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## Introduction

In March 2017, the Labour Party outlined six tests against which we would judge the final Brexit deal negotiated by Theresa May's Government.<sup>1</sup>

The six tests are:

1. Does it ensure a strong and collaborative future relationship with the EU?
2. Does it deliver the "exact same benefits" as we currently have as members of the Single Market and Customs Union?
3. Does it ensure the fair management of migration in the interests of the economy and communities?
4. Does it defend rights and protections and prevent a race to the bottom?
5. Does it protect national security and our capacity to tackle cross-border crime?
6. Does it deliver for all regions and nations of the UK?

The tests were based on the commitments made by Theresa May and senior members of her Cabinet in advance of the triggering of Article 50. Crucially, Theresa May told the House of Commons in March 2017 that she was "determined to meet" the tests and that they represented principles that the Government themselves stated "time and time again."<sup>2</sup>

The tests also reflect the values and principles of a deal we believe would be in the national interest and build a strong new partnership with the EU after Brexit.

Labour respects the result of the referendum. However, we have been clear we will not give the Tories a blank cheque on Brexit and we will vote against a Brexit deal in Parliament that does not meet the six tests Theresa May said she was "determined to meet".

Labour will review any final Brexit deal the Prime Minister puts before Parliament against these six tests. This document analyses how the Tories' Brexit proposals are performing against the tests to date.

## Test one: Does it ensure a strong and collaborative future relationship with the EU?

*"[The UK will] continue to collaborate with our European partners on major science, research, and technology initiatives. From space exploration to clean energy to medical technologies, Britain will remain at the forefront of collective endeavours to better understand, and make better, the world in which we live."*<sup>3</sup>  
Theresa May, Lancaster House speech, 17 January 2017

*"[Jeremy Corbyn] asks if the final deal will ensure a strong and collaborative future relationship with the EU. Yes, and in my letter to President Tusk, that is exactly what I set out our intentions to be"*.<sup>4</sup>  
Theresa May, House of Commons, 29 March 2017

**However**, the Tories' chaotic approach to the negotiations has hampered the Government's ability to meet this commitment:

- The Government has set an ambition to participate in EU agencies, including the European Medicines Agency (EMA). However, this ambition is incompatible with the Tories' negotiating red lines, specifically ending the jurisdiction of the ECJ.<sup>5,6</sup>
- The Tories have failed to reach an agreement with the EU about the UK's continued participation in Galileo, the EU's global navigation satellite system.<sup>7</sup>
- The Tories repeatedly voted against Labour efforts to protect the UK's role in Euratom.<sup>8</sup>
- Theresa May's Chequers' proposals only provide vague details about the UK's vision for future common security and defence policy with the EU after Brexit.<sup>9</sup>

**Test on course to be failed:** Theresa May's red lines and chaotic negotiating strategy have failed to guarantee a strong and collaborative future relationship with the EU after Brexit. There is currently no guarantee that the UK will be able to maintain current levels of cooperation in a whole range of areas from science and technology to security and the environment under the Tories' plan.

## Test two: Does it deliver the “exact same benefits” as we currently have as members of the Single Market and Customs Union?

*“What we have come up with [in our plan for Brexit] ... is the idea of a comprehensive free trade agreement and a comprehensive customs agreement that will deliver the exact same benefits as we have.”<sup>10</sup>*

David Davis (then Brexit Secretary), House of Commons, January 2017

*“Will the deal deliver the same benefits we currently have as a member of the single market and the customs union? We have been clear that we want to get the best possible deal, and free and frictionless trade”.<sup>11</sup>*

