**Written evidence by the Law Society of England and Wales to the European Scrutiny Committee's inquiry on post-Brexit scrutiny of EU law and policy**

1. The Law Society of England and Wales is the independent professional body that works to support and represent over 200,000 members, promoting the highest professional standards and the rule of law.

2. The legal services sector contributes £27.9 billion to the UK economy (representing 1.4% of total UK GDP), £4.4 billion in net export value and employs 330,000 people.[1]

3. This submission outlines the Law Society of England and Wales' views on the different models for scrutiny of post-Brexit EU law and policy and their impact on the legal profession and wider economy and society.

**Summary**

4. Even after UK membership of the EU has ended, the Law Society believes it will be critical for the UK to monitor and scrutinise EU policy developments. This reflects the fact that the links and interdependencies between the EU and UK markets are deep and are significant to the UK economy.

5. Decisions taken in the EU will continue to impact UK businesses and consumers and we are strongly of the view that the UK cannot ignore upcoming changes and the underlying reasons or objectives associated with the development.

6. The impact will take a number of forms:

    - Direct: where there is continued UK – EU cooperation in a given area.
    - Indirect: where there is no longer official cooperation, but the divergence from the EU will have consequences that will need to be scrutinised. This has several sub-sections:
        - Where there is a knock-on impact for UK businesses or individuals
        - Where there will arise dual burden for businesses
        - Where there is reciprocity
    - International: where the development has implications for international regulations or agreements beyond the EU.

7. We believe that the UK Government and Parliament would be putting an undue burden on businesses and consumers if there was not official monitoring and scrutiny of such changes. It may also be that EU developments call for a corresponding response within the UK, whether this is to maintain alignment or pursue an alternative approach.

8. In the event that a withdrawal agreement and future relationship agreement is negotiated and ratified between the UK and EU, it would be necessary for the UK to ensure internal developments would be consistent with EU regulation changes. Monitoring for such changes would be critical to ensuring the UK remains compliant with its obligations. In the case of the withdrawal agreement this means that there is a need to oversee all EU

[1] Office of National Statistics, 2019

developments and scrutinise necessary UK action on them, as EU legislation will continue to apply in the UK.

9. The UK Government has committed itself to maintaining or going beyond EU standards on a number of policy areas including environmental and social standards even in the event of a no deal Brexit. Fulfilling such pledges would require monitoring EU developments.

10. We acknowledge that the form of scrutiny may have to change depending on the type of relationship between the EU and the UK. These can cover working groups, ad hoc committees, a standing committee of parliament which meets regularly, a joint committee (possibly involving EU representatives, as envisaged in an FTA) or other wider mechanisms such as industry and trade organisations, both at the UK and EU level.

11. We would also suggest that any new or altered laws, especially those which depart significantly from EU ones, be publicised by Government both internally within the UK and in the EU. There is scope for the creation of an official contact point to respond to queries from individuals and businesses.

12. Finally, it is necessary to scrutinise any legislation that would impact on the UK having access to the Lugano Convention. The convention is the best alternative to EU regulation in the vital area of recognition and enforcement of judgments and would provide and adequate mechanism through which UK judgments could be recognised and enforced.

13. Below we set out in further detail how EU policy developments will impact UK businesses and consumers, in line with the above headings. Please refer to the annex for further details on the various EU arrangements referenced.

**Direct impact of EU law and policy on the UK after Brexit**

14. There are areas where UK-EU cooperation would continue through the Withdrawal Agreement and its transition/implementation arrangements, a future agreement, or sectoral arrangements outlining the future relationship.

15. There are a small number of areas where the UK has already declared that it intends to seek adequacy decisions with the EU. Where this is the case, the UK would be required to monitor and respond to EU policy developments in order to maintain adequacy. A key example of this is Data Protection. The UK Data Protection Act 2018 explicitly refers to the General Data Protection Regulation (GDPR) and Law Enforcement Directive (LED) and, in its attempt to secure an adequacy status post-Brexit (if necessary or possible), will have to ensure the 'essential equivalence' of the relevant legislation to maintain that status. The UK would also need to follow relevant decisions of the Court of Justice of the EU (CJEU) and Opinions issued by the European Data Protection Board (EDPB).

