Marie Morris:** Yes. I accept they're the EU's choices, which gives me concern, because there are absolutely no guarantees. If the EU, despite its rules, plays difficult and the agency does not do what they promised you, is there any authority for the WTO to step in, which is supposed to ensure frictionless trade around the world to the extent that it can? Or are we basically stuck and at the behest of whatever the EU decides will or will not happen?

Sonia Shippard: The point is that, as at 30 March, we are a third country and companies here can register with the European Chemicals Agency in exactly the same way as an American company can. The good news on this one is that the European Chemicals Agency recognised the risk early. Unlike in some other areas, we've had their guidance and their proposed approach, and they put out new Q&A information only last week. So they are working on providing both UK companies and EU27-based companies with information about the implications, and they have got a commitment.

So I think the worst possible scenario is that everybody UK-based has to put their new address—their application to be registered—through a representative or an affiliate at the point of exit, but we have a clear commitment from the European Chemicals Agency that that is not the approach they want to take. So far, they have continued to follow through on exactly what they said they would do in terms of putting out more information for the sector.

Q82 **Anne Marie Morris:** And if they don't do as they promised, what's the timeline, or time lag? We then become a third country, in terms of getting—

Sonia Shippard: The answer would be that in a normal situation it is quite a quick process, if all the information is in there, to shift your address. However, if every single UK company was doing it, I'm afraid that it would depend on the European Chemicals Agency's own processing capabilities.



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Q83 **Anne Marie Morris:** Are we talking about a couple of months?

Sonia Phippard: It might be as long as that, but I don't know. I can't say.

Q84 **Anne Marie Morris:** Okay. So there's really nothing that you can practically do about it. All right, let's—

Sonia Phippard: As I say, the good news is that they are committed to an earlier process.

Q85 **Sir Geoffrey Clifton-Brown:** The problem, Miss Phippard, with a no-deal scenario is that the goodwill between the EU and ourselves will have gone, and while you may say the European Chemicals Agency at the moment will process these applications quite quickly, I can see that in the event of a no-deal scenario they are suddenly going to start to get awkward. So isn't this potentially a very big problem, if we have a no-deal scenario?

Sonia Phippard: It is potentially an issue, but, as I say, at the point that we are a third country, companies can apply but we will also be looking—obviously—to build our relationship with the EU on all kinds of fronts.

This is also a very integrated sector, so we can be confident that the chemicals industry—both UK-based and Europe-based—will be looking for speedy solutions and putting a lot of pressure on the European chemicals industry. That isn't a promise; it can't be a promise. But there is a good deal of concern, both here and in continental Europe, to ensure that we find a rapid solution.

Q86 **Sir Geoffrey Clifton-Brown:** I will stay with chemicals for a minute, as it leads me nicely on to a few questions that I want to ask all of you on IT systems.

Businessgreen.com says that "regulatory and enforcement duties would be picked up by the UK Health and Safety Executive (HSE)"—HSE comes under the Department for Work and Pensions—"alongside the Environment Agency"—in your Ministry—"while plans are also being drawn up for a new UK IT system for the registration of new chemicals." You haven't fully designed the system yet. When will it be designed and will that be in time for the IT to be introduced before a no-deal scenario?

Sonia Phippard: That quote is absolutely right that, as of now, the HSE is our competent authority for chemicals, with the Environment Agency acting as professional adviser on environmental impacts. That will continue to be the case. So, yes, with the HSE and the EA, we are building a new IT system, because we don't currently register chemicals in the UK, but it will be operated by the HSE and EA. So any suggestion that there is a third player coming on to the scene would be misleading.

What we have been doing—with the HSE, the EA and ourselves as the policy leads—is to make sure that we've worked through the detail of a new activity, because we don't currently do the registration here in the UK. So yes, at the point that the NAO looked at the work, we were still



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working with them on ensuring that we worked through all that detail: how exactly will the IT be used? We are obviously, as in other areas, developing that new IT. But we are not changing the players and we are building on the competence of the existing competent authority.

- Q87 **Sir Geoffrey Clifton-Brown:** With great respect, your answer tells me the factual position, but it does not give me the answer to the question that I asked, which was when is the system going to be finalised, so that you can then start to build the IT system on whatever the two Ministries decide, and will that IT system be in place, and up and running, in time for a no-deal scenario?

Clare Moriarty: I was in Crewe, where the IT system is being built, on Friday. There is an IT system. It is in beta, which is relatively close to a testing phase. As with other areas, we have started doing something relatively simple. It is not the most sophisticated IT system, but it will enable the companies we were talking about, which are importing chemicals, to be able to lodge the information that they need to within those 60 days. It will enable them to lodge their more detailed data. The IT system is there and is going through the testing phase that you would expect at this stage of the process.

- Q88 **Sir Geoffrey Clifton-Brown:** So you are not worried about that particular system?

Clare Moriarty: I am worried about every single system.

Sir Geoffrey Clifton-Brown: You are worrying about every system. Of the 14 programmes that rely on IT, four apparently need a new build. We have discussed three of them: this HSE programme, REACH and the food one—I cannot remember what it is called now.

Clare Moriarty: There are six.

