



OFFICIAL REPORT
AITHISG OIFIGEIL

Culture, Tourism, Europe and External Relations Committee

Wednesday 22 February 2017

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**CULTURE, TOURISM, EUROPE AND EXTERNAL RELATIONS COMMITTEE
6th Meeting 2017, Session 5**

CONVENER

*Joan McAlpine (South Scotland) (SNP)

DEPUTY CONVENER

*Lewis Macdonald (North East Scotland) (Lab)

COMMITTEE MEMBERS

*Jackson Carlaw (Eastwood) (Con)

Ross Greer (West Scotland) (Green)

*Rachael Hamilton (South Scotland) (Con)

*Emma Harper (South Scotland) (SNP)

*Richard Lochhead (Moray) (SNP)

*Stuart McMillan (Greenock and Inverclyde) (SNP)

*Tavish Scott (Shetland Islands) (LD)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Rt Hon Greg Hands MP (Minister of State for Trade and Investment)

Alison Johnstone (Lothian) (Green)

Rt Hon David Mundell MP (Secretary of State for Scotland)

CLERK TO THE COMMITTEE

Katy Orr

LOCATION

The Robert Burns Room (CR1)

Scottish Parliament

Culture, Tourism, Europe and External Relations Committee

Wednesday 22 February 2017

[The Convener opened the meeting at 10:01]

European Union Referendum (Implications for Scotland)

The Convener (Joan McAlpine): Good morning and welcome to the sixth meeting of the Culture, Tourism, Europe and External Relations Committee in 2017. We have received apologies from Ross Greer MSP and welcome Alison Johnstone MSP to the committee. I remind members and the public to turn off any mobile phones. Any members who use electronic devices to access committee papers should please ensure that they are turned to silent mode.

Today, we will hear from the United Kingdom Minister of State for Trade and Investment and then from the Secretary of State for Scotland on the implications of the European Union referendum result for Scotland.

I welcome, via videoconference, the Rt Hon Greg Hands MP, the Minister of State for Trade and Investment. I understand that you will make a short opening statement before we move to questions from committee members.

Rt Hon Greg Hands MP (Minister of State for Trade and Investment): Brilliant. Thank you, madam convener, for making this possible. I hope that the technology is going to work. Can everybody hear me?

The Convener: Yes, we can, thank you.

Greg Hands: I convey apologies from the Secretary of State for International Trade, Dr Liam Fox, who is travelling in Asia this week. Like him, I am fully committed to engaging on trade with the Scottish Government and the Scottish Parliament. Indeed, a year ago, in my previous role, I enjoyed appearing in front of both your Finance Committee and your Devolution (Further Powers) Committee. I hope to come and see you in person at some point as soon as I can.

Madam convener, the Prime Minister earlier this year set out her vision for the UK's future as a truly global Britain. Included in that was her strong view that the UK should be the most passionate and convincing advocate of global free trade anywhere in the world. The UK Government and the devolved Administrations need to work together to make Brexit a success. A unified voice

strengthens our hand in the upcoming negotiations. That is why the UK Government has set up a new joint ministerial committee (EU negotiations) to discuss each devolved Administration's requirements for the future relationship with the EU and to feed into a UK approach to the negotiations.

The Department for International Trade is dedicated to serving the whole of the UK both now and when we leave the EU. The department's responsibility covers support for new and existing UK exporters, outward investment from the UK and inward investment into every part of the UK. I should point out that Britain's future trading relationship with the EU is primarily a matter for the Department for Exiting the European Union, although we do and will continue to feed into those deliberations.

At the Department for International Trade, we work hand in hand with Scottish Development International, which is responsible for implementing programmes that meet the particular needs of companies in Scotland as well as for promoting Scotland to foreign investors. Although the promotion of trade and investment is a concurrent power, trade policy and UK Export Finance's ability to support exports are, as we know, reserved matters. That means that we can and do pool intelligence to work better for the benefit of the UK.

For example, our trade department provides Scottish companies with access to events and trade mission support schemes. Our world-leading digital services, which are part of GREAT.gov.uk and which make it easier for firms to trade overseas, are an available resource for Scottish companies that I urge them to make use of. Today, my department's trade policy officials will host a briefing session for officials from each of the devolved Administrations on the work of the World Trade Organization. By working together, we can ensure that, when one part of the UK succeeds, we all do. Our fortunes are inextricably linked.