Theresa May, House of Commons, 29 March 2017

**However**, the Tories’ plan for Brexit represents a threat to jobs, the economy and people’s livelihoods:

- Theresa May has ruled out the UK negotiating a new comprehensive customs union with the EU after Brexit, despite the benefits it would deliver for jobs, the economy and to help prevent a hard border in Northern Ireland.<sup>12</sup>
- The Tories voted down Labour’s plan for a strong single market relationship, with common rights, standards and protections, underpinned by shared institutions.<sup>13</sup>
- Theresa May admitted in her Mansion House speech that under her plan for Brexit access to the EU’s market “will be less than it is now.”<sup>14</sup>
- The Tories’ proposed Facilitated Customs Arrangement is bureaucratic and unworkable, and based on technology that does not exist.<sup>15</sup> This proposal is incapable of delivering the same benefits as a UK-EU customs union.
- The Tories’ have admitted that the Chequers’ plan would create “more barriers to the UK’s access to the EU market than is the case today”.<sup>16</sup>
- The Chequers’ proposals do not include a comprehensive plan for the services sector, despite it representing 80% of the UK economy.<sup>17</sup>

**Test on course to be failed:** Theresa May’s negotiating red lines have hampered the Government’s ability to negotiate a future relationship with the EU after Brexit that protects jobs, the economy and living standards. The Chequers’ proposals are incapable of retaining the benefits of the single market and the customs union.

## Test three: Does it ensure the fair management of migration in the interests of the economy and communities?

*"We will continue to attract the brightest and the best to work or study in Britain... but that process must be managed properly so that our immigration system serves the national interest."*<sup>18</sup>

Theresa May, Lancaster House speech, 17 January 2017

*"We will not be managing the immigration policy or migration policy in a way that harms the national interest. That means not causing labour shortages or shortages of talent and so on. That applies not just globally, but to each nation state of the United Kingdom".*<sup>19</sup>

David Davis (then Brexit Secretary), House of Commons, 17 January 2017

**However**, nearly two years on from the triggering of Article 50 the Tories have still not published a plan for immigration post-Brexit:

- The Tories' immigration white paper has been delayed by more than a year, having originally been promised in the summer of 2017, and is now not due until the autumn of 2018.<sup>20</sup>
- The Tories' immigration bill has not yet been introduced to Parliament, more than fourteen months after it was announced.<sup>21</sup>
- Theresa May's Chequers' proposals do not contain details for post-Brexit immigration or what the promised 'mobility framework' would look like.<sup>22</sup>

**Test on course to be failed:** With less than 200 days until the UK leaves the EU, the Tories have still yet to publish their plans for immigration post-Brexit or to provide any detail of the likely mobility framework.

## Test four: Does it defend rights and protections and prevent a race to the bottom?

*“There is no circumstance under which we will rip up workers’ rights”*<sup>23</sup>

David Davis (then Brexit Secretary), House of Commons, January 2017

*“Will the deal defend rights and protections and prevent a race to the bottom? We have been very clear that workers’ rights will be protected—they are not up for negotiation”*<sup>24</sup>

Theresa May, House of Commons, 29 March 2017

**However**, it has become increasingly clear that Theresa May’s approach will mean that her Brexit deal will lead to a weakening of rights, protections and environmental standards:

- The Tories voted repeatedly against amendments to the EU Withdrawal Bill that would make it harder for ministers to water down workers’ rights.<sup>25</sup>
- The Tories voted not to retain the European Charter of Fundamental Rights in UK law after Brexit.<sup>26</sup>
- The Tories voted against ensuring environmental standards had enhanced protections after Brexit.<sup>27</sup>
- Theresa May’s Chequers’ plan would mean UK rights and protections could be weakened over time and lag behind standards in the EU.<sup>28</sup> By explicitly including “non-regression” provisions the plan would make it far harder to enforce rights going forward.
- The Tories’ EU Withdrawal Act does not block future governments from repealing or watering down workers’ rights and protections after Brexit.<sup>29</sup>
- Michael Gove has emphasised that, after any Tory Brexit deal is agreed, a future Tory Government would look to unpick and renegotiate arrangements with the EU.<sup>30</sup>
- Many senior Cabinet Ministers have a long history of supporting cuts to workers’ rights. The Brexit Secretary, Dominic Raab, has said that he “doesn’t believe in economic and social rights” and that it is “too difficult” to sack workers<sup>31</sup>.
- Liam Fox has advocated using Brexit to tear up food standards to open up the sale of chlorinated chicken in the UK.<sup>32</sup>
- Michael Gove is also reported to have advocated the weakening of employment rights.<sup>33</sup>

**Test on course to be failed:** The Chequers' proposals make it clear that a Tory Brexit will put workers' rights and protections at risk. The EU Withdrawal Act underlines this by this failing to provide enhanced protection for rights and protections. The Tories cannot be trusted with workers' rights.