- Q89 **Sir Geoffrey Clifton-Brown:** Can you tell us what the six are and what timetables you expect for their implementation? TRACES was the food one.

Clare Moriarty: We are carefully not calling it TRACES. The import notification system is one of them. The export system is another one, in which we have deliberately put in place a contingency solution, which is almost ready, so that we can run the existing system with more robustness and at a larger scale, until such time as we are in a position to replace it with a more integrated and digital system. Those are the first two.

- Q90 **Sir Geoffrey Clifton-Brown:** Can you tell me about the timeline on the import system?

Clare Moriarty: The import system is in alpha at the moment, so it is one stage further back than the chemicals system. It goes into testing—

David Kennedy: It starts in January. It will have model office stage, which is scheduled for January. We want to have that system up and



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running in February, so that things that are coming here from a long distance will be able to register on the new system, for example, lamb coming from New Zealand. That is the target and there is contingency built into that. It might be that we cannot have this up and running by the beginning of February. What would we do? We would use the TRACES system for those New Zealand exports.

Clare Moriarty: As I say, in exports we have a contingency system, the last few bits of which are being manoeuvred into position this week. That is not a particularly sophisticated system, but it does enable people who may need export health certificates to find the form that they need more easily, and it gives us greater resilience in terms of the system we are running. We will then develop a more enduring system behind it. We have talked about chemicals. We have a system for catch certificates, which is in relation to fish. Again, that is in the beta phase. We have a system for F-gases.

Sonia Phippard: Fluorinated gases and ozone-depleting substances.

- Q91 **Sir Geoffrey Clifton-Brown:** On each of them—let me just stop you there. We have talked about the chemicals timetable. What sort of timetable are we on for the catch certificates for fish?

Clare Moriarty: That is in beta.

Sonia Phippard: That is also in beta, so we similarly want to have a system that we can test end-to-end in the new year, in January.

Chair: If it has not been tested in January it will be too late, won't it? So you will have to say January.

- Q92 **Sir Geoffrey Clifton-Brown:** Chlorinated gases?

Clare Moriarty: Alpha.

Sonia Phippard: But it is a fairly straightforward system, so it has a similar timescale.

Clare Moriarty: The last one is veterinary medicines authorisation, which is in beta.

David Kennedy: We are just starting testing on that one this week. Again, end-to-end testing will be in the new year.

Sir Geoffrey Clifton-Brown: Is it a fair summary to say—correct me if I am wrong—that none of your IT systems give you cause for concern about them being ready in the event of a no-deal scenario?

Clare Moriarty: As I keep saying, there are none of them I am looking at now and thinking, "Clearly that's not going to be ready." If we were trying to produce an enduring system for export health certificates, I would be anxious about that, but we have rolled back to a contingency that will allow us to operate on 29 March 2019. As I say, I have been up there and looked at where they all come in terms of the testing cycle and the point



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at which they go into private beta, public beta, testing and should be live, and at the moment they are all systems that should be live by 29 March 2019, having been tested—

Q93 **Chair:** Who is looking at this outside of Defra? There are presumably not major projects for every one because there would be too many.

Clare Moriarty: We have had quite a lot of assurance. The Infrastructure and Projects Authority have looked at some of the individual projects. They have certainly looked at the import notification system and they have also looked at the IT portfolio as a whole.

Q94 **Chair:** Okay. In terms of rating, where is it at on the RAG rating, looking at it as a whole but also at the individual ones?

Tamara Finkelstein: Their report put it as amber, effectively. There is a new rating system, but effectively it is amber. So they picked up on the risks.

Q95 **Chair:** I would be surprised if it wasn't amber with a January testing date, but everything is going to be ready for testing in January, which is a very neat timescale. A little bit could go wrong and you would find you didn't meet the 29 March deadline, so then what?

Clare Moriarty: As we have been saying, there are contingencies in place for these various different components. David has described the kind of contingencies that we—

Q96 **Chair:** Which is the biggest? Sir Geoffrey has helpfully listed this list, so which are the ones you are most worried about, and do they all have contingencies in place? With the layers of contingency planning, you have so many backstops and contingencies we are getting a little bit lost in a soup of contingency and backstop.

Clare Moriarty: That is the nature of planning for a low-probability, very-high-impact scenario. We have to have contingency because what we cannot do—

Q97 **Chair:** We are not saying you shouldn't, but there is a lot.

Clare Moriarty: Neatly, I think three of the systems sit with David, and three of the systems sit with Sonia. In terms of contingencies, if it is helpful, I think David has gone through the contingencies for imports—

David Kennedy: For the export health certificates, this is about making mailbox sizes bigger, SharePoint and putting stuff on gov.uk, which we will have completed in the next week or so. We are pretty confident that that is going to happen. For the veterinary medicines, which I have said is going into testing now and we aim to end testing in the new year, there are contingencies that we have in place—

Q98 **Chair:** Are you testing with real-life users?

David Kennedy: Yes.

Q99 **Chair:** So you are actually dealing with the people who will be using this?



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You are not doing a great civil service, “We’ve got this fantastic, beautifully worked-out policy idea with the IT attached to it” and then passing it out there? You actually have real people?

Clare Moriarty: We have learned. We are learning.