*EU law and policy affecting the legal profession*

16. There is a substantial body of legislation which will continue to have an impact on UK lawyers and law firms operating in the EU, EEA and in Switzerland. These include in particular the:
    - Lawyers' Services Directive
    - Lawyers' Establishment Directive
    - Framework Services Directive
    - Mutual Recognition of Professional Qualifications (MRPQ) Directive

17. More recently, the Commission has adopted its Services Package comprising several legislative instruments, including the recently adopted Proportionality Directive. We believe that it will be important to continue monitoring these developments (some still ongoing) to fully assess their impact on the membership remaining in the EU27 and potentially those members who would wish to establish themselves in the EU27 post-Brexit.

18. The role of scrutiny in these areas would be to highlight how the operation of the legislation affects UK firms and lawyers with a presence in the EU, EEA and Switzerland functions, and to ensure compliance with this framework. Such action is significant if the UK legal sector is to continue with its current contribution to the UK economy.

19. In the event that an agreement between the UK and EU results in the UK aligning with such directives it would be critical the UK goes beyond scrutiny and additionally influences and shapes the related outcomes, by both formal and informal means.

20. The Law Society has called on the UK Government to seek to negotiate a future agreement with the EU that contains provisions allowing English and Welsh solicitors to maintain their right to practise in the EU. Such an agreement should replicate the Lawyers' Directives, as other models are unlikely to deliver the comprehensive practice rights that have substantially contributed to the UK legal sector's large export surplus (£4.4bn as of 2017).

21. There are precedents for such agreements providing necessary in-depth frameworks on legal services: the EU has association agreements through the EEA with Norway, Liechtenstein and Iceland and with Switzerland. These extend the application of the Lawyers' Directives to EFTA countries.

**Indirect impact of EU law and policy on the UK after Brexit**

22. As highlighted above, even if there is no longer official cooperation in the future, the development of EU law will have consequences for the UK that will need to be monitored and potentially addressed. Knock-on impact for UK businesses or individuals include:

*Sanctions and anti-money laundering*

23. The Sanctions and Anti-Money Laundering Act 2018 paves the way for alignment and after a period (in some instances) divergence from EU law on both sanctions and anti-money laundering (AML) policy after the UK departs the EU. Both are prime examples of areas where ongoing scrutiny is appropriate.

24. Even in the event of divergence, the UK should monitor the development of sSanctions and AML legislation within the EU, with the purpose of guiding and advising UK businesses and consumers who could otherwise fall foul of the new rules in relation to their EU transactions.

25. Additionally, the Government has indicated its intention to work closely with the EU and member states on anti-money laundering and counter-terrorist financing after the UK's departure from the EU. The consultation on the implementation of the 5th Money Laundering Directive (5MLD) and the desire to ensure close relationships between financial investigations units (FIUs) post-Brexit are two such examples. Although much of EU law has, in part, been driven by developments at the international level (through the Financial Action Task Force (FATF)), we see merit in ongoing close consideration of the direction of EU money laundering directives as crucial to any future decisions about UK AML policy.
26. More broadly, the Law Society has previously argued that coordination between major global economies on sanctions policy is crucial both to ensure the effectiveness of any sanctions measures that are adopted, and to ensure compliance obligations are proportionate.[2] To that end we see merit in close parliamentary scrutiny of changes in EU law affecting sanctions policy after Brexit to ensure that developments, either in the form of divergence or alignment with the EU approach are properly considered, consulted upon and transparent.[3]

*Competition and state aid*

27. Post Brexit the UK may be able to provide targeted support for certain industries or sectors, whether through state funding or preferential tax treatment. However, the UK Government has committed itself to following OECD practice, and to date has been an early adopter on a number of OECD initiatives, for example base erosion and profit shifting (BEPS). In the area of state aid, the UK would therefore have to take account of the OECD Harmful Tax Practice provisions, which contains implications and potential restrictions for state intervention/support.

28. While EU policy would not be directly applicable to the above, actions which have been held to amount to state aid by the EU Commission and the ECJ are important international benchmarks in this field. The UK Government would therefore be advised to monitor and scrutinise this area even after the UK has left the EU.

