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PARLIAMENTARY DEBATES  
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# HOUSE OF LORDS

## OFFICIAL REPORT

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<b>Abbreviation</b>	<b>Party/Group</b>
CB	Cross Bench
Con	Conservative
DUP	Democratic Unionist Party
GP	Green Party
Ind Lab	Independent Labour
Ind LD	Independent Liberal Democrat
Ind SD	Independent Social Democrat
Ind UU	Independent Ulster Unionist
Lab	Labour
LD	Liberal Democrat
LD Ind	Liberal Democrat Independent
Non-afl	Non-affiliated
PC	Plaid Cymru
UKIP	UK Independence Party
UUP	Ulster Unionist Party

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## House of Lords

Monday 23 July 2018

2.30 pm

*Prayers—read by the Lord Bishop of Leeds.*

### Sport: Performance-Enhancing Drugs Question

2.35 pm

*Asked by Lord Addington*

To ask Her Majesty's Government whether they will give assistance to the governing bodies of individual sports to take steps to identify and prevent the use of performance-enhancing drugs in junior and amateur sport.

**The Parliamentary Under-Secretary of State, Department for Digital, Culture, Media and Sport (Lord Ashton of Hyde) (Con):** My Lords, the Government recognise the vital importance of protecting the integrity of sport, and that includes keeping sport free from the scourge of doping. UK Anti-Doping—UKAD—an arm's-length body of DCMS, supports sports' governing bodies with a wide range of measures. These include the development of athlete education programmes, public information campaigns on emerging threats to clean sport, and an active deterrent programme which includes anti-doping testing and individual athlete intervention tactics.

**Lord Addington (LD):** My Lords, I thank the Minister for that encouraging reply. However, given that much of the information I have gathered on the subject shows that many part-time sportsmen are taking image as well as performance-enhancing drugs, will the Government consider putting pressure on certain TV programmes such as the all-pervading "Love Island", in which many honed, buffed young bodies are shown to the general public, to make sure that these are all down to hard work and diet and not drugs?

**Lord Ashton of Hyde:** I do not think "Love Island" has been officially classified as a sport yet. However, this is not the first time I have had to answer questions on "Love Island" and I take the noble Lord's point. Image and performance-enhancing drugs, IPEDs, are a problem. UK Anti-Doping, the Government, educational authorities and sports' governing bodies have to educate young people from an early age on the effects of these drugs and explain and inculcate a values-based system so that healthy nutrition, exercise, sleep and so on—healthy training, if you like—is the most important thing, not drugs.

**Lord St John of Bletso (CB):** My Lords, can the noble Lord elaborate on what international collaborative intelligence-gathering agreements are in place to monitor the distribution of IPEDs?

**Lord Ashton of Hyde:** UK Anti-Doping is a subsidiary body of the World Anti-Doping Agency, WADA, and talks internationally. I do not know the specifics—I am

not sure I necessarily want to comment—but it is an international effort to remove the scourge of doping at all international and national sporting events.

**Lord Campbell of Pittenweem (LD):** My Lords, is the Minister aware of the work of the Youth Sport Trust, which is particularly valuable in this area? As we know, nowadays sportsmen and women frequently appear in the honours lists which are released twice a year. It would be impossible to impose a condition, but might one suggest an expectation that those who are honoured in this way should offer themselves as role models, particularly in the field of discouraging performance-enhancing drugs.

**Lord Ashton of Hyde:** My Lords, I cannot think of a better example than that of the noble Lord, as a 1964 Olympic sprinter: he proves the point that role models are very important. It is important that those who receive honours are suitably checked so that they behave correctly—that is, not only legally but also in an ethical and moral sense.

**Lord Griffiths of Burry Port (Lab):** My Lords, we have rightly talked about education and we congratulate the Government on significantly increasing the amount of money available to UKAD. However, there is the whole question of anticipating the development of such practices and preventing them. Such briefing as I have been able to put together suggests that internationally, there is a movement of illicit drugs and substances across borders. Can the Minister help us to understand whether, after the momentous events we are about to experience in coming out of Europe, the sharing of intelligence and the availability of cross-border information will apply in this particular area of endeavour?

**Lord Ashton of Hyde:** Criminal activities are subject to the negotiations that will take place and the Home Office is responsible for those. On doping in sport, we already have an international system based on WADA which I do not think will change just because we are coming out of Europe. This is an international problem that extends far beyond the borders of Europe. However, I take the noble Lord's point that it is very important that we continue with that system and I see no reason why we should not be able to.

**Lord Kennedy of Southwark (Lab Co-op):** My Lords, I agree with the noble Lord, Lord Addington, that we need to ensure that we drive these drugs out of individual sports, both at amateur and professional level. It is important to drive them out of team sports as well, but it is also important that football clubs have grounds they can actually play at. Will the noble Lord take back to his honourable friend the Minister for Sport our thanks for her support for Dulwich Hamlet? However, the club is still locked out of its ground, and we are only allowed to play thanks to Tooting and Mitcham. We need further help to get back into our home ground at Champion Hill.

**A noble Lord:** Answer!

**Lord Ashton of Hyde:** The answer is that I am delighted to take that message back—but it has absolutely nothing to do with doping in sport.

## **Jammu and Kashmir: Human Rights Abuses**

### *Question*

2.43 pm

*Asked by Lord Hussain*

To ask Her Majesty's Government what steps they will take to assist the implementation of the recommendations of the report published on 14 June by the United Nations High Commissioner for Human Rights concerning human rights abuses in Jammu and Kashmir to hold an independent international inquiry to investigate abuses.

**The Minister of State, Foreign and Commonwealth Office (Lord Ahmad of Wimbledon) (Con):** My Lords, we raise our concerns about the human rights situation in India-administered Kashmir and Pakistan-administered Kashmir with the Governments both in New Delhi and in Islamabad. We note the concerns raised in the report by the UN High Commissioner for Human Rights, and we encourage all states to uphold human rights in line with their international obligations and to co-operate with the Office of the UN High Commissioner for Human Rights.

**Lord Hussain (LD):** I thank the Minister for that Answer. According to this United Nations human rights report on Kashmir, serious human rights violations took place between July 2016 and April 2018. Some 145 civilians have allegedly been killed, and the report denounces the lack of prosecutions of Indian forces in Jammu and Kashmir due to the 1990 law known as the Armed Forces (Jammu and Kashmir) Special Powers Act which gives them virtual impunity. Can the Minister tell us what Her Majesty's Government can do to persuade the Indian Government to withdraw such draconian laws from Kashmir so that those responsible for these violations can be brought to justice, at least under Indian law?

**Lord Ahmad of Wimbledon:** I assure the noble Lord that we continue to raise the importance of the issues in Kashmir with the Indian Government. In one of my visits towards the end of last year, I raised the issue of Kashmir and the need for Pakistan and India to find a resolution to this long-standing issue. Equally, with reference to the report and the importance of some of its findings, we encourage all states, including India and Pakistan, to respond positively to the request by the UN—in this case, the UN High Commissioner for Human Rights—to a right to visit.

**Lord Paul (Non-Affl):** My Lords, both India and Pakistan are very active members of the United Nations. Will the Government say what purpose it will serve to discuss this point here?

**Lord Ahmad of Wimbledon:** Her Majesty's Government, as the noble Lord has rightly said, are a friend to both Governments—India and Pakistan. Our position remains that it is primarily for India and Pakistan to come together. They are countries tied together by history, culture and families. Indeed, my parents herald from India and my wife's parents herald from Pakistan. Communities and families can come together. Perhaps I am living proof of that.

**Lord Collins of Highbury (Lab):** My Lords, we have a very proud record of defending human rights, particularly in countries such as Pakistan and India. What is of concern to me when we object to abuses of human rights, particularly the use of the death penalty, is that we now have a Government who are saying that it is okay to extradite people to a country where they might end up suffering capital punishment. Does the Minister agree with that assessment and the impact it might have when we try to defend other people from capital punishment?

**Lord Ahmad of Wimbledon:** My Lords, first, I am greatly humbled and honoured to be the Minister for Human Rights. Indeed, prior to coming to your Lordships' House, I launched our human rights report, which again reflects its importance, our priorities and the key role that the United Kingdom plays in standing up for the broad spectrum of human rights across the world. The noble Lord raised the death penalty; I assure him and the House that the Government's position remains the same.

**Lord Ahmed (Non-Affl):** My Lords, will the Minister agree that it is the exact job of this House to discuss human rights in all places around the world? We are a permanent member of the Security Council. We have responsibilities to defend and to protect human rights around the world. Further to what the noble Lord, Lord Hussain, said, in 2009 the International People's Tribunal on Human Rights reported that nearly 3,000 unmarked graves were found and 8,000 people are missing because of forced disappearances. Surely there is a responsibility for us to discuss that. While we should encourage India and Pakistan to resolve the issue, we should also condemn those violations of human rights.

**Lord Ahmad of Wimbledon:** We are, of course, members of the United Nations and, as the noble Lord said, we are a permanent member of the Security Council. There are various resolutions on the broad issue of human rights. Most recently, as penholders, we have been leading the way on the Rohingya Muslims in Burma. On the specific issue of Kashmir, as we have said before—it has been a long-standing position of Governments on both sides—the Simla accords of 1972 act as the basis for bilateral discussions. I know the region of Kashmir. It was termed a paradise on earth. We hope that both countries can find noble cause to restore that label of paradise on earth.

**Lord Singh of Wimbledon (CB):** My Lords, I return to the question asked by the noble Lord, Lord Hussain. He drew attention to the draconian laws that protect people against prosecution for human rights abuse.

As a member of the UN and the UN Security Council, is it not incumbent on us to condemn that sort of behaviour without fear or favour? Will the noble Lord agree with me and with the human rights activist Andrei Sakharov, who said that there can never be peace in the world unless we are even-handed in our condemnation of human rights abuse?

**Lord Ahmad of Wimbledon:** Let me assure the noble Lord that we encourage all states, including India and Pakistan, to uphold their international human rights obligations. Any allegations of human rights violations or abuses are concerning and must be investigated thoroughly, promptly and transparently. Let me once again reassure all noble Lords that we continue to raise the issue of Kashmir, including human rights issues, with the Governments of India and Pakistan. We stand resolute. We hope that a progressive way forward on this issue can be found for both countries and, as a friend to both, we will be supportive.

**Baroness Northover (LD):** My Lords, does the Minister note the accusation in the report that India has used disproportionate force and that no successful cases have been brought against its forces, including over the accusation of mass rape, and that Pakistan must also address human rights abuses on its side? Should not the UK play a more active role in taking forward what the commission suggests, which is a proper investigation of what has happened on both sides?

**Lord Ahmad of Wimbledon:** Let me assure the noble Baroness that we have of course noted the concerns about Kashmir expressed in the report by the UN High Commissioner for Human Rights and its recommendations, as the noble Baroness said, for the Governments of both India and Pakistan to consider. Therefore, we encourage both states to uphold human rights in line with their human rights obligations. In terms of any resolutions that come forward at the Human Rights Council, we will respond accordingly.

**Lord Tomlinson (Lab):** My Lords—

**Lord Tebbit (Con):** My Lords—

**The Minister of State, Ministry of Defence (Earl Howe) (Con):** My Lords, we have not yet heard from the Conservative Benches.

**Lord Tebbit:** My Lords, as a victim of terrorism myself, I am always a supporter of the victims, not the terrorists. Therefore, I hope that the newspaper reports of today that the Home Secretary has given the nod to the American authorities to prosecute some particularly vile terrorists and leave them to face the penalty laid down by the democratic country of the United States of America are correct.

**Lord Ahmad of Wimbledon:** My Lords, I am sure that I speak for every Member of your Lordships' House in saying that we all stand on the side of victims of terrorism, wherever they are in the world. We stand

on the principle of bringing justice to the victims of terror, wherever they may be. Equally, let me reiterate the UK Government's position: that wherever justice is found, including for the victims of wars that have taken place in Syria and, before that, in Iraq, we stand resolute and committed to the principle of our international obligation to oppose the death penalty across the world.

### **British Overseas Territories: Same-Sex Marriage Question**

2.53 pm

*Asked by Baroness Barker*

To ask Her Majesty's Government what steps they are taking to enable citizens to enter into a same-sex marriage in British Overseas Territories.

**The Minister of State, Foreign and Commonwealth Office (Lord Ahmad of Wimbledon):** My Lords, we are pleased that the British Antarctic Territory, the British Indian Ocean Territory, the Falkland Islands, Gibraltar, the Pitcairn Islands, St Helena, Ascension, Tristan da Cunha, South Georgia and the South Sandwich Islands—I sound like a train announcer—have all taken steps to recognise and enable same-sex marriage. In the overseas territories where same-sex marriage is not currently recognised, we continue to engage constructively with both Governments and civil society to encourage and promote equality irrespective of gender or sexuality.

**Baroness Barker (LD):** I thank the Minister for that detailed Answer. The United Kingdom Government imposed on overseas territories compliance with the international money laundering Act of 2018, even where there were not agreed international regulatory frameworks. The Government refuse to require all the overseas territories to respect the rights of LGBT citizens under the ECHR, with which they and we must be compliant. Why the double standard?

**Lord Ahmad of Wimbledon:** My Lords, first, I do not think that there is a double standard. The noble Baroness may recall my vociferous defence, as the Minister for the Overseas Territories, of the autonomy of the overseas territories, believing that it was right that they should continue to take forward the issue of the registers, as they were doing quite progressively. However, the will of the other place was such that the will of Parliament was upheld by the Government. We would rather not have been in that position. On this issue, we continue to respect the autonomy. However, at the same time, I assure the noble Baroness that we work very progressively. We have seen in recent developments in places such as Bermuda how the courts domestically are reacting to the importance of progressing this issue.

**Lord Cashman (Lab):** My Lords, I know that the Minister is both personally and politically committed to human rights and equality. Therefore, can he help

[LORD CASHMAN]

me out? According to the most recent White Paper on the overseas territories, published in 2012, the UK Government assume an obligation in relation to good governance of the territories, which includes the obligation, “to ensure ... just treatment and ... protection against abuses”, for the peoples of the territories. Therefore, can the Minister confirm that the peoples of the territories include LGBTI people? Notwithstanding his intention on behalf of the Government to engage, what concrete measures are they considering to ensure that LGBTI people can embrace and enjoy equality and human rights in conformity with the United Kingdom’s international legal obligations?

**Lord Ahmad of Wimbledon:** First, on the latter point, I assure the noble Lord that we work very constructively with our British Overseas Territories to ensure that they comply with international obligations. Indeed, the progress we have seen in Bermuda is reflective of the fact that equality for all citizens, including members of the LGBT community, is safeguarded and that they will continue to be able to play a full and active role in the future. On the specific issue of equal marriage, as I said, we are engaging constructively and it remains the British Government’s position. The noble Lord mentioned the 2012 paper. The basis of that was to encourage and continue to support the overseas territories to make progress on this important issue directly themselves.

**Lord Naseby (Con):** Will my noble friend confirm—and I declare an interest as vice-chairman of the all-party Cayman group—that, particularly in the Caribbean, a number of the overseas territories have their own constitution to deal with domestic matters? As I understand it, in their view the subject raised by this Question is a domestic issue. They have elected Members of Parliament. Those Parliaments debate these issues, and surely it is for those Parliaments, which after all represent the people living in those islands, to decide what is appropriate or not.

**Lord Ahmad of Wimbledon:** My Lords, as I have already said, of course we respect the rights of our British Overseas Territories to decide their own domestic issues, but it is also important that on issues of fairness the Government of the United Kingdom continue to hold constructive discussions, as we do in broader terms as well. I am minded to quote my right honourable friend the Prime Minister when she addressed this important issue in the context of the Commonwealth conference:

“As a family of nations we must respect one another’s cultures and traditions. But we must do so in a manner consistent with our common value of equality, a value that is clearly stated in the Commonwealth Charter ... Nobody should face persecution or discrimination because of who they are or who they love. And the UK stands ready to support any Commonwealth member wanting to reform outdated legislation that makes such discrimination possible”.

It is a constructive, progressive approach, and is the same approach that we adopt with our British Overseas Territories.

**Lord Collins of Highbury (Lab):** My Lords, in Her Majesty’s territories overseas we obviously have an obligation to uphold human rights, and it is a fundamental human right to be treated equally under the law. Of course, when the Minister read out that list, Bermuda would have been on it, because it did pass same-sex marriage laws. In fact, people were able to marry, and then we had that overturned. The Government cannot abrogate their responsibilities here, because it was agreed to by this Government and it should not have been. They should have upheld the rights of LGBT people. I declare an interest: I am actually half Bermudian, so when I go out there with my husband, will I be able to exercise the same rights? I hope the Minister will stand up for same-sex marriage in Bermuda.

**Lord Ahmad of Wimbledon:** The noble Lord specifically mentioned Bermuda and he will know the history there. There was a referendum on both domestic partnerships and same-sex marriage, which the Bermudians did not accept in their vote. A decision was taken by the Supreme Court in advance which permitted same-sex marriage. That was overturned, as the noble Lord said, in the Parliament there to bring forward domestic partnership legislation which protects pension rights and other rights of same-sex couples. As to where we are with Bermuda, as the noble Lord will be aware, that legislation has been referred to the Supreme Court. The Government of Bermuda are appealing that decision, and, later this year, a determination will be made. We need to ensure, and it would be entirely appropriate—I am sure the noble Lord will respect this—that those local issues of justice are played out appropriately.

## Apprenticeship Levy: Creative Industries *Question*

3 pm

*Asked by Lord Foster of Bath*

To ask Her Majesty’s Government what plans they have to amend the working of the apprenticeship levy to take account of the concerns of the creative industries.

**Viscount Younger of Leckie (Con):** My Lords, we introduced the levy to fund a step change in apprenticeship numbers and quality. This is putting funding on a sustainable footing while improving the technical and professional skills of the workforce. We recognise that some sectors and employers, including in the creative industries, have challenges in taking advantage of these reforms. We continue to work closely with employers in this sector to inform them about the benefits and to encourage apprenticeship take-up.

**Lord Foster of Bath (LD):** I am grateful to the Minister for that reply but, rather more than challenges, does he not accept that the apprenticeship levy is fundamentally unsuited to delivering the skills that the creative industries need? It does not align with the sector’s own voluntary training, there are only a dozen approved apprenticeship standards for a sector with

thousands of different job roles, and there is insufficient flexibility to share training vouchers with the SMEs that make up 95% of the sector. The Creative Industries Council and the Bazalgette report have made a clear business case for an industry-specific training model that is better suited to provide the skills and the apprenticeship needs of the sector. Will the Government accept those recommendations to ensure that the success story of our creative industries can continue?

**Viscount Younger of Leckie:** My Lords, we will certainly look at the recommendations and we recognise that the creative industries sector comprises a workforce that is different—it is more diverse, and largely made up of freelance and sole-trader businesses. However, if an apprenticeship linked to the levy is not suitable, then the apprenticeship training agencies could provide a solution for this important sector. ATAs recruit, employ and arrange training on behalf of employers, which includes the 20% off-the-job training. A further solution is for the major levy-paying employers to transfer up to 10% of their levy funds to help the sector.

**Lord Watson of Invergowrie (Lab):** My Lords, in giving evidence to the Select Committee on Communications of your Lordships' House last year, the Skills Minister, Anne Milton MP, said this on apprenticeships in the creative sector:

“One of the challenges for the DfE ... is to make sure that we have a flexible system that is fast and constantly renewing itself”. Further to the comments from the noble Lord, Lord Foster, about the Bazalgette report, Creative Skillset—the strategic body that works to ensure that the UK's creative industries have access to sufficient skills and talent—produced a four-point report seeking to enable appropriate apprenticeships to be delivered within that sector. One of the points in that report was structural flexibility involving longer apprenticeships and periods between placements. It seems that the Minister is in agreement with Creative Skillset, so can he explain why his colleague has not yet taken steps to ensure that flexibility for the creative sector has been introduced?

**Viscount Younger of Leckie:** I have already said that we need to do more for the creative sector and that it is an unusual case. That is why, as part of the creative industries sector deal announced on 28 March 2018, there are shared commitments laid out by the Government and industries to address the current and future skills needs in the creative industries. That includes working with employers to monitor the impact of the levy, and to continue to analyse apprenticeship starts. It also includes funding to support the development of priority apprenticeship standards.

**Baroness McIntosh of Hudnall (Lab):** My Lords, can the Minister confirm that many organisations in the creative industry regard the apprenticeship levy as little more than a cost of doing business? They find it extremely difficult to get any advantage from it. Many of them operate on very narrow budgetary constraints. For example, the Royal Shakespeare Company, with which I am connected, offers apprenticeships in

engineering, prop making, sound technology, carpentry, automation, venue management and catering—I could go on. Does the Minister think it is right that it should offer all those opportunities but not be able to get any benefit from the levy?

**Viscount Younger of Leckie:** We continue to work with the creative industries sector to be sure that it has the apprenticeships that it needs. I remind the noble Baroness that this is employer-driven. Three hundred apprenticeships have been approved so far under the new standards system, while 41 standards are in the process of being created in this sector, of which 27 are in development and 14 have already been approved. There is more work to be done and I take note of what she says.

**Lord Fox (LD):** My Lords, the Minister said in his Answer that the Government's plan was to introduce a step change in apprenticeships, and indeed they have—they have stepped down by 50% so far. The reason is that SMEs in the creative and media industry and throughout other industries are struggling to make this work. In order for the Government to get the step up rather than down, will the Minister first admit that there is a problem and then undertake to try to solve it, rather than lumping it on to the industries?

**Viscount Younger of Leckie:** The noble Lord will know that I have acknowledged in this Chamber that there is a drop in apprenticeships, but the main reason for it is that we have moved from the old frameworks system of apprenticeships to the standards one. That is why there is a drop if one looks at it year on year. We have acknowledged that and are doing something about it.

**Lord Haskel (Lab):** Is the Minister aware of the large growth of courses offered in business schools that satisfy the demands and requirements of the levy? There are now 147 of them. Was it the Government's intention to give such a boost to management training for the creative industries and the rest of industry?

**Viscount Younger of Leckie:** The apprenticeship at the higher level can be defined at quite a senior level. I say again that it is up to employers to engage with the Institute for Apprenticeships to define and describe the standards that they think are right. Some of them are quite senior and would include management levels.

**Lord Forsyth of Drumlean (Con):** My Lords, with hindsight, does my noble friend think that setting a target of 3 million new apprenticeships might have been a mistake that encourages quantity over quality? Would it be better to have a target for those who have completed apprenticeships rather than started them, given that 40% do not complete them?

**Viscount Younger of Leckie:** We have always said that quality comes before quantity. It is good to have a target of 3 million quality apprenticeships that will change the lives of apprentices and the prospects for businesses.

## Brexit: Preparations and Negotiations

### *Motion to Take Note*

3.07 pm

*Moved by Lord Callanan*

To move that this House takes note of the preparations and negotiations connected with the United Kingdom's departure from the European Union.

**The Minister of State, Department for Exiting the European Union (Lord Callanan) (Con):** My Lords, negotiations on the United Kingdom's withdrawal from, and future relationship with, the European Union continue at pace. The publication last week of the Government's White Paper on the future relationship—a detailed and credible proposal—has given impetus to these negotiations.

Last month we published a joint statement that set out the substantial progress that we have made on the draft withdrawal agreement since the March European Council. We have reached agreement across the majority of the remaining separation issues. Last week my right honourable friend the Secretary of State travelled to Brussels to meet his counterpart, Michel Barnier, where they had constructive discussions on the details of the White Paper and took stock of the negotiations. While there are still issues to agree, our negotiating teams are working to ensure that these are finalised by October and that we reach a positive settlement for both the UK and the EU.

Domestically, we continue to prepare the legislation needed to implement the withdrawal agreement in UK law. We will publish a White Paper tomorrow setting out more details on this. On the future relationship, we believe that the White Paper that we have published is a principled and pragmatic plan for the relationship that we wish to build—an ambitious and innovative proposal that respects the position, interests and concerns of the European Union. It delivers on the decision of the British people to take back control of our laws, our money and our borders, while preserving and building on the historic ties with our European friends and neighbours, in areas such as trade and security, which we both rightly prize.

**Lord Foulkes of Cumnock (Lab):** My Lords, the Minister said a minute ago that the White Paper will be published tomorrow, the day the House rises, which seems rather strange. What time tomorrow will it be published?

**Lord Callanan:** My right honourable friend the Secretary of State will be making an Oral Statement in another place tomorrow. I do not know whether we have an exact time for that yet.

Leaving the EU offers us an opportunity to forge a new role for ourselves in the world, to negotiate our own trade agreements and to be a positive and powerful force for free trade. Central to our proposal is a free trade area for goods, supported by a common rulebook for those rules necessary to provide frictionless trade

at the border and a new facilitated customs arrangement. This will help to secure the complex supply chains and just-in-time manufacturing processes that we have developed with the EU over the past 40 years. This will give businesses certainty and clarity and preserve those jobs that rely on frictionless trade at the border.

A key component of the free trade area will be our proposal for a facilitated customs arrangement, or FCA. This is a business-friendly model that removes the need for any new routine customs checks and controls between the UK and the EU while enabling the UK to control its own tariffs and boost trade with the rest of the world. Under this arrangement, the UK would apply the EU's tariffs to goods intended for the EU and its own tariffs and policy to goods intended for consumption here in the UK.

In contrast to the earlier proposal for a new customs partnership, the FCA will be an up-front system. This means that most businesses would pay the right tariff to begin with, rather than receiving a rebate at the point of final consumption. Other businesses could claim a tariff repayment as soon as possible in the supply chain. We will agree the circumstances in which repayments can be granted with the EU and, as the White Paper makes clear, we will negotiate a reciprocal tariff revenue formula, taking account of goods destined for the UK entering via the EU and goods destined for the EU entering via the UK. This model has the specific advantage of protecting UK-EU supply and value chains and the businesses that rely on them. For example, Airbus manufactures wings for all its civil aircraft in north Wales. These are then transported to the continent for final assembly. In Dagenham, Ford manufactures diesel power trains for export to the EU. As well as supporting businesses, this approach would meet our shared commitment to Northern Ireland and Ireland in a way that respects the EU's autonomy without harming the UK's constitutional and economic integrity.

**Lord Forsyth of Drumlean (Con):** On the reciprocal nature of the FCA, is it realistic to expect 27 other countries to put in place the bureaucracy and systems necessary to execute this in order to accommodate our wish for this compromise?

**Lord Callanan:** It probably would be unrealistic, which is why we are not asking them to do that. We will agree a reciprocal tariff formula, but we will not ask our EU partners to put in place specific arrangements at their borders.

Alongside these close arrangements for goods, we will negotiate a wide-ranging deal on services and digital.

**Lord Tomlinson (Lab):** My Lords—

**Lord Callanan:** I am sure one or two noble Lords will have points to make about this, so I will have a bit more to say to it at the end of the debate.

Alongside these close arrangements for goods, we will negotiate a wide-ranging deal on services and digital. This would protect businesses from unjustified

barriers or discrimination, cover mutual recognition of professional qualifications and, importantly, preserve our regulatory freedom. This balanced approach to services is based partly on the absence of any of the risks of border disruption that might affect trade in goods, coupled with the distinct advantages of regaining domestic regulatory control as well as the ability to forge new trade deals with fewer fetters so that we are well placed to grasp the opportunities of the future, including across growth sectors such as digital. It would allow the UK to trade with greater freedom with the rest of the world and seize the opportunities for more liberal and energetic free trade with the export markets of the future, from Mexico to Japan.

In leaving the EU, free movement will end. Our immigration policy will be set not in Brussels but by this Parliament, which is accountable to the British people. We will design a new immigration system that enables us to control the number of people coming to live in the UK and place stronger security checks at our border. However, the UK will be an outward-looking nation, attractive to investment and open to business. In line with the arrangements that we will negotiate with close trading partners around the world, we want provisions with the EU that will support businesses to provide services. We want tourists and business visitors to be able to travel without a visa and students to continue to have opportunities to study at universities across Europe. We can agree common-sense reciprocal arrangements while regaining control over our immigration policy. That is the balanced approach that we believe best serves the UK.

Next is our vision for a security partnership that covers the vital security interests that we share. Our proposals build on existing operational capabilities to protect our citizens. They will enable rapid and secure data exchange, practical cross-border operational co-operation and continued participation in important agencies, including Europol and Eurojust, which already have partnerships with third countries. We will also pursue arrangements for co-ordination on foreign policy, defence and development issues, joint capability development and wider co-operation.

When it comes to the return of democratic control of powers and authority to the UK, our laws will be decided by this Parliament and the devolved legislatures. The White Paper proposals will also end the jurisdiction of the Court of Justice of the European Union in the UK. UK courts will no longer refer cases to the CJEU, nor will the CJEU be able to arbitrate disputes between the UK and the EU. Instead, rights will be enforced in the UK by UK courts and in the EU by EU courts.

**Lord Campbell of Pittenweem (LD):** Has the Minister read paragraphs 146, 147 and 148 of the document, which make it plain that questions of jurisdiction are not to be as exclusive as he has just described?

**Lord Callanan:** Yes, I have read them. We have made it clear that the jurisdiction of the CJEU will of course apply to European law and those areas of the common rulebook, but disputes will no longer be arbitrated by the CJEU.

**Lord Hannay of Chiswick (CB):** Can the Minister explain how this exclusion of the European Court of Justice will apply to the operation of the European arrest warrant, which involves individuals and not Governments?

**Lord Callanan:** The European arrest warrant is of course part of the security partnership that we seek to agree. It has some challenges at the moment, given the constitutional bars that one or two member states have, but we continue to discuss with the EU how we can take that proposal forward.

In a limited number of areas, we would choose to adopt a common rulebook to ensure the free flow of goods. That body of law is relatively stable, and when there are any changes, Parliament would have to approve them.

We are taking a principled and practical approach. Yes, we have shown flexibility as we strive for a good deal for both the UK and EU. As we demonstrate our ambition for a close partnership through the White Paper, it is worth emphasising two key principles that we share. The first is that Article 50 dictates that a withdrawal agreement must come alongside a framework for the future agreement. The second, flowing from that, is that nothing is agreed until everything is agreed.

We will not sign away our negotiating leverage or spend taxpayers' money without anything in return. In December we agreed that the financial settlement would sit alongside a framework for a deep and mutually beneficial future partnership, but if either side should fail to meet their commitments—and I should say that we certainly do not expect that to be the case—it would have consequences for the package as a whole that we agree.

**Lord Bowness (Con):** I am most grateful to my noble friend for giving way, but he is touching on a matter that is particularly topical at the moment. In Florence, the Prime Minister was unequivocal in her statement that the United Kingdom will honour commitments we made during our period of membership. It was not conditional, and “honour” was the word. Are those in favour of Brexit now reneging on the Prime Minister's word of honour?

**Lord Callanan:** Of course we are not reneging on the Prime Minister's words, but my right honourable friend the Secretary of State for Exiting the EU made it clear yesterday that we expect a future partnership to be agreed at the same time; it will sit alongside the withdrawal agreement and no money will be paid unless the future partnership is delivered. In these circumstances, it is the duty of any responsible Government to prepare for every eventuality, including the unlikely scenario that we reach March 2019 without agreeing a deal. It is essential that plans are in place to mitigate the risks and ensure stability, whatever the outcome of these negotiations. The Government's legislative programme in this Session provides for a range of negotiation outcomes, including that of no deal.

In the last few months we have passed the Nuclear Safeguards Act, the Sanctions and Anti-Money Laundering Act and the Haulage Permits and Trailer

[LORD CALLANAN]

Registration Act, preparing the UK for a future outside the European Union. I am grateful to the House for the constructive way it has engaged on this legislation.

We have been taking other practical action to ensure that we have the infrastructure in place—for example, recruiting 300 extra Border Force staff, with a further drive to recruit another 1,000, launched earlier this year. The Government have been working on nearly 300 no-deal plans for almost two years. Some of these are already in the public domain. As we announced last week, over August and September the Government will release a series of technical notices to set out what UK businesses and citizens will need to do in a no-deal scenario. This due diligence is designed to provide reassurance that the Government are prepared.

I note the great number of speakers listed for today's debate and I look forward to hearing all the contributions. Before I resume my place, let me make it clear that we strive to strike the very best deal with the EU, and whatever the outcome of our negotiations, we stand ready to make a success of Brexit.

**Lord Liddle (Lab):** Before the Minister sits down, will he answer the question raised by the noble Lord, Lord Forsyth, about the facilitated customs arrangement? Paragraph 17 of chapter 1 of the White Paper states clearly that,

“the UK is not proposing that the EU applies the UK's tariffs and trade policy at its border for goods intended for the UK”.

I understand that in the other place last Monday, an amendment was carried saying that this arrangement would not come into effect unless the other member states agreed to apply this dual tariff. What now is the Government's policy on this critical point?

**Lord Callanan:** That paragraph confirms the answer I gave earlier. We will agree a tariff-sharing formula with the EU. That is part of the discussions we will have, but we are not asking other EU member states to change their arrangements at their borders. We do not believe that the amendment passed last week is incompatible with our White Paper proposals.

3.22 pm

**Baroness Hayter of Kentish Town (Lab):** Well, my Lords, it is all going so well, is it not? Actually, I do not think even the Minister thinks so.

We are delighted to hear that the other White Paper will appear tomorrow. It was, of course, promised for last week, but we are delighted that it will be appearing. It would indeed be churlish not to welcome the appearance of this White Paper, albeit perhaps a year after it was needed, since it has to be reflected in the political declaration which describes the framework for future relations within the withdrawal agreement.

However, it is a White Paper that is: unacceptable to two Cabinet Ministers who had agreed it; unacceptable to the EU, which rubbished it; unacceptable to the Government, who accepted the ERG amendments that undermined it; unacceptable to much of industry, the City and business; unacceptable—I am sort of

guessing—to this House; unacceptable to the Commons without DUP votes, Lib Dem no-shows, a handful of rogue Labour—

**Noble Lords:** Oh!

**Baroness Hayter of Kentish Town:** Have a bit of humour. I am saying, a handful of rogue Labour votes, and some dubious—

**Lord Wallace of Tankerness (LD):** It is very clear that those Lib Dem votes would not have made a difference. How many Labour Members voted with the Government?

**Baroness Hayter of Kentish Town:** That is what I have just said. I called them rogue Labour votes. Clearly, the Minister did not help here. There was also some dubious government whipping—just in case noble Lords think anyone was left out.

And it is a White Paper unacceptable to the Opposition, being grounded on flawed facilitated customs arrangements, an absence of migration clarity, inadequate plans for services and a failure to guarantee the Good Friday agreement. Apart from that, it is pretty good.

Why is it so unacceptable? First, of course, it is based on a fallacy; secondly, it is devised to satisfy a divided Conservative Party rather than satisfy UK plc; and, thirdly, because some think that the talk of no deal will somehow bring everyone on board, yet pretending to threaten a no deal, which could cost households £1,000 and see an 8% drop in GDP—twice that in the north-east—is nonsensical if the Conservatives ever want to win an election again. Crashing the economy would never be forgiven, not just by workers and consumers but by business, the City and manufacturing, which have of course traditionally trusted the Tories to manage the economy in the national interest. Borrowing the words of a former Prime Minister from the party that took us into Europe and who herself wanted the single market, “No, no, no”—no deal is not an option, so we should stop being diverted by it.

For all the positives—and there are some, in the common rulebook, a role for the ECJ, which the noble Lord, Lord Campbell, has just mentioned, and a catalogue of issues almost lifted from the reports of our EU committees—the White Paper is based on the fallacy that there are profitable and exciting markets across the globe, currently closed to us, which would magically open the moment we left the EU. The notion that we are leaving in favour of some wondrous US trade deal better than we have with our nearest 500-million strong market, as well as the 57 agreements that we have through the EU, just does not hold water. It is a fantasy that we 60 million can negotiate better than the EU's half a billion.

**Lord Anderson of Swansea (Lab):** Is my noble friend aware that the European Union as a whole agreed a trade deal with Japan? Is it feasible that Britain on her own could improve on that deal?

**Baroness Hayter of Kentish Town:** It does not seem to have the evidence to support the idea that we could. Indeed, the trade policy experts, of which of course my noble friend is one, think that our status as a

supplicant means that we will struggle to secure good deals, especially from the US, China and India—and, no doubt, Japan as well.

Furthermore, we face a highly protectionist President. What is his catchphrase? America First. He is a President who is unleashing trade wars with China, the EU, Canada and Mexico. He has filed five WTO complaints against his own trading partners and even queried the future of the WTO. He has imposed import tariffs on solar panels, washing machines, steel and aluminium. What does he want from the UK? When he is not calling the EU a “foe”, he claims that the EU has treated the US unfairly, so he wants more access to our market, not opening up their market to us. It is a predatory policy towards a Brexit Britain, designed to take advantage of our need for trade deals. He wants America to sell us more agriculture and cars—and I see that Liam Fox is offering to reduce tariffs on US cars imported here. I am not sure that that will help our automotive industry. Trump is not interested in a deal if we maintain EU standards. He says that the Prime Minister has probably killed off hopes of a deal by staying close to those EU standards.

And what of business? The CBI president says that, without a customs union, sectors of manufacturing risk becoming extinct. Following Chequers, more than 100 entrepreneurs and business leaders wrote:

“The cost, complexity and bureaucracy created by crashing out of the customs union and adopting alternative arrangements is the last thing that our businesses need as we seek to grow and employ more people”.

Your Lordships have often heard in this House from Airbus, Rolls-Royce, the Freight Transport Association and others, but there is a new example in UK publishing, the world’s largest exporter of books, one-third of them going to the European Union. The Publishers Association fears that Brexit could damage this, as:

“It’s not just tariffs ... It’s the non-tariff barriers, customs checks and delays ... That means having books sat in a customs warehouse in Calais rather than in a bookshop in Duesseldorf”.

Services are even more alarmed, not only as it is often impossible to distinguish goods from services, as complex manufactured products—for example, aircraft engines—combine servicing, design, IT, training and marketing into the physical components which get screwed together. Even more, banking, medicine, leisure, law, accountancy and IT comprise 80% of our economy and an even higher proportion of employment. Their healthy trade surplus helps to offset a deficit on manufactures and agriculture. Yet services drew the short straw in the White Paper, causing alarm to financial organisations and companies, which describe it as a,

“real blow for the UK’s financial and related professional services”.

The financial sector had anticipated a deal based on “mutual recognition”, with the EU accepting that its and our financial regulations were equally robust. The City was therefore deeply disappointed that this was abandoned in favour of an “expanded” equivalence, which is patchy and unilateral. The White Paper itself admits that we,

“will not have current levels of access”,

to EU markets, yet it is vague on how services and millions of jobs will be protected, and on how our competitive advantage will not be shipped to New York or the continent.

What do our partners think? The plan has yet to find favour with the Commission, which insists that the four freedoms are indivisible, added to which, we seem to want only the EU’s most talented citizens, apparently putting the rest in the queue with Koreans and others with whom we trade. The Commission doubts that the facilitated customs arrangement, which is hardly business-friendly, could be made to work, and has yet to be convinced that we have sorted out the Irish border.

As for the public, only 13% think that the Prime Minister is handling Brexit well, 75% judging that she is making a mess of it. They may be right about that. But it is not just remainers. The Labour Brexiteer John Mills reckons that the negotiations could hardly have been worse handled. Indeed, he goes further and says it is not clear that there is now a good Brexit solution available. Yesterday’s poll must make hard reading for the Government. They must know that the more they pretend that no deal is viable, the harder it will be to sell a negotiated deal as satisfactory. So all their dancing around a band of irreconcilable anti-Europeans itself undermines navigating a realistic way forward.

For Labour, the absence of a deal for services is a major shortcoming. This is not a “nice to have” add-on but key to our future prosperity. Both for Ireland and across the borders, the facilitated customs drivel is simply impractical. IT cannot check the safety of food in vans or the composition of manufactured goods to assure compliance with rules of origin, let alone the imposition and forward allocation of tariffs, which I think the noble Lord, Lord Forsyth, was querying.

The truth is that the Prime Minister is stranded in a mire of her own making. She tried to escape the clasp of the ERG, only to retreat at the first whiff of gunfire. She must now complete the task of facing it down, move away from its impossibilist demands, discard red or blue lines and step towards the majority opinion in Parliament—indeed, along the lines that Labour has long sketched out—embracing a customs union and a single market deal. The Prime Minister must unite the Commons and the country by prioritising the economy, jobs, agriculture and the environment, peace in Ireland, and the national interest.

Another former Conservative Prime Minister, Sir John Major, said yesterday that every Tory should prioritise “People, people, people”. That means negotiating a deal which is in their interests, and putting a good deal ahead of the Conservative party’s civil war. If the Prime Minister changes course, she can deliver a majority for that deal—a majority that this White Paper will not create.

3.34 pm

**Lord Newby (LD):** My Lords, it seems extraordinary that the Chequers Brexit summit was little over a fortnight ago and that the Government’s White Paper embodying the Chequers agreement is a mere 10 days old. At the time, it all seemed so rosy for the Prime Minister:

“Chequers-mate: Theresa May ambush routs cabinet Brexiteers”,

[LORD NEWBY]

screamed the *Sunday Times*, for example. Well, it does not look so rosy now. Although about the only thing that everybody seems to agree on is that the White Paper will not survive in its current form as the basis of any Brexit deal, it is by far the most detailed exposition of the Government's Brexit policy that we have seen, and it lays bare the inherent challenges of Brexit. It is the first time that the Government have begun, albeit partially, to accept that you cannot have your cake and eat it—that you cannot have both market access and control of the rules, and that very many features of our EU membership are unambiguously beneficial to the UK.

The core of the document, of course, deals with trade. On goods, the Government's policy is to be part of a free trade area, accepting all EU rules in perpetuity but seeking to retain the right to have our own trade deals by separately collecting UK and EU tariffs for goods trans-shipped through the UK. It also seeks to allow EU content in UK exports—most of the components by value in all cars, for example—to be treated as though they were manufactured in the UK. All this is to be made possible by a non-existent technology to be introduced over an unspecified timescale at an unspecified cost to both government and individual businesses. It is highly unlikely to be acceptable to the EU in its current form.

For services, no such closeness of rules or access is even planned. As the White Paper starkly puts it,

“the UK and the EU will not have current levels of access to each other's markets in the future”.