## Test five: Does it protect national security and our capacity to tackle cross-border crime?

*"With the threats to our common security becoming more serious, our response cannot be to co-operate with one another less, but to work together more."*<sup>34</sup>

Theresa May, Lancaster House speech, 17 January 2017

*"Will the deal protect national security and our capacity to tackle cross-border crime? Yes."*<sup>35</sup>

Theresa May, House of Commons, 29 March 2017

**However**, the Tories' reckless and ideological red lines have undermined the Government's ability to meet this commitment:

- The Tories' negotiating red lines risk the UK's continued membership with the EU's security agency, Europol, and data sharing on security matters.<sup>36</sup>
- Theresa May's negotiating red lines, including the rejection of the Charter of Fundamental Rights, are incompatible with the UK's continued participation in the European Arrest Warrant.<sup>37</sup>
- The Home Affairs Select Committee has warned that it has "serious concerns about the impact on security cooperation" of the Government's negotiating red lines.<sup>38</sup>
- The Home Affairs Select Committee warned that "there are serious legal and constitutional obstacles to achieving an extradition agreement that is equivalent to the existing European Arrest Warrant."<sup>39</sup>
- 18 months on from triggering Article 50, the Government is yet to agree – or to give any indication that an agreement is close – on a comprehensive security agreement with the EU.

**Test on course to be failed:** Theresa May's negotiating red lines have hampered the Government's ability to negotiate a future relationship with the EU that protects the UK's national security and its capacity to tackle cross-border crime.

## Test six: Does it deliver for all regions and nations of the UK?

*"A stronger Britain demands that we do something else – strengthen the precious union between the four nations of the United Kingdom."*<sup>40</sup>

Theresa May, Lancaster House speech, 17 January 2017

*"Will the deal deliver for all regions and nations of the UK? We have been very clear that we are taking all nations and regions into account."*<sup>41</sup>

Theresa May, House of Commons, 29 March 2017

**However**, the Tories have failed to provide a credible plan to avoid a hard border in Northern Ireland and risk delivering a deal that deepens the inequalities across the UK:

- The Tories have ruled out negotiating a customs union with the European Union and a strong single market deal, which would help to avoid a hard border in Northern Ireland<sup>42, 43</sup>
- The Government's proposed Facilitated Customs Arrangement is bureaucratic and does not provide a credible solution to the border in Northern Ireland.<sup>44</sup>
- The Northern Ireland border remains the major outstanding issue within the negotiations with the EU on the Withdrawal Agreement
- The Tories' EU Withdrawal Act did not receive consent from the Scottish Parliament<sup>45</sup>
- Labour's Mayor for Greater Manchester, Andy Burnham, has criticised the Tories for keeping the regions of the UK in the dark over their Brexit strategy<sup>46</sup>

**Test on course to be failed:** Theresa May has failed to deliver consensus or adequate engagement across the UK over her plan for Brexit. The impact of the Government's approach to Brexit also risks deepening the economic divides across the UK. The Government has failed to resolve the Irish border.

## Conclusion

18 months after triggering Article 50, the Tory Government are failing to keep the promises they made – from building a collaborative partnership with the EU to defending rights and protections and delivering a deal that works for all regions and nations of the UK.

The Chequers' plan, while blurring down some of Theresa May's red lines, is not capable of delivering the strong new relationship we need with the EU or of matching the commitments made by Theresa May and her Cabinet prior to triggering Article 50

Labour set six robust tests for the final Brexit deal in the national interest and we will hold the Prime Minister to them.

Unless the Government change course and adopt a more ambitious and effective Brexit strategy – one that puts jobs and the economy first, protects rights and strengthens the UK – it is increasingly clear that the Tory Government will fail to meet Labour's tests.