29. Given the proximity and importance of the EU market to the UK economy and UK businesses, the UK would naturally want to monitor wider policy developments taken by the EU, to consider the consequential impact for UK competitiveness. It may be that the UK wishes to mirror the EU development in order to maintain its own competitiveness, or alternatively, scrutiny of the EU legislation may highlight that UK competitiveness could be enhanced by an alternative response.

[2] The Law Society of England and Wales (2018), Written Evidence before the Foreign Affairs Committee on Sanctions.
[3] As argued at the Committee Stage concerning the 2017 Bill, The Law Society of England and Wales (2017), Written Evidence on the Sanctions and Anti-Money Laundering Bill.

30. The UK will also need to bear in mind that significant divergence could result in the EU responding with anti-subsidy tariffs.

*Tax transparency*

*31.* Another example of important EU-led law is cooperation between tax authorities. Some of those cooperation measures could potentially be replicated post-Brexit through double tax treaty mechanisms and through OECD-led international standards.

*32.* However, the EU rules are more comprehensive and go further. The EU directive on administrative cooperation in the field of taxation establishes procedures and structures on cooperation between member states in direct tax matters, including reporting requirements, exchange of information between tax authorities, and joint audit structures.[4] It has been updated several times, most recently under EU Council Directive 2011/16 (DAC6), to very significantly increase reporting and exchange of information provisions. The UK is currently consulting on the transposition of DAC6 and Her Majesty's Revenue and Customs (**HMRC**) recently stated (at paragraph 1.7) of the consultation document that "*the UK is committed to international tax transparency and will continue to apply international standards on tax aimed at tackling avoidance and evasion.*"[5]

33. Ultimately, the UK would want to monitor EU actions regarding tax transparency and anti-tax avoidance to ensure its future approach does not cause concerns to the extent the UK is added to the EU tax haven blacklist.

*Trade remedies*

*34.* There will be some areas where UK legislation will likely 'shadow' EU legislation. For example, if the EU institutions pass anti-dumping measures on a certain third country, the UK needs to know about it in order to decide if it too, via its new Trade Remedies Authority, should adopt such measures.

*Intellectual Property*

35. UK intellectual property laws have been subject to a substantial degree of EU harmonisation. While Parliament remains free to repeal or amend elements of retained EU law, it has already passed legislation to ensure continuity – rather than change – in many areas of intellectual property law. For example, The Designs and International Trade Marks (Amendment etc.) (EU Exit) Regulations 2019 will introduce the "continuing unregistered Community design," intended to ensure that existing EU unregistered Community designs remain protected and enforceable in the UK following its exit. This ongoing alignment for the foreseeable future makes ongoing scrutiny of EU intellectual property laws and policy desirable.

*Criminal law*

[4] Council Directive 2011/16/EU
[5] See: International Tax Enforcement: disclosable arrangements (consultation document), HMRC, 22 July 2019, available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/818842/International_Tax_Enforcement_-_disclosable_arrangements__consultation_.pdf

36. Changes in criminal legislation may have a consequential impact for businesses and individuals conducting business with the EU, for example around reporting requirements. Failure to comply could result in sanctions or loss of access, and the UK Government should therefore be monitoring and flagging such developments.

37. To illustrate the point, on 17 April 2018, the European Commission presented two legislative proposals to enhance cross-border gathering of electronic evidence: Regulation on European Production and Preservation Orders for electronic evidence in criminal matters[6] and a Directive on the appointment of legal representatives for the purpose of gathering evidence in criminal proceedings.[7] The Regulation allows competent authorities from one Member State to request access to or preservation of electronic data needed for investigation and prosecution of crimes covered by the regulation (such as emails, text or messages in apps, as well as information to identify a perpetrator as a first step) directly from a service provider established or represented in another Member State. The proposal covers service providers operating in one or more Member States, wherever their headquarters are located or information stored including in third countries.

38. As access to electronic evidence is an increasingly important topic in criminal investigations, and the subject of several high-profile court cases in the EU, UK and US, it will be important to monitor the developments of these two proposals. Moreover, the EU has recently adopted the negotiating directives on two agreements on the same topic with the US. Access to electronic and protection of confidential information are topics of core concern to the legal profession.

**Dual burden for businesses**

39. With each of the below areas, a change in EU policy will not impact directly on the UK. It will however impact businesses which have EU operations, and therefore raises the question of whether the UK wishes to mirror the development to avoid dual burden or whether an alternative approach would help assist UK competitiveness.