Madam convener, like much of Scotland, I campaigned on the remain side during the referendum. Indeed, 70 per cent of my constituents voted to remain in the EU. However, it was a UK-wide referendum and I am, above all, a democratic politician. More people voted to leave the EU than for anything else in our electoral history and, if you look at the figures, it is clear which union should matter more to the consumers and businesses of Scotland. While Scottish exports to EU countries totalled £12.3 billion in 2015, the goods and services that Scotland sold to the rest of the UK were worth £49.8 billion. That is four times the level of exports to the EU and three times the level of exports to the rest of the world.

Trade within the UK single market supports 270,000 Scottish jobs—roughly 10 per cent of Scotland's total employment—and represents 31 per cent of Scottish gross domestic product. Furthermore, Scotland's exports in goods and services to the rest of the UK have increased by 74 per cent since 2002 compared with growth of 7.8 per cent in Scotland's sales to the EU over the same period. Scottish exports in goods and services to the UK are, therefore, increasing at almost 10 times the rate of Scottish exports to the EU. It is clear that the UK is the most important union for Scotland. By speaking with one voice, we can champion all the UK's consumers and businesses. Their interests should be at the heart of our discussions.

My department stands ready to help Scottish businesses to thrive overseas and to encourage greater investment into Scotland, which we are already doing. By working together over the coming years, we can build a global Britain that works for all.

The Convener: Thank you, Mr Hands. In the Scottish Parliament, we do not use the term "madam convener". Thank you for your courtesy, but "convener" is perfectly adequate.

I will open the questioning. Scotland voted by 62 per cent to 38 per cent to remain in the EU. I understand that the UK as a whole voted to leave, but there is an extremely large body of evidence to show that even the people who voted to leave the EU did not vote to leave the European single market. Moreover, on a number of occasions, the Scottish Parliament has voted to support Scotland remaining in the single market. Can you explain to us why the UK, which was instrumental in the creation of the single market, has decided against remaining in the European Economic Area?

Greg Hands: Thank you, convener. I am sorry about the "madam". In our Parliament, we call the Deputy Speaker "Madam Deputy Speaker", so it is good to know proper procedure in your Parliament.

I will say a few things first of all. It was clearly a whole-of-the-UK referendum. I pointed out earlier that my constituency, Chelsea and Fulham in west London, voted even more for remain than Scotland did. Our figure was approximately 70 per cent, and that was not unusual for parts of London. The important thing is that it was a UK-wide referendum; that was clear during the campaign and was clear when the European Union Referendum Bill passed through the Westminster Parliament.

On the single market, we are seeking an ambitious and comprehensive free-trade agreement with the EU, including free-flowing trade in goods and services, that is more

ambitious than any other trade deal that anybody has agreed to date. That is our ambition. We want Britain to have the greatest possible tariff-barrier-free trade with our EU neighbours. We want zero tariffs on trade in goods and to minimise the regulatory and market access barriers for both goods and services. In other words, what we are trying to achieve—bear in mind that these are negotiations, and I can only set out what we are trying to achieve at this stage—is the fullest possible access to the single market for UK companies.

The Convener: Of course, the most successful free trade area in the world is the European single market.

The Prime Minister has said that she would prefer "no deal" to a "bad deal". Do you agree with that?

Greg Hands: It is important to get a good deal—that is absolutely our ambition.

Without wishing to contradict you, I think that the most successful single market in the world is the United Kingdom single market. For Scotland, by exporting four times as much into the UK single market, I think that we can see where the relative importance of those two unions and those two single markets lies.

We are ambitious for the sort of deal that we seek to achieve. The negotiation obviously has not started yet; you will know, convener, that we are triggering article 50 before the end of next month. The date is getting ever closer and we are looking forward to a successful, productive, fruitful negotiation. It is important to remember that the UK and the EU will remain friends and partners during and after the process; it is important that our co-operation continues not just on trade matters but right across the piece on things such as conflicts, security and counterterrorism.