This is a quite extraordinary policy, which explicitly acknowledges that the UK will willingly forfeit economic activity, jobs and tax revenue for the wholly unspecified benefits of flexibility. If anybody has any doubts about the consequences, listen to the CEO of Lloyds of London, which has operated here since 1686. Speaking last week, she said that Lloyds,

“will be moving at pace now”—

to Brussels, that is—and that,

“we will be full steam ahead”.

To a greater or lesser extent, that approach is now being adopted right across the financial services sector.

Reading the White Paper as a whole, however, you can see why the Brexiteers are so angry. On my reckoning, it lists no fewer than 62 EU bodies or programmes in which it wishes the UK to participate post Brexit, and it is clear why that is the case. All these programmes and bodies are crucial to our prosperity, security and well-being. To be outside them altogether would be extremely damaging. They do, however, all constrain our freedom of independent action, so it is not surprising that the Brexiteers see Britain under the White Paper as a Gulliver, shackled by the myriad constraints of the EU Lilliputians.

But that is not the correct analogy. Those who wish to retain the many benefits of our association with the EU without the cost are like the man who is in the process of divorce negotiations and who says to his ex-wife, “Will you be my live-in mistress afterwards, or I won't pay the alimony?” That is not normally a realistic or successful approach.

The White Paper, of course, has in effect been changed by the amendments to the customs Bill, which the Government accepted, at the hands of the ERG last week—as the noble Lords, Lord Forsyth and Lord Liddle, pointed out. One of them, on my reading at least, directly contradicts paragraph 17a of chapter 1 of the White Paper, in that it would require the EU to collect UK tariffs as part of the facilitated customs arrangement. I am sure that the whole House is agog to hear the Minister's more detailed exposition of that position at the end of the debate—only another six and a half hours to wait. Another amendment would require VAT to be accounted for and to be payable when goods are imported to the UK rather than when they are sold. That would have severe implications for the cash flow of thousands of small businesses.

These amendments show the palpable weakness of the Government, but they do not fundamentally affect the broad options facing us, or their degree of support in Parliament. However, they have helped to shine a light on an extremely inconvenient truth—that there is now no Commons majority for any proposal that leads to Brexit. In reality it is clear that Brexit now could happen only in one of two circumstances. There is no longer a multiplicity of options; there are only two.

The first option is that we reach a deal, loosely based on either the White Paper or some EU-compliant variant of it. The second is that we reach no deal and simply crash out. As Boris Johnson's policy-free resignation speech demonstrated, there is simply no third Brexit option on the table. The crash-out option is now being more aggressively planned by the energetic Mr Raab. I suspect that he will go down in history as the man who proved that “no deal” was simply impossible, because the more he seeks to make our flesh creep—by proposing to turn the M26 into a lorry park, forcing 250,000 small businesses to fill out customs returns for the first time, or readying the Armed Forces to move food and medicines round the country—the more people are bound to recoil.

That we should be spending vast sums actively planning for these acts of national self-mutilation, not as a result of war, pestilence or some external threat but simply as a result of a rift in the Tory Party, seems almost literally incredible, particularly to the rest of the world. Incredible or not, I do not believe that this option has anything like majority support in the Commons—if it came to it, it would be rejected.

The second option is based on the White Paper. As Gavin Barwell has already acknowledged, and the EU has made abundantly clear, the White Paper will not be accepted in its current form and further concessions will be needed—for example, by ditching the impractical facilitated customs arrangements and the financial services proposals. If, none the less, a deal were reached on terms that vaguely approximated to the White Paper, it would be even less likely to be accepted by the Brexiteers than the White Paper itself. I simply do not believe that Messrs Bone, Cash, Leigh or Rees-Mogg could possibly vote for it. By excluding services, and demonstrably costing jobs and prosperity, it would also break Labour's red lines, so Labour could not support it, either.

So it is now pretty clear that neither of the only two remaining Brexit options can survive a Commons vote. In these circumstances, there is only one further option—and that is not to leave the EU. We might now call this the Greening option, because Justine Greening has correctly identified that, if there is no Commons majority for either Brexit option, the only way of breaking the impasse is to have a referendum asking the people how they wish to proceed. Traditionally, referenda have a single question. The Greening option would include three questions—the two Brexit options, and remaining in the EU. But whether we have one question or two, it is now likely—as yesterday’s poll in the *Sunday Times* suggests—that any referendum would result in a clear preference for remaining in the EU. No wonder the idea of such a referendum is hated.

**Lord Grocott (Lab):** Given that the noble Lord and his party did not accept the result of the national referendum in 2011 on changing the voting system, and given that he and his party have not accepted the result of the referendum in 2016 on whether we should leave or remain in the European Union, what confidence could anyone have that he would accept the result of any future referendum?

**Lord Newby:** My Lords, it is very interesting that the noble Lord should ask that question. We are talking about the most important issue that the country has faced in my lifetime, and I can give him an absolute assurance, as I have said many times—including to him in response to identical questions—that, if there were such a referendum, it would lance the boil of this question. We would accept the outcome and go ahead on the basis of the referendum result.

**Lord Forsyth of Drumlean:** Given that the noble Lord and his party stood on this policy at the general election and received such a derisory result, and that both the major parties got more than 80% of the votes on this matter, how does he square that?

**Lord Newby:** I think that things have moved on since the last general election. At the time of the election, a lot of people believed the slogan on the bus; a lot of people believed a whole raft of things about EU membership, or leaving the EU, which have proved to be false. All I am doing is explaining how public opinion currently stands. The noble Lord might not like it, but that is where we stand. If we go back two years, it was different; if we go back five years, it was different again. When we first had a referendum, it was two to one in favour. Public opinion changes, and it has changed against the noble Lord’s view. That is why he does not like it and that is why he does not want to have a referendum.

**Lord Howarth of Newport (Lab):** Does the noble Lord actually think there would be a majority in Parliament for the legislation necessary to introduce a referendum? Does he recognise the problem about timescale, as we are due to leave the EU at the end of next March? Does he think that leavers would accept a

ruse so cynically designed with three choices to split the leave vote? Does he think that that would lance the boil?

**Lord Newby:** We are talking about what the options are. I am saying that there are three; perhaps the noble Lord believes that there are others. I believe that there are two relating to Brexit—no deal, or something broadly based on what the Government have produced. I believe the only other option is staying in, and the only way to get that accepted in the country, politically and morally, is through another popular vote.

As for timing, it would be perfectly possible to legislate quickly for such a referendum; it would be perfectly possible to get a very limited extension of Article 50 from the EU. It is typical of what happens when people are losing the argument—they come forward with administrative problems. Are we saying that we could not hold a referendum relatively quickly? Is it beyond our powers? Of course not. The truth is that, if we want to do it, we can do it. The arguments for not doing it are not administrative—they are political.

Finally, as this fractious Parliament takes its summer break, the position on Brexit is now clearer: there are only two options, neither of which can command a majority in the Commons. The only other option is to remain in the EU following a people’s vote, and the people would now vote to remain.

**Lord Grocott:** My Lords—

**Lord Newby:** No, I am not going to give way to the noble Lord again.

Sadly, we will now have to endure nine months of further tortuous negotiations, a bitter debate and loud recriminations before we reach this end point—but reach it we will.

**Lord Green of Deddington (CB):** Before the noble Lord sits down, does he accept that a major factor in the 2016 referendum was immigration? If so, why has he not mentioned the word in his speech?

3.49 pm

**Lord Hope of Craighead (CB):** My Lords, I think that the noble Lord has sat down, so perhaps I can move on to something different.

To be frank, I cannot help thinking, in view of what has happened since the White Paper was published and what has been said and what is yet to come, that it has something of the Cheshire Cat about it. As Lewis Carroll reminded us in *Alice’s Adventures in Wonderland*, one of the cat’s characteristics is that, from time to time, its body disappears and the last thing visible is a mischievous grin. It is not the grin that worries me so much, it is the body. I find it very difficult, from my position on the fringes of what is going on, to be sure how close what we read in the White Paper is to reality—to what our position really will be when the negotiations begin, let alone what can be achieved. That makes constructive comments on the sum parts of the paper, at least at this stage, rather difficult. That being so, I wish to concentrate on a narrow but

[LORD HOPE OF CRAIGHEAD]  
important issue that I think will not go away so long as we continue to seek a deal along the lines that the paper sets out: dispute resolution and, in particular, our relationship with the European Court of Justice after Brexit.

On 12 July, the noble Lord, Lord Callanan, repeated a Statement about the White Paper, and the noble Lord, Lord Bridges—who I am glad to see in his place—congratulated the Minister and his colleagues on grasping the need for compromise and on their honesty about the challenges we face regarding the role of the ECJ. He referred to a passage in the paper—the same passage, I think, that the noble Lord, Lord Campbell of Pittenweem, had in mind—about the common rule book. It shows that the Government do accept that the European Court will continue to have a role in the interpretation of the laws and regulations of this country. The noble Lord seemed rather reluctant to accept that, but he did on that occasion, and I think he does again today. He said in his reply that the court’s role will be to give a,

“binding interpretation of a common rule”.—[*Official Report*, 12/7/18; col. 1007.]

if there is dispute about it. Importantly, he went on to say that this remit will have far from the “overreaching impact” on our laws that the ECJ has at the moment. I agree with both the noble Lord, Lord Bridges, and the Minister.

Only the ECJ can determine the meaning of a rule for the purposes of EU law. A rule book cannot be common if our interpretation of it diverges from that which has to be given to it by member states in the EU. They are all bound by treaty to give effect to what the ECJ says it means. Therefore, the role of the ECJ is inescapable and is a valuable part of the system with which the aim is to remain in contact. The Minister was right to recognise that fact. However, he was also right to indicate that the effect of this on taking back control of our own laws—the great aim of the Brexit process—will be very small. It will be so small that, in this very limited area, we are surely right to agree to what is in truth unavoidable if the system contemplated is to work. I echo here the remark of my noble friend Lord Hannay, that when one thinks of the European arrest warrant—a tiny area too—one might well adopt the same approach to our advantage.

At present, the decisions of the ECJ that affect us are many and very wide ranging. They extend to citizenship, employment law, the environment, competition, freedom of movement, immigration, public access to information, intellectual property, justice and home affairs, public health, public procurement, revenue and telecommunications. Almost all of that will end when we leave the EU and take control of retained EU law. The aim of the common rule book, however, will be to harmonise the standards, rights and obligations to be applied by each side of a trading relationship. At present, very few disputes of that kind find their way to the ECJ and from there into our law reports. That may change, but let us have a sense of perspective. The Minister was right: the option to refer would only be in that narrow area where a rule is in issue to which we had agreed to adhere as part of the common rule book. I hope, therefore, that the Government

will stand firm on this matter. The White Paper is surely right to say, on page 91, that consistent interpretation is needed to ensure that everyone has confidence in the rules that affect them.

I suggest, however, that the proposed routes by which a lack of agreement as to issues of that kind can be referred to the ECJ are less than satisfactory. At page 93 we are told that this must be either through an independent arbitration panel, including members from both the UK and the EU, or by mutual consent through a Joint Committee. The exact composition of these bodies is unexplained, especially how they are to be chaired and how decisions are to be taken if there is no agreement. However, leaving that aside, it is surely in the courts that disputes about the meaning of rules will be focused and argued through. At page 91 it is accepted that the courts of the UK and the EU could take account of the relevant case law of the other party, which in the case of the EU will presumably include the case law of the ECJ.

So why not give power to the Supreme Court to refer the issue to the ECJ and these other bodies if the court has not been able to resolve the issue in the usual way, through argument, because the meaning of the rule is unclear and a decision is needed from that court to achieve consistency? The reference, after all, would be accompanied by a fully reasoned judgment according to our current practice, in which the arguments for either side would be fully set out and the point that the ECJ has to decide precisely defined. It seems likely that we may be pressed to agree to a change along those lines and I hope that, if we are, we will agree to that.

However, I must add a note of warning on one point. It seems to be thought, according to the White Paper, that it is the practice of the ECJ to take account of the case law of other member states. My understanding is that that is simply not true. I have heard someone say that if it has regard to our decisions it will have to have regard to, let us say, the decisions of Latvia, Romania, Bulgaria and so on. It is not prepared to go down that route and so it does not refer to other decisions. That is the fact and so can it be assumed that it would be willing to do this in our case after Brexit? All the more reason, therefore, for thinking that our Supreme Court is best placed to make the reference by means of a fully reasoned judgment. The fact that we no longer have a right of audience in the ECJ makes this even more important because we can express our views and refer to our own case law in the judgment.

I hope that the same spirit of pragmatism that the noble Lord, Lord Bridges, congratulated and drew attention to will apply in this area too when the issue is debated.

3.56 pm

**The Lord Bishop of Leeds:** My Lords, other noble Lords will be addressing the details, which leaves me to take a step back to look at culture. At the committee stage of the European Union (Withdrawal) Bill I spoke about matters such as the corruption of the public discourse, asking that we in this House do not lose sight of the end to which Brexit is supposed to be

the means. I tried to pose the existential questions of who we think we are and for whom we are doing what we are doing. However, the debate has coarsened, the ideological divide deepened and poor use of language worsened. What I have to say has nothing to do with leave or remain but where we are now and what shape we might be in in the future.

Were we not all embarrassed by the mockery in the European media of the UK Government's attempts to translate the White Paper into other languages, German being the most obvious? Were we not aware that professionally you always translate into your native tongue, not out of it? It seems that not only are we islanders hopeless at learning languages but we still do not even see or understand the cost of that hopelessness. Surely the first requirement of any negotiation is that the negotiators understand the mind-set, culture, language and perceptions of their opposite number: get inside their heads, look through their eyes and listen through their ears. If I do not understand what I, we and the world look like through the eyes of my interlocutor, I cannot begin to negotiate intelligently.

This goes well beyond figures, facts and tactics: it goes deeper—from the superficial to the emotional and the subliminal. It is where we discover what moves and shapes the mind-set, reactions and behaviours of those with whom we seek to trade or discuss, and yet here we are, unable or unwilling to speak the language of those with whom we think we can reach agreement. We just tell them they have to see everything as we do.

The problem, of course, is that most of those with whom we deal in the EU speak our language, get behind the words to the mind-set and therefore are in a stronger position from the outset. I labour this point not in order to grind an axe about the poverty of language learning in the UK—although I could, when it is seen as a priority in other countries—but because my earlier concerns about the culture generated by Brexit have deepened.

How are the people to read a former Foreign Secretary who resigns and immediately and unaccountably earns a fortune from a newspaper column, or an MP for North East Somerset who moves his business investment interests abroad while telling the rest of us that we will experience the benefits of Brexit over the next 50 years, which by my reckoning means that we still have another 10 years or so in which to work out the benefits of EU membership? Neither of these men will suffer the negative consequences of any form of Brexit. This, I stress, is not a partisan or a party matter. It is a moral issue. In the same way that the US President has normalised lies and relativised truth—think of alternative facts and all that stuff—we have descended into a non-rational lobbing of slogans, empty promises and damnations from trench to trench. Honesty and integrity, the essential prerequisites of moral culture, are being sacrificed on the altar of mere political or personal pragmatism.

And this is at the core of my concern: the sheer dishonesty of much of the language and rhetoric of the last couple of years. If the “will of the people” matters so much, then should not the people be told the truth about the range of potential consequences of Brexit? If the Government see that the UK and the

EU will suffer short or medium-term negativity in order to gain nirvana after a couple of decades or so, should they not actually say that—explain that it is worth consigning a generation of young people to a poorer life because we need to take a longer-term view of the national good? They might be right. If “the people” can be trusted with a vote in a referendum, why can they not be trusted with the truth rather than being patronised with endless polarising rhetoric?

This is a genuine question: what happens if the “will of the people” turns out not to be “in the national interest”? Who defines these terms? Whose interests have priority? If we are attempting to square an unsquarable circle, whoever is the Prime Minister, then this should be admitted, not just lobbed back at the EU for it to resolve when it did not ask us to leave.

These are not arcane questions. The Prime Minister has said that we now need to “get on with Brexit”, which of course begs the question as to what we have been doing thus far. The new Brexit Secretary promises “energy, vigour and pragmatism”, as if these were laudable new ideas. But, they remain meaningless and vacuous if they are not underpinned by a respect for and an intelligent learning of the languages of our interlocutors in the EU.

We can talk about a second referendum, a general election, a change of Prime Minister and a party coup, the taking back of control and so on. But the questions of culture, of language, and of dealing with the real world rather than some nostalgic fantasy couched in slogans will outlast any deal or even no deal. Are we paying attention to who we shall be, seen through not only our own eyes but the eyes of our neighbours and our children in the months and years to come? This debate is not neutral.

#### 4.03 pm

**Lord Hunt of Wirral (Con):** My Lords, in declaring my interests as set out in the register, I welcome the progress embodied in the new White Paper. As the Prime Minister said in Belfast on Friday, a new approach was needed, an approach that,

“needs to honour the Belfast Agreement, deliver on the referendum result and be good for our economy. And for the EU to consider it, it needs to be a proposal that they can see works for them as well as us”.

I wholeheartedly agree that the White Paper will indeed prove to be the foundation of such a proposal and I congratulate all those involved in crafting it.

I turn now to the words of the right reverend Prelate the Bishop of Leeds. I am also concerned about the points he made about culture. As a one-nation politician, I find the continuing talk of the 48% versus the 52% insupportable as well as divisive and dangerous. We must never allow that crude device of a binary referendum to blind us to the complex, nuanced and continuous kaleidoscope that is public opinion. A so-called hard Brexit did not feature on the ballot paper. Equally, not everyone who voted to remain was a devout believer in the concept of ever-closer union as set out in the treaties. Millions of our fellow citizens voted not ideologically but rationally, according to where they perceived the balance of advantage to lie for them, for their families and for the nation. In this

[LORD HUNT OF WIRRAL]  
debate, as with all political arguments, there is a middle ground, a common ground where surely people of good will can come together and build a mighty coalition around a reasonable and constructive set of propositions. I am sure of one thing: no one voted in June 2016 to be poorer.

The White Paper does much to reassure us that the importation and export of goods will be protected, but as we have already heard, the services sector is not sufficiently dealt with. It now represents around 80% of the UK economy. The UK financial services sector is one of the jewels—perhaps the pre-eminent jewel—in the crown of our modern economy, with insurance at its heart. It is therefore of considerable concern that the White Paper should suggest that the UK might no longer operate under the EU passporting regime. I speak, of course, as chairman of the British Insurance Brokers' Association. There are almost 3,000 UK insurance brokers with passports to trade in the EU, accounting for about £8 billion of business.

In his HSBC speech on 7 March, the Chancellor of the Exchequer appeared optimistic about the chances of securing a suitable new arrangement, saying that,

“it is hard to see how any deal that did not include services could look like a fair and balanced settlement. So I am clear not only that it is possible to include financial services within a trade deal, but that it is very much in our mutual interest to do so”.

In paragraph 49(d) of the White Paper, there is a commitment to negotiate a,

“new economic and regulatory arrangement for financial services”.

There is also encouragement to be found elsewhere—for instance, in paragraphs 63 and 65. But are vague words enough, at this rather advanced stage? Equivalence in insurance relates to standards for capital, supervision and reinsurance, and there is now a fear within the industry that it might retain EU regulation and rules while losing market access—the worst of both worlds. It is still not too late to seek a bold new agreement that would preserve tariff-free access and/or authorisation for UK brokers.

Even after Brexit, the City of London can, must and will continue to be a vital, pivotal asset—and a vital, pivotal European asset. Furthermore, as we build this new relationship with the EU, we must not only signal our determination to protect the jobs and welfare of our people, but reaffirm our continuing leading role in the western alliance as a proud, free and outspoken people, standing shoulder to shoulder with our neighbours, friends and allies, in good times and in bad. It is very much in all our interests that the voice of financial services should continue to be heard and heeded as that relationship begins to take shape.

I conclude by quoting the excellent Ruth Davidson, who wrote over the weekend:

“We have a duty to serve the public in the national interest, to deliver the Brexit referendum result in a way that mitigates risks and maximises opportunities ... That means compromise, whichever side of the debate we were on two years ago”.

To paraphrase the celebrated sentiments of that great Englishman and proud European Winston Churchill, the situation demands rather less defiance from those who lost the referendum and more magnanimity from those who won it. For many of us on these Benches,

compromise is not a dirty word: it is the necessary foundation of any approach that will heal the ugly scars that the referendum has left behind it, and the one and only way to restore one nation.

4.10 pm

**Lord Radice (Lab):** My Lords, I am delighted to follow the balanced and considered speech of the noble Lord, Lord Hunt. I would have expected nothing less from him and I congratulate him on it.

It was Michael Bloomberg, the American media mogul, who said about the referendum result that it was the,

“stupidest thing any country has ever done”.

He based this harsh judgment on the underlying reasons for Britain's pre-referendum prosperity: the UK's massive trade with other member states and its 40% share of the EU's inward investment, with foreign companies coming to the UK as a base for trading within the EU, and with the UK, like Germany, using its membership of the EU to facilitate its entry into other global markets. As my noble friend Lord Anderson—he is not here now—said, the recent fantastic trade deal between the EU and Japan is a good example of what EU membership can bring. It is interesting that it has been hardly mentioned in the Eurosceptic press.

The UK's position within the EU has been buttressed by special opt-outs, the prime examples being on the single market and Schengen. If Bloomberg is right, the main purpose of our Brexit negotiations should be to mitigate as far as possible the loss of these great advantages. Instead, Mrs May's negotiating strategy has so far—I hope that she will improve in the future—been to try to buy off the hard-line Brexiteers in her own party rather than negotiating realistically with the EU to achieve the best possible deal for the UK.

Mrs May in her Lancaster House speech of 17 January 2017, which I consider was a bit of a disaster and I see was much quoted by the former Foreign Secretary in his extremely thin resignation speech, laid down her red lines. She confirmed that the UK would end the jurisdiction of the European Court of Justice in Britain; she made it clear that the UK would leave both the single market and the customs union; she foolishly announced that

“no deal ... is better than a bad deal”,

and talked airily about a “Global Britain”. In short, to win over her Eurosceptics, she became a prisoner of their Eurosceptic “red lines” and she has been a prisoner ever since.

The White Paper, which, as my noble friend on the Front Bench said, should have been produced long ago and certainly before Mrs May triggered Article 50, is at least an attempt to row back from Lancaster House—to that extent it is an improvement and should be welcomed—but we are still no clearer on what the Government really mean on a number of key issues, including the Northern Ireland border and the customs union.

As Alex Barker pointed out in the *FT*, within the space of a year Mrs May has floated five variations of a customs union: a customs union associate membership, a highly streamlined customs arrangement, a new

customs partnership, a temporary customs arrangement, and now a facilitated customs arrangement. This is surely carrying circumlocution a bit far. It enables Monsieur Barnier to claim that he is mystified by the Government's position, and I see his point.

For there to be any realistic chance of a good deal, we will have to accept that we should remain a member of the customs union and probably the single market as well. That in itself is no bad thing. It was Sir Martin Donnelly, Liam Fox's former Permanent Secretary, who remarked that leaving the single market and the customs union was like,

"giving up a three-course meal ... now, for the promise of a packet of crisps in the future".

He is right. It is also the case, of course, that no trading deal that we can now achieve with the EU is better than our existing one as a member of the EU. Indeed, in the two years since the referendum it has become ever clearer that leaving the EU, especially at this time, is a dangerous, high-risk strategy. By contrast, the case for remaining in the EU is gathering force by the day, which is why the Brexiteers are so vocal.

Maybe we will leave the EU, I do not know; I do not have the certainty of the spokesman of the Liberal Democrats. I hope that it will be with a half-sensible deal, a so-called soft Brexit, which to some extent will mitigate the cost of leaving the EU. Even if that happens, I for one am increasingly certain that at some stage in the future, maybe during the so-called transition period—I am not absolutely clear what this is for—or not long after, a new consensus will emerge in the UK for a return to the EU, perhaps in a new form but certainly as a member. If I am right it will be on the conclusive, unanswerable grounds that a medium-sized European power such as the UK must act together with its continental neighbours, not only for its own good and the good of its citizens but also for Europe as a whole.

4.16 pm

**Baroness Kramer (LD):** My Lords, the White Paper is in tatters, the country is riven and, frankly I fear that we face a no-deal Brexit. I can see no sensible way forward other than a people's vote. I say this after getting reinforcement for that view from an unexpected quarter: namely, a series of conversations with leaders in the financial services sector, who are quite frankly in shock. Most will not put their heads above the parapet, which I really regret at this stage, when I think it would be very helpful and important—but I understand their reluctance to scare investors, customers and employees.

My noble friend Lord Newby quoted the key statement in the White Paper, which is that,

"the UK and the EU will not have current levels of access to each other's markets".

How can a Government wilfully draw red lines which hurt our primary industry in its primary non-domestic market—indeed, a market that accounts for roughly one-third of the total financial services sector? I discussed with the City a year ago the benefits that financial services bring to the UK: £76 billion a year in taxes—think what that delivers in terms of the public sector—and some 2 million jobs. The City told me: "We have been

abandoned by May. We are not a popular industry and they will not go in to bat for us". I wrote down that quote. The required battle is frankly not with the EU—because the financial services sector is very satisfied with the current arrangement and, if it could get a single market in financial services, that would answer so many of its difficulties. The battle, frankly, is with the Brexiteers.

I find when I talk to Brexiteers that they live in a world of delusion, where something called "different regulation"—let us be honest and admit that "different regulation" is faux for "deregulation"—brings some mythical great opportunity. It is telling, when I go around to talk to people and ask what regulation they would remove, that the only one that gets suggested is removing the cap on bankers' bonuses.

**Lord Forsyth of Drumlean:** I declare my interest as the chairman of a bank. I will give the noble Baroness an example of a regulation: the regulation that increased the capital weighting for lending to housebuilders from 100% to 150%, making less money available to build the houses the Government say they need and making housing and mortgages more expensive.

**Baroness Kramer:** I understand that we are to stay within international standards, however—and the noble Lord will know that that is Basel-derived.

**Lord Forsyth of Drumlean:** I am grateful to the noble Baroness. She will also know that the United States does not implement those Basel standards and that we are required to do so because of the European Central Bank.

**Baroness Kramer:** Then I draw to the noble Lord's attention the constant reaffirmation that we intend to stick to Basel standards. If we do not and we go for this broader deregulation, some honesty from the Government would be very relevant, frankly, at this point in time, and I will tell him why. The reason why I am so concerned about the lifting of the bankers' bonuses cap is that it is a return to animal spirits and excessive risk taking, which we certainly cannot afford.

The noble Lord will know, if he talks to the asset managers and many of the other institutions that underpin financial services in the UK—I talked to the largest of those asset managers only a week ago—they will say that, if there is any move to deregulate, they will leave London for reputational reasons. They cannot afford the risk of being based and regulated in what is perceived to be an environment that is moving towards lighter-touch regulation. I understand that the reputation they have earned over the past years matters more than just about anything else.

I accept that financial services are complex and that different activities are impacted differently by Brexit. Purely domestic financial services—retail banking, for example—are pretty much untouched. But the opposite is entirely true for services sold from the UK directly to EU customers, and the White Paper makes it quite clear that these activities will move to the EU 27. They include commercial and specialty insurance, trade-related banking services—perhaps the noble Lord, Lord Forsyth, would add others to the list of banking services—and

[BARONESS KRAMER]

large parts of fintech that are very much tied to passporting and to the e-commerce directive. Ironically, when the UK has third-country status, because of the way local rules work within the EU, it will be less burdensome to sell to UK clients from the EU than it will be—not for all, but for many services—to sell to the EU from the UK. That is a powerful incentive to make that move—certainly for those core sales to EU companies, but more broadly.

Finally, we come to the capital and wholesale markets, which are at the heart of the City of London and underpin the financial services industry in the UK. These are, essentially, capital raising, and even more so because we are the global leader in FX trading and derivatives trading. We can easily forget that London is a global centre not despite but because of its role as the regional powerhouse for all the EU countries and for the euro. With the wholesale markets comes a further ecosystem of asset management and treasury operations, since senior managers prefer to be in one place, so they co-locate absolutely key operations.

I accept that no other capital or city in the EU could take London's capital and wholesale markets away tomorrow. If the EU were to strip EU and euro activity out of London, it would go largely to New York. But that is day one. Read everything that Barnier says about financial markets, look at the rule changes put in place by the ECB and ESMA and it is clear that the EU has a 10 to 15-year strategy to build its capacity and leach these activities slowly into the EU. The battle is not really between London and the EU. It is a battle between Frankfurt and Paris to receive that business over the next 10 to 15 years.

One could say, “Why shouldn't they?”. It is the EU economy—not the UK economy—that generates the core customers for so much of financial services that are, almost uniquely, wrapped up with financial stability issues. Could the EU rely on a UK regulator in a financial crisis when the whole point of Brexit is to put the UK interest first? If some businesses leave London and go to New York, why should the EU care? We are both third countries. So I believe that the consequences of any kind of leach are devastating over time—but financial services is an industry of the future, not the past, and it is key to opportunities for our young people, to our tax base and to our prosperity.

I quickly turn to two last issues. The first is timing. The political chaos in the Tory party, which makes a “no deal” prospect more likely, is having an immediate impact. Firms in the group that I described, which are selling services to the EU, have prepared for a move. They have licences in place, they have leased office space and they have optioned technology—but so far they have moved few people. Many pressed the go button after the Chequers fiasco and the disappointment of the White Paper. I hope, too, that we will look at this whole immigration issue. I would love to pick that up but I do not have time.

I urge the Government, even at this late stage, to find a way to stay in the single market for financial services. Nothing else will do and, quite frankly, if they cannot do it, they should tell people the consequences and let them have the final say.

4.24 pm

**Lord Birt (CB):** My Lords, I voted remain but I none the less share the widespread acceptance that the verdict of the referendum must be honoured. It is unfortunate, to say the least, that it has taken the governing party, racked by internal division, two years to produce a White Paper on the form of Brexit—a White Paper which is long on generalisations and short on detail, particularly, as others have observed, in respect of the mainstay of our economy: services.

In the *Times* last week, Sam Coates, an excellent journalist, convincingly delineated 14 colourfully labelled factions in the other place, each with its own distinct outlook on Brexit, from “Paramilitary Brexiteers” to “The Known Unknowns” and “The Sammy Wilson One”. Self-evidently, Britain remains bitterly fragmented and divided on how precisely Brexit is to be delivered. Yet the challenge we face is truly monumental, as the Government's own excellent context papers compellingly illuminate.

Britain is trying to unravel and reorder an existing relationship of extraordinary complexity with our nearest neighbours—our biggest trading partner and by far the world's largest economic bloc. This is a divorce negotiation, not a marriage contract. UK financial services have £1.4 trillion of EU assets under management. Nearly half of all EU equity capital is raised in the City. UK banks underwrite half the debt issued by EU companies. Negotiating a new regulatory dispensation for the City in a period of months is a very tall order, and WTO rules have limited application for this sector if there were to be a car-crash Brexit. In aviation, we are Europe's biggest player by far, flying to 370 cities. Eight out of 10 of the leading destinations are in the EU, but international travel is governed by bilateral agreements between countries, not by the WTO. We have but months to negotiate new arrangements. Finance and aviation are but two sectors among many.

The long, bitter division that we are experiencing has cost us time; it has lost us momentum; it has provoked disenchantment within the EU; and it has placed us in a perilous position. Moreover, absent a compelling incentive, it seems highly unlikely that the EU will agree to extend Article 50 and allow us more time. Some in Parliament, of course, welcome the prospect of an early hard Brexit, but we are ill prepared for that eventuality, which would deliver an enormous shock to the UK economy. Moreover, we have nothing in the locker to withstand such a shock, as our public finances have not yet fully recovered from the global financial crisis of 2008.

Whatever our reservations, our only immediate hope is to support the Government's White Paper as the basis for an urgent, full and detailed negotiation with the EU. Plainly, the EU's negotiators are lukewarm about the White Paper, but let us hope that the gallant President Macron, the wise Chancellor Merkel and other country leaders will recognise that our Prime Minister, as we all know all too well, has very little room for manoeuvre, and that they will show some flexibility, rather than themselves face the disruption, pain and disharmony that a hard Brexit would bring us all.

If, in the event, the Prime Minister cannot fashion an economically sound deal with the EU then I doubt, as I think others have said already, that Parliament will ratify an immediate hard Brexit. Our political nightmare will then intensify. Political realignment across the spectrum may well result, but even if that occurs, only a referendum on the true and limited options then remaining will resolve uncertainty and begin to end Britain's long-lasting division and trauma.

4.30 pm

**Lord Heseltine (Con):** My Lords, it behoves someone rising from these Benches to say nice things about the Prime Minister, and I want unreservedly to salute a judgment she got 100% right, which was to put the Brexiteers in charge of the negotiations for our severance with Europe. I advocated that in the immediate aftermath of the referendum, and I did it for two reasons: first, because if they had not been put in charge they would have blamed whoever was for the resulting challenges that emerged; and, secondly, I had unbounded faith that if those particular people were put in charge, they would make a resounding nonsense of it.

It is quite clear that those two judgments were manifestly right. The first person to spot how right they were was the Prime Minister herself. Those of us who have lived through the traumas of the past 40 or 50 years of public life, knew that when Olly Robbins was moved from David Davis's wing to Number 10 the game was up. Some of us remember Percy Cradock and Alan Walters—I notice my very good noble friend Lord Lawson, the former Chancellor, is not in his place and, sadly, Geoffrey Howe is not with us at all—and when I saw the movement of Olly Robbins, I knew the game was up. I had a very similar experience when I was Secretary of State when a civil servant from the Ministry of Defence was moved to Number 10. I knew that that meant that all the gossip, intrigue and dirt within the ministry would be purveyed to Number 10 to my disadvantage, so I laid down a very simple rule. I said, "I am very happy that this civil servant from the ministry in Number 10 can communicate in any way and properly with the Ministry of Defence, but only in the presence of my private secretary". Three weeks later, he was back in the Ministry of Defence, and that was a wise protection on my part.

After the protracted period of the Brexiteers in charge, we have seen what Brexit really amounts to in their mind. There is no plan, there is no detail. There are phrases, as the noble Lord, Lord Birt, said, but there is no reality behind the rhetoric and the emotion. The question that has to be asked is: what is Brexit? We know Brexit means Brexit—that is a very clear statement—but what actually is Brexit? The noble Lord, Lord Newby, went through the options. Boris Johnson started with the White Paper some time ago. How good it was, he said, but that moved on. We then had the Chequers document. I glanced at it and said, "This is dead. It won't work". Within a very short period it has been disowned by the Europeans, the right wing of the Conservative Party and, doubtless, parts of the Labour Party as well. Self-evidently, we narrow the field down to, as the noble Lord, Lord Newby, said, an amended Chequers announcement or no deal. If this House cannot tell me what Brexit is, if

the Government cannot tell me, if the newspapers cannot tell me and everybody has got their own version—600 versions here, another 600 versions there and thousands outside—what did the people vote for? What was in their mind? How are we, as servants of the people, as people wishing to implement the referendum, to do what the public want, to know what they want when we do not know ourselves? It is no surprise to me that growing in volume and articulation is the demand: "Let the people have another chance. Let them say when they have seen the facts". The interesting thing is that that they are now all saying that the facts were never there. We were not told.

That is not true. All the facts were laid out. All the warnings were there. Everything was in front of them, all within a giant smokescreen called Project Fear. Every warning, however factual, however realistic, was out, gone, just a scare. A lot of people believed that it was just a scare. And there was the bribe, not only a scare but 350 million quid a week—all blown of course. Nevertheless, how could anyone conceivably make a judgment about something we cannot define for them until we know what the deal looks like? And we cannot know what the deal looks like until the Europeans have said what they are prepared to do. In my view, there is a growing argument for another referendum.

I think I have some idea of what Brexit is. I think it is two things. First, it is the frustration of eight years of post-2008 stagnating living standards. All my political experience tells me that there is a tolerance of limited dimension in the electorate for frozen living standards. They do not ask for much from us, but they ask us to try to keep the show on the road, keep prosperity rising and make sure that the country is relatively well run. For eight years following the 2008 crash, we have failed to deliver that. Not that I blame the British, because the Americans and the Europeans failed in the same way. We went on a great spending spree—personally, collectively, industrially, commercially and in the public sector—there had to be an adjustment, and people do not like the consequences. Of course, you do not deal with that by the Brexit solution, which makes us poorer. As Sir John Major articulately reminded us—something that the Government had already said—we will not only be poorer, we will remain poorer, and those who will be the poorest are those who voted most persistently to be made poorer, without knowing what they were doing.

As the noble Lords, Lord Newby and Lord Radice and, I think, my noble friend Lord Birt said, the right solution is to ask the second question about Brexit and see whether there is a way to revisit the fundamentals. Immigration has not raised its voice very articulately this afternoon. I think that if you have the frustration to which I have referred, there has to be someone to blame, and the person who is the easiest to blame is the foreigner. You cannot argue they are taking your job, because they all have jobs. You cannot argue that they are all a lot of scroungers coming here to live in our welfare state because they are all in work. But there is something about immigration on too high a scale that challenges people's willingness to accept the change it involves.

[LORD HESELTINE]

That is not a British problem. It is all over Europe. It is called *Le Pen*, and the *AFG* in Germany. The Dutch have it. It is Donald Trump in America, who has played ruthlessly with the issue. In my humble submission, we have to understand that the electronicalisation—the communications revolution—of the world means that everywhere, in every darkest corner of poverty, they know how prosperous we are. The most energetic, the most talented, the most adventurous of them see the honeypot. We are the honeypot, and they are coming here. They are not coming to land off the Mediterranean, in Greece, Italy or Spain; they are coming here to northern Europe. There is an opportunity, in looking at Brexit and Europe, to see whether we can become engaged in a dialogue with the Europeans which recognises that this issue engages us all, and that we will have to address it in one way or another. I have always believed that Stalin made a terrible mistake in closing the wall. If he had left it open, we would have had to build the wall.

In another context, in another generation, there will be the same issue—they will keep coming. I have one question for the Minister. The Government have total control over the non-European immigration figures. The European figures are going down, with all the economic consequences of which we are aware. What are the Government doing about the rising non-European figures, which have soared to replace the Europeans going home? Is it just possible that they are not doing anything significant because they do not want to expose the dependence of our social services and our economy on the creaming of talented, energetic and skilled people? I say to the Government: wait until you get to the undeveloped world with which you will be trying to do all these great trade deals, and tell them, “Everything is all right. You train all these people at great taxpayers’ expense, in the poverty-ridden world in which you live, and we will then take them here because they are the only ones we want”.

Brexit is a disaster. I accept—I am afraid in conflict with my noble friend Lord Hunt, of whom I am a great admirer—that there is no compromise with Brexiteers. There never has been and there never will be. For my money, here we stand and fight.

4.41 pm

**Lord Mandelson (Lab):** What a pleasure to follow the noble Lord, Lord Heseltine, with his wounding insight and sagacity. I agree with him that this White Paper will not endure as a basis of our negotiation with the European Union, and I shall come back to that in a moment. It has served, in my view, one very useful and significant purpose already. It has completely buried the idea of a Canada-style bilateral free trade agreement between Britain and the European Union as being anything other than a completely inadequate basis for our future trade. The Government now accept the principle that if we are to safeguard frictionless trade in goods, we need to maintain closer integration. They accept that we have to adhere to EU rules. They accept that we have to respect the role of the ECJ, however much their verbal gymnastics try to disguise all these things.

This simply reflects the economic and commercial reality after 40 years of progressive economic integration. This reality goes to the heart of why the White Paper has sparked such a backlash against it from both sides of the argument. For leavers, who want a clean break, it is nothing short of a capitulation—a sell-out because it leaves us tied to the EU rule book for goods and large numbers of EU programmes without any reciprocal rights to influence or to interpret those rules. On this basis they ask: “What on earth is the point of leaving the European Union?” For remainers, on the other hand, it offers a half-in, half-out concept that concedes influence and sovereignty without getting back the full economic benefit of the single market for both goods and, importantly, services. For them, it is too high a price to pay. So a mixture of “what is the point?” and “what is the price?” now stymies this White Paper.

Worse than that, it does not even provide a viable basis for reaching an agreement with the European Union. It seeks special treatment for the UK in goods, in ways that, in the EU’s view, would contravene fundamental legal principles. In the view of the EU 27, it would offer an undesirable precedent to other countries inside and outside the EU, if it were to be adopted. It does not provide a hard-and-fast level playing field in social, environmental, consumer and competition policies. The EU could not accept the complicated dual tariff system, never tried and almost certainly unworkable—and I speak as a former Trade Commissioner—because it could never be confident that the system would be properly enforced, even if it was willing to accept the principle. Lastly, the White Paper fails completely to set out a credible plan for services. The proposals on financial services would reduce Europe’s regulatory prerogatives, which is certainly not going to be acceptable to it.

And then there is the question of the Irish border. The White Paper repeats Britain’s total commitment to no hard border, yet insists that we will leave Europe’s single market, its customs union and its VAT area, and a customs border between Great Britain and Northern Ireland is also ruled out. Those conditions simply cannot be met simultaneously if we are going to avoid a hard border, and it may well be the rock on which any deal with the EU founders unless, in return for flexibility by the EU—and I can see where it might put that forward—Britain finally decides to stay in the customs union indefinitely. In my view, that is a likely outcome, but may become explicit only during the transition period, if we depart in 2019.

That brings me to the last and main point that I want to reinforce. This White Paper crosses the Rubicon—there is no doubt about that, hence the fury of the Brexiteers. But here is the point. Having left Canada’s model, however difficult the politics will be, the logic of the Government’s position leads towards Norway and remaining in Europe’s economic area, where we would be firmly anchored in a properly established structure with full participation in the single market, with basic rights and protections afforded to us by that structure, from where we could negotiate a more appropriate deal for a country of our size and recent membership of the European Union. But that can be done only—and I think this is slowly dawning on many—from inside, not outside, Europe’s economic area.

That is the point that both Front Benches, if I may say so, will need to come to terms with in the coming months. The alternative—crashing out of the European Union with no future trade deal—would leave us completely beholden to how the EU chooses to treat our trade. We would be virtually powerless, with minimum WTO rules—applied, by the way, to goods but not to services in the main—coming to our aid, assuming of course that the WTO survives intact President Trump’s tenure in the White House.