*Common standards for goods*

40. Where regulation is concerned, it is clear that if the UK diverges significantly from the EU, the consequence would be exclusion of the product or service from the EU market, forcing manufacturers and service providers either to expand and diversify their production/ provision to encompass both a home market and an export market, or to no longer operate in one of the markets. There will be some instances where Parliament may wish to undertake a cost benefit exercise on diverging. An example would be Jamie Oliver's 'teaspoon' labelling, which as things stand would infringe EU labelling rules. The UK, and therefore Parliament will need to weigh up the potential positives for public health on this

[6] Proposal for a regulation on European Production and Preservation Orders for electronic evidence in criminal matters, COM/2018/225 final - 2018/0108 (COD), available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2018%3A225%3AFIN

[7] Proposal for a directive laying down harmonised rules on the appointment of legal representatives for the purpose of gathering evidence in criminal proceedings, COM/2018/226 final - 2018/0107 (COD), available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2018%3A226%3AFIN

proposal with the potential losses incurred by businesses who are unable or unwilling to meet EU labelling requirements as well as the new UK standards.

41. It should also be noted that, since the advent of the Commission's 'New Approach' to harmonisation, many developments in technical requirements are not made by the EU legislature itself, but rather by the standardisation bodies, CEN (the European Committee for Standardization), CENELEC (the European Committee for Electrotechnical Standardisation) and ETSI (the European Telecommunication Standards Institute). The Law Society recommends that the Government enrols the UK into these bodies as non-EU members/observers, as an alternative method of keeping abreast of EU standards.

*Technology*

42. The EU has adopted a vast body of legislation and policies aimed to improve its technological capacity and to improve the functioning of the Single Market. Many of those rules would continue to apply to those providers who wish to provide goods or services in the EU. For example, the recently adopted Regulation on promoting fairness and transparency for business users of online intermediation services[8] applies to online platform service providers irrespective of the place of their establishment (Article 1(2)).

*Environmental law*

43. Much of UK environmental legislation is based on EU law. In the event of an FTA, the EU side has insisted on a so-called 'non-regression clause' which would be designed to prevent the reduction of the standards in place before Brexit, so as not to allow the UK a competitive advantage. In the discussions on the proposed Environment Bill this question has been vital in terms of monitoring and enforcement by the proposed independent authority. In the case of scrutiny, it will be important to monitor the EU law and policy to make sure that the UK legislation remains compliant with the non-regression clause. This could be a function of the suggested Office of Environmental Protection, the proposed Government agency which would have oversight of some environment law matters.

**Where there is reciprocity**

44. In certain policy areas, the basis for international relations may be one of reciprocity, where even in the absence of a formal agreement the UK should be monitoring the changes of the EU to consider whether a development undermines the current balance, and whether to respond in kind. A number of examples of the impact of this can be found below.

*Migration*

45. The Directive on the conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer[9] applies to all third-country nationals who enter

[8] Regulation on promoting fairness and transparency for business users of online intermediation services, OJ L 186, 11.7.2019, p. 57–79, available at:https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019R1150&from=EN

[9] Directive 2014/66/EU of the European Parliament and of the Council of 15 May 2014 on the conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer OJ L 157, 27.5.2014, p. 1–22, available at: https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A32014L0066

the EU as intra-corporate transferees (ICTs). Many UK law firms post their staff around their network of offices, of which some are located in the EU. The UK may wish to scrutinise these to ensure domestic measures providing access to ICTs are suitably reciprocal.

*Family law*

46. In family law, for example, there already exists a body of international conventions which regulates the relevant areas. These conventions have been agreed in the remit of the Hague Conference on Private International Law.

47. If there is no access to the relevant family law EU mechanisms e.g. Brussels IIA, the focus of the scrutiny changes. The appropriate scrutiny would be in relation to the Hague Conventions and negotiations, rather than the EU side.

*Enforcement of judgments*

48. Concerning the recognition and enforcement of judgments, it will be important to scrutinise any legislation that would impact on the UK having access to the Lugano Convention, as this is the best alternative to EU regulation in this area and would provide an adequate mechanism through which UK judgments could be recognised and enforced.