I am reasonably optimistic for that negotiation process. I am not pretending that it will be easy, but our objective is to come to good terms of departure and to have a full and comprehensive free-trade agreement with the EU that will come in right away.

The Convener: The evidence that the committee has taken in Europe and from experts has been fairly unanimous in telling us that it will be impossible to conclude a trade deal at the same time as the exit deal. Professor Sir David Edward, giving evidence to this committee, said that the idea that such a deal could be secured within two years "is for the fairies". It sounds as if you are still insistent that you can negotiate a free-trade deal within two years, when the Europeans are saying that that is not on and may not even be permissible under article 50.

Greg Hands: That is our ambition and, by working together as a common UK effort, we can make that more possible to do within two years. That is our ambition, as well as to make sure that we get a deal that works for the whole of the UK, and not just that, but a deal that works for the EU. It is worth remembering that the EU has a very substantial trade surplus with the UK; we think that it will be strongly in its interest not to have tariffs and other trade barriers between the UK and the EU.

The Convener: We are weeks away from the triggering of article 50 and the Prime Minister said that she would continue to consider the Scottish Government's position paper, "Scotland's Place in Europe". Will you give us some indication of what will be in the article 50 letter and whether it will refer to Scotland's position as a remain-voting part of the UK? You will be aware, of course, that the European Parliament Committee on Constitutional Affairs recently said that Scotland's position should be addressed in the article 50 negotiations, so will it appear in the letter?

10:15

Greg Hands: I cannot comment on what may or may not appear the letter. However, our involvement and interaction with the Scottish Government at all levels has been strong and will continue to be so. My boss, Dr Liam Fox, met Keith Brown, the Cabinet Secretary for the Economy, Jobs and Fair Work, whom we both know, as early as August 2016, and Lord Price met Paul Wheelhouse on 2 November. We are absolutely committed to continuing interaction. We are studying the Scottish Government's paper. It was formally submitted to the JMC in, I think, January and is still being studied intensely. I am sure that Mr Mundell, who is coming up next, could give you a little bit more of a steer on that. However, the involvement of the Scottish Government—and, indeed, the Scottish Parliament—in the process is an important part of how we go forward.

The Convener: The Scottish Government has been critical of the JMC engagement process. I understand that Chatham House has said that it is an inadequate way to negotiate the exit from the European Union and the Scottish Administration's involvement in those negotiations. Will you name one policy area that you have changed as a result of the meetings with Scottish ministers?

Greg Hands: I am not a member of the JMC. Mr Mundell is, so you could put that question to him. However, Scottish trade will be of huge importance to the negotiations when we get started. I am sure that it will be at the forefront of our minds as we carry out the negotiation.

The Convener: I will ask you again: will you name one policy area that you have adjusted as a result of meetings with Scottish ministers?

Greg Hands: The negotiation has not started yet. In a comprehensive speech in January, the Prime Minister laid out clearly the UK's position on the matter. That included strong respect for the Scottish Government. However, the negotiation has not started, so let us give it a chance. I am sure that the Scottish Government's views will be fed into it in the usual way through the JMC, the First Minister, the Prime Minister and the Secretary of State for Scotland.

Lewis Macdonald (North East Scotland) (Lab): Good morning, minister. You describe your department's role as being to be a participant in the process. Although the Brexit department might take the lead, the Department for International Trade will clearly make the expert contributions on international trade. One thing that was striking about the white paper compared with the Prime Minister's speech was that it provided more clarity on the Government's view on the customs union. Will you describe for us the Government's view on the future relationship between the UK and the EU in relation to the European customs union and what discussions you are having with colleagues on it?

Greg Hands: On the customs union, the most important thing is the objective to ensure that we have frictionless trade with the European Union. The means of getting there is one aspect on which we are open minded as we enter the negotiations. The objective is to ensure that there are no tariffs and that no barriers are put in place where there are none today in our trade relationship with the European Union. The Prime Minister was clear in her speech and in the white paper that we do not want to be bound by the EU's common external tariff or to participate in the common commercial policy.

The most important thing is to think about the objective rather than necessarily the means of getting there. We have said that we want to come to a customs arrangement with the European Union but do not wish to remain members of the customs union, and we have mapped out pretty clearly what we look to achieve in that space.