This is a fundamental choice that Parliament may be unwilling or unable to make. Perhaps it is a choice that Parliament should not make by itself, because it goes to the heart of the original referendum decision, when this unpalatable choice with which we are faced was neither revealed nor properly debated at the time. No one is advocating a people’s vote on the final deal as a sort of re-run fixture because the first result was disappointing. That is not my view. It is because the whole process surrounding the referendum was flawed, and the handling of Brexit ever since has been totally chaotic. I am not saying that it would be easy or simple to hold another referendum. However, I believe—as John Major argued most persuasively on BBC Television yesterday—that a fresh people’s vote is the only way to give democratic legitimacy to the profound choice that now has to be made: to leave on such sub-optimal terms as we will be presented with, or to remain in the European Union.

4.50 pm

**Lord Wigley (PC):** My Lords, this debate has been superseded by events since the Chequers meeting two weeks ago, when the White Paper was supposedly agreed by a united Cabinet.

No one can oppose the objective of a White Paper. Parliament, citizens and our European partners have a right to know how the Government see the Brexit process moving forward and to know the choices the Government have made and for what reason. But why on earth has it taken so long to appear, and what benefits were obtained by such delays? After two long years of preparing for this moment, we are in real danger of taking a path that leads us to a no-deal Brexit. For the Government to have set, over a year ago, a Brexit deadline of 29 March 2019, and not until now to have spelled out their intended course to meet that deadline, reflects incredible indecision. In addition, for the former Brexit Minister David Davis to have been engaged directly in negotiation with Michel Barnier for less than five hours—yes, five hours in two years—borders on a dereliction of duty.

If it was possible for the Welsh Government to have produced their own White Paper 18 months ago, why on earth has it taken the UK Government so long? That paper, entitled *Securing Wales’ Future*, accepted the reality of Brexit but spelt out the essential safeguards needed for manufacturing industry, tourism and agriculture. It was quickly recognised by European Parliament negotiator Guy Verhofstadt as providing a realistic basis for negotiation. Had the Welsh White Paper been adopted by the Government 12 months ago, we would now have a potential Brexit deal which would satisfy manufacturing, industry and agricultural

exporters, and it would have provided a solution to the Northern Ireland border and Gibraltar issues. It would have been accomplished within a timescale that enabled other challenges to be addressed: aviation, security, Euratom, healthcare, citizenship, and an acceptable compromise on the movement of people. It is now increasingly unlikely that agreement can be secured within the Government’s self-imposed deadline of 29 March next year, and that we shall consequently crash out without a deal.

The White Paper recognises the need to provide tariff-free access for UK manufactured goods and agricultural products into the EU market, and for this to be frictionless so that supply chains can work without hindrance. This is as pressing a requirement for UK exporters as it is for those trading across the border in Ireland. The White Paper recognises that there will need to be common standards and safeguards to ensure that one partner does not steal a competitive edge, and it recognises the need for a mutually acceptable judicial process. Yet, despite recognising these factors, it steps back from the obvious solution of maintaining a single market and a customs union—a framework endorsed by this Chamber when the Brexit Bill was before us, and which was rejected in the Commons last week only by cheating in the pairing system. We are told that such a single market and customs union agreement would jeopardise the claimed benefits which await us from trading with the rest of the world. Yet this week the EU has concluded a trade deal with Japan as good as the UK could expect to negotiate on a bilateral basis. The White Paper proposes a convoluted system of mutual charging of tariffs on goods entering the UK from the rest of the world, which are sold on into EU markets. We are asked to opt for a pig in a poke, via a complex, bureaucratic customs arrangement.

This nonsense has to stop. Unless people wake up and demand a confirmatory vote to boot this disastrous course to oblivion, progress must be on the basis of a customs union and single market participation. We should seek a sensible compromise on freedom of movement which recognises workers’ rights to move to fill job vacancies but accepts limitations on open-ended population movements, which might cause economic or social problems. There is widespread sympathy within the EU for such an approach, and the noble Lord, Lord Heseltine, focused on that issue very effectively.

Such a sensible Brexit is achievable, but it is not on the agenda because the Government are in hock to the extreme Brexit wing of the Tory party. I do not usually read the *Sunday Express*, but I could not help but notice its headline yesterday:

“Brexit: Time to Start Again”.

To start again—in all seriousness! David Davis is quoted as saying that the Brexit negotiating process will have to “start again” and that it would not be the end of the world if Britain left the EU empty-handed. That confirms the worst fear of many of my colleagues: that it never was the intention of Mr Davis or Boris Johnson ever to have any deal, and that they have spun it out for two years knowing that at this late stage it will be impossible to secure a deal ahead of the 29 March deadline. This means that we are heading for a crash. If that is not the Government’s intention, let the

[LORD WIGLEY]

Minister confirm that changing the 29 March date is under consideration. We need clarification on this before Parliament adjourns for the Summer Recess.

To fail to allow adequate time to negotiate a practical Brexit will confirm our worst fears that a no-deal Brexit has now become the Government's expectation. In that case, the sooner the better that this Government are replaced by a cross-party Government, pledged to secure a Brexit based on a customs union and single market engagement. The sensible majority in both Houses should take control of these matters and steer these islands away from the disastrous cliff edge towards which we are heading, and for which the ordinary working people of these islands will most assuredly pay the price.

4.56 pm

**Lord Forsyth of Drumlean (Con):** My Lords, it is a pleasure to follow the noble Lord, who has made a passionate speech against what was determined by more than 400 votes in the other place—that is, withdrawal from the European Union on 29 March.

In my youth I was a keen rock climber and one summer evening I nearly ended both when I wandered off route on a cliff face high above the valley of Glencoe. As I climbed upwards, the holds became smaller and less frequent, and the rock ahead smoother, greasier and unstable. Hanging on by my fingernails with a big drop below my heels, my legs began to tremble and fear suffused me. I had a choice: continue further in the hope that good jugs lay ahead but risk not being able to reverse my moves and a spectacular fall, or, with great difficulty and considerable risk, climb back to the point where I had gone astray and return to the known route I had set out to follow. The response to the White Paper by MPs on both sides of the Brexit debate, the public, Conservative voters, the Opposition and an arrogant and bullying EU suggests that the Prime Minister finds herself in an equally uncomfortable and precarious position.

My noble friend Lord Heseltine says that the Government have no plan and blames this on the Brexiteers. The White Paper is Olly Robbins's plan; it is not the Brexiteers' plan. Indeed, the constitutional outrage is that the Secretary of State's plan was being ignored. This paper was produced in parallel and he was presented with it some 48 hours before a meeting at which members of the Cabinet were invited to agree it or take a taxi home.

My response on that cliff face was to climb down to the point where I had gone astray. For the Prime Minister, contrary to what the noble Lord suggests, that means taking the rejected Chequers deal off the table now and returning—the noble Lord, Lord Mandelson, does not seem to have noticed it—to Mr Barnier's previous offer of a Canada-plus free trade deal and, if that cannot be agreed, putting in place arrangements to trade with the EU on the same terms as most countries in the world under the WTO, of which we are a member and to which we have been paying a substantial subscription every year. We do most of our trade now with non-EU countries under

WTO rules, which incidentally require members to facilitate frictionless trade—that is a rule of the WTO—and that includes the EU.

If we end up trading under WTO rules, with no EU trade deal—although, contrary to what the noble Lord suggests, there has never been any suggestion that any government Minister has not wanted to do better than that—we will, of course, save every penny of the £39 billion that the EU is demanding. I defy anyone—although this does not, of course, apply to anyone in this House—to stand for election in this country and explain that they want to spend £39 billion to receive no conceivable advantage.

**Lord Wallace of Saltaire (LD):** I do not know whether the noble Lord has noticed this week's *Economist*, whose headline is that the WTO is in danger of collapsing. That seems rather to undermine his suggestion that we should rely entirely on the WTO. He will, of course, recall that it is the US Administration who are doing the collapsing.

**Lord Forsyth of Drumlean:** The *Economist* has a particular view of these matters—but if the noble Lord is correct and the WTO is collapsing, the least of our problems will be leaving the EU.

The Prime Minister should reject the bogus posturing of the Taoiseach, the latest recruit to Project Fear, who claims that if the UK left the EU it would mean that our planes could not fly over Ireland. As flyover rules are a matter for an international treaty and have nothing to do with our EU membership, the most charitable interpretation I can put on that is that he did not know what he was talking about. The least-charitable interpretation is that he has the same advisers as George Osborne, who promised a punishment Budget, higher taxes, soaring interest rates, rising unemployment, inflation and a recession within weeks of any decision to vote to leave the EU.

Even Mr Osborne did not suggest civil unrest, which the UK chief executive of Amazon is predicting on the front page of today's *Times*. He would do well to address the unrest among his own workforce arising from Amazon's poor employment practices. If we leave the EU we will be able to introduce a tax on internet sales and level the playing field for our retailers, who pay rates and taxes and face unfair competition from online retailers. As members of the EU we cannot do that. Amazon in 2016 routed its revenues for the whole of the EU through Mr Juncker's tax haven in Luxembourg, and paid a total of £15 million in tax on revenues of £19.5 billion.

The Irish Prime Minister has a short memory. When the EU left Ireland swinging in the wind after the financial crisis it was the United Kingdom that lent it tens of billions to lessen the catastrophic consequences of its membership of the euro. The Taoiseach's position on the border is, to say the least, confusing. The *Irish Times* of 19 July reports him as saying that the European Union had assured him that no physical checks would be needed on the border even if the UK crashed out without a deal. Ireland's exports to Britain across the Irish Sea are essential to the Irish economy. For example, 70% of their beef

comes to the UK. There is already a land border for tax, duty and currency differences between the Republic and Northern Ireland. Customs officials on both sides have said that our leaving the EU does not create a need for a so-called hard border. The actual trade across the land border is a tiny fraction of that with the UK. If both Governments say they will not countenance a hard border, who exactly is going to put one there? The EU? I think not. This border issue is a Trojan horse pushed into the negotiations by people determined to reverse the UK's decision to leave the EU—and we have heard a lot from them this afternoon.

My noble friend Lord Heseltine asked what the people voted for. The reasons why people voted to leave the EU were not just economic, although I believe that in time our leaving offers a bright future for our country once we are unshackled from the sclerotic bureaucracy that is the European Union. It was about being free again to make and unmake our own laws, to hold Governments to account for the rules and regulations that dominate our daily lives, to decide for ourselves our immigration policy and how our money is spent, to be free of the jurisdiction of a foreign court, to control our own natural resources, and to offer markets to developing countries around the world.

As a boy I was brought up in Arbroath. I watched a great fishing fleet, along with its associated industries, being destroyed by the CFP, with successive Governments of this country powerless to help. It is not for this or any other Parliament to give away the powers which come from the people and with which it is entrusted without their consent, far less wilfully to ignore the results of a referendum.

The year 2020 will be the 700th anniversary of the Declaration of Arbroath. It was a letter, in Latin, to the Pope, signed by eight earls and 45 barons, some of whose descendants are actually in the House today. The words come tumbling down the centuries: “We fight, not for glory, nor riches, nor honours, but for freedom alone, which no honest man surrenders but with his life”.

Those words were delivered to Rome; today we should dispatch them to Brussels.

5.05 pm

**Lord Adonis (Lab):** My Lords, I spent most of last week in Northern Ireland, and I was recently also in Dublin. The threat which Brexit poses to the island of Ireland is, despite the complacency of the noble Lord, Lord Forsyth, very serious—potentially the most serious failure of British public policy in Ireland since the collapse of the Sunningdale power-sharing agreement in 1974.

Boris Johnson complained last week that Northern Ireland was,

“the tail wagging the dog”,

of Brexit. This is the most irresponsible statement by a former Minister in my lifetime. The reason why the Prime Minister, the Cabinet, Parliament, the European Commission and the other Governments of the European Union have all made the Irish border a critical issue is that it is a critical issue.

Boris Johnson has spent virtually no time talking to those affected. Had he done so, they would have told him, as they told me and everyone else engaged in Brexit, that peace in Northern Ireland cannot be taken for granted, that the Troubles in the 1960s started with the shooting and murder of customs officials on the north/south border in South Armagh and County Down, and that the Northern Ireland police force sees Brexit as its most serious threat. That is not because there is likely to be any immediate return of widespread terrorism—although the systematic community violence in Londonderry over the past fortnight is very worrying—but because of its fear that differential north/south customs and regulatory regimes, even if there is no physical border infrastructure, will inevitably breed mass smuggling and contraband, of which there is a long history across the Irish border. That will in turn breed illegality, organised crime linked to extremists and a big new challenge of enforcement and policing.

Lest anyone have any doubt about what all this means, I suggest they go, as I did, to the border at Newry, where the A1 Belfast/Dublin motorway passes, and talk to Damian McGenity and the many other campaigners against a new border and against Brexit. They will tell you their horrific stories of the past; they will tell you about the thousands of businesses and people who constantly trade and travel across the border; and they will take you to their huge banner across the border, containing a picture of a watchtower with the words, “Listen to our voices: no EU frontier in Ireland”.

Theresa May is contradictory about the Irish border, as is the Democratic Unionist Party, with which she is effectively in coalition. Both claim to want no hard border, yet both support a hard Brexit which will inevitably entail a new border. For Mrs May, it is because of what she calls the instruction of the British people, which she bizarrely chose to interpret as a hard Brexit, despite her own better judgment before the referendum against any Brexit. It became clear to me after hours in Stormont and other discussions last week that despite its public protestations to the contrary, the DUP strongly supports a hard Brexit precisely because, for cultural and sectarian reasons, it wants new barriers with the Republic of Ireland. Hence the DUP's decisive vote last week in the House of Commons against a customs union, when it would have carried a customs union had it voted the other way. This, of course, comes after its refusal to restart the devolved institutions and, indeed, its bitter opposition to the Good Friday agreement.

As Prime Minister, Mrs May knows that she has basic duties to maintain the peace and to try to maintain trade. It was also starkly clear to her last December that the European Union, quite rightly, would not allow Brexit negotiations to start at all if there were not bankable guarantees against a hard border in Ireland. The upshot in the UK-EU joint report of 8 December last year was that if, at the end of the transition period in December 2020, there is no new treaty relationship between Britain and the EU that absolutely avoids a new border in Ireland, the backstop will be a continuation of the status quo.

[LORD ADONIS]

The problem for Mrs May—indeed, the Achilles heel of Brexit—is that this backstop is, at one and the same time, utterly essential and totally unviable if the rest of the United Kingdom undertakes a hard Brexit that involves leaving the European customs union and single market. It is unviable for a perfectly simple reason, which it took Arlene Foster and the DUP leadership about 30 seconds to work out: if the backstop applies to Northern Ireland but not to the rest of the United Kingdom, and the United Kingdom leaves the customs union and the single market, there will have to be a hard internal border in the United Kingdom, down the Irish Sea. For this reason, amidst great crisis last December, the DUP extracted a last-minute concession from Mrs May that there would be no internal UK tariffs or customs controls—a concession which, amidst equal crisis in the House of Commons last week, the Government had to agree to enshrine into law. If, however, there can be no border down the Irish Sea, how is it possible to leave the customs union and the single market while Ireland, north and south, does not do so? The answer is: it is totally impossible.

Boris Johnson wishes that this unviable problem would simply go away and wants Theresa May to walk away from her solemn Irish commitments—just as he has walked away from the Foreign Office and all his promises on Brexit. However, this cannot be done by the Prime Minister if she is to retain any shred of credibility and honour. She is, however, coming close to it. In Belfast last week, as a constant companion of Arlene Foster, Mrs May said, as is now ritualistic, that,

“there can never be a hard border ... Anything that undermines that is a breach of the spirit of the Belfast agreement”.

Equally ritualistically, she said,

“we could never accept ... a new border within the United Kingdom”.

She then, however, went on to attack the very backstop arrangement to prevent an Irish border that she had agreed to last December. The precise words that she used are very important for the House to note. She said that,

“the Commission’s proposed ‘backstop’ text does not deliver ... The economic and constitutional dislocation ... is something I will never accept”.

So the Prime Minister is saying that she will never accept what she has already accepted and that the backstop, which is there precisely to avoid unacceptable economic dislocation, is now unacceptable to her and to the DUP, precisely because she does want to bring about the very economic and constitutional dislocation which she claims to oppose.

These are very grave issues. The future prosperity and peace of the entire British Isles—Great Britain and Ireland—depend upon them. I suggest that we are not talking about the tail wagging the dog but the whole British bulldog, tail and all, being trapped in a room with no exits, increasingly desperate with frustration.

5.13 pm

**Lord Wallace of Saltaire:** My Lords, I was fascinated to hear the noble Lord, Lord Forsyth, quoting the Declaration of Arbroath, and I look forward to discussing

Scottish history a little with him. The declaration, after all, was aimed at the papacy, but Scottish independence was defended primarily against the English and was maintained through trade with the Hanseatic League in the Low Countries and through the alliance with the French. But let us leave that matter.

I would like to start by talking about borders. When the Cold War ended, the Metropolitan Police approached Chatham House, for which I then worked, to ask us to convene a seminar on border control and cross-border co-operation in this transformed circumstance. Before I chaired the conference, I was briefed by various border staff who had managed the east-west border. I particularly remember what the Finns told me about the way they managed their border with the Soviet Union. They stated bluntly: “You can’t manage a border on your own. You have to co-operate with those on the other side, however difficult or hostile they may be. And the more open the border becomes, the closer the co-operation you need”.

This White Paper fails to grapple with the contradiction between unilateral insistence on sovereignty and the necessity of close and institutionalised co-operation with neighbouring states with which we share intensive economic independence, mass travel and security. We still hear hard Brexiteers say—as we have just heard from the noble Lord, Lord Forsyth—that we could unilaterally declare the Irish border open if we leave the EU without a deal and challenge the Irish to accept or reject it.

**Lord Forsyth of Drumlean:** I was quoting the Irish Taoiseach saying that he had that assurance from the EU. Is he wrong?

**Lord Wallace of Saltaire:** My Lords, the point I am making is that either side cannot deal with it unilaterally; we have to work together. We are condemned to work together.

We cannot manage our Channel border on our own either. We have several hundred UK Border Force personnel stationed in France with the agreement of the French Government. We also depend on active co-operation with customs and border staff in Belgium and the Netherlands.

There is a similar contradiction at the heart of the White Paper’s approach to foreign policy and security. The executive summary proclaims that we will reclaim the UK’s sovereignty and assert,

“a fully independent foreign policy”.

Chapter 2, in contrast, goes into great detail about the Government’s,

“ambitious vision for the UK’s future relationship with the EU ... that goes beyond existing precedents”.

It then lists a long succession of EU agencies in which we wish to remain either as a full or associated member. These include Europol and Eurojust, the Schengen Information System, the European Criminal Records Information System, passenger name records and the passenger information unit, the Prüm data exchange arrangements on DNA and fingerprints, the European arrest warrant, joint investigation teams, the European Union Satellite Centre, the EU military staff, the

EU intelligence and situation centre, the European Defence Agency, the European defence fund, Galileo and the European defence technological and industrial base—15 different legal and institutional frameworks. We wish, that is, to move from being a full member with a number of significant opt-outs to being a non-member with a lot of significant opt-ins.

The UK also proposes close co-operation across all foreign policy areas, with invitations to informal sessions of the EU's Political and Security Committee, regular dialogue between officials, reciprocal exchange of personnel and expertise and provision for discussion between EU 27 leaders and the British Prime Minister on as regular a basis as possible. There is no mention here of the Government's earlier proposal for a new security treaty with the EU—perhaps the Minister will tell us whether that goal has been explicitly abandoned—but Chapter 4 sets out an extensive institutional framework, with layers of committees, which will clearly require legal backing and ratification.

That is all very ambitious—and unavoidably constraining of British sovereignty. The White Paper notes, as others have said, that,

“where the UK participates in an EU agency, the UK will respect the remit of the Court of Justice of the EU”.

That will be hard to sell to the members of the European Research Group and the columnists of the *Telegraph* and the *Mail*. It suggests that,

“much of this can be done within existing third country precedents ... There are opportunities to build on existing precedents”.

This contradicts what the Prime Minister has said repeatedly and in the foreword about the unprecedented character of the deep and special relationship that the UK wishes to build. I ask the Minister specifically to tell us which precedents the White Paper is referring to as a model for our future foreign policy and security relationship. Is it EU-Turkey, EU-Ukraine, EU-Georgia or EU-Azerbaijan? I assume that it is not EU-Norway, because that is a closer association than the Government think is compatible with UK sovereignty.

Chapter 2 of the White Paper tries desperately to bridge the gap between sovereign independence and intensive co-operation—and fails. Perhaps that is not surprising when for the past two years our Foreign Secretary has entirely failed to engage with the question of the future institutional framework for Britain's place in the world. He said in his resignation speech last week that:

“We do not seek to hold on to bits of membership as we leave ... but as great independent actors on the world stage”.

In effect, that dismisses almost everything presented in Chapter 2. His only formulation of Britain's future place in the world was,

“to take one decision now before all others, and that is to believe in this country and in what it can do”.—[*Official Report*, Commons, 18/7/18; cols. 449-450.]

If we just believe, everything will be all right. That is rather like Peter Pan or like the song in Disney's “Pinocchio”—

“When you wish upon a star, your dreams come true”.

However, one difference between Pinocchio and Boris Johnson is that when Pinocchio told a lie, his nose grew longer; our former Foreign Secretary's nose remains unchanged.

In 1962, some 56 years ago, the US Secretary of State, Dean Acheson, famously said:

“Britain's attempt to play a separate power role ... a role apart from Europe ... is about played out”.

All these years later, the Eurosceptics are still dreaming of some sort of global Britain apart from Europe. The White Paper tries to offer them independence while struggling to maintain essential links with Europe and fails to resolve the contradiction. This leaves Britain without any coherent foreign policy drifting offshore in the eastern Atlantic while Russia becomes more threatening, the Middle East more dangerous and the United States more erratic. What a position for a Conservative Government.

5.21 pm

**Lord Kerr of Kinlochard (CB):** My Lords, the noble Lord has just talked about Boris Johnson, but I want to talk about a great Foreign Secretary. A fortnight ago we lost Peter Carrington, a great Foreign Secretary, a great Defence Secretary, a great Secretary-General, a great patriot and a great European. It is 46 years since I first worked with Peter Carrington. I knew him well and I know what he thought about Brexit. For that generation—that of Denis Healey on the beach at Anzio or Peter Carrington in the Guards Armoured Division liberating the Low Countries—“Never again” really meant something. For that generation, “Never again” meant ensuring no more war in Europe, ensuring the collective defence of Europe against external threat, rebuilding a broken Europe and working for its prosperity, and fostering and entrenching the values of Europe's better nature. For all his endearingly laconic understatement, the commitment of Peter Carrington was very clear. Britain in Europe was a non-transactional relationship. It was about common values, a common effort to protect, and a commitment to advancement.

What would Peter Carrington have made of this White Paper? We do not know but, if he had written it, I do not think that it would have started with a “facilitated customs arrangement”. One can sense his shudder of patrician disdain. I think it would have started with something about values. It might have said something about the future rights of our fellow Europeans in our country and our citizens in continental Europe. The silence on legal immigration is very strange. As a great Defence Secretary, he might have wanted some restatement of the absolute nature of the British commitment to European defence. Whatever happens between the Brussels bean-counters, when the chips are down the Brits will be there. The Prime Minister fudged that a bit in her Lancaster House speech, but I thought she got it absolutely right in Munich in February. It is odd that the White Paper is totally silent on it. The reference on page 66 to a possible defence “enhanced Framework Participation Agreement” does not quite do the trick. The White Paper is a bit technical and bottom up. It is very transactional and it does not seem to have a lot of vision in it.

That is what Peter Carrington might have thought, but I do not know. He was a very skilled diplomat so he certainly would not have said, as the Prime Minister did on television and as Mrs Leadsom said in the other place, that the proposals in the White Paper are

[LORD KERR OF KINLOCHARD]  
non-negotiable. Concrete on the feet is rarely wise. Of course, as the noble Lord, Lord Forsyth, pointed out at the outset, the proposals have already changed. The passage that the noble Lord, Lord Liddle, read out on the facilitated customs arrangement gave the foreigners the good news that we would not insist that third-country flows through their ports should be slowed down while they handled the segregated goods heading for us and operated two systems of taxation and checking. That was a relief for them, I am sure, except that the amendments made in the House of Commons mean that we do so insist that the ports of Rotterdam, Hamburg and Antwerp be clogged up operating two systems. So the proposals are negotiable after all, but only if you are British, Tory and a rebel. The 27 have to operate two systems where they now run one. They will not, of course. Why would they?

Actually, they would not have agreed with the White Paper's proposal anyway, because the reciprocal regime at our ports is not one that they would be prepared to put up with. It is as inconceivable as it would be unprecedented that the EU should allow a third country, not a member state, to collect its taxes, which are important for its common budget, when no longer under the control of its court. As I mentioned to the House two weeks ago, the EU anti-fraud agency, OLAF, currently has two cases in the ECJ, each worth more than €3 billion, against the United Kingdom for undercharging customs duty and for allowing VAT fraud at our ports. I thought that Monsieur Barnier was spectacularly diplomatic when he said quizzically on Friday about the facilitated customs arrangement, "Would there not be a risk of fraud?"

Anyway, it does not work like that. If we leave the customs union we leave the customs territory and each check will take place at its frontier—unless, of course, we form a new customs union with the EU, as this House recommended when it accepted the amendment to the withdrawal Bill that I moved. We encouraged the Government to explore a customs union with the EU. I really think that they should. The facilitated customs arrangement will not run—it is dead already—and without a workable solution such as a genuine customs union I do not see how we can avoid the hard border in Ireland. The situation is now really very grave. We have accepted that a solution to the Irish question is integral to the withdrawal agreement. If we do not get one we do not get the other. We would kill off the transition period, so the no-deal cliff edge would be not December 2020 but next March.

Then there is the point from the noble Lord, Lord Bowness. The Minister appeared to put himself in the same camp as Mr Raab, who yesterday asserted that if what we have put in our White Paper is not agreed by the EU by October and if there is not an agreed framework text by October, we will resile on our financial commitments, refusing to pay the sum that we agreed in December that we owed. I have to say to the noble Lord, Lord Forsyth, that it is the cost not of the future but of the past. These are commitments. If we were to do a runner all bets would be off, with no deals doable, and not just with the EU. Third countries would be very chary of striking agreements with a UK

that had no working relationships at all with its 27 neighbours—we would not have while they were dunning us in the courts for the money that we owe them.

I still hope that wiser counsels will prevail. I wish that we had a Carrington to provide them. I think that he would have been much less dismissive than Mr Johnson of the concerns of business on the no-deal scenario and of the importance of the Good Friday agreement. On the debt question, I think that he would have thought the idea of doing a runner a tiny bit dishonourable.

How do we get out of this mess? I have two suggestions. First, the Government should look again at the amendment proposed by the noble Duke, the Duke of Wellington, which the House also passed. No one knows—at least I do not—why the Prime Minister sent in the Article 50 notification on 29 March 2017. I have no idea. No one can assert that the country voted on 23 June 2016 to leave the EU on 29 March 2019. An extension is possible under Article 50 if all agree. Would they agree? I do not know. The noble Lord, Lord Birt, was doubtful. I think that it would depend on why we asked.

Let us bear in mind that if we go over the cliff in March, it is suicidal for us but it is bad for all 27 as well. Nobody wants that to happen. The EU has contingency plans for dealing with the European Parliament election should our departure date be pushed back. Mr Benn's committee in the other place has recommended that it should be pushed back. The issue should be explored; it would be irresponsible not to. It would be irresponsible to crash out in eight months' time if there is no done deal, doing huge damage to the economy, to jobs, to the stability of Northern Ireland and the well-being of our fellow citizens. Mr Rees-Mogg would be just fine—he has his money in Ireland—as would the Bullingdon boys, but as Sir John Major said at the weekend, the people who have the least would be hit the worst.

My final point is one that I have made before—I am afraid that I have made it tediously, but I must do it again. An Article 50 invocation is not an irrevocable act. Withdrawing the invocation would carry no price, political or financial. We would never have left. The terms of membership would not have, and could not be, changed without our agreement. If the Government cannot negotiate a Brexit which even remotely resembles what was promised in June 2016 and if the red lines which Mrs May wrote in September 2016 in the party conference speech turn out to preclude any workable solution to the Irish border, the country should certainly be asked whether—knowing what we now know—they would prefer that the notification be withdrawn. That might mean an election; it might mean a referendum; it might mean both. It would certainly mean an Article 50 extension, and this is the scenario in which we can be absolutely certain that we would get that extension. The 27 would unanimously agree straightaway to give us an extension if the purpose was to permit a people's vote. The case for such a vote, before the people's EU citizenship rights are extinguished and before the damage to their well-being really starts to bite, seems to me to grow stronger with every passing day and with every

new lurch by the Government away from what a Carrington would have thought about Britain in Europe and about responsible leadership.

**Baroness Goldie (Con):** My Lords, while the contributions are extremely interesting, the advisory time limit has been somewhat generously interpreted. In deference to the speakers further down the list, perhaps your Lordships could see what they can do to co-operate in rough adherence to the advisory time limit. Otherwise, we will be very unfair to some of the later contributors. We want to hear from them as well.

5.33 pm

**Lord Jopling (Con):** My Lords, I shall do my best to follow that. I begin by drawing attention to my interests as entered in the register. I voted remain in the referendum. As events emerge, I cannot help feeling more and more that the nation made a terrible mistake during it.

I want to raise two issues. First, I hear voices, and have heard some of them today, demanding a second referendum. I recall those same pleas being made two years ago, immediately after the referendum. I said then that this was not, and it is not now, the time to be doing that. A second referendum is an issue only when we know the outcome of the negotiations. It becomes a possibility then, only if the public broadly see the result as a disaster, which they may well do. I do not see the point of having a second referendum if all the indications are that public opinion is not in favour of thinking again.

Clearly, the negotiations will, as usual, drag on until the last midnight or later. I have vivid memories of my patience being tested as president of the agriculture council many years ago, when I had to keep it in continuous sitting for 91 hours, finally getting agreement at 4 am on the Monday. A second referendum must remain a possibility, but it depends on events and how public opinion reacts to them. The time to decide and discuss it will be when we have our promised meaningful vote.

Secondly, I want to turn to the negotiations. Following the referendum, the Government made a serious mistake at an early stage in saying that we would leave the single market and the customs union. The noble Lord, Lord Adonis, spoke at length about this; I agreed with a good deal of what he said. It was not necessary then to say that we would leave the single market and customs union. That decision has been at the centre of the problems of Northern Ireland, where the Government have quite rightly made an essential red line, which I strongly support, of no barriers between north and south and no barriers within the UK down the Irish Sea.

I have never understood how the Northern Ireland problem can be solved without going back on those earlier statements on the single market and the customs union. We may move back in the direction of the Norway settlement, but, now, with the Chequers plan, the Government have clearly back-pedalled and in my view recognised that it was a mistake to say that we would leave the single market and the customs union.

I do not discount the Chequers plan. It is a first step for continuing the negotiations. It is only a start but it is clear that more work needs to be done, and more

concessions will have to be made, particularly if we are to avoid the no deal outcome, which would have dreadful consequences.

The Northern Ireland problem could be solved by the United Kingdom adopting the same external tariffs within Brexit as those in existence in the European Union. This would be to honour the Brexit decision and deal at a stroke with the Northern Ireland problem. The European Union's tariff arrangements have never been subject to prolonged debate or controversy in the UK. I hope that it will not be forgotten in the negotiations that really, nobody much has ever questioned the tariff arrangements within the European Union, under which we have worked all these years.

I am particularly concerned to hear some people speak about the merits of moving to a free trade regime. This comes as something of a surprise and out of the blue. There have been very few discussions that I am aware of, of the merits of a free trade settlement. A free trade settlement could be exactly what we do not need in the UK. It could have disastrous consequences for UK industry. Our domestic markets could be flooded by cheap imports, and at the same time we would have a second kick in the teeth when our substantial exports to the European Union would be subject to its common external tariff. That, I believe, would be a disaster and it should be avoided at all possible costs.

5.40 pm

**Lord Howarth of Newport (Lab):** My Lords, the noble Lord, Lord Heseltine, wondered what Brexit may actually mean. I think it is now very clear that soft Brexit is an illusion. The Chequers statement and the White Paper that elaborates it describe a Brexit in name only. This compromise, the nearest the Prime Minister has been able to get to a soft Brexit, is unacceptable to remainers and leavers alike, and today's debate has underscored that. The EU has made it clear that it represents unacceptable cherry picking and offends EU ideology.

Martin Howe QC, dissecting the Government's statement, has explained that the common rulebook for all goods, including agri-food, would be common only in the sense that the UK would have to obey and apply in complete detail the laws promulgated by the EU without having a vote on the content of those laws. The UK would be obliged to interpret the rules in accordance with rulings of the European Court of Justice under a system which would, whether directly or indirectly, bind UK courts to follow ECJ rulings: that was confirmed this afternoon in a significant speech by the noble and learned Lord, Lord Hope of Craighead. Moreover, the Government propose that the UK should commit by treaty to ongoing harmonisation in the extensive area covered by the EU rulebook. Parliament's notional ability to reject future changes to the EU rulebook would be no more real than Norway's right under the EEA agreement, which has never been successfully exercised. The common rulebook would prevent the UK making new trade agreements with other countries such as the US and Australia, because we would be required to apply EU laws against imports from third countries. This is not taking back control.

[LORD HOWARTH OF NEWPORT]

This long-awaited White Paper falls far below the level of events, as the noble Lord, Lord Kerr, just suggested. Here is a sample of its prose, from page 19:

“Diagonal cumulation would allow UK, EU and FTA partner content to be considered interchangeable in trilateral trade”.

At such an existential moment in our national life, when the country needs leadership, our Government express themselves in slogans that are contradicted by their policy and in incomprehensible bureaucratic mumblings.

What is to be done now? I am glad to see it reported that the Government may, instead, seek a free trade arrangement with the EU—including services, I trust—based on the EU’s existing arrangements with Canada, Switzerland and South Korea. M Barnier has signalled that the EU may be amenable to such an arrangement. If the EU can negotiate a free trade agreement with Japan, it could far more easily negotiate a free trade agreement with the United Kingdom. However, it is also reported that a deal of this kind is unacceptable to the Prime Minister, because it would mean a hard border in Ireland. It cannot be right that Brexit should be held hostage by the politics of Ireland. Here is an area where compromise is very definitely needed. With common sense and good will there need be no such problem. A system of trusted traders, intelligence-led checks and observation by means of cameras, drones and satellite surveillance would not amount, in any real sense, to a hard border. It is offensive to the Irish to assume that if they are not in a customs union, they will revert to murdering each other. I reject the alarmism of my noble friend Lord Adonis.

If the EU rejects a free trade agreement, we will have no choice but to leave without a deal and move to WTO rules. Let us not be bamboozled into supposing that that will be a disaster. Yes, some growth may be forgone, if forecasts are to be trusted, but we trade very successfully with major partners under WTO rules. Nor need the transition be remotely cataclysmic. We, on our side, can wave the lorries through and continue to operate air traffic control and all the other systems that facilitate movement, extended supply chains and innumerable legal and financial transactions. Even Messieurs Barnier, Juncker and Selmayr, for all their fundamentalism and punitive zeal, would surely not be so pig-headed and destructive as to set up hard borders between the EU and the UK and inflict grievous damage on their own businesses and people. The Government are right to be doing serious work to prepare us for no deal. The Treasury and the Bank of England should now refrain from fabricating fear. They must be willing to boost the economy to take us through the period following our departure.

People want a politics that can make us proud. The passion of leave voters is for our country and our democracy. There is no point in the Prime Minister and her Ministers spending the summer trying to sell the unsellable. She needs to speak to the nation about our future in visionary and compelling terms: in her own style, without rodomontade, she must brace us for some turbulence during the transition, and she must restore faith in those who doubt that we are a great country and that on leaving the EU we can renew our democracy and thrive. At present, however,

we are effectively without a Government. Urgent problems of the health service, social care, poverty and inequality, crime, prisons, housing and education are neglected. Brexit absorbs all the energies of Whitehall and Westminster, yet the Government and the House of Commons are unable to rise to this challenge. Ruses such as a second referendum or a Government of national unity would only deepen and further embitter our divisions.

Support for UKIP is rising strongly. Machinations to form new parties abound. Steve Bannon and other US Republicans are fishing in the filthy waters of the far right here and across Europe. Mr Putin has his own ways of stirring the pot. The viruses of anti-Semitism and Islamophobia are infecting our body politic. The chaos at Westminster leaves the field open to the kind of neo-fascist populists that we can no longer assume our native British decency will see off. Salvaging the status quo for the sake of short-term economic comfort would be a wholly inadequate response to this crisis. Let us boldly and confidently accept that it is right for Britain to leave an EU that is economically sclerotic, that generates traumatic social divisions, that represses the democratic aspirations of its peoples and that has no remedy against the advance of the far right. It is absurd to suppose that the peoples of Europe will no longer want to work with us, trade with us, ally with us, study with us, share their lives with us. If their rulers try to stop them, it will not last. Let us grasp our future as a great trading nation and as an independent, strong, self-reliant people.

5.47 pm

**Lord Boswell of Aynho (Non-Afl):** My Lords, I shall contribute as chair of your Lordships’ European Union Committee and I shall be as short as I can. I shall focus on the Government’s recent White Paper on the future relationship between the United Kingdom and the European Union. As many noble Lords will already be aware, the EU Committee published its report, *UK-EU Relations after Brexit*, on 8 June, and the House debated it on 2 July. Our six sub-committees are now all considering relevant sections of the White Paper, and I hope that the results of our collective work will appear after the Summer Recess. In the meantime, I shall briefly set out my own sense of how the White Paper measures up against the five principles we set out in the report I have referred to.

First, we said that the White Paper should focus on achieving benefits from the future UK-EU relationship, rather than on defending red lines. In this respect the White Paper is muddled, as exemplified by the proposition on page 14 that the new economic partnership sought will “end free movement”, thereby delivering on one of the Government’s red lines. It is not the economic partnership that will end free movement but the act of withdrawing from the European Union, as a result of which its treaties, on which the concept of free movement rests, will cease to apply to the United Kingdom. Setting aside the prospect of a transition period, it is a legal fact that free movement will end on 29 March of next year.

The aim of the future economic partnership, in contrast, is to deliver certain economic benefits. The first thing the Government need to do is to identify

and quantify them before making a pragmatic, evidence-based assessment of the extent of our reliance on European Union labour, and thus of the trade-offs that may be necessary or appropriate if we are to secure the benefits. On all of this, the White Paper is disappointingly silent.

The committee's second principle was that the White Paper should build on areas of mutual UK and EU interest. Here it is a mixed picture. In some places it does quite well, for example in addressing aspects of the security partnership and the need to avoid operational gaps in law enforcement. In others, it pays only lip service to mutual interests without building on them. For example, the paragraphs on climate change on page 40 acknowledge a shared interest, but no joint approach is proposed and no reference at all is made to emissions trading. It is difficult to avoid the conclusion that the pace of policy development has not been consistent: some areas are well thought out and detailed while others are still half-cooked.

Our third principle was that the White Paper should be realistic. It should acknowledge that the benefits of a new relationship will come at a cost, requiring compromises and trade-offs. Again, the White Paper is uneven. I will not labour the issue of the Government's proposed facilitated customs arrangement, other than to report that when the Select Committee visited Brussels last week—talking to Michel Barnier, among others—nobody outside UKRep saw the proposal as without problems. Instead, I will give a much more specific example—reciprocal healthcare—where the White Paper simply says that the Government want UK and EU nationals to continue to be able to use the EHIC. That is all it says. Here is mine—go or no go after 29 March next.

I find that, having overseen the extraordinary efforts of the 70-plus members of our committee and its 25 staff over the last two years to respond to the Brexit challenge—which has led to the production of over 30 thorough evidence-based reports on different aspects of Brexit—that this effort does not really strike me as a realistic starting point for negotiation in this area. I do not do it invidiously for that particular department—there are other areas of lacunae.

Finally, the fourth and fifth principles in our report were that the White Paper should present an inclusive vision of future relations, commanding broad support, and that it should use the language of partnership between the UK and the EU. Noble Lords will have their own thoughts on the first of these principles, particularly given last week's events in the House of Commons. As a non-affiliated officer in this House, I will resist the temptation to comment further, except to say that European interests read our language and are well aware of the psychodrama that has been taking place here.

As for our partnership with the European Union, the Government's support for an association agreement, long championed by the European Parliament, is welcome, and I hope it will change the tone of the negotiations. That of course depends on the other European Union institutions, in particular the Council, which ultimately calls the shots—but they have to react in the same spirit.

In summary, the White Paper is a curate's egg. It represents progress and the change of tone is welcome, but it is far from the finished article. There are still worrying holes in the Government's policy—and, of course, the need to agree an Irish backstop, to which the Government committed in last December's joint report, has not gone away. Time is short and my deepest fear is that the Government might now imagine that time in fact is its ally—that, as the deadline approaches and the threat of no deal looms ever larger, the EU will be first to blink.

If that is the Government's view, I submit that it is a delusion. As we said in our report last year, *Brexit: Deal or No Deal*, it is difficult to imagine a worse outcome for the United Kingdom than “no deal”. This is borne out by the Government's and others' economic analysis. We know that no deal would be disastrous, and the European Union knows that we know it. This is not the time to be playing chicken.

5.55 pm

**Lord Bridges of Headley (Con):** My Lords, it is a great pleasure to follow the noble Lord, Lord Boswell, who speaks such calm words of reason in a stormy sea. Before I start, I should draw your Lordships' attention to my entry in the register of interests.

For the last few weeks, that line by WB Yeats has been ringing through my mind—

“Things fall apart; the centre cannot hold”—

as I watched the political eruptions caused by the White Paper. I was not that surprised by what has happened. For months I have been arguing that the Cabinet must answer the question—perhaps the most important question—that Brexit poses: “What matters more: parliamentary sovereignty or market access?”. We all knew that any attempt to answer that question would trigger a political explosion, and so it has proven.