**International impact from changes in EU law and policy and their effect on the UK**

49. Finally, the UK should be aware of those areas where the EU, as a member of an international forum or framework, will often shape international standards or requirements by default or to a large effect. In these cases the UK would be advised to scrutinise EU developments as a means of understanding and preparing for upcoming international changes.

## Annex 1 – different models of UK's departure from the EU and their impact on scrutiny

### No deal Brexit

1. Under a no deal scenario, EU law and policy continues to apply to UK businesses and individuals located in the EU. It ceases to apply directly in the UK. However, as discussed in the main body of the paper, some pieces of legislation will continue to affect the UK not least because some businesses and individuals will continue with their presence in the EU. Moreover, some pieces of legislation adopted by the EU have an impact on the UK as they determine the EU's international obligations or set the conditions of trading with the rest of the world.

2. In this scenario, the UK does not have the representation in the EU institutions. However, it is likely that relevant industry representations will continue to monitor evolving EU law and policy. Indeed, many EU national representations maintain close relationships with selected industry representatives.[10]

3. The purpose of scrutiny would be to ensure that the legislative or administrative decisions in the EU do not raise unduly obstacles for businesses or individuals (both within the EU but also those who have ongoing trading or personal relationships with the EU).

*Withdrawal agreement / transition period*

4. The Withdrawal Agreement initially sets out a transition or implementation period. During this period, all EU legislation and policies, save for some exceptions in the Area of Freedom, Security and Justice where the UK has an opt-out, continue to apply in the UK. This also includes any new legislation adopted and coming into force during this period.

5. The agreement also sets out institutional arrangements for UK participation in the adoption of the new EU legislation. The UK will not have any voting powers in the Council of Ministers, and neither will it have a Commissioner in the Commission. It also does not have representation in the EU institutions.

6. There is one exception: UK experts can attend working group meetings when the discussion concerns acts applying to the UK during the transition period and/or where the UK's presence is *'necessary and in the interest*' of the EU. These experts will not have voting rights (Article 26 of the Withdrawal Agreement). However, it will still be possible for them to provide input at technical level.

7. Moreover, there are several provisions in the agreement that provide for the continuous application of EU law (and administrative decisions) even after the transition period ends (albeit for a limited time) (Article 92).

[10] See: Institute for Government (2016). Parliamentary scrutiny of European Union legislation - Lessons from other European countries, Page 26, available at: https://www.instituteforgovernment.org.uk/sites/default/files/publications/Parliamentary%20Scrutiny%20FINAL.pdf

8. Pursuant to Article 87, if the European Commission considers that the UK has breached its obligations under the Treaties before the end of the transition period, it can bring a new case to the Court of Justice of the EU (CJEU) within four years of the end of the transition period. This also implies that the UK would need some mechanism to monitor its obligations under the Treaties which may involve scrutinising new laws to ensure their proper implementation.

9. In addition, individuals or businesses may also challenge the UK action in national courts in the EU which will have the right to refer cases to the CJEU. If successful, these actions may result in damages to be paid to individuals or businesses if there is a breach of the Treaty obligations.

## Annex 2 – The possible future relationship models

1. The future relationship will still need to be negotiated during the transition period. As the UK and EU have not yet negotiated this and there is no clear view of the depth of the cooperation between the UK and the EU at the moment, it is not possible to give one model for scrutiny. It is, however, possible to identify what scrutiny would be recommended under existing models of co-operation with non-EU member states.

### European Economic Area (EEA) model

*Whether and how EU laws and policies might continue to affect the UK after Brexit*

2. Under the EEA model, EU laws and policies will continue to affect the UK.

3. The European Economic Area (EEA) model provides the deepest form of cooperation between the EU and EFTA & EEA countries (Norway, Iceland and Liechtenstein). They all participate and have access to the EU's internal market. Furthermore, through Schengen cooperation, they participate in the border-free area. They do not participate in the customs union, common agricultural policy or fisheries policies. They have access to a number of FTAs with third countries through the EFTA treaties.

4. The cooperation mechanisms are quite different between EEA and Schengen. In the EEA, the EFTA states have set up several institutional links with the EU, to influence legislation, as well as to oversee the correct implementation of the legislation.

5. The EEA Agreement does not grant the EEA EFTA States formal access to the decision-making process within the EU institutions. However, the EEA EFTA States can participate in shaping a decision at the early stages of preparing a legislative proposal.'