Q100 **Chair:** This is the new Defra. The new Defra is different to the previous incarnation.

David Kennedy: For the food imports—the import notification system—we are working closely with import agents who will use the system and we have been all through this process. We are not working with all 600 we have identified as using the current system—we will build out to that in January and February—but we are working closely with people who actually use this in the real world. For vet medicines, just to give you an example, what we have now is an EU portal to apply for approvals, for example of new vet meds. We are building that portal and the processing that goes behind it, but if it were not up and running—as I say, we are making good progress—we could have, at the extreme, a manual sending of paper applications, which would be far from ideal. But we have looked into that.

Q101 **Chair:** How many civil servants would you need to ensure that that worked in real time? Building the empire even bigger.

Clare Moriarty: Slightly. The bit of chemicals we didn’t talk about was new chemicals requiring authorisation because they are relatively infrequent. Probably with veterinary medicines it is not like exports where you have to be able to process large volumes. They are—

Q102 **Chair:** They are known quantities in terms of volume and type?

Clare Moriarty: Yes.

Sir Geoffrey Clifton-Brown: I am beginning to get a little worried about food exports. We have an export IT system that has a contingency in it—probably the most difficult of your list of IT programmes—

Q103 **Chair:** Would you agree, Mr Kennedy? You look puzzled.

David Kennedy: Imports is the most complex of our programmes. The exports is a very simple IT strengthening of the current system.

Q104 **Sir Geoffrey Clifton-Brown:** Okay. We have talked about export licences and we have talked about health certificates, but there is a third thing from this same website, Business Green. I quote from them again: “Further concerns were raised by the food and agriculture industry, which said a ‘no deal’ exit from the EU” would be difficult. “Defra admits in its technical notice on farming that from the day of departure, all exports of animals and animal products will be halted until the EU lists the UK as a third country. It says it ‘cannot be certain’ of the EU response or timings, but said it is ‘confident’ the UK would meet ‘third country’ listing requirements.”

Can you comment on that? Presumably, we cannot apply to be a third



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country until we are actually a third country and have left from 29 March, so there is bound to be a delay, isn't there?

David Kennedy: There isn't anything to stop us applying to be a third country now in a legalistic sense, but there is a question of how that ties in with the negotiations that we are going through at the moment, so we have not applied as yet. We hope we get a deal, but if we were to go down that path and apply to be a third country, we are compliant with all of the standards that third countries would normally have to be checked against, because we are part of the EU.

There is a separate question: would they accept on the EU side that rationale that you are compliant because you have been part of the EU, or would they insist on checking all of our food manufacturers, for example, and our slaughterhouses? You mentioned losing good will before. If they wanted to be very difficult there, they could be, and there is not a lot we could do about that. We are making sure that where there are things we can do—applying to go into this process in due course, if that is what we decide to do, and being able to issue the export health certificates—we are standing up to do those. There is a set of things that is in the gift of the EU and not for us.

Q105 **Sir Geoffrey Clifton-Brown:** But is there not going to be a hiatus here? If we get to 29 March with no deal and on 30 March you decide to apply, they could be quite difficult and say, "We need to consider this." Meanwhile, no food exports can take place, so what is going to happen?

Clare Moriarty: We certainly will not be waiting until the 30th and then thinking, "Shall we apply?" It is our absolute intention to get to the point where we can apply and become a listed third country for exactly that reason, because it is incredibly important that exports can continue, but it is a mirror of the situation we were discussing with chemicals. The EU could take a legalistic interpretation and say, "Until you are actually a third country because the UK is no longer part of the EU, we are not prepared to entertain your application."

That is the worst-case scenario, and we are doing everything we can to mitigate it through engagement with the Commission. It also has to be part of the scenarios that we are looking at, but again it is not somewhere that we at all want to end up. We are doing everything that we can in terms of making sure that we have all of our dossiers and all of the information, and we are absolutely demonstrating our continued desire and readiness to be listed. We are doing all of those things, but it is another thing that falls into that category of "It's not something within our control."

Q106 **Anne Marie Morris:** Let us move on to fishing. The approval for marine control and enforcement seems to have been somewhat delayed—the funding for it, I mean—because the business case has not been submitted. Is there an update on where we are with that?

Sonia Phippard: Yes. We have duly submitted the business case to the Treasury, and the Treasury has agreed that we should launch work both



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on recruitment of additional staff and procurement of sea and aerial surveillance capability. Essentially, this is about building up a capacity that the Marine Management Organisation already has, but with a very significant increase, and the Treasury has agreed that we should start on that.

Q107 **Anne Marie Morris:** How far will you have got by 30 March 2019?

Sonia Phippard: I choose my words carefully: we are confident that we will have recruited significant additional staff and trained them. We will have to deploy them carefully, so that we use existing, experienced staff alongside those who have been through their initial training, but we will have had to curtail that training or provide it in a slightly different pattern to ensure that they are fully qualified in time. We are also confident that we will have significantly increased sea and aerial capability. We are working with a range of public-sector and, potentially, private-sector providers for both of those services.

Q108 **Anne Marie Morris:** What about the numbers you need to recruit, not just on the ground, so to speak—maybe on the water—but also the aerial and so on?