Lewis Macdonald: I take the point that the objective is where the focus must be but, to get there, you need to have the means and I struggle a little with the suggestion that a frictionless, tariff-free trading arrangement with the United Kingdom is a given from a European Union perspective in the way that you appear to imply. What is the offer from the UK on the customs arrangements that the European Union currently has? What is the consequence for our existing trade with third countries? At the moment, all our trading

arrangements with countries outwith Europe are governed by our membership of the European single market and customs union, so what consequence does our withdrawal from the EU have for those agreements?

Greg Hands: I think that you are asking what the EU viewpoint on frictionless trade and tariffs would be and what the implications of leaving the customs union would be for the UK's trade with third countries. I will take each of those in turn.

The EU viewpoint is clearly a matter for the European Union but we are confident that it will not want to do anything that will harm its trade with the United Kingdom. I mentioned earlier that the EU enjoys a healthy trade surplus with the UK. Clearly, not every member of the EU 27 has a trade surplus with the UK and different member states will have different priorities within that widespread and integrated trading relationship, but the starting point should be that the EU would not want to do anything to damage its trade and exports with the United Kingdom.

The investment relationship with the UK is really important. Hundreds of thousands of people in the UK go to work every day for German companies or French companies and the reverse is the case in the major EU markets. It is for the EU to speak for itself but, logically and naturally, it should have a strong interest in ensuring that there are no new trade barriers with the United Kingdom.

Being outside the customs union would clearly allow us a greater degree of flexibility to come to free-trade agreements with key partners outside the European Union. That is one of the great opportunities that Brexit provides.

I am not sure that the videolink is working well but I think that I see you wanting to come in on that point.

Lewis Macdonald: Yes. I take the point that that is the objective. However, the challenge is that, on completion of the article 50 process, our existing trade agreements will fall if we have left the customs union and the single market at that point and any new agreements will not come into force until they have been negotiated following that. What is your department's perspective on third-party trade agreements between, for the sake of argument, March 2019 and the completion of negotiations with all those potential trading partners outwith Europe?

Greg Hands: That, too, would be part of the negotiation. We look to have reached an agreement on our future partnership by the time that the two-year article 50 process has concluded. We expect there then to be a staged process of implementation in which UK and EU institutions and member states prepare for the new arrangements.

How we go forward from there will be an interesting side of the Brexit process. It is about how we take over the EU side of the free-trade agreements with third-party countries. That will be part of the scoping-out discussions that we will have with third-party countries between now and when Brexit actually happens. As for which parts of those agreements we will want to take over, which parts we may seek to improve and which parts we will simply translate across, it is really too early, at this stage, to say. We are actively studying that at the moment.

Lewis Macdonald: Is it fundamental to both trade with the single market and future agreements with third parties that there should be common standards and common rules of origin? Is aligning the regulations and the rules of origin an objective of the UK Government in the negotiations?

Greg Hands: Some of these things are a careful balance between alignment and the ability to have our own set of standards and regulations that particularly suit the UK—and, within that, all parts of the UK including the devolved nations. That will be a part of the careful balance between alignment and the ability to take advantage of the UK's being able to set its own standards and regulatory environment, which, by necessity, will vary by particular market and by particular trading relationship.

Lewis Macdonald: Does that mean that the process of differentiation between British and European standards will start immediately and, according to your objectives, be completed within two years?

Greg Hands: No, I do not think so. We are still in the European Union and we cannot sign a free-trade agreement until we are outside the European Union. On that basis, I do not see that process starting immediately; I see it being something for the future.

Richard Lochhead (Moray) (SNP): Thank you for giving evidence today, minister. However, I feel that I should start off with a point of information: the next Scottish independence referendum has not been launched yet. I thought that your opening remarks were like an opening speech for the no campaign. What we really want to talk about today is trade relations with the rest of the world post-Brexit.

In her speech, Theresa May, your Prime Minister, said that Europe should respect the differences within the European Union and that there should be flexibility and compromise in the negotiations with Europe post-Brexit. Can you explain how those principles are being adopted in terms of Scotland's view on EU membership, given that 62 per cent of Scots voted to remain

within Europe and given the Scottish Government's policy of seeking bespoke solutions to maintain our links with Europe and membership of the single market? Should the principles that the Prime Minister is asking Europe to adopt not also apply to her and her Government in dealings with Scotland?