6. Importantly, this includes a right to participate in the various EU expert groups and being consulted by the Commission before new legislation is proposed by it.[11] Such influence could be called soft power although providing technical input at the outset of the legislative drafting process can be very successful.[12]

7. Furthermore, the EEA Treaty set up an EFTA Surveillance Authority, which oversees the correct implementation of the EEA Treaty. The Surveillance Authority may take an EFTA EEA state to the EFTA Court. Similarly, national courts may refer cases to the EFTA Court.

8. However, unlike the EU legal order, EEA does not include principles of supremacy, direct effect or the right to damages. The consequences of breaches flow from the international rather than supranational law and are therefore decided under national law.

9. If the breach or divergence is serious or consequential, it is possible for the EU to stop the cooperation in a given area. This has never been triggered with respect to the EFTA EEA

[11] More: https://www.efta.int/eea/eea-agreement/eea-basic-features.
[12] See: Institute for Government (2016). Parliamentary scrutiny of European Union legislation - Lessons from other European countries, Page 23, available at: https://www.instituteforgovernment.org.uk/sites/default/files/publications/Parliamentary%20Scrutiny%20FINAL.pdf

countries, therefore, it is not possible to give examples as to when this would happen. However, the possibility of this illustrates the need to have proper scrutiny and monitoring of the implementation of the EU legislation to ensure compliance and avoid breaches.

10. Schengen cooperation is based fully on international law. There is a right to participate in the Council discussions and to be invited to the expert groups. However, unlike in the EEA, there is no right to hear from the Commission about proposed EU legislation and there is no Court oversight in the Schengen countries which are members of the EEA.

**Swiss model**

11. Under the Swiss model, EU laws and policies will continue to affect the UK.

12. The Swiss model is based on a network of bilateral treaties between Switzerland and the EU. These agreements provide access to the EU internal market through sector by sector cooperation. Like the other EFTA states, Switzerland does not participate in the EU customs union. It has access to the EFTA FTAs with third countries. However, unlike EEA EFTA states, the Swiss cooperation does not cover the financial services sector. Switzerland has relied on EU equivalence rules which allow a more restricted access to some financial services providers (with the exception of some aspects that do not fall under the equivalence rules).

13. The Swiss model provides for Joint Committee supervision of the agreement. This Joint Committee is a political, rather than judicial, construct. It tries to negotiate a solution where there is a threat of divergence that undermines the cooperation.

14. Furthermore, the agreements include a mechanism whereby if there is a divergence between the Swiss and EU positions, the cooperation may cease.

15. The cooperation has been under threat as the Swiss voted to depart from the EU rules on free movement of persons. There has also been recently a threat of withdrawing equivalence decision on financial services legislation from the EU because the negotiations to update the relationship, to include a supervisory court process and automatic adoption of certain EU laws, have stalled.

**Free trade agreement (FTA) model**

*Whether and how EU laws and policies might continue to affect the UK after Brexit*

16. Under an FTA model, EU laws and policies will continue to affect the UK albeit to a lesser extent than under the EEA or Swiss models.

17. There are also examples of hybrid models of association agreement, such as Ukraine. This provides for an FTA-based cooperation in economic sectors, including other agreements such as on security and defence cooperation, but does not provide for full access to the internal market.

18. Although FTAs now provide for a wide-ranging access to goods and various services, it is still based on a sectoral model where each sector is negotiated separately. Importantly, the FTAs

usually cover sectors that are within the exclusive and non-exclusive competence of the EU. Typically, the two negotiating parties exchange their offers which are then the basis of negotiations. All recent EU FTAs are drafted according to the negative listing method which means that all measures within the sectors covered are bound by the FTA provisions. This raises important issues not only at the negotiations stage but later as well where a party needs to ensure compliance with the FTA obligations and make sure another party does the same. Therefore, we believe that some form of scrutiny of the EU law and policy will be necessary.

19. Under this model, the UK would not have representation in EU institutions. Instead, an FTA sets up one or more joint structures (such as committees) to monitor the implementation of the agreement. These can cover a variety of sectors and include Government representatives and often industry representatives that are consulted prior to the committee's meetings, as is currently the case in the EU.