The White Paper is a compromise and, like all compromises, both sides feel aggrieved—some very aggrieved. I have some misgivings about the White Paper, not least the Heath Robinson approach to customs, but overall I support its approach. I think that remaining closely aligned to the EU on goods, but not on financial services, is a reasonable and balanced basis for further negotiation. Yes, as the noble and learned Lord, Lord Hope, said, the ECJ will still have a role and influence on our way of our life—for example, as regards the common set of rules. But I would argue that that is a price to pay—and worth paying—to guarantee free and frictionless trade. I wish the Government were a lot more honest about all this and would sell the White Paper for what it is: a pragmatic approach to the negotiations. It is not a deal, as some have said, nor is it an agreement. It is just that—an approach.

But, in many respects, these points are irrelevant quibbles, for the White Paper appears to have been rejected by the Labour Party as not going far enough, and by scores of Conservatives and others as going too far. That is even before the EU gives us its considered views. So, what should we do? First, just as members of the Cabinet have had to come out from their trenches and drop their positions, I would hope the

[LORD BRIDGES OF HEADLEY]

European Union does likewise. Both sides need to understand the pressures that the other side is under. The Prime Minister has compromised; I hope that, in the spirit of sincere co-operation, the European Union now does likewise. For there is a risk—a very real, growing risk—that inflexibility, combined with a miscalculation, could trigger a sequence of events where things really do fall apart. And that need for flexibility applies here too.

Let us not forget the overriding aim of the next six months: to secure in the withdrawal treaty the transition and the clear heads of terms about our future relationship with the EU. The closer we get to the end of this year without an agreement on the transition, the more businesses will accelerate implementing their plans for no deal. Some of those decisions may be irreversible. As important is the need for clear heads of terms in the treaty. Having agreed to pay the divorce bill, and quite possibly signed a backstop agreement, we may find that the EU will have an even stronger hand in the next phase of the negotiations. As I have said before, if all we get is meaningless waffle in the treaty, and we have no clear sense of the future framework for our relationship with the EU, next year we will be forced to walk a gangplank into thin air. We cannot afford more years of uncertainty, but to get that clarity means engaging constructively, now, with the EU, on the basis of the White Paper.

I hear what some say: “The Government have already made too many concessions and we should not use the White Paper as the basis for any negotiation”. Implicit in this argument is the view that falling back on WTO terms, the so-called no-deal option, is preferable to the approach set out in the White Paper. I share the views of those who believe that, in a negotiation, one should always be able to walk away. I have written before of my fear that the Prime Minister would become handcuffed to the negotiating table, forced to make one concession after another, as no deal is not an option. I know that few in this House agree with me on this so, rather than debate again and again its merits, let us remember that prime rule of politics: learn to count.

As things stand, is there a firm, cast-iron majority in the other place to allow the Prime Minister to walk away from the negotiations? The answer is no. What is more, are the public aware of what implications a no-deal outcome would entail? Are businesses fully briefed and fully prepared on what to do? The answers are no, and no again. If the situation does not change at all, in Parliament and in the country, let us imagine that the Prime Minister now took a truly inflexible position. If we reach a point where the EU asks us to choose between being in a customs union and agreeing to an FTA which puts a hard border in the Irish Sea, what option would the Prime Minister have but to sign?

I ask those who balk at this train of thought and refuse to concede to any further negotiations on the basis of the White Paper, claiming it would be a betrayal of the referendum, to confront political reality. The White Paper provides us with the only path to follow. We have only just now begun to confront the choice between parliamentary sovereignty and market access. Let the European Union and ourselves see if,

and where, further compromise is necessary—by them and by us. In this long hot summer, cool calm heads are needed. Otherwise, there is a real danger that Yeats’s words will become a reality.

6.01 pm

**Lord Taverne (LD):** My Lords, there has been one change since we last debated Brexit: Boris Johnson has gone. What will be his legacy? On this I differ profoundly from what was said by the noble Lord, Lord Heseltine, with whom I normally agree. He thought what a wise decision Mrs May had made in putting Johnson in charge of the negotiations. I believe the verdict of history will be that Mrs May’s choice of Johnson as Foreign Secretary was the most bizarre public appointment since the Roman Emperor Caligula appointed his horse as consul.

The Government will have to do without Johnson’s counsel when they come to face the very real possibility of no deal. In several speeches over the last year and more, I have argued that, given the Government’s red lines, we were heading for no deal. This is now taken very seriously by the European Union, as well as by business. No deal may result for three reasons: because the Cabinet cannot agree what it wants; because, even if the Cabinet agrees, the Conservative Party may not; and because, even if both agree, it will not be accepted by the 27. The first signs are not very favourable: the White Paper was received with well-concealed enthusiasm in Brussels.

What is generally agreed—the noble Lord, Lord Boswell, pointed this out and his committee’s report agrees—is that no deal would be a disaster. It would be falling off the proverbial cliff. This is of course disputed by the extra-terrestrials who run the European Research Group. I believe that it would be a disaster, unless it is avoided by a series of events which are far from inconceivable. First, I believe that Parliament will reject no deal and insist on a meaningful alternative. Might this be a general election? Would a Conservative Government, responsible for a failed negotiation leading to a state of chaos, fancy their chances of victory? It is not likely. Should Parliament tell the Government to go back to the negotiating table and come back with a better deal? That is mission impossible. The only meaningful alternative will be to let the people have the final say, especially if Parliament cannot reach a clear conclusion.

At first, the idea of a second referendum was contemptuously dismissed and had little support. Now, the idea of giving the people the final say is steadily gaining ground. Of course we will be told that the people have spoken and to question their verdict is to treat them with contempt; this is the leavers’ mantra. Leavers had many different reasons for voting leave, but ending up with the catastrophe of no deal was certainly not one of them. It was to be all sunny uplands. This time, voters cannot be gulled by promises of £350 million a week for the NHS because we will be paying a divorce bill of some £40 billion, nor by scares about millions of Turks about to invade Britain. This time, they will know what Brexit actually means. In the early days after the referendum, Donald Tusk forecast that the final choice would be between a very

hard Brexit, such as no deal, and remain. I have always thought he was right. In the end, that is likely to be the only real choice, as the halfway-house compromise of the Chequers paper is a dead option.

As a final point, I have always opposed a referendum. During debate on the then European Union Bill in 2011, I argued in favour of the tradition of Locke—in favour of parliamentary democracy based on the rule of law and the rights of the individual, not the pernicious Rousseau doctrine that the will of the people must always prevail. That is a doctrine invoked, ever since the days of the Committee of Public Safety, by dictators past and present. I also argued for the principle expounded by Burke: that for Parliament to work effectively, MPs must be representatives not delegates. So why do I support another people's vote? Because a vote to leave by plebiscite cannot be reversed without another vote by plebiscite. But then we should follow the example of the Germans, who wisely adopted a post-war democratic constitution, which, in the light of their experience of Hitler, forbids the federal Government from calling referendums except on very limited local issues. Then we go back to Locke and Burke, and down with Rousseau.

6.07 pm

**Baroness Nicholson of Winterbourne (Con):** My Lords, the White Paper is very welcome. It is a very familiar document to those of us who have worked with the Commission on enlargement and foreign policy. It merits high praise to the Whitehall and regional civil servants for their dedicated work and to their colleagues, the Commission officials. As a large set of teams tackling a unique task of historic proportions in a very short time, their combined work has been magnificent.

We are presented with an opportunity that no other nation and no other British Parliament has ever encountered. We are leaving—yes, that is the case—a vast and somewhat controlling intercountry bloc to which we, the British people, have been the second-largest net contributor and much more for nearly half a century. Our task is an enthralling one. The British people voted to change the course of history. While a referendum is not the preferred choice of most people, for nobody ever trusts the outcome—even in California, the home of multiple referendums—this outcome was very clear indeed. To those who say that the information they were given was insufficient or misleading, I have to say that if 43 years in the same institution does not tell one how it works, then no amount of information will provide the understanding to ever satisfy the doubters who cry for a rerun.

It is tempting to recall that the latest eminent former Prime Minister to declare another referendum to be morally justifiable is the same former Prime Minister who achieved the notorious “empty chair” policy which ensured a full cessation of information and of political involvement by the UK in the EU. It was ignorance by choice for several years, which our nation paid heavily for in finance, in influence and in the information and knowledge that we are painfully reacquiring. We do not yet know the final detail of our leaving, but the way ahead is clear.

The earlier 1970s referendum resulted in a higher percentage of voters ticking the yes box, but voter confidence in the outcome was no higher. For all my political life, I have attempted, but failed, to dispel the subsequent view of the electorate that they had not got what they thought they were voting for. They believed that we were entering a single market; instead, our nation came under Roman law, which has intruded to such an extent that thousands of inherited British Magna Carta freedoms have been swallowed up. Unlike Ahab and the whale, we have no God-like powers to recover them. The earlier EU referendum campaign misspoke—in the endearing terminology of our recent presidential visitor. No one informed the electorate that by an almost invisible sleight of hand, certainly unknown here, the Luxembourg court had earlier passed a single case law judgment making Brussels law superior to that of member states. This judgment cascaded through the entire EU system, degrading Parliament's unique position in our democracy. Never again since joining the EU has the Westminster Parliament been omnipotent and omniscient. It became, and still is, subsidiary to Brussels. Our electorate had no knowledge of that fundamental change of locus of decision-making nor of the coming Niagara deluge of frequently irrelevant and somewhat harmful legislation which has poured in over our heads and swamped our inherited systems. Measurements of window cleaners' steps determined in Brussels for nearly half a billion people is just one of the multiplicity of mini-laws that affect us here today.

No further referendums on any matter affecting our EU status can ever hold the confidence of the British people as they were misled. The fundamental transfer of sovereignty was neither explained nor understood, even in Government or Parliament 20 years later. Were we to succumb to the siren voices suggesting a further referendum now and on the same subject, parliamentary government would be dashed on the rocks and our democracy could not recover. The voter understands that, and the electorate decided that we should regain our autonomy, reshape our future as a nation and ensure that there is a harmony of vision between the European Union and the UK and that there is no sharp, abrupt cessation of partnerships or deep, historic ties, and that our capacity to trade is heightened and enlarged, not shrunken. The statistics today about our economy are looking very good indeed, while the latest PwC global forecast for Britain is even better. The popular will as expressed at the ballot box was incontrovertible, and this White Paper, with the amendments it will acquire as it progresses through both Houses, will reinforce the confidence of the electorate in a powerfully positive future for our country—with a strong economy; financial services at the heart of a digital economy; greater exporting and outward and inward investment; a swifter reaction to the shifting centres of modern power internationally, and a creative shaping together of our nation's future.

As for that pesky voice shouting too loudly that a 4% majority is not good enough and that we must rerun the entire competition, do we assume that they disregard the previous nationwide referendum which decided that first past the post was the way for British votes to be cast and counted? Shall we rerun that

[BARONESS NICHOLSON OF WINTERBOURNE]  
 referendum too and the last election and the one before as well? That is not going to happen, not now nor in the future. Let us make friends again, not just with the EU but with ourselves. We are in Parliament to serve the British people and to enhance our nation's greatness in her post-Brexit new clothes. As the Prime Minister has declared, we should back the White Paper. I believe we should win or lose any wished-for amendments with good grace, meeting political opposition with courtesy and never with personal hostility. Above all, let us get on with the job. I support the White Paper, the Prime Minister and the Government's policy to the full.

6.13 pm

**Lord Hannay of Chiswick:** My Lords, speaking at number 23 in this debate, I did not think that I would succeed the first person to speak on behalf of the Government's White Paper, but so it has been. I am afraid to say that I will make one point in common with the noble Baroness, Lady Nicholson, and pay tribute to those who put together the 98 pages. It is the first comprehensive explanation of the Government's negotiating position that we have had in the two years since the referendum. However, apart from that, I am afraid that I will depart rather widely from what the noble Baroness said.

The White Paper, which had such a troubled birth and has had a pretty troubled life in its short three weeks, is not under any circumstances a blueprint for a deal, and anyone who believes that it is is doomed to be disappointed. That is all the more so given that there are so many holes in this White Paper, which other speakers before me have mentioned—as many as in the ordinary piece of Swiss cheese—and so many inbuilt contradictions, some of them, of course, forced on the Government by their own capitulation to the European Research Group, that most Orwellian of brand names. That is really what leads me to my overall conclusion about the White Paper, which is: too little, too late.

It is too late because it should have appeared nearly two years ago before the Prime Minister drew all those red lines, without any Cabinet or parliamentary authority, on the customs union, the single market and the European Court of Justice, when she spoke in October 2016. If it was not made clear then, it should have been done before triggering the Article 50 letter, with its two-year cut-off. If it was not done then, it should have been produced at the time that political agreement was reached on the withdrawal arrangements in December 2017. If it was not done then, it should have been done when the rather inadequate transitional period was agreed in March this year. That is quite a list of chances missed.

If that is too late, it is too little because of all the holes and contradictions. I shall mention just a few, and I would welcome a response from the Minister when he comes to wind up this debate. The first is the Irish backstop. We settled for something. We agreed to it in December 2017. Now all we can say is that we do not agree and will never agree with the legal language that the Commission has produced. Okay, so what can

we agree to? What legal language are we prepared to accept? Legal language there will have to be; if not, there will not be a deal.

The second is the free movement of people. For the first time, the White Paper speaks about a framework for mobility to be negotiated with the EU 27. When I spoke about this at the time of the Statement, the Minister rattled off a number of references where I would find all I needed. Alas, no, there is not a word about what this mobility partnership means. This framework for mobility remains a great mystery. We have no White Paper on immigration and no post-Brexit immigration Bill. We have nothing. The negotiators—ours and theirs—do not have a clue from reading those 98 pages.

The third is dispute settlement. A hugely complex and cumbersome procedure is put forward which might conceivably handle disputes between Governments but is quite inadequate and unfit to deal with disputes about the rights of individuals, most importantly on the European arrest warrant, which is a crucial part of any security arrangements that we may reach. What I do not quite understand is why the Government have never paid any attention to the possibility of borrowing the example of the EFTA court, which would provide a British judge and which reaches decisions which are not legally binding and immediately applicable. I think that they could have done better than this cat's cradle.

The fourth is the service industries, which form 80% of our economy and are hugely competitive across Europe and the world. There is nothing in the White Paper that says what will be done for them. They are simply being hung out to dry, with no solutions proposed.

The fifth is the backstop, or what is called the lock for Parliament on changes in the EU rulebook, in which we are told that Parliament will be able to reject them. That, frankly, is a sham. Using that would bring the whole edifice tumbling down and, as the Swiss discovered when they started to monkey about with free movement, it does not take long to come down.

Last, but not least, I come to the customs facilitation arrangement, an extraordinarily ambitious and untried system. Is it even consistent with our WTO obligations, where exporters on the whole expect to know what rate they will trade in when they send their exports? Is it even faintly possible that it can be introduced in the rather short timescale of the 20-month transitional agreement?

We are now approaching the endgame for these Brexit negotiations. It is no good saying, as has the leader of the other place, that this White Paper is our final word. It is no good saying, as has the Prime Minister, that the White Paper is,

“a set of outcomes which are non-negotiable”.

That is a recipe for the worst possible outcome: no deal. There would have to be consequences, and they would be pretty dire.

As many speakers before me have said, we must recognise that there will have to be further compromises—I agree, compromises by both parties to the negotiations. To pretend otherwise is to bring up more trouble in the autumn. I hope that the lesson will have been learned.

Otherwise, the negotiations will continue—I say this with some sadness—to be the most ill prepared and ill conducted in this long saga of our relationship with the European Union. The historians who write the story of this will not be kind to those who take us over the cliff.

6.21 pm

**Lord King of Bridgwater (Con):** My Lords, it is a privilege to follow the noble Lord, Lord Hannay, who takes a great interest in these issues. I note that we have already had contributions in this debate from people who know a tremendous lot about all the detail of these matters. I have therefore decided to take on the role of the common man, the person who does not understand all the details of everything, but of some people who voted in the first referendum. An awful lot of people voted in the first referendum not beginning to comprehend some of the extraordinarily complicated issues that have been raised in these debates, some of which were misrepresented and some of which were never mentioned at all.

I make my position clear, to be honest to the House. I am what I call a conditional remainder. I should have liked us to remain in the European Union, but I was getting increasingly concerned about developments there. I was glad that we were becoming what I would call more of a country member, with our opting out of the eurozone and of membership of Schengen. I was concerned about what seemed to be an everlasting expansion of the European Union, having represented the United Kingdom in the Council of Ministers in various departments, as I did for six years, with eight other countries represented. I fail to see how 28 and rising can be managed in the same way without the larger but looser plan, which I understood was the original concept but which the European Union and the Commission seemed unable to adopt.

On the referendum, one particular remark of the leavers sticks with me: they say that this was the largest vote ever in the history of any vote in this country. I think that 17 million voted. I simply make the point that it was the largest vote against that has ever been registered at any election in this country as well. Relatively speaking, at 52:48, it was a completely split vote, as close to a dead heat as one might imagine. It is that situation and the serious division within our country that we all seek to address here today.

I certainly agree with my noble friend Lord Heseltine that I was under no illusion but that migration was one of the factors at the time. It coincided with that sudden burst of activity across the Mediterranean into Greece and up through the Balkans that gave such concern about the implications of free movement of people.

My particular concern is that this is taking place at a time when the world has undoubtedly become a much more dangerous place. We are obsessed at the moment with the Brexit situation; it is paralysing some of the work of government. That is at a time when we look at the absolute tragedy of what is happening in the Middle East, in Syria and neighbouring countries, with a population explosion in Africa which we see reflected in the migration figures, and with the

reassertion of Russian power and influence. We saw only this weekend the allegations of Russian activity in Greece and North Macedonia, as it will be called.

Europe has of course changed in this time. In each country—in Italy, Spain, France and Greece—people are arguing about who will handle the migration figures. There is the rise of the far right in eastern Europe, a weaker Chancellor Merkel than we might have hoped to have had during this difficult time and, on top of all that, we have the slightly uncertain activities of President Trump, who now appears to be launching pretty aggressive actions towards Iran, disapproves of the common structures of NATO, the EU, the World Trade Organization and NAFTA, and is initiating some form of trade war. All of those are very dangerous developments in which we are involved.

It is against that background that I look for early action, because there is too great a risk of no deal and general agreement that no deal could be extremely damaging. I was struck by the comment of the German European Minister, coming out of the meeting on Friday in Brussels discussing the British White Paper, when he said that they do not want to punish the UK. We do not want to punish the UK. We do not want to punish Germany. We do not want to punish France, Holland, Denmark or, in particular, Ireland, if there is a breakdown. I draw support from that from the IMF, which stated that it would be a loss for both sides.

I add the comment that there is a lot of talk about not having a hard Irish border. From my experience of Northern Ireland, I will not tender to build that border. I should not think that there will be a firm Irish border, whatever statements may be made about it.

More positively, I look at the need for maintaining a good, constructive relationship with our friends. I was struck by a remark of José Manuel Barroso at a recent meeting when he said that the UK would always be a most important country for the EU and he wanted us to go forward as friends.

Some think that there might even be a referendum now. Obviously there cannot be, because we would fall straight into the trap that we had before of a referendum without people being properly informed and knowing the issues. For that reason, I strongly support the position of the Government now that there is a White Paper—a proposition on the table. I am encouraged by the start made by the new Secretary of State for Brexit, who I think may be slightly more energetic than his predecessor. I wish him good luck in his activities. I think his initial appearance on the Marr programme gave one some encouragement. We must see whether it is possible to reach an agreement and some understanding.

As for the alternatives: a government of national unity? Certainly not. I have to say to the noble Lord, Lord Newby, that I find it extremely difficult to support the idea that the Greening concept—having three alternative propositions to vote for, so you might end up with a decisive result in which 40% was the victory vote—would build national unity. Having said that, there is urgency. As my noble friend Lord Boswell said, we cannot expect that if we hold them to it,

[LORD KING OF BRIDGWATER]

the EU will feel the need urgently to reach agreement. Whatever the EU wants to do, its procedures will make that very difficult.

The situation now, as the *Times* correctly put it in its recent leader, is that the present proposition put forward by the Government is the worst plan, except for all the others. That is what we now have to proceed with, and at the end of the day, it will be up to Parliament and the meaningful vote to decide whether what comes out of this is acceptable. Parliament may then feel the need to enlist the support of the people, but only after it has had the opportunity to make a full and responsible assessment of the outcome of those discussions.

6.30 pm

**Lord Davies of Stamford (Lab):** My Lords, I want to make four points, the first of which is a rather sad—perhaps very sad—observation. The British have been associated over the generations with different qualities—some positive, some negative. We have often been thought of as being arrogant, complacent, too self-satisfied. There may be something in all of those criticisms, but we have never ever, until now, been considered incompetent. That has now changed. We are in a situation in which the Government have been presiding over a shambles which has been watched right across the world, with, first of all, unbelief, sometimes amusement and, frankly, horror by all of those who wish us well in the world.

The Prime Minister decided to give notice, under Article 50 of the treaty, that we were leaving the EU, without any preparation whatever, without even establishing in a written document what her own view was. We have had to wait two years for that—in the paper before us, and we have heard about its many shortcomings today. This paper has been brought forward just eight months before the deadline, before the day we may go over the cliff. What an extraordinary way to plan for any kind of negotiation. We have had delays, an inability to keep to deadlines, vacillation, indecision, changes of mind, and the incoherence of the Government once the whole principle of Cabinet responsibility had been suspended. All of that is unbelievable. Whatever comes out of this, we have already lost, sadly, quite a lot of the soft power that we had in this world, as a result of this process—even long before the process itself has been terminated either by an agreement with our European Union partners or in any other way.

My second observation is this. If you read through the White Paper, it is impossible honestly to come to the conclusion that it is in the interests of this country to leave the European Union. On every single subject mentioned in this paper, except for one, which I shall come to in a second, it is quite clear that the deal we currently have is much more advantageous to the United Kingdom—in many cases, spectacularly more advantageous to the United Kingdom—than anything that is on offer, either in this paper, or having been suggested by anybody else, or having been asked for by ourselves as a substitute. That is a pretty extraordinary set of affairs. Before I go any further, I had better mention that the exception is fish, but even that is misrepresented in the paper.

The White Paper makes it apparently clear that, if we leave the European Union, we can claim all the fish within our exclusive economic zone and drive everybody else out. That is not true for three reasons which were not mentioned. One is that our British fishermen catch in other EU waters about a quarter of the amount they catch in UK waters, so they will presumably lose that, which mitigates the benefit. Secondly, quite a number—more than 10% some time ago, but I do not know the latest figure—of British licensed fishing boats, are licences held by other EU nationals, so that muddles the calculation somewhat. Thirdly, customary international law and positive law in the form of the 1964 fisheries convention makes it clear that the rights of traditional and historic fishermen cannot be ignored. They cannot just be driven out when they have been fishing in those waters for two generations or more.

The situation is almost unbelievable. If we look at everything in this paper, except for fish, such as Euratom, goods, services, civil aviation, pharmaceuticals, the very important security issues, our membership of Europol, the common arrest warrant, and so forth, on every single instance it is more advantageous to stay in than to leave. The present regime is more advantageous than any conceivable alternative.

The third observation I have on this paper, which hit me quite hard between the eyes when I read it, is the extraordinary abandonment of services in this country. I thought we were very proud of our success in services in the world—success in the City, success of our media industry, which is so important, the success we have in technology and IT. I thought that, as a nation, we were proud of that. I thought that all Governments considered it part of their obligation to nurture these strengths, these industries. Far, far from it, this paper rejects them completely. They are forgotten about and cut off. The paper suggests the means by which we can help producers of goods, but on services there is nothing at all. That seems to be a fundamental dereliction of duty by this Government, and would be by the Government of any country to do such a thing to large sectors of investment and employment with all the human and financial consequences that would flow from that.

My fourth point is this. The great issue in this country is: why? Why are we being condemned with this self-destructive policy? Why do we have a Government who are actually in the process of destroying important industries in this country? That is unprecedented. I cannot think of any historical instance of that being done, and certainly not in a civilised country in recent times.

When one asks why, one gets from Eurosceptics two different sets of answers. One is, “Because we are implementing the referendum”. Leave aside the fact that the Supreme Court made it quite clear that the referendum was an advisory referendum. Leave aside the fact that no Parliament can commit its successor, because Parliaments have to take a new view on where national interest arises—we have had a new Parliament and two years have gone by, so it is the responsibility of Parliament to look at the matter again. Leave aside the fact that the referendum has been very much discredited because it was corrupted by serious breaches

of electoral law, by gross overspending which in a Westminster election would cause the immediate unseating of the apparent winner of the election. Apparently, that sanction does not exist in this particular context. Leave aside the fact that the whole referendum was based on a lie—the famous lie by Boris Johnson about the National Health Service, and now we have, no less, the Office for Budget Responsibility confirming that far from having a dividend from Brexit, we have a penalty—less ability to spend money on any public service, the National Health Service included.

The other answer from Eurosceptics and the Government is, “We have wonderful new opportunities around the world that we can seize”. We know that that is nonsense. I have spoken on this on several occasions. We will not get a trade deal with the United States. It is has nothing do with the volatility of Mr Trump personally, but because no US Congress would ratify a trade treaty that did not provide for the sale of American agricultural products, and we will not accept in this country, as would not be accepted anywhere else in the European Union, chlorinated chicken and antibiotic-infused beef, and so forth, which we would have to accept in the circumstances. We will not do a trade deal with China because the Chinese will never accept steel quotas against them, and we cannot accept getting rid of steel quotas unless we abandon the British steel industry and Port Talbot, which the Government have promised not to do.

That is all rubbish, complete nonsense and pie in the sky. Who believes it? I heard the other day on Radio 4 somebody asking Dr Fox, “Where will you start replacing all the business we may have lost in the EU?”. He said that India would be a good place to start. I have the figures here showing that our exports to the whole of the rest of the EU are about €300 billion and exports to India including goods and services are about €7 billion. What does that mean? It means that if you were to increase that by 50%—which we never would of course, but let us suppose that we were to increase them by 50% as a result of a trade deal with India—we would gain another €3.5 billion of exports. If we lost 10% of our business with the EU, as we might well do, as a result of either new tariffs, quotas, or just the ill will we are generating, we would lose €30 billion, and on that basis we would lose €16.5 billion.

What businessman would accept that as a good proposition? No businessman would do so. What politician would accept that as a good proposition for his or her country? Only a Brexit politician, and only a politician for whom Brexit was more important than the future of the country that he or she is representing.

6.39 pm

**Baroness Smith of Newnham (LD):** My Lords, the noble Lord, Lord Hannay, pointed out that, speaking at number 20 or so in the order of speakers, he was a little surprised to have heard only one Member of your Lordships’ House actively supporting the White Paper. Speaking at number 26, I find myself at the disadvantage that the noble Lord said many of the things that I had written in my notes, starting with the very idea that this document is not, as the noble Baroness, Lady Nicholson, suggested, a welcome one. It is, rather, too little, too late. The time for a White

Paper on the UK’s relations with the European Union was before the Prime Minister triggered Article 50. The time for the United Kingdom—for members of the public, Members of your Lordships’ House and the House of Commons, and members of the Conservative grass roots—to know what the Prime Minister thought that she wished to negotiate was not two weeks ago at Chequers but before she triggered Article 50.

For two years, the Prime Minister kept suggesting, “It doesn’t do to show our negotiating hand—it will weaken our position”. But the EU 27 told us their position almost on day one; before the negotiations began, we knew where they were positioning themselves.

Perhaps the Prime Minister did know what she wanted. Indeed, that appears to be the case—because, in the White Paper, in her opening words the Prime Minister already begins to suggest that the White Paper is not the starting point but already the product of some sort of compromise. She points out that we need “pragmatism and compromise”. The noble Lord, Lord Bridges, suggested that we need pragmatism and compromise for an effective negotiation, but I suspect that a former Conservative Prime Minister might be turning in her grave at the suggestion that the United Kingdom should be compromising. The only thing that might stop her turning in her grave is, I suspect, that she believes, in death as in life, that turning is not something that we should be doing.

This White Paper suggests that already Prime Minister May has begun to turn, that the document before us—many noble Lords have been focusing on it today—is a response to two years during which the EU 27, and Monsieur Barnier in particular, have been saying what the EU position is and making clear what the United Kingdom might be able to get.

Right at the start of the White Paper, the Prime Minister says that,

“we have evolved our proposals, while sticking to our principles”. The noble Lord, Lord Callanan, in his opening speech this afternoon, said something very similar. How would we know what the principles are that are being stuck to? It is wholly unclear.

The idea that the document is non-negotiable is, as the noble Lord, Lord Hannay, and others suggested, rather mistaken. Already it has become clear that, if you are a Tory Brexiteer and one of the European Research Group and you threaten to rebel in the House of Commons, you will be rewarded with a government-sanctioned amendment. If you are a rather more loyal remainer threatening to put forward an amendment, you are told by the Prime Minister, as I understand it, “No, you mustn’t put forward an amendment—if you vote against the Government you will bring them down and that will be catastrophic”.

So what principles are these that underpin the White Paper? Are they really in the UK national interest? I am not persuaded that they are. What is clear in the White Paper is a whole set of contradictions. The Prime Minister tells us that the days of sending vast sums of money to the EU every year are over. Yet, as my noble friends Lord Newby and Lord Wallace pointed out, there are many cases—62, I believe—where the Government say that they want to go back into

[BARONESS SMITH OF NEWNHAM]

this agency or be part of that policy. How are we going to do that? We want to contribute financially. So this great Brexit dividend, the £20 billion going to the NHS that we have been promised, is a mirage. There is not going to be a £20 billion dividend from leaving. As far as we can see from the White Paper, the costs are wholly unclear. So I should be most grateful if the Minister, in winding up, could tell us whether the Government have done any costings of what opting back in to various agencies and policies will mean in practice. Can he tell us politically where we stand? We want to pay to be part of a whole set of agencies—and, obviously, as somebody who was a passionate Remainer and still believes that we would be better off in the European Union than outside it, I can see that we might want to be part of 62 agencies and policies. But apart from the financial cost, what role will we play? As a member of the EU, we have a seat at the table; what this White Paper suggests is that we want to go almost grovelling to ask to participate. What say are we going to have?

The noble Lord, Lord Mandelson, suggested that this was taking us to a Norwegian model. I am a great fan of Norway, but I am afraid that I am not a great fan of the Norwegian model—and this is no Norwegian model. As the noble Lord, Lord Davies, pointed out so eloquently, this White Paper at best talks about goods. It ignores any meaningful deal on services, which comprise 80% of the UK economy. What do Her Majesty's Government think that they are doing? Why are they going for a set of proposals that look like a watered-down version of Norway? Where do they see the United Kingdom in the long term? So far, they do not appear to be offering anything that offers great succour to erstwhile Remainers, ongoing Remainers or even the Brexiteers. So far this evening we have found that the Minister's opening remarks merely served to unite the noble Lords, Lord Liddle, Lord Forsyth and Lord Hannay. That does not very often happen. The Minister and the Government might think that they are doing very well if they have found a way in which to unite such disparate voices—but they were all voices that were very sceptical about the White Paper.

Where are we going to end up? The Minister told us that there would be a set of technical documents. Finally, I will ask a specific question on that, because I believe that technical documents are intended to say to EU citizens resident here, "This is what you need to do". The Minister told us, with regard to these technical documents, that planning for no deal has been going on for two years. Those EU citizens resident in the United Kingdom have been led to believe, since the end of 2017, that their rights would be secured. Is there any truth in that whatever, or should they look to find some secure future elsewhere? Are the Government letting them down as they are letting UK citizens down?

**Baroness Manzoor (Con):** For the assistance of the House, I remind noble Lords that the advisory speaking time is six minutes. To get through the business today and allow everybody the opportunity to speak, I would be very grateful if we can keep as close to that as possible.

6.48 pm

**Baroness McIntosh of Pickering (Con):** My Lords, it is a pleasure to follow the noble Baroness. I refer to my interests in the register and to one that is not in it: I am immensely proud to be half-Danish, and that colours my approach to the whole debate on our membership and how we leave the European Union.

I welcome the White Paper and the direction of travel on which it embarks. In considering how we are to leave the European Union, I would like the House to reflect on the importance of the food and farming sectors to the UK economy. The value of the food and drink industry to the UK economy is £112 billion, and it employs about 4 million people. Food and drink exports are worth about £22 billion per annum, and it is in fact the main manufacturing sector. Our main exports are whisky, salmon and chocolate. Some 70% of the UK's agri-food imports came from the EU in 2017.

In the scenario of a free trade agreement with the EU post Brexit, the implications for the food and drink sector are potentially extremely severe. It could lead to a potential drop of 26% in exports and 29% in imports, with a 3% projected increase in prices. In the scenario of our continued membership or rejoining of the European Economic Area, this could see a 7% drop in exports and a 7% drop in imports, with only a 1% increase in prices. If we were to crash out on World Trade Organization rules, this would necessitate the agreeing of rules of origin, nomenclatures and descriptions of products for every item, which would impose huge regulatory burdens on the businesses concerned. All those advocating that we leave on World Trade Organization rules and most-favoured-nation clauses must be aware that rules of origin checks may be needed to check precisely third-country imports into our exports to ensure that the UK would not be taking advantage of preferential tariffs. So, potentially, the consequences of leaving for the food, farming and drink sector are higher prices and less consumer choice.

Why would we prefer, and why have the Government set out, a facilitated customs arrangement with access to a single market? Goods between the UK and the EU would avoid a hard border in Northern Ireland, and it would protect integrated supply chains and "just in time" processes. It would include the facilitated customs arrangement, which would remove customs checks and controls between both partners. However, I will press the Government and the Minister further this evening for what is not currently in the White Paper.

The food industry is asking for labelling: we need consistent food labelling so that we can continue to maintain the same stock-keeping units in the UK and Ireland rather than separate parallel listings. We need to have safeguards for EU staff, protecting the rights of EU citizens who currently live and work in Britain. We need to have access to priority markets: we must be aware that if there is no deal on the day we leave the EU, the UK will become a third country and will lose access to all country markets—even those with whom we currently trade—through the EU free trade deals, which includes our Commonwealth partners. There is currently no mention of a continuing role within the UK for the European Food Safety Authority, yet we

must have consistent food laws so that EU products can remain on sale in the UK and vice versa. Will the Minister confirm this evening that we intend to maintain a relationship with the European Food Safety Authority?

We must be aware of the length of time needed to negotiate new trade deals. The deal between the EU and Canada took seven years, and it included a partial agreement on services, which obviously was welcome. We must also be aware that the Irish border issue is now agreed. It is not just in the Belfast agreement but has been written into the European Union (Withdrawal) Act by way of a government amendment. Many noble Lords speaking in the House this evening seem to be in denial of that. We must also be mindful of the fact that movement of animals and food products across the Irish border cannot be monitored by technology.

There has been criticism of the common rulebook, but why is it important? We always need rules. In the terms of the White Paper, the common rulebook would allow equivalence in certain specified areas and the maintenance of food standards, and would protect against substandard food imports. In other areas it will be possible to diverge and divert from agreed regulatory standards. In the past, rules at EU level were always criticised, which is probably why many farmers in North Yorkshire voted to leave the European Union. But most of the gold-plating—making the rules more demanding—was done through statutory instruments under the implementing legislation in this country, piling obligations on our farmers and food producers that were never demanded in other EU countries.

As other noble Lords have said this evening, we need to spell out what is happening with services.

I will conclude on the impact of currency. Today, sterling has recovered slightly from a four-month low reached last Thursday. The day after the referendum, the pound fell about 14% and recovered by 4%. The additional cost of these sterling fluctuations to one food manufacturer alone has been £300 million in the last three years, and at the same time, food inflation has swung from a low almost 10 years ago to an historic high of 5.1% in December 2017.

My conclusion is that realistically, to avoid a huge shock to the economy, the Government should seek continued membership of the EEA or should apply to join EFTA. To crash out of the EU without the deal would have lasting and damaging consequences for the UK and the EU. It simply cannot be allowed to happen.

6.55 pm

**Lord Browne of Ladyton (Lab):** My Lords, I am delighted to follow the noble Baroness, Lady McIntosh, and I pay tribute to her for her consistent championing of the UK agri-food industry throughout this whole Brexit process. This evening she has again made a knowledgeable contribution. My contribution will be restricted to the defence and security issues referred to in chapter 2 of the White Paper. I say to the Minister that it deserved more than four or five sentences in his opening remarks.

Without wishing to devalue the importance of the issues which have dominated this debate, I remind your Lordships' House that the Government's first duty is to protect the public, and that both the Government and the EU are agreed that the maintenance of shared security capabilities between the EU and the UK is essential to keeping citizens in the UK and the EU safe.

When the Leader of the House repeated the Prime Minister's Statement on exiting the EU, she reminded us—supported by the Minister, who was nodding his head furiously—that, post Brexit, the Government sought to achieve an “ambitious”, or, as Dominic Raab now says, an unrivalled “future security partnership” with the EU, and sought to reassure your Lordships' House that:

“We are working very constructively with our EU partners”.

The noble Baroness went on to explain by example, saying that,

“since the Salisbury incident we have led work with them to propose a package of measures to step up our communications against online disinformation, strengthen our capabilities against cybersecurity threats and further reduce the threat from hostile intelligence agencies. We have an excellent relationship in this area”.—[*Official Report*, 9/7/18; col. 817.]

This is of course commendable, but these are examples of co-operation within the current situation—within the European Union—and, with respect, are no indication of progress or likely progress to the achievement of our post-Brexit ambitions, which are set out so extensively and ambitiously in the White Paper.

Since her Munich security conference speech, our Prime Minister has repeatedly called for a defence and security treaty by 2019—just five or so months away. Just how well are we doing? To aid our deliberations today, we have the recently published excellent report of the EU Home Affairs Sub-Committee of the European Union Select Committee: *Brexit: the Proposed UK EU Security Treaty*. I regret that I am unable to do justice to this report today, but I hope that before long, your Lordships' House will have an opportunity to debate it. In the meantime, I draw attention to an important conclusion, which is summarised in the report's executive summary, at the first paragraph at the top of page 4, and which I will shorten in the interests of time:

“We have, however, seen no evidence that sufficient progress has yet been made towards negotiating a comprehensive security treaty. On balance ... we believe that it is unlikely that such a treaty can be agreed in the time available”.

So it appears that we are to go out of the European Union without this treaty.

On this, as on many other aspects of Brexit, the Government are failing the British people. Far from improving, the situation is deteriorating. There are two separate but complementary aspects to this negotiation: externally, defence and foreign policy, and an internal security aspect, which is significant for our security. No part of the EU withdrawal agreement relating to internal security is in green, which means that agreement has not yet been reached on any issue.

On 19 June, speaking at the EU Fundamental Rights Agency in Vienna, Michel Barnier said that the EU and the UK will “co-operate strongly” on security post Brexit, but he urged the UK to show “more

[LORD BROWNE OF LADYTON] realism” on the degree of co-operation possible and warned that the UK will lose access to Europol databases and the Schengen Information System, as well as the right to participate in the European arrest warrant, and that new procedures for “effective” information exchange will need to be agreed urgently.

On the external side, within days of the Munich speech, apparently because of the logistical problems caused by Brexit, the UK informed the chairman of the European Union Military Committee that, contrary to a previous and extant agreement, it would no longer be the lead nation in a battlegroup for EU defence in 2019, causing understandable concern about our commitment to EU defence after Brexit, despite the Prime Minister’s repeated assurances otherwise. We have discovered from the EU’s High Representative, Federica Mogherini, that we can have a security partnership with the EU but as a third party, not as a partner. The European Commission has stressed the bloc’s status as a members-only club, seeing Britain as a third-party outsider post Brexit.

Apparently the Government are very disappointed that the UK will indeed be a third country in the glorious post-Brexit future. At least, that is what the then Minister for Defence Procurement, Guto Bebb, told the House of Commons Science and Technology Select Committee when he appeared before it on 26 June to explain developments in co-operation on the Galileo project. Presumably expecting to be part of Galileo, Bebb explained that the UK had expected to land about a quarter of the next round of the valuable Galileo contracts but, following the Brexit referendum, that figure had at least halved and direct job losses would be measured in the hundreds. This is partly because in future, all Galileo contracts will include a break clause, which we agreed to and which means that the EU can get out of them if the contractor is not an EU member, effectively freezing out British companies.

Now, anticipating that we will be locked out of Galileo altogether—only yesterday according to the Prime Minister—we are preparing for the eventuality that we will need our own satellite. Perhaps when he winds up, the Minister can indicate whether that is expected to be part of or in addition to the existing defence budget, costing more than the £20 billion that is being asked for to meet the already large procurement hole in that budget.

The fact is that, despite the UK and the EU being uniquely bound by common interests and values, despite the absence in the UK of any party-political difference on these issues, and despite the fact that even the Cabinet has been united on them all along the line, progress on a negotiated partnership under a treaty is at best lamentable and at worst negative. We have in UK-EU security an example of just how successful a negotiator our Prime Minister and her Government can be when they have a united Cabinet and a united country behind them—and it is not encouraging.

I have four short questions for the Minister. First, have formal negotiations on the post-Brexit security relationship between the EU and Britain yet started? Secondly, if not, when do the Government expect

them to begin? Thirdly, if they have started, since the Munich security conference what progress have we made in negotiating a deep and meaningful security arrangement with the EU? Finally, what does a no-deal, hard Brexit on defence and security look like for the security of the people of the United Kingdom?

7.03 pm

**Lord Butler of Brockwell (CB):** My Lords, not for the first time in this House, I find myself in agreement with the noble Lord, Lord Bridges. I feel that, if we have to be critical of the Government’s White Paper, we have a duty to be constructively critical. It is very tempting for opposition parties and for remainers like me to be entirely destructive—and there is plenty of scope for it—but we have to remember that the Government and the EU are involved in a negotiation that is more important than any other in our recent history. This is not a political game.

I believe that the proposals in the White Paper on trade in goods are more realistic than the Government’s previous total rejection of the single market, because no other basis has been put forward that is credible as a means of achieving frictionless trade and the avoidance of physical checks at the Irish borders, including the Northern Ireland border.

The much-criticised acceptance of the common rulebook on goods has been described as a compromise, and indeed it is. For some people it is a compromise too far, and they fear that in the course of negotiations the Government will make further concessions, as they are described. I do not see it that way; I see the White Paper very much as a wish list, and the Government and the Prime Minister described it as ambitious. I doubt whether we will achieve all the objectives in the White Paper. Indeed, it might fall at the first hurdle of securing EU agreement to our collecting EU tariffs on its behalf—although I hope that it does not. But I do not see failing to achieve all the objectives as the same as making further concessions.