Greg Hands: I feel that I have answered that question already. The important thing to remember—which we have been absolutely clear on, as I have demonstrated—is the involvement of the Scottish Government in the whole process and our strong and meaningful interactions with the Scottish Government so far. We are studying the Scottish Government's white paper very closely—Mr Mundell can probably give you a little more detail about that part of the process. Scotland is going to be a key and fundamental part of this negotiation from across the UK.

Going back to the point about the way in which Scotland voted in the referendum, I again cite the example of my constituency. Fundamentally, it was a UK-wide referendum that was decided—by the UK as a united kingdom—by a majority of 1.3 million people. As I mentioned earlier, I campaigned on the other side. Nevertheless, more people across the UK voted to leave the European Union than have ever voted for anything before. Therefore, there is a strong democratic mandate, and the best thing for us to do now is work together to ensure that we deliver a new arrangement—a comprehensive free-trade agreement with the European Union as a whole—that benefits all the constituent parts of the United Kingdom, including Scotland. That is the basis on which we need to go forward, and our department looks forward to working closely with the Scottish Government on that.

As I understand it, there was a very constructive discussion at the JMC on 30 January about how Scotland's trading interest can be taken forward in those discussions and negotiations, and also about the continuing good work that my department does, working closely with Scottish Development International, to make sure that we deliver good-quality services for Scottish businesses and consumers as we go forward.

10:30

Richard Lochhead: The Scottish Government's policy of seeking a bespoke arrangement to maintain Scotland's links with membership of the single market is widely supported in the Parliament and Scotland. You seem very dismissive of it. Do you not envisage any bespoke arrangement for Scotland to retain membership of the single market?

Greg Hands: I was not dismissive; I think that access to the single market is extremely important for all parts of the United Kingdom. That is one of the reasons why we want to maximise our access to the single market and make sure that our trade, overall as the United Kingdom, is as frictionless as possible.

In terms of differentiation, we have read the Scottish Government paper that was presented and we are taking the proposals seriously. Official-level engagement has intensified to ensure that the proposal is considered fully, feeding into the on-going engagement through the JMC process.

There is a lot in the Scottish Government white paper that we can agree on already: protected workers' rights, protecting the status of EU citizens currently in the UK, and ensuring that Scottish universities have access to the best of European talent. There is already an enormous amount in the white paper that we agree with and will be taking forward as part of the negotiation.

Differentiation is something that we are looking at, and Mr Mundell can probably give you a little bit of a fuller answer on that.

Richard Lochhead: I hear what you say and thank you for that answer, but those are all issues that are for the benefit of the whole of the UK. I was asking whether there are any examples of bespoke arrangements for Scotland, in the light of the Scottish Government's paper.

I ask one final question about the trade negotiations. There is a big concern in Scotland that, post-Brexit, as negotiations proceed, there may be a decline in standards of goods imported to this country, because the UK will have to negotiate with Europe and third-party countries.

Can you give a guarantee to the committee that there will be no decline in the standards of goods and services in this country as a result of the post-Brexit negotiations?

Greg Hands: I am not sure that I understand the question. At the moment we are obviously still members of the European Union; while we are members, there is no change in any standards.

Beyond that, it is very important that the UK maintains its standards. We have given a strong commitment in such areas as workers' rights and food standards. I have a whole set of manifesto commitments in some of those spaces as well. It would be wrong to say that there will be a decline in standards of imported goods as a result of Brexit.

What Brexit actually allows us to do is to come to free-trade agreements for the UK with third-party markets that will be to the benefit of UK producers and UK consumers. It is important that free-trade agreements do not infringe on any

individual country's right to regulate, including on the standards of such things as foods and other products. That will not change; the UK and, where appropriate, devolved Administrations will have the right to regulate those products.

The Convener: Thank you. Before I move to Jackson Carlaw, minister, I have a quick supplementary on something that you mentioned—the university sector. You will be aware of an article in *The Times*, which obtained a Government report on priorities, which said that education was a low priority. Given the amount of evidence that this committee has taken about the importance of universities to the Scottish economy, detailing them as a low priority is a cause of great concern and seems to directly contradict what you have just said about listening to the Scottish Government's concerns.