Sonia Phippard: I am happy to give you numbers on people. Obviously, on some of the rest, we are negotiating commercially, so I am a little wary about giving you very precise numbers. On people, we are looking to recruit 30 to 60. We are being a bit flexible about that for all the reasons we have discussed. The extreme no-deal scenario is only one scenario, but we can take decisions as we go through the recruitment process. We have a very healthy applicant pool, so we should be well placed wherever we are in that.

Q109 **Chair:** How long does it take to recruit and train someone?

Sonia Phippard: As I said, the recruitment process is well under way. We are looking at a training programme that is rather more front-loaded than would be our normal approach.

Q110 **Chair:** How long? If you recruit someone next week, how long will it take to train them up?

Sonia Phippard: We will give them three months of fairly intensive training and then continue their training when they are deployed.

Q111 **Chair:** You said 30 to 60, which is quite a wide range, but you wanted more. As the NAO summarises in its key findings, in the bullet point in paragraph 12, you had a discussion—or an argument—with the Treasury, which did not agree to your full funding requirements, so you got fewer than you wanted. How many would you like to have been able to recruit?

Sonia Phippard: Thirty-two to 62, to be precise, was always our ambition.

Q112 **Chair:** You wanted the higher end, but when you talk about this range, are you recruiting at the lower end?

Sonia Phippard: As I said, we have a recruitment advertisement out.



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We will definitely recruit at the lower number, and we will continue to talk to the Treasury about whether there is a strong case for recruiting more now.

Q113 **Chair:** The risk of no deal means you need to recruit those higher numbers now. What was the Treasury's argument in pushing back? Was it just money or was it saying you are over-pessimistic?

Sonia Phippard: The options that we put in were obviously based on the Marine Management Organisation's professional judgment of a minimum-necessary scenario and a desirable scenario.

Q114 **Chair:** It is not something you can salami slice. Presumably you need a certain number of people on a boat doing physical patrols. So how many physical patrols will the numbers you are recruiting allow you to have?

Sonia Phippard: Obviously, you match the people to the hours at sea that we are purchasing. I do not want to be too explicit about the number of hours at sea, but we are looking at an expansion of several thousand hours at sea, and that will be supplied by a mix of our existing staff and the 30-plus additional staff.

Q115 **Chair:** Will the Royal Navy be helping?

Sonia Phippard: They will certainly be one of the people we anticipate helping. We are also talking to Border Force and devolved Administration colleagues, because in some cases they have capacity of their own. We are talking to Inshore Fisheries and Conservation Authorities. Obviously, there are also potentially private sector providers.

Q116 **Anne Marie Morris:** What assumptions are you making in terms of knowing how many people you need of what sort? Scallop debates have been a recent problem, but there are plenty of other things that could arise, given the emotional state. So what assumptions have you made that will ensure you have got enough to deal with conflict?

Sonia Phippard: We have obviously relied heavily on the Marine Management Organisation's professional understanding of the sector for both the number of UK vessels, or England vessels, because, strictly speaking, in this area the MMO is responsible for England, and also overseas vessels that currently fish in our waters. There is scope for difficulty and also the practical factors such as the range of vessels. One of the challenges at the moment, because we have a system that is integrated with the EU system, is that the extreme ends of English waters might be relatively lightly covered, so that is part of the argument for a significant increase. We rely at the moment quite heavily on the Royal Navy operating out of, say, Portsmouth. Although, as part of our coastal sea, they can cover other parts, it's a longer distance, so we are looking to increase our flexibility in that regard.

Q117 **Chair:** Are the marine patrols armed?

Sonia Phippard: I don't believe so.

Q118 **Chair:** We saw a disturbing situation in the English channel over the summer. What protection have your staff got?



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Sonia Phippard: One of the reasons for ensuring that we continue to have a strong partnership with the Royal Navy is to ensure we have them with us when we need them.

Q119 **Anne Marie Morris:** Could you give me an example of worst-case scenarios, in terms of individual fishermen on the French coast deciding, "This is not right. Vive la France"? What sort of scenarios have you looked at, and what do you feel you will be able to cope with? It would be helpful to have a flavour—an example.

Sonia Phippard: It won't be on the French coast, of course, because the French coast will remain the responsibility of the French authorities. Our responsibility will be halfway down the channel or out to 200 miles.

Q120 **Anne Marie Morris:** But there will still be French fishermen—

Sonia Phippard: There will be French fishermen fishing—

Q121 **Chair:** The channel is quite narrow, so it is quite near the French coast.

Sonia Phippard: It is quite near the French coast, but it would be French fishermen close to our coast or possibly our fishermen—dare I say it?—not behaving perfectly nearer to our coast. We have looked at the type of issue that arose in the Baie de Seine, where you had a debate between two groups of fishermen. That is a good illustration. What the MMO can base that on is the number of boats that fish in specific areas around our coasts.

Q122 **Anne Marie Morris:** Has somebody done some crisis management planning so that, if the MMO has not been sufficiently creative about what might happen, you are still able to cope?