One area where sceptics fear further concessions is on immigration policy. I hope that we will have an immigration policy that is liberal enough to admit people whom our economy and public services need. But the Prime Minister is surely right that the White Paper respects her red lines by making it clear that it will be our decision. EU rules already provide that EU citizens who wish to live in another member state must be able to find work or be self-sufficient. I regard it as a tragic irony that our Government have never sought to apply those requirements, which would have satisfied the concerns of many who voted for Brexit because of their concern about EU migration.

I am determined to observe the advisory time limit, so, as a member of the House’s EU Financial Affairs Sub-Committee, I will add just one thing about financial services. I think that the noble Lord, Lord Davies, and the noble Baroness, Lady Smith, were a little unfair to the White Paper in saying that it had nothing to say about financial services or that it had abandoned them. The White Paper proposes that in this area, which is so important for the UK, we should rely on achieving an agreement for what is described as “enhanced equivalence”.

The EU sub-committee has hitherto taken the view that equivalence is not a satisfactory basis for our relationship because it does not provide long-term reliability for financial service providers. The Government no doubt feel that access to UK financial services is sufficiently important to the EU that it will agree to an enhanced regime. I was therefore disappointed to see in the *Financial Times* this morning that Monsieur Barnier was quoted as having ruled out the possibility of enhanced equivalence in his remarks on Friday on grounds that I regard as specious—that it would infringe too much on the EU’s ability to make its own regulations. I believe that the EU could be more flexible about that, and I am comforted by the fact that Mr Barney Reynolds of New Direction has published a pamphlet arguing that an agreement for enhanced equivalence along these lines should be easily negotiated. Indeed, he has published a draft EU regulation for it. Can the Minister tell us whether the Government have seen Mr Reynolds’s pamphlet and whether they agree with it?

I feel that, if we are to leave the EU, we have a duty to be constructive about the proposals in the White Paper. As the noble Lord, Lord King, said, quoting the *Times* and Winston Churchill, the proposals in the White Paper might be the worst basis for negotiations apart from all the alternatives. Having said that, I have never disguised from the House my view that, despite the manifold imperfections of the EU, it would be better for the UK, the EU and the world if we were to withdraw our notice under Article 50 and join in reforming the EU from within.

7.09 pm

**Lord Cope of Berkeley (Con):** My Lords, that was a constructive speech, even if the last sentence or two differed from the earlier part of it—in an attempt to be helpful, it seemed to me. The noble Lord always makes a thoughtful and useful contribution to our debates.

The Chequers White Paper encouraged me, because of its indication that the Government really want to get down to negotiating in detail on all these complex matters—and, like the noble Lord, Lord Birt, and others who have spoken, I hope that the EU will respond. I, too, agreed with the excellent speech by my noble friend Lord Bridges, who described the White Paper as a pragmatic approach to negotiations, and went on to the considerations that followed.

Some decades ago I was involved in negotiating in the Council of Ministers as a Minister of State in various roles—on health and safety issues involving the Department of Employment, and later on the EU budget and indirect tax on behalf of the Treasury, and so on. My previous enthusiasm for the EU took some knocks during those years, because of the difficulties of the negotiations—and that was when there were only 12 members, not 28 as there are now, for the moment at any rate. Looking back, I see that the important negotiations at that time were really with the other countries sitting round the table, and not so much with the Commission itself. There is an important lesson in that for our present negotiators, and also for those who comment on such matters—that they should not always take Mr Barnier’s word as the only possible word to come out of the EU. I should add that I was greatly assisted in some of my time dealing with such

matters by the noble Lord, Lord Kerr, in his then role as the United Kingdom’s representative.

One important aspect that has been referred to several times this afternoon in apocalyptic terms is the Northern Ireland border—which I, like the noble Lord, Lord King, came to know during a spell in the Northern Ireland Office. The land, sea and air borders between the EU and the UK have long been important fiscal borders, and VAT and excise duties vary widely in scope, coverage and amounts across all those borders. VAT was supposed to be harmonised across the EU some years ago, but of course it was not, and will not be—and nor will excise duties.

The financial incentive for smuggling is therefore, as one would expect, considerable across all those borders, and the anti-smuggling work is consequently vigorous. But the tax involved—the same will apply to any customs duties that come in—has long been collected well away from the borders, through accountancy, which these days is entirely digital. Most companies want to comply, and digital collection, as VAT and excise duties show, does not require a hard border with customs posts.

The Republic of Ireland will clearly suffer more from Brexit than we will, more or less whatever happens. The end of our contributions to the EU will affect all the countries, but on trade the Irish have every self-interest in negotiating an agreement on customs facilitation, whatever problems that may give the theologians in the Commission. The best thing would be to sit the British and Irish customs teams together in a room, and they would work out a solution. Then we should do the same with France—allowing personal shopping to continue as normal across all these borders, both the Northern Ireland border and the channel border, and involving trusted trader arrangements. Dublin politics are more difficult than usual at the moment, but the technical problems are soluble, and the self-interest is strong and mutual, so a deal can be done—and in the end, the EU must accept that.

The Commons debates last week were depressing, but the Recess is coming. The zealots at both ends of the spectrum suspect the motives of their opposite numbers, and both ends build up the scare stories and read difficulties into any wording that is chosen—and all that weakens our negotiating position. My right honourable friend Dominic Raab should do his best to ignore them and get on with detailed negotiations. He has a reputation as a hard worker and a pragmatist, and he needs to be both. He and his colleagues, both Ministers and officials, must talk to all the countries, businesses and interests involved across the EU to reach agreement. The message is that summer holidays are cancelled.

7.16 pm

**Lord McNally (LD):** My Lords, I notice that the noble Lord, Lord Cope, said, “The recess is coming”, with all the passion and fervour of a former Chief Whip. We worked together for a number of years as the usual channels and it was great to hear him again.

At home I have a cartoon which I have mentioned in such debates since the early 1960s. Like all good cartoons, it says more than many pages of writing could. In a football changing room, well-known figures

[LORD McNALLY]  
of the time—De Gaulle, Erhard and Adenauer—are putting on their football kit. Framed in the doorway is Sir Alec Douglas-Home, who was then the Government's representative in Macmillan's preliminary negotiations about joining the then Common Market. Sir Alec is standing there pristine in his cricket whites, with his cricket bat under his arm and his cap at a jaunty angle. The title of the cartoon is "Joining the Game". One of the problems with Britain's relationship with Europe over these 70 years and more has been that the British have often wanted to join a game that the Europeans did not want to play. This goes back to EFTA, free trade and all that.

The right reverend Prelate the Bishop of Leeds, who sadly is no longer in his place, put his finger on it when he identified a lack of understanding on the part of the British, under successive Governments, of a dimension to Europe that we have never felt. In the early 1970s I had the honour and pleasure of working with Jean Monnet. I once asked him what were the drive and the motivation behind his ideas for the Schuman plan and then for Europe. He said, "I wanted to create something that would make it impossible for Germany and France ever to go to war with each other again".

The Brits do not really understand that passion and what it means to Europeans who have gone through all the traumas of war and defeat, the Stasi and all the rest. We have never really bought in to the idea that Europe is more than a trading relationship. It is also a social relationship, and much of the beneficial legislation, from which our trade union movement benefits, such as protection of consumers and workers, was as much part of Christian democrat Europe as it was of social democrat Europe. There was always that drive and that other dimension to Europe, which is important and needs protecting. One of the reasons I oppose the Brexiteers is that I believe that their hidden agenda is to dismantle a great deal of the gains of social Europe so that they can play the buccaneer in this mythical free-trade world in which they want to sail.

Time and again over the last few weeks, from all parts of the House, we have heard the general view that this cannot go on. I can think of no decision since the war when the Government have been in such disarray—and, believe me, I have worked for one or two Governments who might have come close. We finally got the White Paper and it may be that the Government achieve a kind of settlement—certainly the approach that the noble Lord, Lord Bridges, put forward might give them a fair chance of doing so—or we may end up with a no-deal Brexit. But what is absolutely clear is that, whatever the outcome, it is light years from the prospectus put to the British people in 2016. I cannot agree with the noble Lord, Lord Birt, who unfortunately is not in his place, that Brexit must be honoured. This is not the Charge of the Light Brigade—we do not have to go on league after league regardless of the facts, regardless of the change in circumstances and regardless of what is put before us.

I knew we were in trouble when Nigel Farage and Nick Clegg debated this. Nick raised a whole range of problems about Brexit and all were dismissed, rather

in the way that the Minister dismisses questions that we put to him on a variety of issues. Matters will always be dealt with by some great, special deal, as yet unspecified. It reminds me of that line in "Henry IV":

"I can call spirits from the vasty deep".

Of course, the next line is:

"Why, so can I, or so can any man;

But will they come when you do call for them?"

This is the uncertainty that still prevails, but when we get certainty we have to move to a decision that gives the British people a final say, with all the facts in line. It will demand a kind of courage that was referred to by my noble friend Lord Taverne—the courage of Burke, of each parliamentarian making his decision. I really believe that we will have to make a decision quite as important as the time when Leo Amery shouted to Arthur Greenwood, "Speak for England, Arthur", at the 1940 Norway debate. What a tragic misunderstanding of history Jacob Rees-Mogg showed about Robert Peel, who turned to his Front Bench and said, "You must answer them, for I cannot", in abandoning the corn laws. Each parliamentarian will have to make a key decision, which, in all justice, must be to give the British people another choice.

7.24 pm

**Baroness Crawley (Lab):** It is good to follow the noble Lord, Lord McNally, in his robust defence of common sense. I refer noble Lords to my interests as a former MEP for Birmingham.

I wish I could say, like the noble Lord, Lord Bridges, that the Chequers agreement—or disagreement, as it is now—could be a practical way of ensuring anything like economic and security progress in our country after Brexit. I am a remainer; I take what I can get, so I cling like a limpet on steroids to anything that looks like maintaining relations with our largest and most important trading bloc.

If Chequers was the practical way forward, it could have been that jumping-off point in the next round of negotiations on our future relationship with the EU. However, once again, the White Paper, now with its absurd wrecking amendments from last Monday night, is at heart about the Conservative Party—or, rather, the battle to keep the party together. Just as the referendum was at heart about those extreme members who never accepted the result of the 1975 referendum—and probably did not accept the result of 1066 for all I know—the Rees-Mogg acolytes think nothing of scuppering their own Government, past and present, and, indeed, scuppering the whole country in some extraordinary homage to a "la-la sovereign land", untroubled by pesky foreigners, which never existed and never will.

The country cannot believe that, in such uncertain times for everyone, Parliament is making such an exhibition of itself rather than finding a way through—Thailand cave rescue-style—the complexity of Brexit. I do not exempt from that criticism a certain gang of four in my own party in the House of Commons.

The Chequers White Paper lays out its key objectives on the economy, jobs and the Irish border, and many of us would be hard-pressed to disagree with those objectives.

However, the means by which those objectives are arrived at are so head-scratchingly obtuse, far-fetched, bureaucratic and, in some instances, whimsical that it is hardly surprising that Mr Barnier's Gallic shrug on receiving the White Paper was in danger of resulting in a pair of dislocated shoulders. In the chapter on economic partnership, I cannot see how our integrated supply chains and our just-in-time processes, so vital to our manufacturing base, will survive the convoluted conclusions of the White Paper. At least here the Government admit that there will no longer be the current levels of access to EU markets for UK firms. I wonder how that anodyne sentence will translate into job losses over the coming years in the West Midlands, the north-east and other regions.

On any future security partnership, there is in the White Paper a call for operational consistency in the future between the EU and the UK, while also stating that we will of course no longer be part of the EU's common policies on foreign defence, security, justice and home affairs. Well, good luck with that consistency, as highlighted by my noble friend Lord Browne. The paper offers us a facilitated customs arrangement that relies on new technology that has still to see the light of day, and a consumer workplace and environmental set of rights that promises only non-regression. Have we already given up on leading the world in these areas?

What is our future? I have no idea, and in that sense I am at one with the Government, Parliament and the rest of the country. If the Chequers White Paper is the best that is on offer, after £700 million of additional funding for planning to leave the EU, a further £3 billion in the last Budget, 313 workstreams set up across government and up to 8,000 more civil servants taken on to boost work on leaving the EU—I thank the House of Lords Library for those figures—another way has to be found out of this unholy Brexit mess.

Shortly, I understand, 70 technical notices—it should really be emergency notices—will be sent to British families and businesses explaining what to do if there is no deal and we crash out of Europe into a WTO bargain-basement regime for trade. No major trading nation trades with the EU on WTO rules alone. Will there be food and medical shortages? I do not know. Will lorries be backed up at our ports? I do not know. Will EU skies be closed to UK flights? I can but give a Gallic shrug. We are entering emergency territory and the clock is ticking. If we are not careful, we will indeed be “midnight's children” on 29 March, and Parliament is deadlocked. Never mind asking the House of Commons to think again; it is time to ask the country to think again.

7.31 pm

**Lord Tugendhat (Con):** My Lords, I begin by associating myself with the remarks of the noble Lord, Lord Kerr, about Lord Carrington. I think at this time we are all very conscious that, in the Conservative Party, we miss Lord Carrington's wisdom and his sense of honour.

The noble Lord, Lord Birt, was quite right when he said that, while one might regret the result of the referendum—as he and I do—the Government have a duty to seek to carry out the instruction of the majority

of the British people. The Prime Minister deserves credit for the efforts she is making to do that in a manner that mitigates the economic damage that might flow from the decision and seeks to put us in a position from which we can compete successfully under a new regime. Her document may not be perfect, but I agree with the noble Lord, Lord Butler, and my noble friends Lord Bridges and Lord Jopling, that it provides a basis for negotiation and should be treated in a positive fashion in that light.

What I find so hard to understand about so many members of my party—in particular Boris Johnson, Jacob Rees-Mogg and others who think like them—is their refusal to recognise the practical difficulties in leaving the EU. They attack the Prime Minister's plans with grandiloquent verbosity, ludicrous historical analogies and sweeping generalisations, but they put nothing in their place. They also talk only to the British people, with no consideration of how our departure from the EU involves negotiating with the Commission and the EU 27, and that they too have legitimate interests to defend and aspirations to pursue. The right reverend Prelate had something sensible to say on that score.

As the White Paper points out, the nature of our trade with the EU is quite different in many important respects from our trade with the rest of the world because of the supply chains and the just-in-time processes that link our manufacturing industry inexorably with plants in other EU countries, and they with us. This is the result in part of the EU system that has been built up over the past 40 or more years, but it is also a result of geography. It is very important that we should seek to maintain frictionless trade in Europe, because the arrangements we have in Europe cannot be replicated elsewhere in the world. I hope very much that the ambitions—although rather unquantified—of the great free-traders who support Brexit are realised. I hope that we achieve the success that they promise us. However, it is very important to preserve what we have as far as we can within Europe, because those arrangements cannot be replicated elsewhere. The noble Lord, Lord Mandelson, dwelt wisely on these issues, and I suspect that what he said may be a harbinger of the future.

Whatever happens, our Prime Minister is not going to be able to negotiate successfully on the issues in the White Paper, or on any other issues, unless she enjoys the support of her colleagues in government and in Parliament. For as long as the Commission and the EU 27 have good reason to believe that she cannot get a deal through Parliament, they will be reluctant to make concessions or to compromise. There is a direct correlation between the strength of the Prime Minister's position at Westminster, and among public opinion, and her strength at the negotiating table. Those who constantly seek to undermine her, while pleading patriotism, are doing the country a great disservice.

I have one final issue to raise about those who look forward so blithely to working under WTO rules. My first point—and I stand ready to be corrected—is that there is no significant trading partner of the European Union that relies solely on WTO rules in its trade with the Union. Secondly, this is a particularly bad moment to become wholly dependent on WTO rules, as its

[LORD TUGENDHAT]

dispute arbitration mechanism is on the verge of breakdown, owing to the fact that President Trump is unwilling to appoint a judge to the panel, and, very shortly, it is unlikely to be quorate. Thirdly, there is all the difference in the world between a carefully prepared and transitioned change on the one hand, and an overnight crash out on the other. Fourthly, given the nature and intensity of our trade with the European Union, and the role of the supply chains and the just-in-time processes, we in any case need something much better than WTO rules. The Prime Minister deserves our support in trying to achieve it and I believe that, with the White Paper, she has at least thrown the ball into the lineout. I hope it comes out in a satisfactory way.

7.38 pm

**Baroness Deech (CB):** My Lords, if the people had been given a vote on the Maastricht treaty or the Lisbon treaty, we would not be where we are now. If Mrs Merkel had made some concessions to David Cameron a few years ago, the referendum might well have gone the other way. When her epitaph comes to be written, I think it may well conclude that she was the woman who started the break-up of the European Union.

The European ideal has collapsed, and that is why they cannot negotiate and why they behave so irrationally rigidly. Remainers wanted the status quo and were averse to any cost of complexity, and they cared about their personal finances. I respect that. On a higher level, they thought that they had bought into an EU of collaboration and democracy, and here I agree with the noble Lord, Lord McNally. However, there have been many references to changes in the past two years: the European ideal has gone.

The extreme right prejudices and nationalism that the EU was invented to cover up and prevent have vanquished the EU structures. The extreme right has risen in France, Sweden, Finland, Slovakia, Slovenia and Germany; Italy has called for the Roma to be registered; Austria has called for the Jews to be registered; Poland has attacked the judiciary, the press and the environment, and, with Hungary, refused migrants; Russia's leverage over energy has brought silence; Spain punishes Catalonia; Greece is reduced to penury; Cyprus bank accounts were threatened; the fences are going up and border controls have reappeared; and Schengen is crumbling like a picked cherry.

Mrs Merkel, who bears much responsibility for the collapse of belief in the EU dream, is no longer stable, and yet those who would remain are presumably committed to calling for more Europe, less national identity, a bigger budget, an army, the spread of the euro and the abolition of our seat on the Security Council. And what in the future? We do not know what the future of the EU is.

It is therefore essential to get out as cleanly as possible, for there is nothing we can do to alter the trend—and it went that way under our watch. If the EU accepts Mrs May's latest compromise—a bad one—so be it, but already it has said it will not. The

squabbling of MPs over the Trade Bill, which will no doubt be replicated here, is a waste of time. There is no rationale behind the four freedoms, no reason why there should not be picking and choosing, a luxury the eurocrats give themselves but not to the leaving state. We might reasonably require free trade, protection of citizens, mutual recognition of joint institutions, professional and commercial services, nothing less. A second referendum—a third, actually—would destroy the integrity of all referendums. It would be tainted by resentment and be no more mandatory in result than a fourth or a fifth.

The EU has failed to comply with Article 50, which requires that the Union shall negotiate and conclude an agreement with the leaving state, setting out the arrangements for its withdrawal, taking account of the framework for its future relationship with the Union. If the UK was wholly unreasonable and unyielding, one might say that the failure was due to the UK rather than the EU, but the EU has called on the UK to make offers and then rejected them seriatim. I therefore acquit the Government of not doing their best.

The EU has made no proposals to protect UK citizens living abroad and will find itself in breach of the European Convention on Human Rights if it does not treat them the same as its own citizens, *mutatis mutandis*. There is no protection of the integrity of the UK in its proposals. It threatens to punish us, interferes in domestic affairs such as the registration of EU citizens living here and demands arbitrary sums with nothing in return. It has seized on the Irish border as an impediment to our leaving. The Republic of Ireland no doubt sees the prize of unification with the north on the horizon.

There is little to fear in no deal because there are underlying and older treaties to rescue flights and trade. Any visa requirements will hurt the European tourist industry. Indeed, the 27 will come off worse if there is no deal, and that is what we should be saying to them. Their financial services and their tourist industries, to take two examples, will go into meltdown if they do not allow free movement of flights and service. We can withdraw our offer of a £39 billion divorce bill.

Most of the rest of the world does not trade with us or the EU countries as a part of a customs union and it causes no problem. The EU would face tariffs on sales to us if we go along the WTO route. We must not have a transition period which enables the EU and the remain ideologues to try and draw us back into a union.

This is the land of the common law, of courts of unimpeachable integrity and impartiality, of centuries-old freedoms such as habeas corpus and innocent until proven guilty, of the rule of law and the right to vote—which, incidentally, would be breached if we were subject to EU rules but without a vote in the elections. We have successfully managed immigration; we are fiercely protective of non-discrimination. Those—our values—are threatened by the EU project's direction, which is why we must protect our freedoms, almost regardless of cost.

We do not have our sovereignty back yet. We hope to get it restored on 29 March next. In the meantime, we are like prisoners squabbling about who is the kingpin in the jail while the warders are still outside with their keys. We must back Mrs May and hope for the best.

7.44 pm

**Lord Cavendish of Furness (Con):** My Lords, I follow a powerful and analytical speech from the noble Baroness, Lady Deech.

I fear that this White Paper cannot fly. In fact, I wonder if it is not already a casualty of gravity. My principal and reluctant reason for opposing the White Paper is that the more I read it the plainer it becomes to me that its adoption would render this country worse off than we are now. And that is our opening shot. No one seriously believes that the Barnier team are just going to leave it there. Attrition is the means by which these people work.

I home in on two issues. The first is the common rulebook. Its commonality is limited to Britain's participation in a rule book that is written by the EU and run by the EU. Here I echo the noble Lord, Lord Howarth, when he quoted Mr Martin Howe QC. The UK would have to obey and apply in all respects the laws promulgated by the EU without having a vote on the content of those laws. Further, the UK would be obliged to interpret those rules in accordance with the rulings of the ECJ under a system that would, directly or indirectly, bind UK courts to follow ECJ rulings. I think that on that the noble Lord, Lord Mandelson, would agree.

Secondly, will we be able to alter current laws? I find nothing in the White Paper to suggest that the UK would be in a position to change any of the existing body of EU laws, however damaging they may be or become in the future. I have in mind restrictive EU laws that block the development or deployment of new technology, such as in the biotech area, where the UK enjoys global pre-eminence. This is a seriously important point. Here in Britain we look to innovation as the single most important pathway to growth. The EU appears to turn its back on it.

As significantly, the system is skewed in favour of existing technologies and against innovators. Once we leave the EU and no longer have a vote on the framing of these types of rules, the EU will have a positive incentive to frame the rules in order to disadvantage UK producers. The recent notorious Dyson case illustrates how the EU regulatory system for goods can already be skewed in favour of continental interests against British manufacturers.

In her speech, the noble Baroness, Lady Hayter, rehearsed project fear again. Unlike her, I have been in business—as listed in the register of interests—for 50 years, operating in scores of different markets. I have never woken up to certainty in my life—I have never looked for certainty—and I am utterly comfortable with operating under WTO rules, as are an enormous number of people to whom I speak and colleagues in business. I can tell the noble Lord, Lord Davies of Stamford, that it is a vanity of politicians that they run trade. In fact it is the people who produce commodities

that can be bought and willing buyers who drive trade, not trade deals. In all of the markets in which I have operated, I never once over 50 years asked, “Do I have a trade deal with you?”

So what is the background to this mess? My inquiry stems from a little-mentioned fact that, for the first time I can remember in my life, the laws and the people have diverged. People used to look to the laws to protect them from an overbearing Executive and overbearing House of Commons—no more, and probably never again.

It is probably a good rule that politicians do not criticise civil servants. However, such has been the extraordinary and partisan involvement on the part of civil servants throughout the Brexit process that it is hard to ignore their role, especially when we reflect on the background to this White Paper. Let me say straightaway that our generally brilliant Civil Service has had to endure great provocation in recent years and better-qualified people than me need to address the many problems that beset the service and find enduring solutions to them. However, there can be no denying that Britain has a new ruling class—new to the extent that the power and influence of the official class has risen steadily as the power and influence of the political class has declined. I venture to suggest that this decline corresponds to the diminishing role of the modern Member of Parliament, a consequence of membership of the European Union. Nature abhors a vacuum.

Perhaps the Bench of superannuated mandarins in your Lordships' House and the role that they have played in the Brexit process have attracted too little attention. Talk of “coming to heel” is not so far removed from “We are the masters now”. Plainly, former civil servants who come to this House are quite rightly liberated from the constraints of impartiality. They might even be forgiven for being a little demob happy. Some might question, however, whether it is right or indeed dignified for these very clever men to huddle in what my noble friend Lord Ridley has described as an “incantation” of mandarins—a collective term normally applied to warlocks—and, as they are driven by groupthink, they chant and parrot all the most absurd and disingenuous remainder slogans.

It is rather chilling to reflect that a group of people possessed of such famously bulging brains should lend their support to a measure as crassly ill-crafted and unsuitable for English law as the ECHR, a document which attracted, when it first appeared, almost universal derision and which was repudiated by senior members of both main political parties. In that case, it was instructive that the noble and learned Lords, with actual experience of the legal process, did not support that amendment.

We see a class composed of clever, well-paid, unelected, London-centric men and women who have gathered to themselves unprecedented levels of unaccountable power. They show conspicuous solidarity with their opposite numbers in Brussels and conspicuous contempt for the voting public. I suppose that one should be grateful that Mr Olly Robbins remembered to show the White Paper to the Prime Minister. This new power is being harnessed against the rest of us—the

[LORD CAVENDISH OF FURNESS]

majority, as it happens—who ask for little more than to keep our well-tryed institutions and preserve the freedoms that we used to enjoy through the ancient and always evolving system of representative democracy.

I conclude with a vivid memory. On Second Reading of the withdrawal Bill, the noble Lord, Lord Butler of Brockwell, expressed strong opposition to Britain leaving the EU, on which he has been consistent. He said that the wording of Clause 1 of the Bill,

“strikes a dagger to my soul”.—[*Official Report*, 30/1/18; col. 1411.]

It was a much-quoted phrase. Well, of course, out of respect and affection we all felt keenly for him in his anguish. However, we had barely regained control of our emotions when he went on to describe how mistaken the EU was in its rush towards a federal union, which, in the noble Lord’s own words, “may lead to disaster”. It was to avert just that disaster that thousands of people like me campaigned for Brexit and 17.4 million people agreed with us. The prescience of the noble Lord, Lord Butler, is already being borne out with yet more eurozone crises looming and yet more federalist solutions being proposed.

People understand the great issues of the day more than the likes of the noble Lord, Lord Kerr, give them credit for. While I cannot say that all the election results of my adult life have always given me pleasure, I believe that in every case the people merited the trust that the universal franchise conferred on them. Unlike many, I was privileged to know both my father and grandfather. Both returned from the horrifying conflicts of the 20th century and both bore the scars of those conflicts for the years that remained to them. They and those like them suffered and died so that we might enjoy the freedoms that have been defended by our forebears for probably 1,000 years. It is this priceless legacy that more than 17 million of my fellow countrymen voted to preserve. I can find nothing in this White Paper that will offer these people the hope and reassurance that they are entitled to expect.

**Baroness Goldie:** My Lords, I observe that we are now at the halfway point and, if my calculations are correct, it has taken us just under five hours to reach it. More noble Lords wish to speak and we want to hear their contributions. Six minutes can let a lot of very good things be said.

7.53 pm

**Lord Haskel (Lab):** My Lords, as I think the noble Lord, Lord Cavendish, has just told us, the White Paper is too little and too late. It was intended as a compromise between the various factions in the Conservative Party, as many noble Lords have observed, but sadly it seems to be unravelling. As a result, while Ministers are working on national recognition agreements, the rest of us are having to prepare seriously for the absence of these agreements. We have to prepare for shortages of goods and medicines, we have to prepare for disruption in deliveries at ports and airports and, as my noble friend Lord Browne of Ladyton explained, we have to prepare for an increase in security risks. The EU has issued a 15-page document with these warnings and, although firms are busily looking up

the WTO rules, they will find blanks in many service areas and in areas dealing with medicine and health. As the Minister told us, our Government are preparing to issue 70 technical notices of their own.

I do not agree with the noble Baroness, Lady Deech. The economic implications of no deal are enormous. There are warning red lights flashing all over the place. That is because instead of addressing a sensible, negotiated agreement phased over a two-year transition period, we are having to prepare for no agreement within a few months. What concerns me is that, while all this is going on, we do not clearly state whose side we are on in world trade. We have to be on the side of multilateralism, international order and international co-operation, supporting the institutions that are dedicated to their maintenance—the UN, the WTO and, yes, the EU. On the other side are nations whose terms of trade are that each stands only for itself: world trade without rules or standards. I know which side I want to be on.

As my noble friend Lady Hayter explained, America is pursuing trade actions against China and against its near neighbours, Canada and Mexico, as well as against the EU. It is a trade war where might makes right. Moreover, WTO rules, already under attack, then become meaningless. This is what it means to be free to trade with anybody anywhere in the divided world that the noble Lord, Lord Forsyth, seems to prefer. Compare that with the recent agreement negotiated by the EU extending the common market to Japan, which many noble Lords have mentioned.

The White Paper tried to rescue us from this as far as manufacturing is concerned and that is welcome. If agreed, it may save jobs and avoid a dilution of labour standards, environmental standards and all the other standards that make up our quality of life. That is because it is these standards that are invariably the victims of a trade war. We can maintain these standards only in an orderly world of trade agreements and non-regression clauses.

Our ability to trade with the EU in services will have to come under a new legal structure. But before the Government go down that road, I urge them to make sure that we all agree on what services are. The distinction between goods and services has become very blurred. The Office for National Statistics has said that in 2016 we had a surplus of some £23 billion on our trade in services with the EU, but has the Minister looked at this from the Brussels standpoint? According to Eurostat, the remaining 27 have a surplus in their trade in services with us of a similar amount. Presumably we cannot both be right, unless we are counting different things. The ONS does not have an explanation.

You only have to listen to this debate to realise that the chances are slim of Parliament, never mind the Conservative Party, agreeing on a deal in the time remaining. Added to that, regulators now find that one side in the referendum broke the law and that, during the campaign, personal data was used illegally. To be constructive, as the noble Lord, Lord Butler of Brockwell, has asked us to be, a strong and principled leadership would seek to extend the Article 50 process until there is a good chance of consensus in Parliament and clarity on the legal issues. The Government could use the time to deal with people’s concerns

about immigration, as the noble Lord, Lord Heseltine, suggested. Can the Government concentrate on finding a moral middle ground, which probably means staying in the common market, because that is what will work best for all of us in Britain? If we do not, a few may flourish, but most of us will become the victims of the inevitable rising inequality.

7.59 pm

**Lord Gadhia (Non-Affl):** My Lords, I will bring a business voice to this debate, among a sea of politicians and former civil servants. My comments build on two previous speeches in this Chamber. The first was in March 2017, immediately before Article 50 was triggered, when I described certain flaws in the Government's negotiating strategy, particularly in the sequencing of discussions. The other was in January this year, about the inherent lack of credibility in threatening a no deal scenario, while acknowledging that it might be the unintended consequence of a breakdown in negotiations. Subsequent events have been like watching a slow motion car crash: utterly predictable but still excruciating to witness, because remedial action at an earlier stage could have averted some of the difficulties we now face.

Despite these frustrations, we should welcome the White Paper and find a way to make it work in the national interest—assuming, crucially, that it is not killed off prematurely in Brussels or Westminster. The Chequers proposal might be a grubby compromise, but it is a necessary one to deliver a softer Brexit, which the economy, parliamentary arithmetic and the Irish border require. The romantic idea of Brexit was always more alluring than the messy reality of implementing it. That is perhaps why some lament the dying of the Brexit dream. It is no surprise that it is fading rapidly, because it was always an illusion about regaining sovereignty. Modern democracies pool sovereignty so that they can secure better economic and security outcomes for their citizens than any individual country can achieve acting alone. So the argument is really about where we draw the boundaries between collaboration and self-determination. The idea of absolute parliamentary sovereignty is as outdated as the Corn Laws.

We are now entering a critical phase of the Brexit negotiations, during which the prospects for a deal could diminish dramatically and talks might even break down before being revived. It will be a turbulent six months and I will focus my comments on four specific points relevant to this next phase.

First, will the EU be open for serious discussions on the Chequers proposal, or is it simply going through the motions before killing it off and, instead, offering us CETA with a border down the Irish Sea, since the EEA alternative would require accepting freedom of movement? Michel Barnier has played the UK like a fiddle and it has been simultaneously impressive and deeply depressing to endure. It is clear that the Prime Minister is walking the tightest of tightropes, so if the EU overplays its negotiating hand, it will not take much to throw the discussions off balance.

Secondly, the weakest link in the Chequers plan is the facilitated customs arrangement. It was the target of the wrecking amendments to the customs Bill last week and is viewed sceptically by key stakeholders in

Europe as unworkable. Last week I joined a cross-party visit of the Industry and Parliament Trust to Germany, where we heard first hand from the influential Federation of German Industries, or BDI. The tracking of goods could be a bureaucratic nightmare and potentially open up a smugglers' charter. The advice going from German business to Angela Merkel does not support our customs solution.

Thirdly, the White Paper says that,

“the Withdrawal Agreement and the framework for the future relationship are inextricably linked”.

However, it is clear that the withdrawal agreement will be a binding treaty under international law, but the future framework will take the form of a political declaration. I ask the Minister—he is not in his place, but maybe through the Front Bench—precisely what legal status and interconditionality will attach to these two agreements? The new Secretary of State at DExEU has said that no payments will be made to the EU unless we get an acceptable trade deal. It is a novel legal concept to have a binding agreement with non-binding terms. Will the Minister please explain how that would work? Otherwise, Parliament is destined for a meaningful vote on a meaningless deal, since the political declaration gives us nothing more than the option to negotiate a binding treaty during the transition period.

Finally, I turn to the future of financial services, which appears to be the sacrificial lamb of the Chequers plan. In March this year, in his HSBC speech, the Chancellor acknowledged that the EU's established third-country equivalence regime would be wholly inadequate for the scale and complexity of UK-EU financial services trade and argued for mutual recognition. He explained that the EU regime is unilateral and that access can be withdrawn at short notice. We now have a volte-face where the White Paper proposes something close to equivalence but with “expanded” scope. Exactly how significant that enhancement will be is not clear and there is very little time to pin down the precise details.

All the major financial services bodies have expressed their deep disappointment at this reversal. The inevitable consequence is that we are destined for split platforms across the UK and EU, which means the transfer of jobs and investment and, most importantly, the loss of a chunk of tax revenue from the £72 billion which the sector contributes to the Exchequer annually. If the Government are set on equivalence, they must now look at a comprehensive sector deal for financial and related professional services, much as they have done for other areas of industrial strategy, to reinforce the competitiveness of these world-leading sectors of our economy.

In conclusion, it would be churlish not to respect the quietly heroic way in which the Prime Minister is attempting a Houdini act to beat all others. The road ahead is treacherous, but I still hope for an 11th hour deal, cloaked in high drama, which is typical of how the EU resolves all major crises. There is, however, only so much uncertainty that the business community can stomach before voting with its feet and its investment cheque book. All the other alternatives for Brexit are too unpalatable and the mood of the country is to get

[LORD GADHIA]

on with it, so I hope that the great British tradition of pragmatism will prevail and the Government will persevere with their plan, as no deal would be a monumental tragedy for all sides.

8.06 pm

**Baroness Wheatcroft (Con):** My Lords, it gives me great pleasure to follow my noble friend Lord Gadhia, as I share many of his concerns. This White Paper represents a step in the right direction. It recognises the harsh realities of the single market and opens the way for a more pragmatic negotiation. But, as I read it, I had in mind the maiden aunts of the noble Lord, Lord Lisvane. Your Lordships will recall that they planned a trip to the cinema, only to be confronted with a choice between “Reservoir Dogs” and “The Texas Chainsaw Massacre”. Did the White Paper promise them something more alluring? The answer has to be yes, but I believe that the noble Lord’s aunts would be as discerning as he, and would quickly realise that, while the programme might not be quite as gory as some, it would be a deeply uncomfortable experience, perhaps more akin to the psychological horror of “The Birds”.

There are elements of the White Paper that Monsieur Barnier has already indicated are for the birds. Most importantly, he has indicated that proposals for enhanced equivalence to ensure that our financial services industry can still flourish will not be acceptable to the 27. Why would they be? Why would they be willing to water down their concept of the single market and the rules that govern it to accommodate our financial services industry? The White Paper acknowledges repeatedly that, even in its suggested version of Brexit, Britain’s access to the EU markets for services would be reduced. I have asked my noble friend the Minister, who sadly is not in his place, if he could give an indication of how much we will have to pay for that reduction in access. I ask again: could we have an estimate of what we will lose?

Financial firms are already moving their operations out of Britain. Brexit would produce a stampede. My friend from the other place, the honourable Member for North East Somerset, is already showing the way, having just launched a second fund in Ireland—a wise move, since he has suggested that any benefits of Brexit could be 50 years away. He has said:

“We won’t know the full economic consequences for a very long time, we really won’t”.

He is in a position to do this, perhaps. As the right reverend Prelate the Bishop of Leeds suggested, wealthy fund managers can afford to gamble and to take such a cavalier action with their own finances, but to suggest that they should bully the Prime Minister into taking such a gamble with the finances of the country seems appalling.

The Bank of China’s UK head, Sun Yu, says that no deal would threaten London’s status as a hub for international banks. Any version of Brexit does that. The no-deal Brexit which some now favour over the White Paper version could create real hardship. The IMF calculates that no deal could cost nearly £200 billion in lost output to this country.

On trade in goods, the White Paper accepts that the price of access to the EU’s markets will be accepting EU rules without any say in their formulation. The aunts of the noble Lord, Lord Lisvane, would be reaching for the smelling salts by the time they reached paragraph 16(b) of chapter 1 of the paper. This attempts to spell out how tariff collection will work. We have already heard about the inevitable tailbacks and the threat to foodstuffs and medicines, but charging the right tariff will be a matter of guesswork. The White Paper envisages that in,

“up to 96 per cent”,

of cases the tariff will be correct, but note the “up to”. For the rest, there will have to be a repayment mechanism. Given that the EU sells us more than £300 billion-worth of goods every year, that provides ample scope for Her Majesty’s Revenue and Customs to be rather bogged down in requests for refunds.

The benefits of being in the EU are huge. The realisation of that is why the White Paper states, somewhat plaintively, that we wish to remain in many EU institutions, even while accepting that we will not have any say in their deliberations.

The benefits were what persuaded the country to join the Common Market in 1971. Incidentally, in an excellent article in the *Irish Times*, Fintan O’Toole recently pointed out that the 1971 White Paper sold more than 1 million copies. I doubt that this one is such a bestseller. The 1971 White Paper began by stating:

“The prime objective of any British Government must be to safeguard the security and prosperity of the United Kingdom and its peoples ... The Government are convinced that our country will be more secure, our ability to maintain peace and promote development in the world greater, our economy stronger, and our industries and peoples more prosperous, if we join the European Communities than if we remain outside them”.

That remains true of our involvement in the EU today.

The calamitous cost of Brexit becomes more evident every day. It is no wonder the public are waking up and a majority have decided that they would prefer to remain in the EU than face a hard Brexit. A customs agreement and single market access, the Norway option, would be less painful and is probably the best that will eventually be on offer, but that means paying through the nose for less than we have now. It is not my idea of a bargain.

I end up in the same place as the noble Lord, Lord Lisvane: faced with two, deeply unattractive options, should not his aunts have a choice to change their mind and not to go to the movies after all? That is why the country should be given a vote on the deal. I have now to declare my interest as a director of the People’s Vote media hub. The country deserves a chance to vote on what is on offer.

8.14 pm

**Lord Razzall (LD):** My Lords, it is apparent that, since the publication of the White Paper, all hell has broken loose within the Tory party. It is not for me to intrude on private grief, so I shall concentrate my remarks on a number of concerns where, if we are not careful, withdrawal without agreement will throw a spanner in many works.

I speak for my party on manufacturing, and the concerns of manufacturing industry have been clear since the referendum. Some companies are concerned about tariff barriers, although those may not be the major issue, as they are often simply a function of how a product is priced. In any event, apart from President Trump's interventions, worldwide tariffs have in recent years been coming down. However, as most noble Lords will have realised by now, the overwhelming concern for manufacturing industry is frictionless borders. We all appreciate that the Government have been going through endless dances to come up with a scheme that provides for frictionless borders, solves the Irish border issue, but does not involve remaining in a customs union. Who knows whether that is achievable, but it is clear that, unless a satisfactory solution is arrived at, we are at risk of losing many major manufacturing companies from the UK. The motor car industry depends on just-in-time delivery of components which often pass two or three times across our borders. Airbus has similar requirements and has made it very clear that unless it can continue with its current arrangements, significant capacity will be moved to France or Germany.

The second major requirement for manufacturing industry is access to skilled labour. I appreciate that this is a concern also in relation to many other sectors, such as care home assistants and workers in the NHS, let alone fruit pickers and restaurant staff, but unless industry can continue to recruit qualified workers from the European Union, the tendency for many manufacturers will be to relocate outside Britain.

As always in international negotiations, the devil is in the detail. My noble friend Lord Newby mentioned more than 60 European bodies in which we would like to participate after Brexit. In the time available, I want to highlight a few of the 62.

The first is Euratom. Last year Theresa May notified the EU of the UK's intention to leave the EU nuclear safety and research watchdog. As Ken Clarke memorably said on "Question Time", he did not think his constituents who voted leave had Euratom in mind. I understand that even Vote Leave's director, Dominic Cummings, has questioned the value of this—he has other problems at the moment, of course. Is this wise? Secondly, there is framework programme 9, the successor to the EU Horizon 2020 science funding programme. We are currently a net recipient of funding from 2020, but will the EU allow this to continue? Should we negotiate associate membership, similar to Norway, with a likely increase in contributions? What do the Government intend?

Thirdly, I want to highlight Copernicus. The European Space Agency's programme has currently launched six earth observation satellites, with UK companies involved in the manufacture of hardware and instrumentation. The programme is 70% funded by the European Union. What is the Government's intention regarding the status of these manufacturing contracts? Fourthly, we have the European Medicines Agency. While NICE makes judgments on drugs' cost effectiveness for the NHS, the European Medicines Agency rules on safety and efficacy. Until now, the EMA has been based in London, but following Brexit it will move to Amsterdam.

It is not clear how drugs will be regulated in the United Kingdom following Brexit. Can the Government give an indication?