Greg Hands: I disagree with that. The Chancellor of the Exchequer has been absolutely clear in guaranteeing horizon 2020 funding up to 2020; that has been the clearest signal, and was one of the first things that we did.

The Convener: However, the concern is about what happens after we leave, and your Government has designated universities as a low priority.

Greg Hands: I disagree. We have shown by our actions that that is not the case. One of the first things that we did last August was to guarantee horizon 2020 funding as we move forward. Judge us by our actions rather than an article in *The Times*.

The Convener: You have said that. However, we are talking about what happens after we leave the European Union and you have designated universities as a low priority.

Greg Hands: I am pointing out to you the high priority that we attached to universities throughout the United Kingdom right away. Some of the world's very best universities are in Scotland and elsewhere in the UK. They are a very important part of our free-trading future. Look at some of our key markets, such as the United States, the European Union and China. The fact that the UK has world-leading universities is not only desirable but essential for some of our key sectors, such as the UK's thriving life sciences business. I was out on the west coast of the United States a few weeks ago, talking to a company that will be setting up more operations in Edinburgh. One of the things that attracted it to the city was the quality of its university offer. The life sciences sector is incredibly attracted to UK universities. The cluster around Cambridge is another example.

Universities will absolutely be at the centre of our free-trading future. They are one of our strongest cards as we go forward.

The Convener: They are still being categorised as a low priority.

Jackson Carlaw (Eastwood) (Con): Good morning, minister. You used the expression "frictionless trade" and I also noted you saying that we want no new barriers where there are none today in our trading relationship with the EU. You then went on to describe the balance of trade that exists within the United Kingdom as opposed to Scotland's trade with the rest of the European Union and the value, therefore, of the UK market to us all. In any hypothetical differentiated settlement that might arise for Scotland, what intended or unintended consequences might arise or might have to be resolved with regard to trade within the UK as a result?

Greg Hands: The most important thing to do when we consider any differentiation is to ensure that trade within the United Kingdom is not harmed, infringed or made more difficult. Scotland-only statistics for top trading partners, which come from the Scottish Government global connections survey 2015, show that the rest of the UK is the top trading partner for Scotland at a value of £49.8 billion and a 63 per cent share of total exports. The next closest market is the United States at £4.5 billion, which is less than a 10th of the amount of exports that go from Scotland to the rest of the UK.

Clearly, any consideration of differentiation will have to ensure that we do not create a difficulty for trade within the United Kingdom. I think that we would all agree that that is, or should be, a paramount concern for Scottish businesses and consumers.

Jackson Carlaw: Thank you for that. The committee has heard evidence of the arrangements that obtain between Northern Ireland and the Republic of Ireland, which arise for historical reasons and reflect the unique status of Ireland. Some people have argued that that arrangement is directly transferable to the United Kingdom and that any differentiated settlement here could use that as its base model. Do you consider that to be a directly transferable option?

Greg Hands: That question might best be put to Mr Mundell. We have stated that the Irish border is one of the top priorities. One of Theresa May's top 12 priorities for the negotiation is finding a way to ensure that that border works as it has done and that there is no damage to that trade. I do not see that as an example that could be directly transferred.

Emma Harper (South Scotland) (SNP): Good morning, minister. Last Monday, Ruth Davidson

made a statement at the NFU Scotland meeting in which she said:

“Currently, we have one Scottish Development International office in the whole of Latin America. As we get ready for Brexit, I think we should be doing more to ensure that we are ready to take advantage of such emerging markets.”

We have a really successful market on our doorstep in the EU. If we focus on distant markets, how much importance would be placed on environmental impacts and issues around transport and freshness? Those matters are simpler when we focus, as we should, on our nearest neighbours’ markets. As the convener said, the EU market is the most successful free-trade area.

Greg Hands: Good morning. Scotland’s nearest neighbour is, of course, England. When we talk about proximity, we should recognise the importance of that market and the market of the UK as a whole.