Sonia Phippard: We have tried to ensure that we keep testing them, and we will continue to do that. As I say, this is the responsibility that they have at the moment. This is not something completely new to them. They have seen issues in the past, and at the moment they can talk to their French counterparts—they have done so—about recent experience.

Q123 **Anne Marie Morris:** Right. Okay, so you think that all will be well. Will the difference in timing between the London agreement and article 50—there is a timeline difference—make a difference, or cause any legal complexity, in terms of what you can control and when?

Sonia Phippard: It could do so. Obviously, as you rightly point out, there is a period of three or four months between the two dates. Equally, under the UN law of the sea, this is an area where we will be under a legal obligation—but so will the EU—to negotiate and co-operate from the moment of exit. We will need to ensure that we come to an agreement very swiftly. We will both be under that legal obligation about how we are going to behave, even in a no-deal situation.

Q124 **Anne Marie Morris:** Who will enforce that?



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Sonia Phippard: Ultimately, the various regional management organisations. Again, it is in neither side's interest that we do not come to a discussion quite swiftly.

Q125 **Anne Marie Morris:** There are all sorts of things that are in people's best interests that they don't choose to do for emotional reasons. If they don't act logically but they do act emotionally, where are we then?

Sonia Phippard: It is of course a risk that some groups act emotionally. Equally, the whole international way of working for fisheries is based on negotiation and co-operation. We are part of that at the moment as an EU member, but also in terms of the EU's engagement with third parties. We are talking about that area now. I am very confident that, although there may be some difficulties in a no-deal situation—one can see quite clearly what they might be—the duty to negotiate at, as it were, a state level will continue.

Q126 **Anne Marie Morris:** I'm not sure I feel terribly comfortable about this.

Sonia Phippard: It isn't comfortable, because we have seen that emotions can run very high.

Q127 **Anne Marie Morris:** Okay. Could you send us a note about the implications of the date difference between the London agreement and article 50?

Sonia Phippard: Certainly.

Q128 **Anne Marie Morris:** That would be really helpful and would enable us to move on.

There is quite a lot of legislation, and there are a number of statutory instruments that need to be moved forward. As I understand it, you have got three bits of major legislation. We have got the Agriculture Bill, which has just gone through, and then we have got over 90 statutory instruments. How on earth are you going to get that through in the parliamentary time that is left, Ms Moriarty?

Clare Moriarty: I might ask Tamara to come in in a moment. There are three pieces of primary legislation: the Agriculture Bill, which as you say has had its Second Reading; the fisheries Bill, which is due to be introduced this Session; and the environment Bill in the next Session. They are, to some extent, spaced out, but we are in constant dialogue with the parliamentary managers about how they can be processed. Certainly, we have put a huge focus in the past few months on our statutory instrument programme. There are about 850 separate bits of legislation that we have now grouped into 86 statutory instruments, almost all of which have a devolution angle, so they are both long and complex.

Q129 **Chair:** Sorry, we know the numbers quite well. It is really about how on earth you are going to get them through—not just you. As a Department, you do not really have any purchase on what the Whips are trying to get through and in what order. There will be other political discussions about



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which is the priority.

Tamara Finkelstein: The issue that was making us concerned that we would not be able to lay all our statutory instruments was changes to the withdrawal Act that changed the degree of engagement we needed to have with the devolved Administrations.

Chair: Thank you for your note on that.

Tamara Finkelstein: We have been working really closely with them over the summer, and have got ourselves to a place where we think we can lay all of the 86 SIs. We expect to be able to lay more than half of them by the end of November, and the rest by the end of January. There are elements of—

Q130 **Chair:** Can I just chip in there? You talk about getting them done by that timetable. In the letter that you sent dated 12 October, Ms Moriarty, talking about primary and secondary legislation, you say, “In respect of secondary legislation, there has been intensive work with the devolved Administrations, and where required, we have now agreed arrangements with the devolved Administrations to deliver the programme.” Bearing in mind what you just said, Ms Finkelstein, that is presumably on the basis of the current timetable, but if the timetable were to shift, does that affect what the devolved Administrations have to do and whether they are able to deliver their legislative bit of it in time?

Tamara Finkelstein: We have a timetable agreed with them now that works.

Q131 **Chair:** You say that, but your timetable is not completely in your Department’s control. It is in the control of the House, and I understand that one of the recent SIs took an hour and a half to get through. If they all go at that pace, there is going to be a backlog very soon—or we will be sitting 24/7 to do it, which I suppose is another option, but it is going to be challenging for the business managers in Parliament to get all that through. If there is a delay to your existing programme that you have agreed with the devolved Administrations, does that put in jeopardy some of these bits of legislation, simply for the practical reasons of them having to change their timetables?

Tamara Finkelstein: We are working really closely with the Cabinet Office, which is obviously working with the House, around the whole programme. We were not in a position where we even were going to be fully drafted and able to do this, so we put the effort into ensuring that we are going to be in that position so we will be ready to lay it on that timetable.

Q132 **Chair:** Who is drafting these? You have all these new members of staff coming in. Are they drafting this? Obviously, there is Treasury Counsel, which is a thin group of people, really. There are not many of them there, so who is drafting it?



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Tamara Finkelstein: Our legal team is drafting, and has added numbers—including from around Government—to be able to do stuff in time.