Fifthly, there is Galileo. This system is a rival to GPS and was commissioned in 2003 for completion in 2020. I understand that there is deadlock, as the European Commission has decided to block the United Kingdom working on the system and we are threatening to demand a £900 million refund of contributions. Will the Minister tell the House the latest position? Lastly, I want to highlight aviation. The Government's policy is to secure liberal aviation market access arrangements following Brexit, including continuing participation in EASA, but time is running out. Does the Minister believe that this is still achievable, or is there a danger of significant disruption to airline travel after Brexit?

If I had time I would add to the list of issues where decisions are urgently required, as the six I have mentioned are simply the tip of the iceberg. Those of us on the remain side of the argument are terrified that the current government chaos could lead to a no-deal Brexit, producing financial chaos, industrial disruption, planes not flying, queues on either side of the Channel and shortages of medicines and foods. Let us hope and pray that it does not come to that.

8.19 pm

**Baroness Noakes (Con):** My Lords, I have framed three questions on the Government's White Paper and here is a spoiler alert: none has a positive answer. Monsieur Barnier has already asked the first question, which is whether the White Paper provides the foundation for an agreement with the EU. He has not, in terms, declared the White Paper a non-starter, but he has given a laundry list of reasons for dismissing its proposals on goods: fraud risks, burdens on EU businesses, impracticality and even illegality. The Commission hates anything that might allow the UK to gain a competitive advantage and has used that excuse to damn the White Paper's proposals to keep services separate from goods. In financial services, as we have heard already this afternoon, where the EU has much to lose if cross-border transactions do not work well, Monsieur Barnier has already rejected our generous proposals.

It seems that nothing will satisfy the Commission, apart from our subjugation to the EU on its terms and without any prospect that we could prosper once we have left. Of course, no UK Government should even contemplate agreeing on that basis. There may well be some discussion during the summer on the White Paper for form's sake, but real negotiations cannot work if one side is intransigent—and I am not talking about our Government here. On current form, I can see no way in which the White Paper can form the basis of an agreement with the EU.

My second question is whether the White Paper delivers what people voted for in the referendum, in which 17.4 million people voted for one very big idea—to take back control from the EU. They were not concerned with the details of single markets, exactly how to control immigration or what a customs union meant. They expected, and were entitled to expect,

[BARONESS NOAKES]

that the Government would implement the big idea and sort out the details in practice. Let me be clear: the White Paper does not take back control. We will be tied in to what is euphemistically described as “a common rulebook”. The truth, as we have already heard, is that the common rulebook is, and always will be, the EU’s rulebook. We shall be expected to keep pace with it in future but will have no say whatever in those rules, and the ECJ will continue to be the arbiter. The White Paper says that Parliament can decide whether to apply the rules, but in truth Parliament will be emasculated: if we do not stay signed up to the rulebook, there will be “consequences”. The noble Lord, Lord Hannay, has already reminded us that Switzerland has experience of not agreeing to continue with the rules imposed by the EU.

My third question is whether the UK will prosper if we leave on the White Paper terms. There is no reason to think that we will. We will be tied in to the EU’s rulebook on goods and will be under constant pressure if we do anything that smacks of obtaining a competitive advantage in our trade with the EU. Our route to economic prosperity does not lie in the EU but in the high-growth economies outside the EU. Goods account for only 20% of our economy and less than half of our exported goods go to the EU, but signing up to the EU’s rulebook on goods will be a constant drag on our scope for free trade agreements with the rest of the world. The White Paper’s promise of freedom to negotiate trade agreements with other countries is illusory.

Free trade agreements are always anchored in trade in goods and, in particular, agricultural products. We need to be flexible here in order to gain opportunities for our all-important services sector in free trade agreements. If we cannot be flexible—which may well mean ignoring the EU’s rulebook—the prospect of free trade deals will evaporate. The ball and chain of the EU rulebook will drag us down.

I continue to believe that a negotiated deal would be the best outcome for everyone, but I am not afraid of a future that sees us trading on WTO terms. Much of world trade is already on WTO terms. It is a sound basis, especially from which to start, and especially if we are also prepared to lower or eliminate tariffs to demonstrate our commitment to free trade. We do not have to believe that Project Fear mark 2 economic forecasts are any more accurate than those we were given before the referendum in Project Fear mark 1.

Of course, if we exit on WTO terms things will not be the same as they are now. That is why the part of the Chequers outcome which deals with intensifying preparations for exit in all scenarios, although not in the White Paper itself, is probably the most important thing to come out of the Cabinet’s agreement. Change happens. We should embrace change and prepare in earnest for the UK operating outside the EU on terms which offer us the maximum chances of our future economic success. I am afraid to say that we should forget this White Paper.

8.26 pm

**Lord Liddle:** My Lords, last week I had the great pleasure of being in Brussels with the noble Baroness, Lady Noakes, and my noble friend Lord Whitty under

the very good chairmanship of the noble Lord, Lord Boswell. We had a very interesting time, but I fear that I came away from the visit with a great deal of pessimism. My view is that we will return from our Summer Recess to find us heading for the deepest political crisis our nation has faced since the Second World War. It could so easily transmute into an economic crisis, a sterling crisis and an investment crisis once business suddenly comes to terms with the awful fact that the Brexiteer bluff of no deal might soon become—admittedly, I think, by accident—a reality.

No deal will have very serious consequences for 60% of our trade—not just trade with the EU, but with all the other countries the EU has trade agreements with—which now includes Japan. I do not share the optimism of the noble Baroness, Lady Noakes, about trading on WTO terms. No deal would mean a breakdown in aviation and energy markets from day one; an immediate loss of broadcasting rights from the UK as programmes no longer comply with country of origin rules; potential chaos at all our borders as agricultural inspections, customs, rules of origin, regulatory checks and up-front VAT payments are imposed; legal uncertainty about contracts and business licences and authorisations issued by EU agencies; disruption to data flows; and some really awful things, such as confusion about the status of EU citizens living in this country and British citizens living on the continent. What on earth would happen to the Irish border in the event of no deal?

Quite a lot of people have said, “Oh, there is no majority for no deal in Parliament and it is not going to happen”—I wish I was so confident. The no-deal amendment, which twice passed in this House by huge cross-party majorities in the then European Union (Withdrawal) Bill, failed in the Commons when its otherwise wholly admirable mover—the right honourable Dominic Grieve—chose to fall on his sword in the interest of Conservative Party unity.

On the customs Bill last week, the Prime Minister chose to whip her parliamentary party to vote for several Jacob Rees-Mogg amendments which directly contradict the White Paper that she had produced only days before. The facilitated customs arrangement is a fantasy but it is possible that if it had simply been confined to the UK, the Government might have been able to persuade the European Commission to go along with the possibility that—at some stage in the long, long term—it might become technologically feasible, and that we would accept remaining in the customs union until that day happened. The fact is, however, that the Rees-Mogg amendment totally scuppers that possibility, because there is no way whatever that our European partners are going to adopt this plan themselves when, to be polite, it involves a massive increase in bureaucracy. One of the strange things about Brexit is that most of its keenest supporters also support a low-tax, small state. But what are we going to see with Brexit? There will be a massive increase in the size of the Civil Service and bureaucracy. This arrangement would certainly involve a big increase in bureaucracy, with untested technology and an invitation to commit fraud. No one else will go along with it and it is therefore not going to work as a proposition.

Last week left me feeling in a very bad way. I said to myself: is there no instance in which a clear-cut national interest can trump the unity of the Conservative Party as a higher cause? Will the Conservative Party ever not put its own unity first, before the national interest? Sadly, there is a group of misguided Labour MPs—and some of my colleagues here—who are totally oblivious to the pain that a hard Brexit will inflict on their poorest constituents. They are prepared to back Brexit in any form.

While we all hope for an agreement in October, I fear the political dynamic is moving in totally the wrong direction. I am not a fan of the White Paper. It should have been published 18 months ago, before we invoked Article 50, and it completely neglects the services sectors, where so much of Britain's economic future lies. But if you were to ask me as a European adviser, the model of a customs union plus a single market in goods might have worked as the basis for an agreement with our European partners, as long as the UK was prepared to make concessions in other areas. Those would include: a more clearly defined role for the ECJ; binding rules to implement future single-market legislation; some continuing EU budget payments; and a preference for EU citizens in new labour mobility rules.

Instead of signalling the possibility of flexibility, however, the Cabinet postures that it has no more room for manoeuvre. Mrs Leadsom says we have gone as far as we can. Mr Raab protests that we will not pay the divorce bill—for which we have already signed up, incidentally—unless we are promised the trade agreement that we demand. Even the eminently sensible Mr Lidington uses the argument inside the Conservative Party that Parliament would, under Mrs May's plan, retain its sovereignty to reject EU laws. Yet David Lidington knows, as well as I do, that the first principle of a common rule book for a common market is that members have to live with laws they do not like to benefit in the round from laws that are in their interests. We cannot trade frictionlessly with Europe on the basis of some pick-and-choose formula. Far too many on the Government Benches—

**Baroness Stedman-Scott (Con):** Will the noble Lord conclude his remarks?

**Lord Liddle:** I will. I do not think other people have—anyway, there we are.

Some people think the Northern Ireland border is being got up by the Commission to force Britain into so-called vassalage. The truth is, as my noble friend Lord Adonis told us, the problems are very real. The truth is that England chose to impose this problem on Ireland by voting to leave the EU, and we are duty bound to find a solution to it. No deal could be a disaster and could happen. I believe we are heading for a grave national crisis. The Brexiteers think they can lay the blame on Brussels for the untruths they peddled in the referendum about the glorious opportunities Brexit would offer while claiming there would be no costs in trade, economic welfare or influence. It is time that politicians in all parties, including my own, stopped mouthing unworkable cake-and-eat-it solutions. It is time for those on all sides of the political aisle

to put the national interest first, and that means revisiting the Norway model, extending Article 50 and contemplating another referendum.

8.35 pm

**Lord Skidelsky (CB):** My Lords, it is very cold in this spot at the moment. That is a comment not on the Cross Benches but on the fierceness of the air conditioning—but I shall struggle through.

I have heard with increasing incredulity the efforts of noble Lords in this House, some of them my good friends, to reverse the results of the referendum of 2016. It may have been a mistake to hold a referendum on such a complex issue, but, having asked the question and promised to treat the answer as binding, it seems to me inconceivable that responsible politicians can disregard it. This is the answer to the noble Lord, Lord McNally. David Cameron gave repeated assurances that he would respect the result of the referendum, and I do not think we can ignore that.

So although I voted remain, I agree with the Prime Minister that our exit from the EU must be taken as given. As she writes in the foreword to the White Paper,

“the British people voted to leave the European Union. And that is what we will do”.

What I have to say is shaped by my view that any attempt not to leave would be to take serious risks with our democracy at a time when a revolt against the elites is sweeping across Europe and the United States.

The White Paper presents the Government's proposals for the permanent future relationship between the United Kingdom and the European Union. It envisages a bespoke association to be agreed by Parliament and the European Union negotiators before we leave, and then a 20-month implementation period. The implementation period is simply designed to put in place the association agreement.

The Prime Minister's belief that she can get the White Paper proposals through Parliament and Europe by the exit date seems completely unrealistic for three reasons. First, it expects too many complicated and contentious matters to be agreed in too short a time. Customs arrangements, arrangements for financial services, a new mobility contract and Ireland are very difficult issues all to be settled within the next two or three months. Secondly, Michel Barnier has already rejected the Government's association plan as unworkable. Only on Friday he simply dismissed the proposals dealing with access for our financial services. Finally, there is no majority for the White Paper proposals in the other place. The White Paper makes too many concessions for the Brexiteers and not enough for the remainers, and I do not see the politics of coming to a conclusion on how they will work themselves out.

Precisely because it is highly possible that we will leave the EU in March 2019 without a final agreement, it is essential for the Government to develop a reserve position which will protect our domestic polity and external relations from disastrous damage.

The noble Lord, Lord Newby, made an eloquent argument that there is no good leaving option, and therefore we should not leave. He expects or hopes

[LORD SKIDELSKY]

that that decision will be ratified by another referendum. Other noble Lords argued for a middle way, a reserve position—I am thinking of the noble Lords, Lord Mandelson, Lord Tugendhat and Lord Haskel.

I think that there is a good reserve position, which is simply for Britain to remain a member of the European Economic Area. It was conceived by Jacques Delors in 1989 as a way for EFTA and ex-Communist states to transit into the European Union, and Britain could use it to transit out of the European Union. Continuing membership of the EEA would put into touch for two or more years after we leave the most explosive obstacles to an agreement today—the border between Northern Ireland and the Irish Republic, access for financial services and the permanent immigration regime—while leaving us free to negotiate our own trade agreements with third countries.

As a member of the EEA, Britain would continue temporarily with the same tariff arrangements as at present. Under Article 112, it could impose temporary restrictions on immigration, immediately regain control of agriculture and fisheries and join the EFTA side of shared rule-making.

The question is: could Britain stay in the European Economic Area after it left the customs union? That is legally obscure. The Government's original position was that it would automatically cease to be a member. Then it was urged that the UK was a contracting party to the EEA in its own right, so its membership would not automatically lapse. The latest twist is that on 26 February, the Prime Minister informed the noble Lord, Lord Owen, that Britain would be,

“seeking continued application of the EEA Agreement for the duration of the implementation period”.

So where are we in all this? The bottom line seems to be that no one can force us to leave the single market when we leave the EU, and membership of it will give us important safeguards in the transition out of the customs union. However, it is most important to insist that the EEA is not a permanent resting place. Britain would leave the customs union on 31 March and give a year's notice of its intention to leave the EEA. In my view, this is the only way to respect the decision of the referendum while avoiding a politically calamitous exit—and I have stuck to my time.

8.42 pm

**Lord Bowness (Con):** My Lords, for a short time following the publication of the White Paper it appeared that after months of mere aspirational talk, a small dose of reality was beginning to dawn in government circles. It was too late in the day, there were serious omissions, such as services, but it could, perhaps, be the basis of negotiation.

Those hopes were soon dashed by Cabinet resignations and others, inside and outside government, who lined up to denounce what had been agreed in Cabinet. Of course, it is a paper for negotiation, not a final position, but if it is to go anywhere, then compromises will be required on both sides. The first required compromise concerns the attitude of the hard Brexit team which manifests itself in the ERG in the other place. I say to

my noble friend Lady Noakes, who is not here now, that if there is any intransigence, it is they who are intransigent, rather than the European Union.

Our other difficulty is with the way the Brexit negotiations have been handled. We tied our own hands by rejecting the customs union, the single market, any involvement in the European Court of Justice and membership of the EEA without any idea of what we wanted or what the relationship would look like, other than some delusional idea of post-imperial gloriana.

How do the Government intend to go ahead with their proposals, given the lack of agreement in the other place? Is the answer that nothing has changed since Chequers? I hope that I will not be told that there is no problem because the Government won all but one of the votes on Monday and Tuesday last week. We know that the defeat by the ERG Brexiteers was averted only by adopting the amendments to the Taxation (Cross-border Trade) Bill. Everybody accepts that those amendments are contradictory to the terms of the White Paper as published.

Why do the Government allow themselves to be hijacked and taken prisoner in this way? My question to my noble friend the Minister is not rhetorical. I am asking for an answer. While looking at votes, the vote lost—

**Lord Forsyth of Drumlean:** I am grateful to my noble friend for giving way. Does he not think he is in something of a glass house, having voted against so many three-line Whips, against the Government, in this way?

**Lord Bowness:** No, I do not consider myself to be in a glass house. When I look at the people whose amendments were accepted, they are experts in disloyalty to Conservative Governments over the years.

In looking at the votes on the trade Bill last week, and the vote on the European Medicines Agency, which was lost, will my noble friend confirm that reports in the press that the Government might try to reverse that—notwithstanding that membership of the agency is Government policy—are not true? Will he confirm that the Government will not try to reverse that in your Lordships' House? It is not clear how the parliamentary timetable can cope with the withdrawal Bill and the other major measures promised. The Government should give an indication to Parliament or perhaps in the delayed White Paper, which we will see if we are lucky before going home tomorrow. Will my noble friend tell us?

Whether one is a reasonable, moderate leaver or a disappointed remainder wanting to preserve as much as possible what we have, we are not in a good place. A major reassessment of our position is needed. People should be given some stark advice and, most of all, leadership. The Government promised to deliver Brexit. Recklessly they laid down the red lines to which I have referred, and now people need to be told where this is leading—the damage to the economy, unspecified costs and a less beneficial place than we are in now. So some, if not all of our red lines must go, in whole or in part. We cannot continue as we are.

Who believes that WTO rules are the answer? Perhaps my noble friend will tell the House the position regarding the objections lodged by the US, New Zealand, Canada

and others—countries we are hoping to do deals with—to the proposed division of quotas on foodstuffs following Brexit. Who believes that the free trade agreement with Trump’s “America First” will be easy or advantageous? We want a wide-ranging security partnership, and part of that is the European arrest warrant. Will my noble friend the Minister please tell the House specifically how many countries are prevented by their domestic or constitutional law—their law, not EU law—from extraditing persons under a European arrest warrant to a non-EU country?

After the Statement on the White Paper, we were told that some 80% of the withdrawal agreement is settled; the remaining 20% is the most difficult. Perhaps we can hear from my noble friend what that 20% consists of. We were told a long time ago that there was agreement on EU and UK citizens’ rights but, as he reminded us, nothing is agreed until everything is agreed. We will not be signing until we have a satisfactory prospective future deal, and we will not be paying any taxpayers’ money.

Should the Government not be making it very clear to EU and UK citizens that their position has not been finally secured? Eight months from the planned Brexit day, nothing but nothing is certain. It will not be any good, and I hope that we will not end up trying to put all the blame for our failures on to the EU. Among the Brexit press, Monsieur Barnier is already being built up to be the villain of the piece. However, he has his mandate from the 27, which stands until they change it. We really cannot complain that, because we do not know what to do or where to go, the EU does and is somehow responsible for our own shortcomings.

How far we are from agreement has been emphasised this week by the Brexit Secretary’s statement that, if we do not get what we want as laid down, we will not pay the moneys on exit. That is a very serious statement—and I am not sure that it is a very smart negotiating ploy, either. I referred to this in my question and in the opening of this debate. A number of assurances were given that we had agreed that, and would honour it. According to the Statement in another place,

“we will pay our fair share of the outstanding commitments and liabilities to which we committed during our membership”.—[*Official Report*, Commons, 11/12/17; col. 26.]

Of course, I want the best deal possible for the UK. I happen to believe that it would be better if we stayed in the EU but, if that is not possible, we must keep as close as possible and investigate further the EEA/EFTA route, keeping as much as possible of the present arrangements. While the final decisions must properly remain in the other place, I shall not hesitate where appropriate, and in accordance with this House’s constitutional and parliamentary conventions, to vote to ask the other place to further consider some of these issues where necessary.

8.50 pm

**Lord Bew (CB):** My Lords, I intend to confine my remarks to the Irish dimension of this problem. I am well aware that there is a debate about the White Paper and the pros and cons that exist, but I do not want to engage with that. I want to deal with the impact of the

White Paper, and initially of Chequers, on the evolution of the problems that we are all aware exist around the Northern Irish border. I accept that the Irish border question has been inflated beyond its proper weight—and I am not particularly defending the way in which the Government have chosen to handle it. But we are where we are and, while it has been inflated, it is a real problem that requires a resolution.

The important thing to say is that, in the period since the Chequers summit, there has definitely been a feeling that this problem is moving towards a more benign compromise. Mr Brian Walker, a Northern Irish journalist—and senior editor at the BBC in London in the past—published an article immediately saying that the bogey of the Irish border was starting to vanish before our eyes. The next day the *Sunday Independent*, the largest-selling Sunday paper in Ireland, said that it was now time for Ireland to stop working against Britain and to work with Britain to get a good compromise.

I draw noble Lords’ attention to how Michel Barnier’s views have evolved between March and May and up to the present time. The *FT* reports today his conciliatory remarks on the Irish question after the White Paper. That is part of a pattern. The EU in the earlier part of this year made a bid to expand the backstop already agreed on 8 December in a way that effectively removed Northern Ireland from the United Kingdom. It was as simple as that—constitutional separation as the price of the deal. There has been a steady retreat from that. The Prime Minister has said that no British Government or Prime Minister would ever accept such a proposal. In fact, I can think of a couple who might have, but she is quite right in saying that the vast majority of British Prime Ministers would never have accepted such a proposal. Gradually, the language of Michel Barnier has changed—saying that he is not proposing any alteration in the constitutional order of the United Kingdom and that he wants proposals that work on the basis of precedent. He is not proposing now a border, with a capital “B”, in the Irish Sea. There already are checks with respect to agricultural foodstuffs and so on—and there is a precedent already for the type of thing that he envisages. All the signs are that we are moving away from the very extravagant EU negotiating stance towards something that can be dealt with.

Members of this House have mentioned the role of the DUP. The Government must take their views in mind, given the voting balance of the House of Commons. There was a famous moment, recorded in Jonathan Powell’s book, *The New Machiavelli*, when Ian Paisley was in a meeting with Tony Blair and said to him, “My farmers are British, but unfortunately my cattle are Irish”, by which he meant that he recognised that there were issues around foodstuffs—at that time, the BSE crisis—in which Ireland might require separate treatment. It is not a constitutional atrocity to acknowledge that simple, physical fact. Can the DUP not handle it when the White Paper says at paragraph 42 that we regard Ireland as an epidemiological unit—one unit, north and south—in the context of a discussion about agriculture and foodstuffs? We are moving towards a settlement here, or should be.

[LORD BEW]

Despite what the Taoiseach said last week—he said that he did not want to have any checks, even in the event of a hard border—the European Union has told him that that is not on. He has tried to say it twice now and he has twice received a stern message: “No, you can’t do that—it’s a hole in our defences and we won’t accept it”. He wants to do that, but he cannot. Consequently, as we head towards a no deal, the consequences are dramatically bad for Ireland; most Dublin commentators seem to think that the IMF report understates the damage that would be done in the event of a no deal. Another report was done by the French Council of Economic Analysis in the last couple of days, and another one from Copenhagen Economics. All of them stress the heavy damage that would be done to the Irish economy in the event of a no deal. Everything—every economic reality and political reality—points towards some compromise.

As for the timing, the longer Ireland lets it drift, you get into what the former Prime Minister, Bertie Ahern, calls a “terrible Halloween party”, by which he means that Ireland, having failed to get its issues dealt with on its own in June, will go into the mix with all the other 27 countries, which have their own issues and all the things that they want from Britain. If we go to that Halloween party, Ireland will lose out.

Therefore, everything now points towards moving this dreadfully divisive issue into a better place. I have not stressed it, but everybody knows that the broad proposals on alignment in the White Paper will probably make it easier to handle the issues of the internal border as well. I am not saying that this is the way it should have been approached, but it is where we are now. There has been a failure in the discussion of the implications of the White Paper to draw out the fact that, at least with regard to Ireland, the approach that has been adopted has, thus far—it could be overturned tomorrow—been relatively successful.

8.57 pm

**Lord Farmer (Con):** My Lords, I thank the noble Lord, Lord Bew, for his very interesting clarification of the Irish issue.

I think we can all agree that Brexit has been divisive. However, after much internal debate we have produced our trading position, which has gone a long way to meet the EU’s demands and which has brought people on opposing sides together in what I might describe as mutual disappointment. As a trader, I have to say that this tends to be the hallmark of a deal that is beneficial to both parties. That said, we have in our negotiations continually made concessions and moved a long way from where we started. Instead of Lancaster House or Mansion House, we now have Bleak House. Now we must say, “This is our set of terms. Take it or leave it, and, as the Prime Minister has hinted, with nothing else negotiated away. If you leave it, we will withdraw it from the table”.

This is the crunch. We cannot allow the EU to revert to past practice and whittle away at the Chequers position. As a trader I have been in many negotiations that have seemed terribly important for my company, but one always needs to evaluate the worst-case scenario,

that the negotiations come to nothing—in this case not no deal but World Trade Organization terms, where there is in reality little to fear and much to feel adventurous about. We should not rubbish such terms—they are foundational to all international trade. The WTO is a rules-based body that enables the EU to trade; it is of course a member. Can the Minister confirm that novation would allow us to continue to trade with countries that currently have a deal with the EU?

I sense an almost morbid fear of the tariffs to which we might be subject under WTO. I have two points to make on that. First, tariffs under WTO terms tend to be small, not punitive, and the “tariff advantage” of membership of the EU in the context of WTO had declined to about 1% on average by 2011. We would not be paying very much more, although one market where the EU hits importers is that of motor cars, with the imposition of a much higher 9.8% tariff. The EU needs carefully to consider the consequences if we were to reciprocate, and that leads on to my second point.

According to the ONS, we have a £94.6 billion trade deficit with the EU and specifically a £10.5 billion deficit on motor cars, so our Government could collect a healthy level of revenue on tariffs, and EU states must be aware of that. Moreover, last week my noble friend Lady Fairhead announced consultations on free trade agreements with the United States, Australia and New Zealand—some of our closest strategic allies—as well as with members of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership, which includes some of the world’s fastest-growing economies.

Negotiations conducted by the EU to date have been filtered through a political and ideological lens. The priority has been to humiliate and intimidate us, and to make it so incredibly punitive to leave the EU that no country acting in its citizens’ best interest would act on any nascent pressure to do it. It was the EU’s inflexibility and the unappetising morsel that was all David Cameron could get out of it that made the referendum inevitable. The time will come when the EU’s countries and industries will be negotiating instead from a position of self-interest. German car manufacturers will not abandon their biggest export market—the UK.

By cutting ourselves loose from an oppressive and dictatorial relationship with a superstate that has sought to retain us by fear, we will regain our sovereignty and fall back on ourselves and on the ingenuity, acumen and audacity that have enabled us as a trading nation to thrive in the past without the clunking fist of excessive regulation. On that subject, it should be noted that EU diktat did not prevent the disgraceful and deceitful German “dieselgate”.

We here are all lawmakers and we should be aware that creeping European federalism will eventually hollow out our jobs—and this Parliament—of all meaningful power. Many, through a Stockholm-syndrome-like process of insinuation, have already been made willing captives of a fundamentally undemocratic system. The important issue of the democratic deficit of the EU was discussed extensively before the referendum, so all I will say on that front is that I have never met anyone, except the

very occasional politics junkie, who knows the name of our Commissioner in Europe, what his portfolio is, what the European Council of Ministers does and how much power the European Parliament has, et cetera. To quote one person after the referendum campaign, I like to be able to look into the eyes of the people who make my laws. The European Union's Kafkaesque operation makes that virtually impossible.

Guidance has been published by the EU for member states on preparing for the fallout from a so-called no-deal scenario. However, those responsible for any damage due to their ideologically inspired stonewalling—Juncker, Barnier, Selmayr et al—are completely untouchable. The rest of the EU should be deeply concerned that appointed Commissioners and negotiators, unaccountable to any electorate, cannot be voted out for failing to get a deal. It is democratically elected Governments, including our own, who will ultimately take the hit at the ballot box for the disruption they say will be caused.

To reiterate, with regard to our trading position, I did not expect or welcome the Chequers plan, but I do not want to fight the last war. Some 17.4 million people said they wanted to leave the European Union and this barely achieves that, but what matters now is that, in taking the plan to Monsieur Barnier, our negotiators need to be keenly aware of the democratic pressure that the referendum result represents. Will the Minister confirm that our side will look into Monsieur Barnier's eyes and say, "This is our backstop position, not our starting point. This is where we have come in response to your continuous demands. If you don't accept this, we will take it, and the divorce payment, off the table. You need to understand that"?

9.04 pm

**Baroness Randerson (LD):** My Lords, on 5 July 2016 this House held a debate on the referendum results. I spoke on the impact of Brexit on transport, which is, after all, the foundation on which our economy rests. I reread this morning what I said on that day, and what struck me forcefully was the fact that all the issues I raised then remain unresolved today. The impact on the Channel Tunnel, the Single European Sky, our EASA membership, the freight industry, the time taken to clear customs, vehicle standards and driver safety: all these are not yet sorted.

The transport industry, in all its many iterations, has been in a state of suspended activity since the referendum, waiting to know exactly what will happen, holding back on investment decisions and decisions to transfer jobs abroad, hoping that things will get organised. I was speaking to a senior figure in transport manufacturing last week, and to that person the Government have crossed the Rubicon with the Chequers White Paper. The picture is very different from that just painted by the noble Lord. The transport industry now simply has to move in preparation for the previously unthinkable. Plans must now be implemented and jobs will move abroad, because the Chequers plan is simply impossible for the industry to implement.

The big issues for transport-related industries remain: flexible and rapid access to labour, skilled and unskilled; delays at the ports, which play havoc with just-in-time

delivery in a modern global industry; and certainty about what is to come—because such a complex industry needs at least five years to prepare, not the five months it now has. The Government have no answer to any of these things.

In recent days the tone of discussion has been very dark. Yesterday Dominic Raab significantly failed to deny that the Government were planning to stockpile food. Amazon warned of civil unrest preparations. The EU has warned member states that planes may not be able to fly, and that they must recruit many more customs officers. The National Audit Office has produced a critical report that points out that the Department for Transport has 63 new Brexit-related SIs to draft and get through Parliament by March 2019—and that is in addition to 64 others that it has to produce on normal day-to-day business. Major companies like Airbus, Jaguar Land Rover and several others warn of job losses as they move at least part of their operations abroad.

In short, people are really turning their minds to the realities of a no-deal scenario now. Two years have passed since the referendum and a lot has changed—not just the economy but the level of the terrorist threat, the threat from Russia and instability in the attitude of our closest non-European ally, the USA. It is a different world out there. Given the chaos that the Brexit vote has unleashed on our politics—the endless, bitter, inconclusive argument and the failure of the leavers to come up with any kind of coherent plan—there is just one of their arguments that holds any traction nowadays. That is their claim about the will of the people.

In 2015 the will of the people was to give the Conservatives a working majority in the general election. By 2017 the will of the people was to deny them that majority. That is the process of democracy in action. As John Major said yesterday, quoting John Maynard Keynes:

"When the facts change, I change my mind".

The people must be allowed to change their mind in the face of a changing world. That means setting before them a referendum on the terms of the final deal by giving them a people's vote.

9.09 pm

**Baroness Altmann (Con):** My Lords, it is a pleasure to follow the noble Baroness, Lady Randerson. I congratulate the Prime Minister on publishing the White Paper, which could at last enable us to talk meaningfully with the EU. We all recognise that the White Paper is a compromise, designed to ensure that the UK position is more realistic than the previous strict red lines, often mutually exclusive, which seem to have been imposed upon the Prime Minister by the extreme wing of our party.

As a starting position, the White Paper is an achievement, but Cabinet reticence and changes to legislation forced through in the other place last week undermine even that position. I am afraid that it becomes clearer by the day that there are some, such as members of the ERG, who will never accept any reasonable deal with the EU. The ideologues have no plan of their own, just threats, obstructions and impossible demands. Indeed, the UK's approach to Brexit has

[BARONESS ALTMANN]

been rather like Gareth Southgate going to FIFA during the World Cup and saying, “We would like to continue playing in the competition but some of our players don’t want to participate any more as they don’t like the rules. However, the players have agreed that they will play in a few matches as long as England can choose its own referees, ditch the offside rule and play with 12 men sometimes if they want to”.

Such unreasonableness is not helpful. Therefore, I believe that if the Prime Minister wants to make progress in our Brexit negotiations—and I believe she does—she must accept that some in the party will never agree to any position that the majority in Parliament recognise to be vital to protecting our national interest. She needs to proceed with the more sensible, softer approach that this White Paper alludes to—no more fudge, no more bluff, no more stringing everyone along and hoping it will be all right; no more threats against our partners and fighting among ourselves. To thrive in the 21st century requires open arms, not raised fists. The time has come to face down the fantasy of cake and eating it. In the words of Abraham Lincoln:

“You cannot escape the responsibility of tomorrow by evading it today”.

Some key issues of concern have already been brilliantly exposed by previous speakers. Many noble Lords have insisted that democracy requires that the 2016 vote is sacrosanct. We must of course respect the will of the British people, but Parliament has respected the result of the referendum. It has triggered Article 50 and is now trying to negotiate a good outcome for the whole UK from a new EU relationship. However, the referendum did not specify a date on which we must leave, nor did it give a direction of travel.

This is about the ordinary people of this country who are trusting us to look after their future as best we can. Therefore, the current threats of no deal fill me, like so many other noble Lords, with horror. I fear that some are determined to obstruct progress in the negotiations for the next few months just to get to March 2019 when we will be out, due to the two-year limit, no matter the consequences.

People did not vote for no deal. By countenancing this, we are betraying most of the 17.4 million people who voted to leave in order to be better off, as the leave side promised, and all of the 16.8 million people who did not want Brexit at all. The referendum did not ask whether people wanted to leave the single market, the customs union, ECJ jurisdiction, all the agencies, and abandon the Good Friday agreement. People did not vote for that. The impact of no deal would be catastrophic. Indeed, the light at the end of the Brexit tunnel that so many leavers have told us about is really, I fear, an oncoming train.

The Japanese embassy has said that no deal is impossible for it to accept—the normally polite, understated and inscrutable Japanese have expressed their outrage with unusual forcefulness. London is a hub for European, Middle Eastern and African banking, but this would be at risk. The Chinese embassy itself has said that London risks losing its status as a banking hub if there is no deal.

No deal would mean the end of our manufacturing success, as integrated supply chains collapse, with workers’ jobs at risk. Car manufacturers have profit margins between 3% and 10%. Under WTO rules, car exports to the EU face 10% tariffs and car parts a 5% tariff. Indeed, the WTO has 135 different tariff rates on imports from third countries and 150,000 goods classifications to determine those tariffs. How do we think UK firms will cope with that? Much of our manufacturing is of intermediary goods: 70% of UK goods exports are intermediate inputs for manufacturers in the EU, which they then sell to the rest of the world. If the UK does not count in the EU rules of origin, EU firms will have to go elsewhere and will look to EU firms for their inputs.

Even in trying to negotiate new trade deals with other countries, the benefits have been overblown. The UK is no longer a hub to the rest of the globe as it was in the days of our Empire. We are a medium-sized country, dwarfed by the US, China, Russia, India and the EU. Countries of our size cannot define their own terms of trade when negotiating with whole continents. Those who naively hope for a trade deal with the US should wake up. The US has a vested interest in weakening the EU. Encouraging the UK to break away will increase American power and, once the UK is out, the US will be in a stronger position to give us a deal that is much more in its interest than ours.

Leaving the customs union and single market are acts of economic vandalism against both our own industry and that of the EU. Our negotiating position has asked the impossible. The EU cannot and will not give us the advantages of being in the EU, including security co-operation and membership of all the agencies that are so important to our way of life, while we do not have to obey its rules. It seems that many Brexiteers are willing even to put peace in Northern Ireland at risk—surely the Conservative and Unionist Party cannot accept that.

Something hardly mentioned is the enormous cost we have already imposed on the EU and on other EU countries. Domestic firms have also had huge costs imposed on them, and so have UK taxpayers. Our Government have taken no responsibility for this, and there has been no acknowledgement of the impacts of our decision. This has already resulted in a loss of respect for the UK on the international stage.

British values of decency, fair play and tolerance have been subsumed in the Brexit mania. If we do not retain EEA membership and a customs union or partnership, British people will be poorer as a result of the vote they were told would make them better off. To quote Cicero: “the welfare of the people is the highest law”.

**Baroness Goldie:** My Lords, I observe that we have exceeded eight minutes.

9.18 pm

**Lord Russell of Liverpool (CB):** My Lords, unlike the late Dr Martin Luther King, I do not have a dream. However, I feel that I am in a dream, rather as I suspect does the right reverend Prelate the Bishop of Leeds, and it is not a very comfortable sensation. The

dream starts with the result of the referendum—not an ideal starting point, but a striking demonstration of an exercise in direct democracy where people manifestly voted not on traditional party-political grounds, creating a deafening echo that has contributed to the wall of noise that is all around us.

In January 2017, Sir Ivan Rogers, our ambassador to the EU, resigned. He had spent the previous six months trying as hard as he could to persuade the Prime Minister not to trigger Article 50 until she, her Cabinet, Parliament, the devolved Administrations and the Civil Service had worked out exactly where we wanted to get to and, most importantly, how we were going to get there. He knew, as we now know, that no proper detailed planning had been done, but he failed to persuade her and we are living with the consequences.

In February 2017, during the debate on the triggering of Article 50, the noble Lord, Lord Hill of Oareford, whom I have had the pleasure of knowing since we were fellow history undergraduates at Trinity College, Cambridge, many decades ago, gave us fair warning of what he thought we were in for. He said:

“I did not feel that I could sit out this debate without saying something about what seems to be missing almost altogether in many of our discussions about Brexit: the views of our European neighbours. Sometimes it seems that the debate about Brexit is one that only we Brits are allowed to take part in and that, once we have sorted out our internal disagreements between leavers and remainers, all we have to do is present our demands to the European Union and it can take it or leave it ... they need to be able to trust the British side to be clear and consistent. They need to know that what our negotiators say our negotiators can deliver. They cannot sit there thinking that at any point the timing or the content might change, or indeed that the whole thing might be put to a second referendum”.—[*Official Report*, 20/2/17; col. 32.]

At this point my dream fast reverses to 1984, as depicted by George Orwell. We have had to endure a never-ending Brexit version of Newspeak. Orwell wrote that doublethink means the power of holding two contradictory beliefs in one’s mind simultaneously and accepting both of them. Brexitspeak manifests itself in phrases such as “deep and special”, “our EU friends and partners”, “leaving the EU, not leaving Europe”, “the Brexit dividend”, “Brexit means Brexit”—and my favourite new phrase from our newly appointed Foreign Secretary, “a no-deal-by-accident scenario”.

Now we fast forward to today, 16 days after the rather unfortunately named Chequers agreement. The reaction of the EU 27, as anticipated by both the noble Lord, Lord Hill, and Sir Ivan, was pithily summed up by the Prime Minister of Luxembourg, Xavier Bettel. He said:

“Before, they were in with a lot of opt-outs; now they are out and want a lot of opt-ins”.

In May of this year, Sir Ivan forensically skewered the wishful thinking that led to the Chequers document. He said:

“You simply cannot, with any honesty or coherence, make an argument for taking back control and full autonomy of decision-making on the UK side of the Channel, and simultaneously argue for the EU 27 to restrict to a certain extent its own decision-making, precisely in order to give you, a non-member of the club, a real say in the direction of its policy”.

At this point my dream is in danger of taking on a nightmarish quality. I sense all around us the hostile environment that now colours so much discussion

around Brexit. I sense a nightmare unfolding as a well-meaning but hopelessly ill-suited and ill-prepared Dad’s Army platoon of Ministers, with little or no appropriate diplomatic, commercial or negotiating experience, scatters across the capitals of the EU 27, sowing yet more confusing and contradictory doublethink soundbites that may inadvertently weaken our negotiating position.

I have now woken up and have returned once again to the uncomfortably prescient words of the noble Lord, Lord Hill of Oareford, in January of this year. He said:

“We need speed, honesty and certainty”.—[*Official Report*, 30/1/18; col. 1389.]

We are still waiting for any and all of these to transpire. We voted in June 2016 on non-party lines. The best way to find our way out of our predicament is to forget about party and focus on country—and, above all, to be brutally and painfully honest with ourselves.

9.24 pm

**Lord Marlesford (Con):** My Lords, earlier my noble friend Lord Heseltine speculated as to why the majority of people voted to leave. I am a natural European. I had happy years at school in Portugal as a child and I am married to an Italian. I certainly did not vote to leave in order to keep EU citizens out of the UK. Indeed, I believe that they have made and will continue to make a tremendous contribution. The reason I voted was that the more closely I looked at the entrails of Brussels, the less I liked them. I had the advantage of looking at them from the perspective of being fortunate enough to have served four terms on your Lordships’ European Union Committee and its sub-committees.

The EU Commission is supposed to be subordinate to the Council of Ministers, yet it is taking more and more powers away from the council and bringing them to itself. On immigration, it has been foolish enough to presume to take away, or try to take away, from individual member states of the EU their own immigration policies. Thank goodness we have never signed up to that possibility. Europe has moved further and further away from De Gaulle’s Europe des Patries. If there were to be another referendum, which I believe to be quite impractical, I would vote to leave again. However, I noted the trick of the Liberal Democrat Peer who said he would have three alternatives so that the leave alternative could not win. I can see the attraction for him but I do not believe that there could or should be another referendum.

The most recent example of Europe overstepping the mark was Herr Juncker in his September 2017 State of the Union message. He actually suggested that the presidency of the Commission should be amalgamated with the presidency of the Council of Ministers. If you follow the logic of that, it is like suggesting in British terms that the Cabinet Secretary should preside over Cabinet meetings rather than the Prime Minister. I realise that there may be Members of your Lordships’ House who think that that would be a good idea, but in general it does not totally fit with our constitution.

[LORD MARLESFORD]

There has been quite a high level of incompetence in the handling of the affair. When David Cameron made his Bloomberg speech he tossed off the idea of a referendum, apparently without any proper analysis of its feasibility. He then went to Europe for so-called negotiations and got absolutely nowhere in his quest for reform, but he came back pretending that he had been successful. During the actual campaign we had the discredited Project Fear, and of course the British people felt that they were being bullied; they do not like being bullied. I thought it was very sad that, when the vote went the way it did, my noble friend Lord Hill of Oareford deserted his post because it was very important that Britain held that Commissioner seat for financial services.

Whitehall has been playing a big part in this. We all know that Whitehall does not like Brexit. David Davis spent months preparing HMG's position for the negotiations and his proposal was based on Canada-plus. The noble Lord, Lord Mandelson, recommended that that had some advantages, and I agree. However, on 18 September last year, his Permanent Secretary, Mr Olly Robbins, was moved over to No. 10. Then, on the Monday before the crucial Cabinet meeting on the Friday at Chequers, a new version of the negotiating position was produced by No. 10, totally changing all the work that David Davis had done. It is not surprising that he quit pretty quickly. In nearly 50 years of observing how Whitehall operates, I do not think I have ever seen quite such a barefaced hijack.

As a footnote, I remind noble Lords that in the big change in the White Paper we introduced this common rulebook. Of course, we spent 160 hours in this House discussing the withdrawal Bill, which had the clever idea of putting all the EU legislation into British legislation so there is a smooth transition. We could then consider at our leisure whether to keep, repeal or amend it. At a stroke, it has now been put back into being mandatory. There is talk about Parliament having a lock on it. It is a lock with no key.