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- <sup>1</sup> Chatham House, [What next for Britain? Speech by Keir Starmer](#), March 2017
- <sup>2</sup> HC Deb, 29 March 2017, [Vol 624 Cols 256-257](#)
- <sup>3</sup> Gov.UK, [The government's negotiating objectives for exiting the EU: Theresa May speech at Lancaster House](#), 17 January 2017.
- <sup>4</sup> HC Deb, 29 March 2017, [Vol 624 Cols 256-257](#)
- <sup>5</sup> HM Government, [The future relationship between the United Kingdom and the European Union](#), July 2018
- <sup>6</sup> Institute for Government, [Is the Government hamstrung by its position on the ECJ?](#) July 2017
- <sup>7</sup> BBC News, Galileo: [Funding pledge for UK rival to EU sat-nav system](#), 26 August 2018
- <sup>8</sup> The Public Whip, [European Union \(Notification of Withdrawal\) Bill — New Clause 192 — Nuclear Collaboration — Euratom — 8 Feb 2017 at 18:05](#)
- <sup>9</sup> HM Government, [The future relationship between the United Kingdom and the European Union](#), Chapter 2, Para.65, July 2018
- <sup>10</sup> HC Deb, 24 January 2017, [Vol 620 Cols 169](#)
- <sup>11</sup> HC Deb, 29 March 2017, [Vol 624 Cols 256-257](#)
- <sup>12</sup> BBC News, [Brexit vote: Government defeats EU customs union bid](#), 17 July 2018
- <sup>13</sup> The Public Whip, [European Union \(Withdrawal\) Bill — Clause 19 — Seek Full Access to European Union Internal Market via Withdrawal Agreement Negotiations — 13 Jun 2018 at 19:15](#)
- <sup>14</sup> Gov.UK, [PM speech on our future economic partnership with the European Union](#), 2 March 2018
- <sup>15</sup> UK Trade Policy Observatory, [Decoding the Facilitated Customs Arrangements](#), 23 July 2018
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- <sup>19</sup> HC Deb, 17 January 2017, [Vol 619 Cols 808](#)
- <sup>20</sup> Financial Times, [Brexit immigration white paper to be delayed until autumn](#), February 2018
- <sup>21</sup> Gov.UK, [Queen's Speech 2017](#), 21 June 2017
- <sup>22</sup> HM Government, [The future relationship between the United Kingdom and the European Union](#), Chapter One, Para 89, July 2018
- <sup>23</sup> [HC deb 17/01/17](#)
- <sup>24</sup> HC Deb, 29 March 2017, [Vol 624 Cols 256-257](#)
- <sup>25</sup> TUC, [Brexit and your rights at work – why you should be worried](#), August 2018
- <sup>26</sup> Independent, [Tory government votes not to retain European human rights charter in UK law after Brexit](#), January 2018
- <sup>27</sup> Sky News, [Brexit bill: the amendments MPs voted on](#), 13 June 2018
- <sup>28</sup> HM Government, [The future relationship between the United Kingdom and the European Union](#), Chapter One, Para 123, July 2018
- <sup>29</sup> TUC, [Brexit and your rights at work – why you should be worried](#), August 2018
- <sup>30</sup> The Guardian, [Chequers deal could be undone after Britain leaves EU, claims Gove](#), 17 September 2018
- <sup>31</sup> Labour Party, [Five things you need to know about Dominic Raab, the man Theresa May has chosen to lead her Tory Brexit](#), 10 July 2018
- <sup>32</sup> The Guardian, [Liam Fox reopens cabinet rift with defence of chlorinated chicken](#), 1 November 2017
- <sup>33</sup> Huffington Post, [Michael Gove Accused Of Plotting To Steal Holiday Days From Workers](#), 18 December 2017

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- <sup>38</sup> Home Affairs Select Committee, [UK-EU security cooperation after Brexit](#), March 2018
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- <sup>45</sup> BBC News, [Holyrood refuses consent for Westminster Brexit bill](#), May 2018
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