Q133 **Chair:** Are there enough people?

Tamara Finkelstein: Yes. They have got it to a place where they have been able to do what they have done, and do think that they can meet this timetable. Part of the trick to trying to get this laying schedule agreed and to stick to it has been using a sort of operations room to ensure that we are unblocking things with very short timescales. When something appears to be an issue, we are unblocking it within 24 hours, where sometimes our ways of working would have had to take longer.

Q134 **Chair:** Can you give us an example of that?

Tamara Finkelstein: There is a range of possible examples.

Clare Moriarty: Of SIs, quite recently.

Tamara Finkelstein: In terms of a particular SI where there was an issue, we had an issue around, I think, the seed potatoes SI: we had to make an agreement as to how this was going to be dealt with with Scotland. That was something that, on normal timescales, would have led to submission agreements and would have probably taken a week or two weeks to unblock, but instead, we used our operations room. David Rutley, our new Minister, who is taking a particular interest in this, then made a call, and we unblocked it within 24 hours.

Q135 **Chair:** That sounds really good, but saying that, sometimes these things done in a hurry can mean bad legislation, and Government and Parliament are not immune to bad legislation, I dare say; in fact, they are quite good at it. How are you being sure that you are maintaining the quality of legislation, and we are not going to have to come back and revisit this large number of SIs? No doubt they will be revisited, but how are you making sure that will not be because you got it wrong first time?

Tamara Finkelstein: The intention is clearly not to reduce the quality, but to ensure that we are reducing the elements of time that are not adding to the quality. Some of that decision making can be done faster, which means you have the time to ensure that you are spending the time on the things that need—

Q136 **Chair:** I do not know much about seed potatoes, but if I were a seed potato farmer—or whatever the title would be—I would not have had a chance to have an input, presumably, into that SI, if you are dealing with things in such short timeframes. How are you ensuring—I suppose this is partly for Ms Moriarty—that you are engaging with the people who have an interest in this law? It has to work very practically and, especially in your Department, it is a very granular level that you are looking at. How are you going to make sure that it actually does what it says on the tin?

Clare Moriarty: This is not about drafting something end to end in a very short space of time. All these SIs have gone through policy development.

They have gone through instructions. They have gone through drafting. They then have a second pair of eyes, and some of them have a third pair of eyes from a lawyer. What we have found—this is reflected in the NAO Report because it is where we were at that point—is that we had a programme for our SIs that was taking too long. We were therefore looking at air gaps in relation to some of the legislation.

What we have done is to say that we need to be in a position where we have done absolutely everything we can on our side—ultimately, as you say, it is for Parliament to agree to SIs—in consultation with the parliamentary managers, to get stuff to Parliament in time for it to be able to process it through. All that detailed discussion—a lot of it will have involved contact with the industry—went on in the run-up to getting to the point where we had sorted out the SIs. What we are now trying to do is to make sure that we can deal with the last-minute blockages, which are just about making sure that everybody has a shared understanding.

Q137 **Chair:** Roughly what percentage is just dropping EU rules into a British SI, and how much is genuinely going out to the sector and asking, “How will this work for you?”

Tamara Finkelstein: There are only two where we are making changes that require us to go to consultation.

Q138 **Chair:** So most of them are dropping EU regulations into British law.

Tamara Finkelstein: Exactly.

Q139 **Chair:** So one would say, in legislative terms, that it is relatively straightforward and not very—

Clare Moriarty: Relatively straightforward but very, very long. Some of these individual SIs are 150 pages long and have a great deal of technical detail in them.

Q140 **Chair:** Remind me not to offer to go on an SI on Defra issues anytime soon.

Clare Moriarty: So it is scale and complexity.

Q141 **Sir Geoffrey Clifton-Brown:** Am I right in thinking that a third of these SIs have already been written and agreed, a third have not yet been started and the others are somewhere in between? Is that roughly where you are at the moment?

Tamara Finkelstein: They have all been started. Nearly half of them are fully drafted and a further 24 are close to completion. It has developed considerably since the Report.

Q142 **Sir Geoffrey Clifton-Brown:** My inquiring mind asks whether there is another problem in all this. Presumably, for any of those SIs that involve another Department you would have to consult with that Department. As we get nearer to March, particularly if we get a no-deal scenario, will that process become slower, and could that cause a problem?



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Tamara Finkelstein: Where they involve another Department, we are quite well advanced in interactions with them to agree them. The approach is to try to short-cut those conversations that genuinely can be done quite fast, to enable us to do the stuff that adds to the quality, on the right timescale.

Q143 **Sir Geoffrey Clifton-Brown:** So you are confident that, barring the House not getting them through, you will be in a position to get them through by 29 March.

Tamara Finkelstein: We have a plan. It has various elements of risk, like the whole portfolio. I am confident that we have a plan that is possible, but what we have to do is be really on it in terms of each of those risks, dealing with them as they occur and in quick time. That is the trick for that element of the portfolio.

Q144 **Chair:** Do you know how many staff in total are working full time on SIs?

Tamara Finkelstein: It is difficult to say because there are a lot of people who—

Q145 **Chair:** How many full-time equivalents—do you have a rough estimate?