Imagine for a moment the negotiations—where Brussels has made really specious threats on absurd things such as aviation and defence and security, where we have far more to give them than they have to give us—as a game of snap, where the two sides play cards and when they get the same card they say “snap”, and then they can start negotiating. The problem is that the cards provided for Monsieur Barnier—I do not really blame him at all—have been carefully worked out by Herr Juncker and Mrs May's cards have been carefully worked out in Whitehall. The trouble is that Herr Juncker's cards all say “demand” and Mrs May's cards all say “concede”. That is not a way to get a sensible solution.

I believe we have friends in Europe who really want us to stay, but, if we cannot stay, they want us to have a good deal. We should seek out those friends. We should reach out above the Commission. I have much more hope about Monsieur Barnier getting the instructions he might or might not get from the Commission changed than I have about the Commission itself.

9.32 pm

**Baroness Falkner of Margravine (LD):** My Lords, I chair the EU Sub-Committee on Financial Affairs. The committee also has responsibility for the UK contribution into the EU budget, so the current discussion about cannot pay or will not pay is also pertinent to our role. I was also part of the EU Select Committee's delegation to Brussels last week to Mr Barnier, under the distinguished chairmanship of the noble Lord, Lord Boswell. It was my fourth discussion with Mr Barnier. In the light of what I heard there, I will concentrate my remarks on three things: the budget contribution in the light of calls for a second referendum; the cost of the Norway option and the EEA; and the exit fee. In doing so, I remind the House that I speak in a personal capacity. I could hardly do otherwise, having heard the rather diverse speeches of other members of the committee, such as the noble Lords, Lord Butler of Brockwell and Lord Cavendish of Furness, excellent members as they all are.

Several noble Lords talked about the possibility of holding a second referendum or a people's vote on the outcome of negotiations. A lot of people believe that if you put the facts to the people they will change their minds and remain, as if no facts were available last time around. We heard that in the Chamber today. If facts were distorted last time, people nevertheless thought that they would pay less to the EU if we left and more money would therefore be available for UK priorities. The next vote will also focus on money, so the question is what the offer of “remaining” in that future referendum would involve.

Noble Lords may not know that the negotiations for the EU's next multiannual financial framework are currently under way. The Commission intends to conclude them in May 2019, just weeks after the UK's projected leaving date. We are not present during those negotiations on the basis that they do not concern us, as they cover the period from 2021 till 2028. We are not there and are not fighting for our interests.

One issue under discussion is the phasing out of the rebates paid to member states over a period of five to seven years in that MFF. It is likely that net contributors will try to resist this, or at least to prolong the period, but the rebate is unlikely to last in its current form. Other aspects under discussion are an increase in the EU's own resources through the EU raising direct taxation, which the UK fiercely resists on the basis that tax-raising powers belong to member states alone. It is envisaged that some €200 billion will be raised directly by the EU in the next period, through visitor taxes, environment taxes and a tax on plastic among others.

What will happen if the UK does not retain its rebate? The Office for Budget Responsibility shows that the net contribution to the EU budget paid by the UK in 2016 was £8.1 billion. This was equivalent to £123 per head. The UK rebate was worth £5 billion, or £76 per head, so the UK contribution to the EU budget if we did not have the rebate would be £200 per head. Several people to whom I speak in Brussels who are experts on the budget and have knowledge of the MFF negotiations confirm that it would be difficult for the UK to swan back in and keep its happy rebate.

If the figure on the side of arguments last time around was based on £123 per head, the new figure would be some 60% higher. Do those who want another people's vote really think that they would win a referendum on the basis that the UK would pay more than it currently does? Several noble Lords believe, as the EU negotiators told us last week, that the only other option—

**Lord Kerr of Kinlochard:** The own-resources decision, in which the British rebate is embedded, can be amended only by unanimity. If we did not leave, we presumably would not vote the amendment that would kill our rebate. If we do not leave, we do not lose the rebate, unless we are accepting enough to vote to lose it, which I do not think we are likely to do.

**Baroness Falkner of Margravine:** The noble Lord was of course a member of that committee and he knows the system well. What he loses sight of is the timing. The discussions are happening now. As far as I know, and I am sure the noble Lord knows, we are not at the table—this is a point I made early on.

**Lord Hannay of Chiswick:** My Lords—

**Baroness Falkner of Margravine:** If I could conclude answering one intervention, I may be disposed to take another, but I am limited in my time and will perhaps wish to continue this bilaterally. Let me deal with the point made by the noble Lord, Lord Kerr.

**Lord Hannay of Chiswick:** My Lords—

**Baroness Falkner of Margravine:** No, I am sorry. I am not going to give way until I have dealt with the point made by the noble Lord.

The noble Lord's point was that if we were full members sitting at the table we would negotiate not to give away our rebate—of course, because there is unanimity. The essence of what I am saying is that the EU is making these decisions now while we are not at the table, because the decision deals with the period 2021 to 2028. We have absented ourselves because the withdrawal agreement suggests that we will leave in March 2019. His hope that we can somehow exercise a veto while we are not at the table seems somewhat futile.

I need to make progress so I will not continue on this point, but rather deal with those who believe that a Norwegian option is the answer. I have indicated to the House that I will not give way and I see the Government Whip urging me to come to my concluding remarks, so I will continue. Several noble Lords believe, as in fact the EU negotiators told us last week, that the only other option would be to remain in the single market, through membership of the EEA—in other words, the Norway option. We are told that this would give us access to everything we want. Yes, it might do so, but returning to the Norway option would involve us giving up the rebate, as we would no longer be a member of the EU, merely a member of the EEA; hence, no rebate. The resulting maths goes like this. In 2016 we paid £123 per head. Norway paid roughly £135 per head. The general belief is that Norway does

not receive a great deal in receipts, as it participates in fewer programmes, so it actually pays more than we are currently paying. So those who think that the EEA is a good option need to think about how they would sell that to the people. It would be rather difficult to say that paying a bit more would result in a good deal.

I turn, in concluding, to the issue of the UK withholding the exit fee of £39 billion. My committee conducted an inquiry into Brexit and the EU budget in March 2017. We came to the view that while the UK had a moral and political obligation if it wanted a good deal, there was no jurisdiction in which the EU could challenge the UK in a court case. The negotiation on a figure was just that—a negotiation. In light of that, if the rest of the negotiation fails, I would find it odd that we would stick to just one element of it: nothing is agreed until everything is agreed. I suggest that the Government abandon this White Paper and pursue the creativity that the Foreign Secretary has called for today: either a Canada-plus-plus or another option that delivers an association agreement with enhancements as we leave.

9.42 pm

**Lord Whitty (Lab):** My Lords, like the noble Baronesses, Lady Falkner and Lady Noakes—the latter is no longer in her place—and the noble Lord, Lord Liddle, and under the chairmanship of the noble Lord, Lord Boswell, we were all in Brussels last week. We seem to have come to slightly different conclusions, one has to say. However, in view of the time and of the time limitation, I want to concentrate on one big point that I think everybody would agree on. One thing that I came away from there with is that we are running out of time: these negotiations are closer to collapse than I think many noble Lords recognise.

I have had occasion over the past few months to draw attention to the inadequacies of both the UK and the EU negotiators. I speak as someone who has observed negotiations in many contexts over the years. There are many prime rules of negotiation which have been lost on those who are supposed to be our official negotiators. In recent days I have sensed something even worse, which is, as I say, the imminent collapse of these negotiations. In negotiations, when it becomes clear that one party no longer has the confidence of those they are supposed to represent—as appears to be the case with Brussels and the European capitals in the case of our Government—then negotiations are close to collapse. When one side, or in this case, both sides, start to threaten to abandon agreements that were made in principle pending the full settlement, then you know you are close to collapse. And when one party starts trying to appeal behind the backs of the front-line negotiators, as appears to be the case with our appeals to the capitals of the 27 at the moment, then you also know that negotiations are close to collapse. When you are running out of time, then you certainly know it.

Only a couple of weeks ago, both Mr Davis—remember him?—and Monsieur Barnier were saying that the withdrawal agreement was 80% concluded and agreed, and we had green marks across the text circulated to our committees. Now, not only is Mr Raab

[LORD WHITTY]

threatening not to pay the agreed budget figure, but the European Union is threatening not to observe the agreement on citizens' rights. That also suggests we are close to the precipice.

Several noble Lords have rightly said that this is the kind of document which should have been produced 15 months, 18 months ago, maybe even before we triggered Article 50. I do not disagree with that, but the question is: what is its status now and what can we do with it? Does it represent a sensible, good arrangement for UK industry and is it likely to be acceptable to the EU 27? I am afraid that the answer on both counts, as many noble Lords have indicated, is no. The document does not provide a secure basis for our future trade with Europe, in particular for our services sectors. It is also full of wishful thinking on the customs agreement; meeting the aspirations for frictionless trade in our goods sector will be hugely complex.

It was already clear to us in Brussels that you cannot get an agreement with Brussels which appears to fragment the single market: which cherry picks, in their terms, how we treat different services and sectors, and breaches the four central freedoms. That has become apparent. It is also clear that our day-to-day participation in EU agencies—from aviation and medicines through to Europol—is unlikely to be conceded if we stick to the approach of the White Paper. Had this document been produced 15 months ago, all sides could have regarded it as a basis for negotiation. Instead, given the problems within the Cabinet, the Conservative Party and Parliament, it is now being seen as our text, from which the Prime Minister will find great difficulty in departing. It is therefore a real problem for us domestically to agree to further concessions, and it is difficult for the European Union to use that document as a negotiating text. That is a real problem in developing the future relationship. Regrettably, it is worse than that because the withdrawal agreement depends on us having some idea of where we are going on future trade relations.

We will not solve the Northern Ireland border question unless we have an idea of where we are going. Regrettably, the Northern Ireland border, for the EU's own reasons, was put on the list of things we had to agree within the divorce settlement. We are nowhere near to agreeing it and until there is some light at the end of the tunnel on the future trade agreement, it is difficult to have a long-term solution to the Irish border question. Instead, the tension around that is rising. You only have to read the British press's reaction to the Irish Government's position and the remarks of the Taoiseach himself about British airlines. Probably most pernicious of all is the DUP's deciding that it will be the defenders of hard Brexit—which, I remind the House, is not the view of the population of Northern Ireland, a majority of whom voted to stay in the Union.

It is unfortunate that, in these episodic times, as a result of the last general election our Government are somewhat hamstrung by being dependent on the vote of the DUP, most of whose members—but not most of their electorate—are hard Brexiteers. At this very difficult time, the one thing I would advise the Government to do is to resolve the problem of not having reached

agreements on Ireland. Also, given the very limited time to reach a settlement on the trade arrangements, they should ask the EU 27 for more time. It difficult to ask for more time on the leaving date, but not impossible. It is easier for us to ask the EU to agree to a lengthier transition period, which, in reality, is not a transition period but negotiating time to establish all the details of our future trade and security arrangements. It will not be easy to do that, but I would advise the Prime Minister—who I understand is today flying to various capitals and sending her Cabinet Ministers around—that, rather than trying to divide the EU, they should be uniting it. They should get it to agree that we need more time to resolve what is an existential crisis for Europe as a whole, and to deal with the terrible possibility of no deal between ourselves and the European Union.

9.50 pm

**Lord Taylor of Warwick (Non-Afl):** My Lords, the famous British group, the Beatles, had worldwide success with the song "Don't Let Me Down". I am confident that the Government will not let Britain down as we leave the European Union. "We Can Work It Out" was another huge hit for the Beatles; I believe that working it out is what will happen. Although that song was No. 1 around the world in 1965, its opening lyrics are timely for Britain and the EU today. I am not going to sing them, but they read as follows:

"Try to see it my way,  
Do I have to keep on talking till I can't go on?  
While you see it your way,  
Run the risk of knowing that our love may soon be gone.  
We can work it out".

Brexit was always going to be a process, not an event. Let us not forget that three Brexit-related Acts of Parliament, including the European Union (Withdrawal) Act, have already been passed this year. Progress is being made. Furthermore, 80% of a draft withdrawal agreement has been agreed between the UK and the EU.

In April last year in this House, I described Brexit as a "Deal or No Deal" scenario. Then in January this year, we had a debate entitled "Brexit: Deal or No Deal". There has been growing talk of a no-deal result, which would have us walking away from discussions—whipped up, I have to say, mainly by the media—but the EU's chief negotiator, Michel Barnier, is on record as saying:

"The 'no deal' scenario is not the scenario we are looking for. We are looking for success, not against the United Kingdom but with the United Kingdom".

Let us not forget: the EU will not gain from a no-deal outcome and it has an incentive to offer compromise and concessions. The most glaring is in the area of security. Britain is one of Europe's biggest military and intelligence powers. Limiting its role in projects such as the Galileo system, at a time when questions are being asked about NATO and Russia is causing concern, would endanger all Europeans.

Furthermore, a no-deal scenario would mean the EU losing that £39 billion divorce payment, in sterling, which the UK has agreed to pay. That would leave an unwelcome hole in the EU budget, which I cannot see the other EU member nations being too keen to fill.

Let us also not forget, please, that 45% of UK exports go to the EU while 53% of our imports are from the EU, so a no-deal result could cause real damage to EU exports. The EU Heads of Government have voters whose livelihoods would suffer greatly if no agreement is reached. We should be bold as we continue discussions with the EU, but I am not convinced that calling it names such as the “European Mafia”, as some in the other place have done, is that helpful. There is an old saying: “We cannot shake hands with a clenched fist”.

While the EU has said that the White Paper in its present form is not acceptable, Mr Barnier has said that it is a constructive way of going forward. I very much echo the comments of the noble Lord, Lord Bridges, in that regard. Let us build on that foundation and not destroy it. This morning on the BBC’s “Today” programme, the German Minister, Stephan Mayer, was very positive about the White Paper as a foundation for discussion. At lunchtime on BBC Radio 4’s “The World at One”, Karin Kneissl, the Austrian Foreign Minister, was also positive.

It is illuminating that throughout history there is a clear theme of one empire after another eventually overreaching itself, often through excessive taxation and overbearing rules. In Old Testament times it was the Egyptian empire, followed by the Assyrian empire, the Babylonian empire and finally the Persian empire. They all collapsed. In the New Testament we see the powerful rulers of the Roman empire, such as Nero, but they all eventually fell. Now we have the European empire, with discontent with Brussels bureaucracy showing itself in ballot boxes throughout the Union, so the Bible and history demonstrate how national sovereignty always proves more durable than the politics of imposed empire.

Brexit does not mean replacing trade with the EU; it means adding trade on top of existing trade with the EU. There will be 27 members in the EU, but 195 other nations worldwide are not tied into deals with the EU and trade freely. We already trade more outside the EU than inside the EU. We are just talking about building on that. My American wife Laura is always reminding me that the United States remains the UK’s largest trading partner. As a nation we have much in common with Commonwealth countries, and Brexit will allow us to expand on all these trading ties.

I have two questions for the Minister. First, will the Government provide more detail on the future for financial and other services post Brexit, since they account for 80% of our economy? My second question is about the EU’s requirement for freedom of movement. How will that align with the Government’s proposal of a mobility framework?

The mood of the nation this summer was lifted by a rather unusual occurrence: the England football team showing itself to be a giant nation again in world soccer. It proved what can be achieved through a strong vision and teamwork. Brexit provides the opportunity for both. It will allow Britain to leave the single market and the customs union and take back control of its borders, laws and finances.

Some years ago, I had the pleasure and privilege of meeting Nelson Mandela while he was President of South Africa. We enjoyed lunch together and he wrote

out a message to me, placing it in my hand. The world celebrated his centenary last week. As President Mandela famously said, “It always seems impossible until it’s done”.

9.57 pm

**Lord Risby (Con):** My Lords, I am not entirely sure what conclusion I have come to about a betting experience I had while attending the racing on Saturday at Newmarket. I bet on a horse called Brexit Time. It was 20-1 and not expected to win, so I was cautious and bet both ways. For the first six furlongs the horse led the field, but at the seventh and final furlong it fell back. Nevertheless, although it did not secure victory, it was regarded as a very good and successful effort by the horse. I do not know whether there is any moral to be drawn about what might happen in Brussels in the next few weeks.

The first thing to say is that we should welcome this White Paper as a way to address the advance in a comprehensive negotiation taking place to fulfil the commitments made by the Government to the British people while trying to ensure the continuity of our close relationship. Given that EU member states will be involved in any ultimate agreement, I greatly welcome the energy and activity now being shown by government Ministers to explain our proposals to the member states directly.

Of course, the EU would fall apart if there were not a comprehensive and tight rulebook, but, if the mantra is solely the indivisibility of the four freedoms, the negotiations could fail. If we move on to the complex proposed tariff collection processes, the European Commission will—wholly legitimately—require assurances about fraud. Will the Minister be able to flesh this matter out this evening to enhance our understanding? The British commitment to no tariffs and adherence to EU goods regulations is hugely important to our businesses.

We have historically suffered a trade imbalance, not only with the EU but with the world, compensated for by the attractiveness of the UK as a recipient of enormous foreign direct investment. All of us know that much of this crucial investment was based on unfettered access to European markets. This has been supplemented in the White Paper by a clear and welcome commitment to parallel standards across the full spectrum of activity.

One concern which has come through this debate is anxiety about future defence and security relationships in Europe once we have left. That applies particularly in middle and eastern European countries. For whatever reason, the absence so far of any agreement is a source of concern to them. As the European Commission examines these concerns in our discussions and looks at the handling of the Galileo project, criticised even in the French press, some fresh thinking, out of the box, should be required urgently.

I should also be grateful if my noble friend could elaborate on the model of expanded equivalence, and how it will ensure that the City of London remains a jewel in the crown of Europe overall. This was referred to by the noble Lord, Lord Butler. Competition for us in future does not lie in Europe, in Paris or Frankfurt,

[LORD RISBY]

but in New York, Singapore and elsewhere. Frankly, it is greatly to the disadvantage of Europe overall if financial services activities here are impaired. It is not clear to me why our world-beating financial sector, with its unique reach, experience and reputation, is not seen as an asset for all of Europe and recognised as such. I note with interest that Mr Barnier has rejected our financial services proposal—but, given the centrality of importance of our financial sector for the whole of Europe, I hope that the view that it requires unilateral authority can be revisited, because it certainly should be.

I do not want to delay the House at this late hour, but I will make reference to Northern Ireland. I thank the noble Lord, Lord Bew, for his contribution and the pragmatic proposals put forward by my noble friend Lord Cope. As a new Member of Parliament, I had a very minor role for a short period in Northern Ireland at a tense and difficult time. At different times, it was appropriate for those who were leading a resolution of this problem, such as Sir John Major, Tony Blair and Members of this House to whom we pay great tribute, to make bold public statements. However, quietly and discreetly, much progress was made in discussions to move the peace process on in a totally different way.

Today, resolution of the border issue is of course most important—indeed, it is regarded as pivotal by the European Commission. However, it is a matter of regret that the lessons of the past have not been absorbed in dealing with some of the problems on our neighbouring island. Megaphone diplomacy has not made the issue any easier to resolve. Indeed, in the words of the noble Lord, Lord Bew, it has been overinflated.

Every interested party wants this matter to be sorted out, and everybody agrees that there should be no hard border. This is not an insoluble problem. The matter is now centre stage, and I hope that greater wisdom and discretion will now prevail.

10.03 pm

**Baroness Humphreys (LD):** My Lords, as the Government begin to make their arrangements for the UK's potential exit from the EU, I want to make a few comments on and pose a few questions about issues important to Wales: Welsh agriculture, Welsh industry, particularly in north Wales, and the port of Holyhead.

However, at the outset, I repeat a question that I and others have asked before in these debates. West Wales and the Valleys have qualified for and benefited from Objective 1 funding for almost 20 years and have seen many improvements in road and community infrastructure and connectivity. Have the Government planned for similar funding to continue if Brexit happens? I ask for probably the third time: will it be allocated on the EU's basis of need or on the outdated and by now infamous Barnett formula, which relies on crude population counts?

I turn to agriculture and place on record some of the findings of the Welsh Affairs Committee in the other place in its report *Brexit: Priorities for Welsh Agriculture*, published earlier this month. Those of us who live in rural north Wales already know and appreciate the contribution and value of agriculture, its central

role in community life and its essential role in maintaining the Welsh language. Fewer people might be aware of its impact on the Welsh economy, where it accounts for a higher proportion of jobs and economic value than in the rest of the UK. Because over 80% of Welsh food and animal exports are to the EU, the report repeats the overwhelming view of witnesses and Welsh Members on this side of the Chamber that barrier-free access to current markets is essential for Welsh agricultural products, and could be best achieved by retaining membership of the single market and customs union.

If a post-Brexit Britain is to become a reality, Wales needs its fair share of agricultural funding. It needs clarity on the formula to be used in any replacement agricultural funding scheme, as with the structural funding that I mentioned earlier. We are told that funding will be broadly the same over the next few years, but the Welsh Affairs Committee's report recommends that,

“before Committee stage of the Agriculture Bill in the House of Commons—the UK Government agree with the devolved administrations a mechanism for future allocations of funding for agricultural support”.

We cannot tolerate a repetition of the earlier stages of the withdrawal Bill, where UK Ministers sought to take decisions regarding EU laws in Wales into their own hands. There is no place for a similar colonialist attitude now—the voice of the devolved Administrations must be heard.

The situation facing Airbus and other manufacturers that rely on the highly efficient and highly cost-effective just-in-time supply system is now surely beyond parody. After initially welcoming the Chequers White Paper as going “in the right direction”, Airbus's CEO, Tom Enders, expressed his concern at the Government's decision to accept the European Research Group's hard-line amendments to the customs Bill and sees the Government's strategy for leaving the EU as “unravelling”.

Consequently, the company has taken measures to activate its contingency plans and begin stockpiling parts to mitigate the effects of this change in government policy. Have the Government made an assessment of the long-term impact of funding these contingency plans on future investment in companies such as this? The ERG's small group of about 40 MPs appears to revel in holding the Government to ransom. I recognise that they will have scant regard for the potential loss of Airbus's 6,000 jobs in Broughton in north-east Wales, but these full-time, well-paid jobs are vital to our economy. While millionaires manipulate the situation for their own benefit, secure in the knowledge that their fortunes and pensions protect them, workers in places such as Airbus are beginning to understand the potential impact of a hard or no-deal Brexit on them, their jobs and their families.

In north-west Wales, if there is a hard or no-deal Brexit, the port of Holyhead faces the same problems as Dover in terms of customs checks, leading to delays, but infrastructure problems could make the situation there even worse. Now that the new Brexit Secretary appears to be preparing us for a no-deal Brexit, can we assume that the Government will publish contingency plans for the port? Whatever happens, whether there is a soft, or hard, or red, white and blue, or no-deal Brexit—or even no Brexit—Holyhead faces a reduction

in trade and probably a reduction in employment. Ireland, and the shipping industry, have been incredibly proactive in the face of Brexit and have sought ways to avoid the land bridge between Ireland and the EU. Now the world's largest short sea roll-on roll-off ship has begun running between Dublin and the continent. Officially, it is called the MV "Celine" but, unofficially, it is the "Brexit Buster". Sadly, only about 20% or 30% of Ireland's trade is with the EU. A massive 70% is with the UK. With chaos on the horizon, a situation that has been an act of national self-harm risks harming our closest neighbours, and the remaining EU 26 as well.

Finally, this weekend I was horrified yet strangely satisfied to see the leader of the European Research Group being forced finally to admit that it will probably take some 50 years for the country to know whether Brexit has been a success or not. By then my eldest grandchild will be 60 years old. What will her life have been like if Brexit is a failure?

10.10 pm

**Baroness Verma (Con):** My Lords, I start by agreeing with most noble Lords who have said that we have a White Paper and need to be constructive about it and help the Prime Minister to get some order back into our Parliament.

I want to speak on the concerns of small and medium-sized businesses and the supply chain with regard to customs issues. The trusted trader scheme is often floated by noble Lords, but we have come to find that those schemes are very difficult to navigate for small businesses. They add cost and administration and often require small businesses to put up huge financial collateral. What will my noble friend the Minister do to ensure that we make the processes easier as a third country, when we leave the EU, for the supply chain and small and medium-sized businesses?

I listened very carefully to the right reverend Prelate the Bishop of Leeds and my noble friend Lord Heseltine. I was going to read the speech that I prepared over the weekend, but I decided to change course because so much has already been said of what I was going to say. I want to come back to something that my noble friend Lord Heseltine said about immigration. I am tired—actually, I am sick to death—of immigration and immigrants becoming the scapegoat for every single problem that any country has. I now feel as I did as a child in the 1960s, growing up with the "rivers of blood" speech, and I am really sick to death. If we have not learned anything, we have a lot more to learn.

I want to say to all noble Lords who think that Brexit will stop immigration and stop people from coming here because they want to have a better life that they really need a real reality check. I say to the noble Lord, Lord Green, that yes, we do talk immigration, but the noble Lord keeps bringing it up as a negative process. Immigrants have been great for wherever they have gone, and it is up to Governments and government policy to make sure that they do it in the interests of their country, through policy, and not blame people who just want to make a better life.

I have been in your Lordships' House for 12 years, and in all that time I have listened very carefully to debates and I have tried to be very easy on the ear,

because, as a Minister and in opposition on the Front Bench, I was bound by collective responsibility. I was absolutely ashamed that, after a collective decision at Chequers, people should come out and give the Prime Minister such a difficult time. The Prime Minister has more than enough to do to try to unite a country that was split almost down the middle by this decision. It is up to all of us—including Ministers who may not agree with our point of view—to come together and give the Prime Minister some space. If we cannot bring something constructive to the table, we should sit at the back, keep our opinions to ourselves and not self-indulge in what I can see only as self-promotion for a new job some time in the future.

I will end by saying that some noble Lords have said that maybe we should be part of the EEA for a short while during our transition, perhaps to work out some of the difficulties we will face, and that may be a useful idea. Maybe it is time we considered these things without dismissing them without any proper debate.

10.15 pm

**Baroness Young of Old Scone (Lab):** My Lords, much that could be said has been said. I am just grateful that I am speaking immediately before rather than after the noble Lord, Lord Hennessy, with his eloquence and humour. How is that for a build-up?

I want to give two examples of what a mess the process is in and why crashing out—a no-deal Brexit—is a strong possibility but cannot possibly be contemplated. I will try not to sound like someone out of "Dad's Army" saying, "We're doomed! We're all doomed!", but to give a practical appreciation of the fact that this thing is much more complex than any of us ever realised and that we are rapidly running out of time.

The example that I want to give is aviation, and perhaps "crash out" is not a phrase that we should use about aviation, so let us call it "a non-negotiated withdrawal". That could have significant implications for the aviation industry. The White Paper plan is to maintain membership of the European Aviation Safety Agency. If that does not happen in time, the CAA here in the UK will need to kit up and organise to take over the safety regulatory tasks. It cannot possibly do that in time. I therefore share with my noble friend Lord Whitty the belief that we are running out of that precious commodity, time.

Without design organisation approval, UK manufacturers currently holding EASA design certificates will not be able to deliver products to EU manufacturers, which will dramatically slow down the production of aircraft. That is why Rolls-Royce is moving its engine design approval work to Germany. The aviation industry has called on the EU Commission to allow technical talks to proceed between the EASA and the CAA on the transition of responsibilities. So far, the Commission has rejected these requests.

The noble Lord, Lord Razzall, highlighted air transport agreements governing the rights to fly between two countries which need to be negotiated before Brexit or continuity of service will be threatened. UK carriers are signalling their lack of confidence that such agreements will be negotiated in time and are setting up entities in

[BARONESS YOUNG OF OLD SCONE]

EU 27 states to protect their right to fly. What evidence does the Minister have that these complex agreements can be reached in time, or, indeed, at all?

There is a similar situation in the chemicals industry, which is the UK's second-largest manufacturing industry. The White Paper says that we will seek to participate in the European Chemicals Agency, but this negotiation has not happened yet. The industry is in a state of high uncertainty about what it needs to do. If we crash out, the UK will have to create its own system for authorising and regulating chemicals, with additional cost and complexity for companies having to register chemicals in two different systems. Again, what evidence does the Minister have that all this can happen in time? Last week, your Lordships' EU Energy and Environment Sub-Committee was magnificently unconvinced by the Defra Minister on this.

Those are simply two practical examples of the cliff edge that we are rapidly approaching. They are mirrored across virtually all of the 131 Brexit work streams. Whatever you think about Brexit, crashing out cannot be an option. It is a recipe for chaos for businesses, especially small and medium-sized enterprises, and for the people of this country.

I am angry and sad about all this. I am sad that, in reality, the split in views about Brexit across the nation and across politics means that our political institutions are simply not working any more. In reality, the lack of coalescence around solutions is due to the fact that there is no effective majority for Brexit at all. In any other walk of life, for a cataclysmic change—a major, brave change like this—I would want 75% support behind me before I decided to push out the boat, but we simply do not have that; it is virtually a 50:50 issue.

I am angry that so much of our negotiating energy and time have been spent on the Government trying to pacify their paramilitary hard-Brexit wing, but I am also angry that all of us in this House acquiesced to a simple majority for a referendum on something as fundamental as leaving the EU when there was no clarity about what that would mean. Therefore, we need to wake up and smell the coffee. Crashing out would be disastrous but the negotiated exit enshrined in the White Paper is unlikely to be negotiable in time. It is only not the worst of all options because crashing out is the worst of all options. There is indeed an insufficient public mandate for the lunge into the dark that Brexit represents. We must not shut the door on remaining in the EU. As negotiations continue and when the meaningful vote takes place, if remaining looks, on a practical rather than a political basis, like the only sensible option, we must not duck that conclusion.

10.21 pm

**Lord Hennessy of Nympsfield (CB):** My Lords, in a history department somewhere within the British university system, there may well have sat this very afternoon a young man or woman sifting their way through the paper trail already laid down by Brexit. When in 10, 15 or 20 years one or other of them sets out to write *The Strange Birth, Life and Death of European Britain*—the book which will make their scholarly reputation—what might they make of the document before us this evening?

Much, of course, will depend on the coming days, weeks and months as our civil war—almost sometimes, I think, our war of religion—over Brexit fights over the White Paper's pages, especially if the contents of those pages are at some stage somehow fashioned into an instrument for removing the Prime Minister from 10 Downing Street. Whatever happens, I think that the young scholar will linger long over Command Paper 9593. Why is that? There are three reasons.

First, *The Future Relationship Between the United Kingdom and the European Union* captures in its 98 pages the sheer mass of factors, complications and pitfalls that have to be tackled if 46 years of European Britain are to be unravelled successfully and a viable set of successor relationships put in place. The White Paper, in my judgment, is a fascinating—almost overwhelming—piece of geopolitical cartography without, I think, parallel in our history.

The second reason that I adduce for the enduring significance of Command Paper 9593 can be found in a cascade of paragraphs in the Prime Minister's foreword to the White Paper. Mrs May says,

“over the last two years I have travelled up and down the country, listening to views from all four nations of our United Kingdom and every side of the debate ... We share an ambition for our country to be fairer and more prosperous than ever before ... Leaving the EU gives us the opportunity to deliver on that ambition once and for all—strengthening our economy, our communities, our union, our democracy, and our place in the world, while maintaining a close friendship and strong partnership with our European neighbours”.

Those paragraphs alone illustrate why this is such a heavily freighted White Paper. Like all properly trained historians, our young scholar and future biographer of the relationship between Britain and Europe will have been trained how to slice up history into capital Q “Questions”.

Think how many can be extracted just from that snatch of the Prime Minister's opening refrain. The European Question, obviously—that great tormentor of successive British political generations—has prised wide open once more the Britain's-place-in-the-world Question; the stress generated by Brexit has reheated the very union of the UK Question and the possibility of a Scottish separation some time in the 2020s; and, as we are all aware, the need for a friction-free border between Northern Ireland and the Republic has re-posed the Irish Question. The European Question has, too, revived what Disraeli would have called the condition-of-Britain Question, as the referendum result showed that the UK was an extended family but no longer knew itself or fully appreciated the disparities in life chances and outlooks across large parts of our country.

There lurks, too, a special post-Brexit problem in the pages of this White Paper. Chapter 4, which I do not think we have discussed much today, on post-leaving institutional arrangements, makes for sobering reading. It assumes a high level of harmony to make its complicated mechanics work. I fear that there will be a rich harvest here for those whose political lives have so far put them on permanent grudge-watch with Europe. That will continue.

Perhaps my greatest anxiety, apart from the possibility of Scotland one day leaving the UK, is the coarsening, sometimes even the envenoming, effect of the European

question on our national political conversation more generally. Once we have left the European Union we will need to put much care and real persistence into putting that right: the first people we have to get on with are ourselves. I live in hope—and there is no tariff on hope.

10.25 pm

**Lord Balfe (Con):** My Lords, may I first declare my interests? Next year will be the 40th year that I have been in Brussels—25 years in the European Parliament and since then as chair of the 28-member voluntary pension fund of the Parliament, as a member of its Former Members Association executive, and as a board member of the charitable foundation that it supports. So I am an eternal disappointment to my noble friend Lord Forsyth, for a start. I am also vice-president of BALPA, the pilots union, and very much welcome the points made by the noble Baroness opposite.

I shall start by repeating, or firming up, some of those points. The White Paper recognises the special needs of aviation, and I pay tribute to the Minister who was formerly in this job and his successor, my noble friend Lady Sugg, for the attention they have paid to the representations received from BALPA. As the noble Baroness, Lady Young, said, the pilots are looking for a Canadian-style agreement with a Swiss-style involvement with the European Aviation Safety Agency. However, they are concerned because the principle “nothing is agreed until everything is agreed” is stopping meaningful conversations at official and regulatory level. It is no longer sensible not to start those conversations. I do not expect the Minister to have the answer to this in his brief, but I would welcome an assurance that he will write to me, and possibly copy in the noble Baroness, on this subject—in particular on the limited subject of whether we can get further discussions going.

My second point is also taken from the good book, the Command Paper. The second paragraph of the Prime Minister’s foreword to the White Paper talks about,

“ending the days of sending vast sums of money to the EU every year”.

I contend that we do not send vast sums of money to the EU every year. We have let this idea come into our national discourse in a way that it should not have done. The principle of the EU—a fundamentally sound one—is that generally speaking the richer member states are contributors to the budget and the poorer states are beneficiaries. Our net contribution of £8.9 billion, which has been mentioned, is around 1% of UK government expenditure. The cost of what is called the settlement after we leave is estimated in the House of Commons briefing paper as between £35 billion and £39 billion—in other words, four years’ worth of full payments straight away.

The cost of the EU per head of population depends on the exchange rate, but my figure is £130. I heard a slightly different figure earlier, but it is in that ball park. We are not the biggest contributor, by a long way. Per head of population we are number six. The countries above us are, in order, Germany first, Denmark second, France third, the Netherlands fourth, and Sweden fifth. They all pay more than we do per head

of population—as, incidentally, does Norway, which I add to the list just in case we want a Norwegian-style deal.

What is happening here is a good basic principle of international relations, which is that richer nations are helping to support poorer nations. So when we talk of bringing “our money back”, we are substantially talking about withdrawing from such programmes as those which support the development of poorer regions through the regional fund. Is this what the Government want? Do they want to desert the new democracies of eastern Europe? Is this now their programme? Do we want to save money by withdrawing from the Erasmus programme that supports students, or are we going to carry on with it so that there will not be any savings from Brexit anyway? I assume that the money that is spent through the EU on aid will continue to be spent, because it comes out of our aid commitment, so that will also not be saved.

Have the Government counted up how much it will cost to participate in the various agencies, numbered at 62 in this debate, and policies that, according to the White Paper, we wish to join? I see all of the supposed saving of this modest amount disappearing before my eyes.

We talk about a trade agreement but we will not get one without paying for it. It is not a free trade agreement—it will be a costed trade agreement, as Norway has found. Do we think we will be paying more or less into the budget than its £135 per head per year? How much better off than Norway will we be? I predict that we will not be any better off at all. We have already said that we are going to keep all sorts of programmes going, and that will cost us money. That is not a bad thing except that we are withdrawing money from a lot of people who need it.

If we decide that we are going to crash out, or whatever we call it, what message will we be sending to British public servants who work for international organisations? International organisations at the Foreign Office used to have a programme to get people through the concours so they could work for the European Union. Will we be saying to the brightest brains in Britain, “Go and work for the international organisation; if we get fed up with it we will desert you and leave you without your pensions, your pay and your promotion prospects”? Is that the Government’s message to the brightest and best in Whitehall, who used to be encouraged to go into international bodies?

I ask the Minister to look at the facts behind this. I think that he will find that we are indulging in a very paltry saving for a truly disastrous policy.

10.32 pm

**Lord Wrigglesworth (LD):** It is a pleasure to follow the noble Lord, Lord Balfe, whose views and activities in Europe I have known about for many years.

In 1975 I was a relatively new Member of the other place. As Parliamentary Private Secretary to the Home Secretary, Roy Jenkins, I travelled with him during the referendum campaign that year to various parts of the country, along with others of the all-party remain group, such as Willie Whitelaw and my now noble friend David Steel. More than once, Roy illustrated

[LORD WRIGGLESWORTH]

the case for membership of the then Common Market with a quote from Gladstone. He suggested that the European Common Market was,

“an affair of men just as much as of packages”.

He was distinguishing between the economic and the political aspects of European unity.

Much of the comment on the White Paper and much of the debate that has taken place over the past two years since the last referendum has been about what Gladstone referred to as packages. But for many of us, our membership of the European movement, the European Community and the European Union is about much more than that. It is because our participation reflects a view that war and other problems facing the world are best overcome by close co-operation and by friendship. The European Union was born out of the highest motives—to keep peace in Europe, as the noble Lord, Lord Kerr, reminded us.

Most remainers are, in my experience, committed internationalists with less interest in the nation state and more in building a community of nations. Their philosophy is one of uniting people in their common humanity across race, religious and other boundaries. It is a pity, to my mind, that we have not heard more of that in the debate on our membership of the European Union. After all, there is much evidence to show that a major motivation for those wishing to leave the EU was the issue of immigration, as was mentioned by the noble Lord, Lord Heseltine.

Right-wing populism has risen in many parts of Europe and in the United States. It needs to be refuted because, as has been pointed out in the debate, never has there been a more precarious time in post-war years than now. We have President Trump stalking the world with his divisive actions and pronouncements, and in those circumstances we need more co-operation with the EU, not less.

There is another reason why we need more co-operation and not less. The world is becoming smaller and smaller and more and more international; it is happening almost daily. We are swamped by new technologies, which have a massive impact upon social and economic activity. It is staggering to me that Facebook is only 12 years old; Google is 19 years old; the iPhone is 11 years old; Twitter is 12 years old; Amazon is 21 years old; and YouTube is 11 years old. That companies and technologies of that scale can grow in that period is almost unprecedented in the world. They have a profound influence upon all of us and affect every aspect of our lives: retail, health, pharmaceuticals, music, films, television, taxation, sport, securities, financial services and much more—I could go on at great length. In those circumstances, and to cope with these developments, we need the force and co-operation of 27 European countries, using them and working with them as partners in the European Union. How can we control these organisations and technologies to the benefit of all unless we have the governmental means of doing it?

As I have sat in the Chamber over recent weeks and months, listening to the debates on Brexit, I have frequently thought to myself, “We must all be mad”. As the noble Lord, Lord Davies, said earlier, the contents

of the White Paper rather suggest that I was right. In some respects, it should be entitled, “Fantasy meets reality”. Down the track, as the negotiations progress—or do not progress—those of us who are not supporters of the Government must all beware of the Government blaming the EU and turning it into the enemy that is trying to frustrate United Kingdom intentions and interests. It would be very easy to blame Johnny Foreigner for the predicament that this Government and that party have got us into.

I am struck by how much the Government seek continued participation in the EU in the White Paper—and I am not surprised that the Brexiteers have objected to it. I want to go through it quickly, because I do not think the public were aware that such consequences flowed from the vote on the referendum. The Government want participation in an EU free trade area; EU standards organisations; EU technical committees and compliance committees; the European Medicines Agency; the European Chemicals Agency; the European Aviation Safety Agency; the EU rule book on agri-food; the EU’s communications systems, including rapid alerts, modern surveillance and mutual recognition of qualifications; the European health insurance card; the reciprocal arrangements on travel for business and holidays; the common rulebook on state aid; the Unified Patent Court; rail, road and maritime transport organisations; European networks for transmission systems operating for gas, electricity and Euratom; and to remain part of the Lugano convention on civil judicial co-operation.

I could go on, but time is limited and I do not think I need to tell many people in this House the extent of the impact that withdrawal from the European Union will have, not only upon businesses and many other institutions and organisations but on the lives of millions of individuals. In those circumstances—and we have not even talked about the governing bodies referred to in the White Paper—people should be given the opportunity to understand the full implications of withdrawal from the European Union and to express their view on it in another vote.

10.40 pm

**Lord Suri (Con):** My Lords, the clock is ticking—so said Michel Barnier in the early stages of negotiations and I must give credit where it is due. The only fundamentally unchanging point throughout all of this process has been the slow running-out of our precious negotiating time.

I backed the Prime Minister through her Florence and Lancaster House speeches, and the Chequers plan—with tweaks—could work. However, I fear we are giving far too much up. Throughout this, we have moved closer and closer to the EU’s position without it respecting a number of our red lines. In fact, it has actively attempted to politicise a number of issues which could have been achieved through bureaucratic or legal means. The border in Ireland is by far the most important.

The former Secretary of State for Exiting the European Union made a number of key points some time ago in his speeches on the customs Bill, some relating to the border. I am inclined to believe him when he says that

the border was progressing smoothly until the Commission made it into a political issue. The insistence on full UK rules and an entirely frictionless border can only mean the whole of the country is forced into rules we do not have a say on. This is a client state of affairs and not the correct path for this proud trading nation.

While there was no manifesto or unified platform that people voted for, we can reasonably say that several policies are quite plainly necessary. The most important is that voters want to regain full control of our borders. Barnier, Juncker, Merkel, Macron, Tusk, all agree that the four freedoms are inseparable. This is their prerogative. The internal market is a fine achievement but, as the noble Lord, Lord Adonis, noted some time back, there is no fundamental reason why freedom of capital and goods must be accompanied by people. Yes, there are some advantages in liquid labour markets, but voters have the final say on how porous borders should be, and those on the losing side of the argument cannot blithely battle on in defiance of democracy. The Chequers plan is far too vague on this topic and I expect a full plan and enforcement strategy to be laid before the other place in short order.

I see a trap ahead. If we come to the end of our negotiations without a deal, we will not in fact go to no deal. As a country, we will be forced to go into the plan set out in the Northern Irish backstop. This provides an extremely favourable deal for the EU. We would pay in, obey the rules, fail to diverge and not have robust borders. Much as Article 50 has an institutional bias to the EU, so does the backstop. It would be in the EU's interest to take us to the wire and then force the emergency backstop. Such a move would rob us of our essential sovereignty and fail to respect the terms of the vote. This must be avoided at all costs.

I welcome the call of the new Secretary of State to intensify negotiations. We must renegotiate the backstop so that it cannot be used against us in an underhand way. I hope that the Minister appreciates the need for such a reappraisal and I ask whether this is the Government's policy or whether he thinks that the backstop is acceptable as it stands.

10.45 pm

**Lord Green of Deddington:** My Lords, it is a pleasure to follow the noble Lord, Lord Suri, and to hear some common sense on freedom of movement from a member of the immigrant community. I intend to be extremely brief, given that the hour is late, and I shall focus on the dog that hardly barked. Some noble Lords may be able to guess what that is.

I am sure that many noble Lords will have noticed a kind of developing enthusiasm among those in the remain camp for another referendum—yet, strangely, they do not seem to have considered why they lost the last one. All serious studies have found that immigration, whether you like it or not, was a major factor. In August 2016, the director of the LSE Centre for Economic Performance wrote this:

“There are multiple reasons for the Brexit vote, but by far the most important one can be summarised in a single word: immigration”. Just before the vote itself, MORI found that immigration was by far the most important issue, running 11 points ahead of the National Health Service and 21 points

ahead of the economy. So there seems to be little doubt—and I do not know that anyone actually challenges it—that immigration was a major factor in the outcome.

Two years on, public concern is still strong, whether we like it or not. Polling conducted by Channel 4, of all people, and published only last month found that 70% of the public want to see a cut in EU migration. Some 42% want to see a large cut while 14% want to see an increase. Furthermore, in April this year a YouGov poll found that 63% of voters consider that immigration levels over the past 10 years have been too high—and even among younger voters, about whom we hear so much, more thought that immigration had been too high than thought that it had been about right or too low. So there is just no doubt about the strength and breadth and continuity of public opinion on this matter, and it is not good enough, frankly, to say that it is about blaming immigrants because it is absolutely nothing of the kind.

It is true, as the noble Lord, Lord Heseltine, pointed out, that EU migration has fallen since the referendum, probably due to uncertainties about the future. But it is still running at 100,000 a year, with another 200,000 from outside the EU. But I repeat: this is not a question of blaming immigrants. That is simply an attempt to close down a very important debate and a very important aspect of the problems that confront us.

What can we conclude on this narrow but important point? First, there can be no doubt about the continuing strength of public concern. Secondly, the public seem to particularly dislike what they perceive to be the complete absence of control, notwithstanding the Government's failure to reduce non-EU immigration. As they see it, there is just no limit, no prospective limit, no brakes and no way of preventing a continued and significant inflow from Europe. This is how the public see it. For many, therefore, a touchstone of how they judge the Brexit outcome will be whether the Government are able to get a grip on immigration.

Lastly—I am up to three minutes—I will conclude by saying that I wonder whether behind all this there is a perhaps a still greater issue: namely, the question of public trust in our political system. It is trust on which the system depends, and it is not going terribly well.

10.50 pm

**Lord Shinkwin (Con):** My Lords, it is a pleasure to follow the noble Lord, Lord Green of Deddington. It is an inescapable fact that many of the debates your Lordships' House has held on Brexit have sounded like a rerun of the referendum campaign. It is as if somehow we believe we could change the result and ignore the meaningful vote that a majority of people cast in the referendum. Today's debate has been no exception. Indeed, listening to many of the contributions from noble Lords, one could be forgiven for thinking that the referendum had never happened and that the people had never spoken. Their vote to leave has been practically airbrushed out of the picture.

So when we consider how the negotiations are progressing, what matters is not so much what we think but what the majority of the people think—whether we are honouring their democratic decision to leave

[LORD SHINKWIN]

the EU. How do the people think the negotiations are going? Professor John Curtice of the University of Strathclyde highlights that, according to YouGov, as many as 58% of leave voters do not think that the Chequers agreement reflects what they believe the country voted for in the EU referendum. Only yesterday, Paul Goodman of “ConservativeHome” reported that 68% of respondents to a snapshot survey of leave voters think that it would be bad for the country if the White Paper were implemented; 67% oppose it.

The British people are not fools. They can see that this is not a fight between government and Parliament. It is between the establishment in Parliament, government and some of the media on the one hand and the people on the other. The well-respected journalist Tim Stanley, writing in the *Daily Telegraph*, talks of the people being ignored. I would go further. There is a very real danger of the majority who voted to leave feeling that they have been betrayed. The evidence suggests that people think that the Chequers agreement and the White Paper are recipes for remaining. So, even if the White Paper were accepted by the EU, we, the establishment, are playing with fire if we think that we can tell the people that we have honoured their vote to leave when they can see—we can guarantee that the EU Commission will make this point to them—that we have not left at all.

We need to accept that the referendum result was a vote for honest politics and for a break with the endemic defeatism of the establishment. We should be thanking the British people for giving us this amazing opportunity, not bottling it and losing our nerve. We need to tell Brussels unambiguously, “We are British. Get over it. We will not be bullied. We will not surrender taxpayers’ money unless and until the British people see that we have genuinely left and that their meaningful vote in the referendum has been honoured in full”. That is what the people are entitled to expect of us. We patronise the people at our peril.

10.54 pm

**Lord Campbell of Pittenweem (LD):** My Lords, what a pleasure to follow the noble Lord, although I have to say that I do not agree with very much of what he has said.

I came with a detailed exegesis of the White Paper, but since I am the 64th person to make a speech in this debate and we are already almost an hour behind the time at which we were supposed to finish, I shall leave that—no doubt to the relief of Members of the House—to another day.

I might just make a point about immigration: there were not too many complaints in the United Kingdom when Polish and Czech pilots came and flew over Kent and gave their lives in the Battle of Britain, any more perhaps than when the Polish airborne division went on and was cut to pieces, along with others, on that occasion.

Let me turn to a point introduced by the noble Lord, Lord—a terrible moment; I have forgotten his name.

**Noble Lords:** Green.

**Lord Campbell of Pittenweem:** No.

**Noble Lords:** Kerr.

**Lord Campbell of Pittenweem:** No. It is ridiculous. We travelled on the plane this morning.

**Noble Lords:** Forsyth.

**Lord Campbell of Pittenweem:** It was the noble Lord, Lord Forsyth of Drumlean. He is memorable for many reasons. He mentioned that he grew up in Arbroath and was affected by the statue which reflects the Declaration of Arbroath. I grew up, quite a few years before him, in a Glasgow filled with gaps—if one can fill something with gaps—where buildings had been bombed and had fallen, and where people had died. Therefore, my affinity for Europe is about the fact that, together with NATO, the European Union has managed to keep, broadly, peace in a continent previously scarred with war. It was the European Union, assisted by Marshall aid, which helped to repair the damage caused in Europe.

I am unequivocal in my belief that it is in the best interest of the United Kingdom that we should remain within the European Union. That is not to say that I am slavish about following everything that it says or does; in particular, the attitude of the Commission towards the Galileo project is, to put it mildly, not particularly helpful—on other occasions, I might put it rather more strongly. If I had any doubts about my position on this matter, what has happened since the referendum has served only to confirm me in my view: that it is much better for Britain to be in the European Union than not. When we read the White Paper and see the extent to which our future will be part of that very fabric of Europe which people seem now to wish to deny, all that serves to confirm me in my fundamental belief—it is a question of belief in my case; I respect the beliefs of others who think otherwise, but I believe that I am entitled to have respect for my views in return.

The White Paper has been universally condemned in this debate, but what did we expect? It had a long and troubled gestation period from a deeply divided Cabinet, a deeply divided party of government, a deeply divided Parliament and a deeply divided country, and a Prime Minister—if I may be forgiven the colloquialism—who is in hock to the DUP. There was never any prospect that tablets of stone would be brought down from some Swiss mountain top during the Easter Recess. The fact is that this document will not fly. It meets neither the expectations of remainers nor the anxieties of Brexiteers, added to which the Prime Minister has not had the strength to ward off the mob marauders of the ERG.

The question is what to do now. The Prime Minister has a choice. She can continue to negotiate on the White Paper. That is going to be difficult because she has already made it plain, she says, that she can make no further concessions. If it is truly a negotiation, then concessions will be expected. She cannot go into the negotiation and expect the Europeans to make all the concessions. Even if she were to get some kind of agreement, what chance is there of her being able to sell that to her own party and, indeed, to Parliament? Someone suggested a little earlier that she could withdraw this White Paper and start again. The truth is that she

could not do that and remain in office. Indeed, if she were to do that, what would she propose anew? What would she propose that is in any material way different from the terms of the White Paper?

The noble Lord, Lord Liddell, made a very eloquent point about the implications of a hard Brexit for those who, by some contrast, were the people who voted most strongly that Britain should leave the European Union. If we are driven to a hard Brexit—there are those in this debate who seem not to be concerned about that possibility—the consequences will be extremely severe indeed. If we are to rely on trade deals arising out of that Brexit, ask yourself this question: if you had some money to invest, would you go into partnership with President Trump? I doubt it very much. He is “America first”, he is highly unpredictable, and we would be in the position of supplicants: we would have nowhere else to go and we would be a soft touch for President Trump.

There has not been much talk about India or Australia recently, because when these issues were first raised both countries said, “Yes, we will do a trade deal but we want much greater access for our citizens than we are presently allowed”. Against that background we have just had the announcement of the remarkable deal struck between the European Union and Japan. We have a third choice: we could stay in the European Union. We could not effect that without having another referendum but, as Justine Greening said, we are in deadlock. There has to be a way out of it. That is why the observations of the noble Lord, Lord Heseltine, and of Sir John Major on Saturday in my view make a powerful case for putting to the British people in precise terms—and on this occasion with a detailed account of their consequences—a further referendum. It would have one further benefit: it would force Mr Corbyn to declare himself.

11.03 pm

**Lord Ricketts (CB):** My Lords, it is a pleasure to follow the noble Lord, Lord Campbell, and to agree with every word he said. I spend a lot of time outside your Lordships’ House and I want to bring noble Lords news from abroad. Our friends around the world are looking on with dismay at the political system breaking down under the weight of Brexit. They see political parties consumed by infighting and efforts to have a mature debate drowned out by lies and personal abuse. They do not recognise the United Kingdom in this as the pragmatic, common-sense country that they know.

However, two years on from the referendum, we now have a position. I pay tribute to my former colleagues in the Civil Service who have twisted themselves in knots to reconcile, as best they can, the Prime Minister’s red lines with the imperatives of close co-operation with our nearest neighbours and business partners. In particular, the name of Olly Robbins has come up in the course of this debate. He is a civil servant of the highest competence and personal integrity and I think he has done his very best in this White Paper. However, like many others, my own judgment is that it will not work. The first reason for that is that it is unnegotiable in Brussels and other noble Lords with greater experience than me have explained why. The EU

negotiators will continue to insist that we come off the fence and make a choice between either staying in the single market with all the disciplines—the Norway model—or leaving it completely based on the Canada model, with all the implications that has for borders.

The second reason that the White Paper will not work is that it is not a basis for this country’s future relations with Europe. I do not see this Parliament continuing, decade after decade, to align with every change of regulation in trade policy in Brussels. It is bound to unravel and it will deliver the next crisis on Europe in a few years’ time.

The third reason is that there is no time now to negotiate a document of this complexity. The White Paper goes into completely uncharted territory as far as the EU is concerned, and it is also full of phrases that, to an old civil servant like me, ring an alarm bell—“appropriate mechanisms” will be needed, and we will “explore options”. That shows that the civil servants have outlined where they want to get to but have no idea how they will get there. We have 12 weeks of negotiating time left, so I think we are very likely to find ourselves in the position that the noble Lord, Lord Bridges, described earlier on, with the EU demanding that we sign the withdrawal agreement, including paying our debts, but offering us no more than a very vague political declaration about the future framework. Will that pass muster in the other place?

I conclude that we are in a mess and I am not the first in this debate to say that. As time ticks away, the risk of no deal rises. I find it deeply irresponsible to talk as if that might be a solution to the mess we are in. It would be an absolute catastrophe for this country, as becomes clearer day after day and as businesses and individuals start to face up to it. One service that the White Paper has done for all of us is to show how fully Britain’s economy and way of life is enmeshed with that of our European neighbours, as the noble Lord, Lord Hennessy, has just said. All those interconnections would be disrupted by a no-deal Brexit.

There is also the risk, not much discussed in this debate this evening, to our national security. If we had a sudden halt to law-enforcement co-operation so that our police services could not access the European databases which are regulated by European law, they could not work through Europol or extradite people through the European arrest warrant. As the noble Lord, Lord Wallace, asked, what has happened to the UK-EU security treaty? I did not find it in the White Paper—it seems to have done a disappearing act.

No deal would leave hundreds of thousands of British and EU citizens in doubt about their rights to residence in the other EU countries. As many noble Lords have said, this disaster of a no deal cannot be allowed to happen. The international order out there is troubled enough without the UK disrupting it further with a disorderly Brexit. On this, I find that the Foreign Secretary agrees with me. For those who have not been checking their Twitter account as assiduously as they should have been this afternoon, I will read his tweet. Having met the German Foreign Minister today, he said:

“Excellent discussion with ... @HeikoMaas about the unintended geopolitical consequences of no deal. Only person rejoicing would be Putin”.

[LORD RICKETTS]

I agree. Faced with the choice between the unnegotiable and the unthinkable, there has to be another way. Ideally, that would be the Government recognising that the national interest requires us to stay in the single market and customs union, at least while longer-term issues are worked out. But since the political process seems to be broken, and there does not seem to be a majority for any option in the other place, perhaps the only option is to put the issue back to the people before we take any irrevocable step to leave the EU.

The EU has its faults, but at this time in the evening it may be worth reflecting that it is not a “mafia-like” state. It is a group of prosperous, tolerant, law-abiding countries, sharing our values and our world view. In my view, it is where we belong.

11.09 pm

**Lord Howell of Guildford (Con):** My Lords, having the last slot as a Back-Bench speaker at this late hour is marvellous for attracting an audience—it is amazing to see how people are coming in—but it is misery for thinking of something fresh to say after 66 speeches. However, let me try this.

At the risk of being labelled an absurd optimist, I am in some ways very encouraged by the debate that we have been conducting all this afternoon and evening. Why? It is because it has made all the dead ends, blind alleys and disaster scenarios which lie ahead much clearer. It has therefore made the need—the absolute necessity—for a compromise of some clever kind much more essential and clearer as well. That was obvious not only from the negative speeches about the White Paper, of which we heard plenty, but also from the positive ones such as those from my noble friends Lord Bridges and Lord King, the noble Lords, Lord Boswell and Lord Taylor, and several others. Theirs were voices of logic and common sense on the point that we have been driven to amid all the cascade of criticism and inspissated gloom, from every angle and viewpoint, which we heard regularly throughout the debate.

My second reason for being encouraged instead of cast down is that whatever the diehards and extremists on either side tell us about the EU standing rock-solid firm, about how its four freedoms cannot be challenged and how it is bound to reject the White Paper, I hear the real voice of Europe sounding a very different note. This morning, we heard a German Minister saying how the Chequers plan was a step forward and how Germany was anxious to meet it. Last week the *Financial Times*, where most stories are usually slanted almost comically against Brexit, carried a letter from a Polish authority reminding us of the reality: that the famous four EU freedoms and principles are certainly now much more an aspiration than a reality. That article in the *FT* said:

“The European Commission states that unfree services amount to almost 40 per cent of Union gross domestic product. Capital flows are famously imperfect, myriad barriers block the free exchange of goods”, within the EU.

As for the free movement of labour, we now see borders being closed between member states—so much for the freedom of movement—in the face of impossible

migrant pressures, which my noble friend Lord Heseltine rightly pointed to. Central Europe and now Austria simply rejects Brussels’s rule. Why is that important and should one draw any cheer from it? It simply tells us that those who insist that the EU will never, we are told, accept the British plan and will not compromise its sacred freedoms when confronted with a clear British compromise, as it will now be, are likely to be quite wrong. This kind of view takes no account of the immense changes, disruption and challenges going on now inside the EU—about which your Lordships have today been remarkably quiet, except in one or two cases—nor of the immense changes in recent years in the whole pattern and nature of international commerce.

Technology is racing far ahead and leaving politics far behind. The proposed common rules, which have been causing the hard-line Brexiteers so much agony, cover a relatively diminishing area of UK-EU trade, of which in turn only a tiny proportion—4% at the most, if that—will be checked for tariffs and destinations at border posts under the proposed plans. As for the so-called EU single market in services, which was so worrying to the noble Baroness, Lady Hayter, whose speeches I usually enjoy so much, in all the 40 years that we have been in the European Union that has never really taken off. The rules governing services, data and digital exports are anyway global, as is the market for them. The White Paper is quite right to keep them clear of EU restrictions, except of course for financial services, where a special arrangement to help not just London but all European interests—because of all the funds that are raised in London on behalf of a prosperous Europe—is entirely achievable.

The talk of Britain becoming a vassal state or colony, or in limbo, gets the situation completely upside down. It implies that the EU is an empire to which we would be in vassalage. Right now, with the EU in fact hard pressed to hold together at all, this is just about as far from the truth as one can get. Not only that, it seriously downgrades and underestimates the capacities and strengths of the British nation, which anyway has not been a vassal since the time of King John and never will be again. The whole concept is a ridiculous notion which we have had to endure.

In a totally transformed international order, Britain now needs a sensible, friendly and constructive accommodation with continental Europe, which we have been deeply engaged with, on and off, for the last 1,000 years. There never was a prospect of a clean break with Europe—that really was a dream—any more than there was a prospect of a permanent break with the Commonwealth network back in the 1970s, to which we are now at last mercifully returning as we realise where our true friends and our markets are going to be and as we find new networks to take us deep into booming Asia, rising Africa and, above all, China.

My hope, which I believe is well within realisation, is that Brexiteers and Europhiles alike—and all those on the Benches opposite who want to put, in the fine words of the noble Baroness, Lady Smith of Basildon, national interest ahead of party interest—will come to their senses. That wise advice from the noble Baroness

applies just as much to her own party as to ours. This should now be matched by compromise on the other side of the channel which the EU authorities, member states and the great economies and great peoples of Europe would be foolhardy, to put it at its mildest, not to buy into and accept. That is the optimistic note on which I wish to end this evening from the Back Benches. Let us now see whether we hear the same optimism from the Front Benches.

11.16 pm

**Baroness Ludford (LD):** My Lords, today is the start of a summer charm offensive at home and abroad to sell the Prime Minister's Chequers Brexit deal and the White Paper. I hope it is more successful than her efforts in her own party, and more successful than the translations of the White Paper that the Government have had done. I believe that the new Foreign Secretary Jeremy Hunt is starting his own grand tour today in Berlin. I hope he can do a good job of translating "dog's breakfast" into German. One native German-speaking senior EU official is reported to have said of the German translation:

"To be honest I haven't seen it. I have worked with the English translation so far and while my English isn't perfect, the questions I would have are not related to language problems and more related to content".

The attitude of specialness and unreality that permeates the White Paper—we can have a tailored deal breaking all the EU structures just because we are British and do not have to fit the rules that others live by—has done us a lot of harm over the years, not least now. As a member of the EU we have had opt-outs, rebates and special treatment, but it was never enough. I was going to say it was summed up in the memorable words of the witty liberal Prime Minister of Luxembourg Xavier Bettel:

"They were in with a load of opt-outs. Now they are out, and want a load of opt-ins"—

but the noble Lord, Lord Russell of Liverpool, got there first. An example of this cherry-picking is accepting the common rulebook only for standards checked at the border, which would not include food labelling, pesticides or GMOs. Michel Barnier asked:

"How are we going to protect European consumers?"

The new Brexit Secretary is hardly on the right course to persuade and charm. His idea of diplomacy is to resurrect the mindless threat of refusing to settle agreed debts via the divorce bill. This is not only in contradiction of the Prime Minister's pledge in Florence that the UK would honour its commitments, as the noble Lord, Lord Bowness, pointed out, but it would mean that no country would trust a Conservative Government to negotiate a trade deal in good faith.

*Le Monde* notes that the Government have sent "contradictory messages"—really helpful. The whole country is tired of the Conservative civil war. Brexit was always going to be a painful process, as many noble Lords, not least on my side, have explained, but this civil war inside the Tory party—not the easy deal they promised—has made Brexit chaotic and incoherent. They have created a mess that is now the stuff of nightmares. Was it the will of the people to be issued with ration books? Will they be blue like the passports, but printed in France?

Many Tory Brexiteers are in fact irresponsible nihilists and anarchists, just wanting to destroy, with no positive ideas of their own and mostly too lazy to engage in the detail, such that all the hard work of trying to make any sense out of Brexit without destroying the country has in fact had to be done by remainers. Many Brexiteers are either irresponsibly cavalier about a kamikaze no deal or positively wish for it, as the noble Lord, Lord Wigley, said.

I fear that the noble Baroness, Lady Deech, confirmed this when she said that we should Brexit "at almost any cost". The noble Lord, Lord Cavendish, said that he was "comfortable with uncertainty". Those people leading lives where they are only just keeping their head above water cannot afford more uncertainty.

I would say that it is us remainers who are in a way the heirs to Thatcher. We may not agree with her on much, but at least on the EU she sought to change, not destroy, and she would have been sharp on the detail and committed to the economic benefits. As was reported in the press this weekend, a draft of a 1988 speech by her read, regarding her attitude to the EU:

"Above all, it means a positive attitude of mind: a decision to go all out to make a success of the single market".

Margaret Thatcher would surely be horrified by the insistence of one of her successors on pulling out of the single market and the customs union.

Theresa May has taken her Cabinet to the north-east today to prove that her Government are listening to the nation beyond London. I understand that she was to take part in a televised Q&A with workers at a local firm near Gateshead. I hope that she heeds the one valuable comment made by Boris Johnson in his Personal Statement last week—although in his case, it is a bit pot and kettle—when he said that,

"we continue to make the fatal mistake of underestimating the intelligence of the public, saying one thing to the EU about what we are really doing and saying another thing to the electorate".—*[Official Report, Commons, 18/7/18; col. 450.]*

There are many such examples in the White Paper and in the amendments that the Government accepted to the customs Bill last week. That has been explored, so I will not dwell on it. There is no reciprocity in the White Paper; there is reciprocity in the customs Bill. The Minister said today that the Government are asking for a "reciprocal revenue formula", whatever that means. He might have a chance to explain further.

The Government have pledged not to lower high standards of employment, environmental and consumer law, yet we know from their previous statements that many Brexiteer Ministers want to do just that.

As for human rights, not only have the Government refused to embed the EU Charter of Fundamental Rights in domestic law and played fast and loose with abolishing the Human Rights Act and pulling out of the ECHR—imperilling cross-border co-operation in law enforcement and data flows—but now the Home Secretary has, unbelievably, said that he is relaxed about the US imposing the death penalty on British citizens. This is contrary to the fixed policy and decades of effort by the EU as well as the UK. It will go down very badly when we try to argue about continued participation in EU extradition and database arrangements.

[BARONESS LUDFORD]

Another example is the European Court of Justice. The noble Lord, Lord Callanan, said, “We will end the jurisdiction of the ECJ”—not even the usual formula of “direct jurisdiction”. As my noble friend Lord Campbell of Pittenweem and the noble Lord, Lord Hannay, pointed out, this is fiction. We will be subject to a lot of ECJ case law. As the noble and learned Lord, Lord Hope, pointed out, the ECJ will interpret the common rulebook. He made a persuasive case for the Supreme Court to continue to be able to refer.

As my noble friend Lord Wallace pointed out, where the UK participates in an EU agency:

“The UK will respect the remit of the ECJ”.

That is the wording of the White Paper. We will be in about 15 agencies in the security field—and about 60 altogether, said my noble friend Lord Newby. So we have just smoke and mirrors here.

As for the assertion that we will be taking back control of our laws and reclaiming UK sovereignty—having domestic regulatory freedom, said the Minister—in fact we will be implementing the EU’s rulebook. The word “common” is a fig leaf. If Parliament refuses to implement it, we will face the withdrawal of trade access. It is a sham, as the noble Lord, Lord Hannay, said, and it will unravel, as the noble Lord, Lord Ricketts, said.

There are other examples that I do not have time to explore, including fisheries and financial services. A large motivating factor in Brexit is recognised to be mistrust of politicians and the elite—which, despite their protestations to the contrary, very much includes Brexiteers—and their failure to tell the truth about the reality of trade-offs. The White Paper will just compound the problem.

I hope that the Prime Minister can explain the double standards to the people in the north-east, where Jacob Rees-Mogg is feathering his own nest with licences in Dublin while telling ordinary people that they will have to wait 50 years for the benefits of Brexit. That is not a good look. Did the Prime Minister tell the people in the north-east about the accurate forecast of one of her predecessors this weekend—John Major—who said that those who have least will be hurt most?

Boris Johnson made one other pertinent remark last week when he said:

“It is absolute nonsense to imagine, as I fear some of my colleagues do, that we can somehow afford to make a botched treaty now, and then break and reset the bone later on”.—[*Official Report*, Commons, 18/7/18; col. 450.]

That is precisely where the Government are headed on the political declaration on the future relationship that will be appended to the withdrawal agreement. If that consists of only vague principles and nebulous aims, as looks likely, it will amount to jumping off a cliff without ensuring that a safety net awaits at the bottom. We need a political declaration that is comprehensive, detailed and unambiguous about rights and obligations.

Finally, many noble Lords have tonight backed a people’s vote on the deal. There is a very encouraging trend of increased support. The people must have an

option to remain—and, instead of Brexit, we need a new fairness deal for Britain and a national discussion on our identities and feelings, grievances or otherwise, in order to heal this country.

11.27 pm

**Lord Tunncliffe (Lab):** My Lords, I rise as the last speaker before the Minister, very conscious of the fact that the most important thing I can do is be brief and sit down.

**Noble Lords:** Oh!

**Lord Tunncliffe:** Having achieved a level of agreement, I celebrate.

I will, however, make a few comments on the White Paper. We should pause a moment to look at it, not from our point of view, which is where most of the speeches have come from, but from a neutral point of view. The White Paper is overwhelmingly cherry picking in nature. It is all about, “Can we have the good bits?” Its central theme on the free trade area and the common rulebook suggests a complicated system of the UK charging EU tariffs at our borders. That was complicated enough, but now we have the ERG amendment, which requires reciprocity.

However, even before that amendment, Michel Barnier had set out his reaction. He said that the facilitated customs arrangement raised practical, legal, economic and budgetary questions. Setting out the questions he had posed to the new Brexit Secretary Dominic Raab during their first meeting on Thursday, Barnier said that he was concerned that European business would mean higher administrative costs, and there would be increased opportunity for fraud. He also questioned whether a non-EU country could collect EU customs without being subject to EU oversight. For this reason, EU diplomats say privately that the British plan can never be accepted.

The EU is also deeply concerned that the customs plan would give outside companies a competitive edge over European rivals if Britain and other countries used the UK as a route to avoid higher EU tariffs.

“Are the British proposals in the interests of the EU?”

Barnier said. This is what we have to recognise—that the people we are negotiating with are there to get the best deal for the remaining 27. Very probably, they are trying to do the best they can for the people whom they represent.

The White Paper assumes that we are going to get wonderful trade deals. One wonderful trade deal that we have to get is with America, where we have President Trump, who seems to have succeeded in starting four trade wars—first, with both his neighbours, Canada and Mexico, and then with China and the European Union. If he negotiates a trade deal with us, he will have one objective: to have better access to the UK, on his terms. Trump is nothing if not honest. He believes in, and was elected on, “America first”. How long do we really believe it will take to do a trade deal with America, and how good do we think it will be? Why should the UK, with a population of circa 60 million, do better than the EU with 500 million? That is not in the real world.

Let us look at the White Paper's aspirations on the movement of people. Once again, it is a cherry-picking arrangement. It wants to control workers from the EU on our terms: we want only the best and cleverest. Freedom for business people and tourists we want as part of the deal, but we want to control movement of workers.

Let us just look briefly at services. There was a briefing today from the City of London, which was terribly polite, but what it means is, "They've abandoned us". The White Paper abandons the City and the service sector.

What does the White Paper ask for? It asks for the essence of being in the European Union, in one sense—for free access to the EU—but it wants conditions. When you compare that with the situation of a member of the EU, it has to agree to the four freedoms to get that access. EU members expect to pay money, if they are more successful members, because they rightly believe that the EU is a safer and fairer place with transfer of money between the richer and poorer members. In this White Paper, do we offer anything to the EU? No.

Many people are clearly comfortable with the idea of no deal, but let us make it clear that we are not comfortable with that idea. We believe that it would produce hard borders and kill the Belfast agreement. The borders would have queues and delays. I know something about running transport operations, and the smallest delays spiral completely out of control. It would cut out co-operation with EU agencies. A big chunk of the White Paper talks about all the things that we want to opt into. None of these would be available in a no deal situation. There would be no agreement on aviation or road haulage, and the IMF says that growth would be 8% less. We know that that 8% would not be spread among most of us; it would be spread among the poorest and weakest in our society. No deal is simply not acceptable. If we really refused to pay the divorce bill, we would be overwhelmed with legal action, trade wars and the worst relations with Europe since the Second World War.

In negotiations it is important to try to understand the other side. Having spent many years in negotiations, I believe that they consist of three directions: emotion, power and logic. In my experience, emotion is the most powerful and logic the least. We have to remember who we are negotiating with in Europe. We are negotiating with people, many of whom have spent their lives making the European Union work, and doing so in the belief that the European Union has preserved peace in Europe. It is so easy to forget that the last 70-plus years has been one of the most peaceful periods in the history of Europe, going back 1,000 years. We are saying to these people, "We don't like your club—it's not good enough for us". We have to remember that we have hit an emotional headwind.

Power is the next thing that matters in negotiation—what cards you have. Frankly, we seem willing to offer nothing, and we have no credible threats. Perhaps only in logic is there any argument. Yes, it is almost true that a bad deal for us will hurt most European nations as well, but on average, it will hurt them less. It is clear that Ireland will suffer significantly in a bad deal situation, but the European Union so believes in itself that it will sort that out.

The Government should go back to the drawing board, change this White Paper and produce a plan that has some chance of success.

11.36 pm

**Lord Callanan:** My Lords, I am profoundly grateful for the many contributions that we have had to this wide-ranging debate. I had almost forgotten how much I missed spending my Monday evenings debating our exit from the EU with fellow EU obsessives—the noble Lord, Lord Adonis, is still here, which is good—following the passage of the EU withdrawal Act. I shall try to address as many of the points raised this evening as possible. I apologise if it is not possible to respond to every point raised by noble Lords, but I am conscious of the late hour.

The White Paper sets out detailed proposals for a principled and pragmatic future relationship with the EU, delivering on the result of the referendum and taking back control over our money, laws and borders. We have made significant progress on the withdrawal agreement, including on citizens' rights and the terms of an implementation period. As my noble friend Lord Bridges noted, both sides must now work at pace to deliver a mutually beneficial, sustainable deal later this year.

Our proposed free trade area for goods, including agri-foods, would be enabled by: a common rulebook covering only those rules necessary to provide for a frictionless border; participation in EU agencies that provide authorisations for goods in highly regulated sectors; and a new facilitated customs arrangement. In designing this model, the Government have responded to feedback on overcoming the shortcomings of both the new customs partnership and the highly streamlined customs arrangement. Unlike previous models, the FCA allows many businesses to pay the correct tariff at the start so that they will not need to interact with the repayment mechanism at all. For businesses that do not qualify, HMRC has committed to making the rebate process as simple and streamlined as possible. Even then, the rebate mechanism is voluntary. Businesses will be able to choose whether they wish to take advantage of any lower UK tariffs.

Noble Lords, including my noble friend Lord Forsyth and the noble Lord, Lord Liddle, raised the Government's acceptance of new Clause 36 of the customs Bill in the other place. The clause would prevent the implementation of a new arrangement that would see HMRC collecting duty on behalf of the Government of another territory or country, unless it was reciprocal. The Government have been clear that under the FCA the UK and the EU would agree a mechanism for the remittance of relevant tariff revenue. We proposed a reciprocal tariff revenue formula, taking into account goods destined for the UK entering via the EU and goods destined for the EU entering via the UK. This clause is therefore consistent with the White Paper. To my noble friend Lord Forsyth, I reaffirm that we are not proposing that the EU applies the UK's tariffs at its borders for goods destined for the UK.

In response to the noble Lord, Lord Hannay, yes, the FCA model is consistent with WTO law. The UK will be an independent member of the WTO and we will be able to set our own tariffs. We will be able to pursue trade agreements in line with the UK's interests.

[LORD CALLANAN]

In response to my noble friend Lord Bowness, we want to be part of the network of the EMA but it has to be on the right terms and meet the objective set out in the White Paper of our being an active participant and making an appropriate financial contribution. That is why we decided to oppose the amendment. However, we will revisit it when it comes to this House.

In response to the argument made by the noble Lord, Lord Howarth, and my noble friend Lord Farmer, under the terms of the withdrawal agreement the UK will be free to negotiate, sign and ratify free trade agreements during the implementation period and to bring these into force from January 2021.

A number of noble Lords raised our proposals on services. As the White Paper sets out, we want an ambitious deal on services and digital that allows us to exercise greater regulatory freedom for the UK's world-leading services-based economy. In response to the points on financial services raised by noble Lords, including the noble Baroness, Lady Hayter, my noble friend Lord Hunt, the noble Lord, Lord Mandelson, the noble Baroness, Lady Kramer, and my noble friend Lady Wheatcroft, we are proposing a new economic and regulatory partnership based on binding bilateral commitments.

We have listened carefully to the EU's concerns and we agree that, particularly for reasons of financial stability, market access should be a decision that remains autonomous for each party. However, this could work only with improvements to the current EU system to reflect the fact that equivalence as it exists today is not, in our view, sufficient to support the close relationship that we seek. The UK will continue to be the most open financial services market in Europe, with the best environment for innovation, an unparalleled talent pool and a legal system that is respected around the world. Furthermore, we will have the flexibility to agree new global financial partnerships with other countries.

I say to the noble Lord, Lord Green, and others that the Government are clear that free movement will end and that we will take back control over the number of people who come to live in the United Kingdom. However, in reference to the points raised by my noble friend Lord Heseltine and the noble Baroness, Lady Smith, we are not closing our borders to the talent that an outward-looking global Britain needs to succeed. The UK will remain an open and tolerant nation, and we will want to continue to attract people from the EU and elsewhere to work here.

The noble Lords, Lord Boswell and Lord Hannay, also touched on the future immigration system. The UK will design an immigration system that works for all parts of the UK. To inform this, the Migration Advisory Committee report due in September will provide important evidence on patterns of EU migration and the role of migration in the wider economy.

On leaving the EU, we will end the jurisdiction of the Court of Justice of the European Union in the UK. The proposal set out in the White Paper delivers on that commitment. No longer will UK courts refer cases to the CJEU; nor will the CJEU arbitrate disputes between the UK and the EU. Additionally, the CJEU

will no longer have the power to make laws for the UK, and the principles of direct effect and of the supremacy of EU law will no longer apply to the UK.

The noble and learned Lord, Lord Hope, raised the resolution of disputes. We have proposed a robust and appropriate mechanism, including through a joint committee and, in many areas, binding independent arbitration. In response to the remarks of the noble Lord, Lord Hannay, on the proposed framework, these arrangements are proportionate and necessary for the depth of the relationship with the EU that the UK envisages. They will ensure that the co-operation functions properly and that the relationship is transparent and accountable.

Where we have a common rulebook and there is a dispute between the UK and the EU, the joint committee, by mutual consent, or an independent arbitration panel will be able to ask the CJEU to give a binding interpretation of the rules in question. It will be for the joint committee or the arbitration panel to decide the dispute, consistent with the essential principle that the court of one party cannot resolve disputes between the two.

In areas where we have a common rulebook—a question raised by noble Lords including my noble friends Lord Bridges and Lord Cavendish—it will be important for the UK and for EU businesses and citizens that they are interpreted and applied consistently. This will be done in the UK by UK courts and in the EU by EU courts, because preliminary references from UK courts to the CJEU will have ended. Therefore, where the UK agrees to retain a common rulebook, our courts will pay due regard to the relevant CJEU case law when deciding a case. In practice this is what our courts would do anyway. But it will be for UK courts to decide the cases before them, applying UK law.

In response to the points raised by the noble Lords, Lord Adonis and Lord Bew, I should say that the Government's proposal for a principled Brexit will deliver for our union—for England, Scotland, Wales and Northern Ireland—while protecting the economic and constitutional integrity of the United Kingdom. Our proposals mean that goods and agri-food will flow freely between Northern Ireland and Ireland, so the backstop would not have to be used. In response to the noble Lord, Lord Hannay, I should say that we remain committed to agreeing a legally operative backstop in the withdrawal agreement, and we are continuing to negotiate that with the EU over the coming weeks.

In response to the points made on the security partnership by the noble Lords, Lord Wallace and Lord Browne, I emphasise that, although there is no off-the-shelf model for third countries, the UK is indeed no ordinary third country. We have been intimately involved in the evolution of EU security architecture, we will continue to be a European neighbour, facing the same threats and sharing the same values and interests, and it is clearly in our mutual interest to stand united in our efforts to ensure the collective security of UK and EU citizens.

On foreign policy co-operation, the UK proposes continued consultation and combining efforts to the greatest effect where it is in the EU's and the UK's

shared interest—for example, in the application of sanctions. The EU discusses foreign policy issues with a number of third countries, which can provide the basis for this new relationship. But the UK's proposals are for a broader and deeper dialogue, underpinned by the exchange of information and expertise.

Noble Lords including the noble Lords, Lord Razzall and Lord Browne, raised the issue of Galileo. The UK is home to a world-leading space technology sector which has helped drive the EU space programmes. Our clear preference remains to participate in Galileo in a new balance of rights and obligations after we have left the EU. The programme must also, of course, offer value for money to justify an ongoing UK contribution. As a logical consequence of the exclusion and uncertainty surrounding future UK participation, the UK is exploring alternatives to fulfil its needs for secure and resilient position, navigation and timing information.

Many noble Lords, including the noble Lords, Lord Birt and Lord Liddle, and the noble Baroness, Lady Hayter, raised the prospect of leaving without a deal. The Government are confident that, with the good will of both sides, we will achieve a deal, but, as a responsible Government, we must prepare for all scenarios, whatever the outcome of the negotiations. As I said earlier, we have been working on nearly 300 no-deal plans for nearly two years, and to prepare businesses and citizens for a no-deal scenario we will make more of this planning public by issuing a series of technical notices over August and September. Rest assured that the Government are clear that a mutually beneficial deal is in the interests of both sides, and that our firm objective is for our negotiating teams to reach an agreement by October.

I will respond to the point made by the noble Baroness, Lady Falkner, by saying that both the UK and the EU have been clear that the withdrawal agreement and the future framework form a package. If either side should fail to meet its commitments—although we certainly do not expect that to be the case—this would have consequences for the package as a whole that we agree.

Many noble Lords have returned to their favourite topic. They include the noble Lord, Lord Newby, the noble Baronesses, Lady Ludford and Lady Kramer, my noble friend Lord Heseltine, the noble Lords, Lord Taverne, Lord Butler and Lord McNally, my noble friend Lady Wheatcroft, the noble Baroness, Lady Randerson, and the noble Lord, Lord Skidelsky. We are back on to the subject of a second referendum—or, as it has now been renamed, the people's vote—which leads me to wonder who voted in the first referendum. Aliens, perhaps, or farm animals?

**Lord Skidelsky:** I should not be on that list.

**Lord Callanan:** I did not think I had mentioned the noble Lord, but I apologise.

**Lord Butler of Brockwell:** Nor did I mention it today.

**Lord Mandelson:** I should have been on that list.

**Lord Callanan:** I was going to mention the noble Lord as responsible for renaming it as the people's vote in a worthy spin operation, but perhaps he was not involved. I apologise.

The Government's position remains unchanged, noble Lords will not be surprised to hear, from the time of the first referendum. I agree with the noble Lord, Lord Skidelsky—to mention him—and others that it is essential for our democracy that we respect the result of the referendum. I am pleased to say that this appears to be a position that we share with the Labour Party. Last week the *Huffington Post* reported that the shadow Foreign Secretary categorically ruled out a second Brexit referendum. She said that,

“we went ahead and had a referendum and we lost it and overwhelmingly, above everything else, we are Democrats, so we have to do as instructed”.

On this one occasion, I agree with Emily.

Furthermore, in response to points made by the noble Lords, Lord Wigley and Lord Kerr, let me make it clear that we will not be seeking an extension of Article 50. We are leaving the EU on 29 March 2019 and we will deliver the necessary legal framework in time.

The Government are delivering a principled and practical Brexit. For our economy, we are developing a deep trading relationship with the EU; for our security, we are building on our close co-operation with the EU to keep all of our citizens safe; for our communities, we are ending free movement and responding to concerns raised during the referendum; for our union, we are meeting our commitments to Northern Ireland, and for our democracy, we are restoring sovereignty to this Parliament. For the UK's place in the world as a champion of democracy and free trade, we are building on progress made so far in negotiations and the ambitious and credible proposals in our future relationship White Paper and must now redouble our efforts to achieve a sustainable and lasting settlement with our European partners.

**Lord Balfe:** Before the Minister sits down, the noble Baroness, Lady Young, and I raised a point on the European Aviation Safety Agency. We asked whether the Minister could write to us dealing with the points we made, and I repeat that request.

**Lord Callanan:** As the noble Lord knows, we have made a commitment to remaining part of the European Aviation Safety Agency if that can be negotiated. There are four or five paragraphs in the White Paper on future aviation agreements, but I would be very happy to write to both noble Lords with clarification.

*House adjourned at 11.52 pm.*





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