Tamara Finkelstein: I have not got that to hand. We have 30 in our legislation team, and we obviously have a large number in our legal team and lots of people throughout the organisation—

Q146 **Chair:** Could you write to us? It is all part of the cost of leaving, what it costs to put these SIs through, and also working out the quality.

I want to touch on a couple of things. Earlier you talked, in terms of staffing, about the consultants and interims that you had in place. In paragraph 1.22, the Report talks about the amount of money being spent on consultants, including £6.7 million to PwC. What is the step-down plan for those consultants? It is an expensive way of employing people. We recognise that, in the short term, it has to be part of the plan, but how are you planning to drop that bill?

Tamara Finkelstein: We are using consultants where we really need their focused, external expertise to help us, but we are identifying very clearly where it is we need to use them, so that we are not using them beyond where we need to use that expertise. I meet weekly with BCG to ensure the work that they are doing it off is focused exactly where we need the work to be done.

Q147 **Chair:** Is there an end date?

Tamara Finkelstein: Yes, we have an end date. We have a review point with BCG, for example, at the end of December, and a potential extension through until the end of March.

Q148 **Chair:** Where does the liability arise if they have done some professional work for you? Everyone is working at pace—outside contractors, too.

Tamara Finkelstein: Their work is work for us, so it is our responsibility. We are also ensuring that part of what they are doing is transferring skills



to permanent Defra teams. To take something that BCG did for us, which was work on developing our reporting pack—we needed their help due to the scale and complexity of what we needed to do—they ran the reporting round for one month, supported by the Defra team. The next month, the Defra team led and was supported by BCG, and we now no longer use them in our reporting. We are rolling them off things and putting them on to the right things, bit by bit.

Q149 Chair: That is a big change from when I was a Minister—they usually became permanent members of staff in those days. Earlier we touched on communications with stakeholders, which has been a real concern across a number of Departments that we have looked at. We talked earlier about the secrecy and the slow involvement—you have talked about the technical notices, but that is quite a clunky way of involving stakeholders. Either you or David Kennedy talked also about ramping up the number of communications staff that you are recruiting. What is the plan for that, and if I were a small business involved with a Defra area, what comfort can you give me that you will actually be communicating more effectively and less secretly?

Clare Moriarty: I might get my colleagues to talk about the specific areas. The technical notices are certainly not the totality of the communication by any stretch of the imagination; they are the starting point and a baseline that gives people some information. There are now detailed plans in each of the areas going out to the groups of people—for example, somebody talked about the way we are engaging with the chemicals industry. Each of the project areas has got a communications plan. We also recognise that some of our stakeholders have interactions with a whole range of our different projects. A week or so ago, I went down to Dover to see the port and Eurotunnel. Eurotunnel have an interest because they are managing a flow in a lot of our different projects. Part of the reason why we now have a dedicated business resolution and engagement directorate is to make sure that we are pulling all of that together. In addition to the project-by-project communications—

Q150 Chair: It all sounds good, but we have heard from evidence that the feeling out there is that people have known too little, too late. You are always working up three scenarios—why did you not start doing this earlier, giving those organisations preparedness for the various options?

Clare Moriarty: To go back to the conversation we had earlier, the difficulty is dealing with multiple scenarios, communicating in a clear and coherent way and also communicating across government. We talked to a lot of stakeholders before we got to the point of public engagement, but direct public engagement with users is very important. We have been looking at the point at which we need to get particular communications to particular groups.

Q151 Chair: Why are people critical of the lack of engagement if it is going so swimmingly?

David Kennedy: We have got very comprehensive engagement plans and we need to get on with actually going out—



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Q152 **Chair:** So you have sort of half-nailed it: you have got the plans but you are not doing it yet?

David Kennedy: Let us take an example—we have talked about the import control system. There are 600 import agents that we have identified as using the system. We have all their contact details, but we have not yet gone to them to say, “This is how to use the new system”. We will be doing that very shortly. So we are putting together guidance, training packages and whatever—

Q153 **Chair:** You see, this is part of my worry. You are doing it “very shortly”. We are five and a half months before Brexit, whatever way we go out. I mean, that is very late for people and organisations to get up to speed with what’s going on. Couldn’t you have done it quicker? Couldn’t you have given some indication, even if it was before the summer, about where things were heading? We could not even get the lists of workstreams out before—I mean, the NAO got them out of your Department quicker than a lot of others, but the Cabinet Office was sitting on these things, saying it was going to damage negotiations. Actually, isn’t it just damaging British business not to know what the potential risks to their operations are?

David Kennedy: On that particular one, we have not got a system that they can use at the moment, so we are coming through to the testing phase in January, I think. There is a question: how far can you go ahead of actually having something, and a proposition—?

Q154 **Chair:** Well, telling them that it is coming would be a good start, wouldn’t it? Telling them what they might have to do to comply. They might have to think about recruitment, to have someone to do this in their organisation. Some of them might be quite small and might have to cancel their holidays. I am not being silly there. There is a real-life impact of every big macro decision that you are making in the Department, and how much has that been reflected in your communication strategy? It sounds like it has been a bit low down the list.

Clare Moriarty: The difficulty is—I was going back to the multiple scenarios. You do not have to go back very many months to a point where we were very focused, all across Government, on an implementation period and a political agreement to an implementation period. It is quite difficult getting a message across that says, “We absolutely want to have an implementation period, and by the way this is what you need to do in the event of no deal”.

In a sense, because we are now at a point when people can see the deadline quite near ahead, it is possible. And that is what the technical notices do, which is to give this message that says, “We very much hope this won’t happen, but if it does these are the things that you need to do—”

Q155 **Chair:** Was there any political pressure not to talk about what would happen in a no deal? I mean, is that part of where Government is coming from, because talking about no deal suggests that it might be a reality,



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which obviously is not desirable for anybody, really?

Clare Moriarty: I think the Government have been—we have been—facing up to these issues.

Q156 **Chair:** You have internally, but you have not been communicating that to out there. Business has to be prepared for whichever scenario. It sounds like you are saying that rather than worrying people about no deal, it is only till the deadline looms that it might be a possibility that you will be getting out there and talking to people about it.

Clare Moriarty: I think we can debate endlessly whether or not we have pitched the right point at which point to go out with more detailed communications, and probably, for all the reasons that happen in Government, we have probably gone out a bit later than we would have liked to, and we have probably gone out a bit later than businesses would have liked us to. That is partly what happens when you need to try and coordinate a whole series of Government Departments. So, having piecemeal information—“This is what is happening about customs, but we have not quite sorted out what’s happening in the agrifood area.”

So I completely take the criticism. What we have tried to do is to plot a coherent path and get to the point, in working across Government, where we can say to people, “This is what is happening”. That is what the technical notices do. We did not wait for the technical notices to start engagement, but the technical notices do give us a clearer platform on which to have that sort of wider communication.

Q157 **Chair:** So that is out from under the grip of the Cabinet Office and you can do your own thing?

Clare Moriarty: There is of course a critical point at which people—any of us—can hear messages that relate to things slightly further out. So our feeling is that we need to be communicating full-on at the moment—

Q158 **Chair:** Were you putting pressure on bits of Whitehall, Ms Moriarty, that you needed to get out information quicker?

Clare Moriarty: We were having debates about what the point is when we can put the information out—

Q159 **Chair:** So, yes.

Amyas Morse: That is what it says in our Report. She agreed, so—

Q160 **Chair:** I was going to ask her—do you want to ask a question?

Amyas Morse: I have said it. I mean, I am just pointing out modestly that in our Report it says you asked multiple times to be allowed to communicate more freely, and you were held back for a period of time, and that is in the agreed Report, so—you know, I am just thinking that you are very gamely taking the blame for stuff that you tried pretty hard to shift and had difficulty getting it allowed out as early as it needed to be. That is quite clear, actually, from the evidence we saw.



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Q161 **Chair:** I will perhaps ask the question again—you were hampered in saying things. That must be a sense of frustration for you. Are you now feeling free to go out and issue technical notices when you want? You have now got the freedom to go out and get information out there. Is that what—?

Clare Moriarty: We are. It is less about technical notices and more about really thinking about the targeted communications with particular groups who need more detailed and specific information.

Chair: I would like to push the point about the political pressure, but perhaps it is unfair as you are a career civil servant.

Q162 **Sir Geoffrey Clifton-Brown:** I am slightly worried about this communications strategy—clearly, the example I gave earlier in the hearing tells you that it is not good enough with my farmers. At a time when we have a huge deficit in trade in food, I would have thought that it needs a communications strategy that is tip-top so that, whether we have a no-deal scenario or a deal scenario, the agricultural industry gets in the mode of wanting to export more. Does your Department have a strategy for that?

Clare Moriarty: A strategy for exporting more?

Q163 **Sir Geoffrey Clifton-Brown:** Yes.

Clare Moriarty: We do, absolutely. That is part of what we are seeking to do.

David Kennedy: We do have a strategy and we are negotiating the sector deal between the Government and the industry, which is all about increasing our exports. The two areas of focus for us are innovation and exports.

Q164 **Sir Geoffrey Clifton-Brown:** So we can expect, as politicians, media, to see the results of this increased activity in the fairly near future—this communications strategy with stakeholders.

Clare Moriarty: We have had the Food is GREAT element of the broader GREAT strategy for some time. That is about not just communications but supporting companies who want to grow their exports. We will certainly be seeking to do that on a continuing basis.

Chair: Thank you very much for your evidence and for the two hours that we have taken out of your time preparing for Brexit. I hope you will be able to burn the candle at both ends to make up for that. We put on record our acknowledgement that you have a huge task. As Sir Amyas rightly highlighted, the NAO Report demonstrates that you have a lot to do to work through the glue of Whitehall to deliver your agenda. That does not give you a free pass, but we do recognise that you are doing more in this period of time than most Departments will have to do in a Parliament. You have got a lot on your plate. We will keep watching it, and keep challenging you. There are an awful lot of January dates that we shall be probing, so expect a letter as well as a report from us on that. For the interests of the UK, we wish you all—and the civil servants working at the



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Department—success. Let us hope it is not going to go belly up, but we know that there are a lot of risks as well. Thank you very much for your time.