The opportunities for Scottish businesses beyond the European continent are extremely interesting and are exactly what we want to maximise. My department already works closely with Scottish Development International and, whenever I visit different markets, I often meet people from SDI. For example, when I was in Taiwan in September, I ensured that SDI was represented in my meetings prior to my negotiations with the Taiwanese authorities to secure a good deal for Scotch whisky in Taiwan, which is an extremely important market.

We engage very widely in that respect. For example, the Department for International Trade engaged in securing a commitment from the South Korean firm CS Wind to secure and safeguard 70 jobs in Campbeltown through the building of a new offshore wind tower facility there.

We have people who represent the Department for International Trade in more than 100 markets. We have one of the best international networks, and we are engaging in a huge number of markets. Since the department’s formation last July, ministers have been to more than 50 different markets and have ensured that Scottish exports have a strong voice and that foreign direct investment comes to Scotland. In 2015, Scotland secured a total of 119 foreign direct investment projects, which makes it the second most attractive region in the UK, behind only London. Our officials are engaging strongly in their own right and are working closely with SDI, and that is exactly what we want to see continue.

Alison Johnstone (Lothian) (Green): I want to move on to the issue of EU workers in Scotland. It is clear that the presence of those workers has an impact on our ability to trade successfully. We

believe that there are currently more than 180,000 EU citizens in Scotland, and the committee has previously heard evidence about the uncertainty that they face. The UK Government has stated that it would like to address the status of EU citizens in the UK “at the earliest opportunity” and ultimately to reduce EU migration. Concerns have been raised that administrative procedures are not in place to identify EU citizens who are already resident here and to process any applications that they might need to make to secure permanent residence. We have already seen incidents in which people have been erroneously asked to leave. Are you comfortable with the level of uncertainty and insecurity that EU citizens in Scotland currently face?

Greg Hands: Let me deal with that question head on. Seventeen per cent of my constituents in London are EU nationals—I think that that figure is the highest for any constituency in the whole of the United Kingdom—and I am married to an EU national, so those issues are very close to home.

The UK Government is following exactly the right approach. As we have set out, one of the first things that we will do is to come to an agreement to guarantee the status of EU nationals who are currently in the UK and to guarantee the status of UK subjects in the European Union. We confidently expect that to happen very soon in the negotiation process.

10:45

I am confident that the status of EU nationals will be sorted out. Let us face it—the three million EU nationals in the UK make a massive contribution to our society and to our economy; large parts of my constituency would not be able to function without them. You mentioned that there are 180,000 EU citizens living in Scotland—let me tell you that the impact of EU citizens leaving London would be very severe on the London economy and on society as a whole. The status of EU nationals is one of the areas that we should be able to agree quite quickly as we move forward; the Prime Minister and David Davis have been absolutely clear on that.

Beyond that, the most important thing is that the UK will have control of immigration policy and will be able to make decisions in that respect that suit the UK as a whole. That is entirely proper, and the best way to address these matters.

Alison Johnstone: I appreciate that the minister appears to be taking the issue very seriously indeed, but will the UK Government not simply clarify the status of EU citizens who are living here and take them off the negotiating table?

Greg Hands: It is also important for us to look after the rights of British citizens—including a large

number from Scotland—who are living in the European Union. It would not be right for us to ignore their rights. I do not think that jeopardising the status of people living elsewhere would be in either side's interest—one has to understand the common interest here. The UK and the European Union are going to remain friends; we currently work very closely together and will continue to do so. It is, to my mind, inconceivable that either side would want to jeopardise the status of five million people. I mentioned my family—there are hundreds of thousands of families up and down the UK, and in other EU countries, who would feel the impact if that were the case. That is why I am very hopeful and confident that we will come to an early agreement. Nobody is jeopardising anybody's status—it is quite the opposite. The UK Government will go in early to make sure that status is guaranteed as we move forward, which is exactly the right thing to do.

Alison Johnstone: It would be very helpful if the UK could show leadership on the issue. We do not have to wait on others—we could take a decisive stand.

Can I just ask one final question, convener?

The Convener: Very quickly.

Alison Johnstone: Is the UK Government willing to concede that freedom of movement is essential, and is likely to be non-negotiable in any transitional phase?

Greg Hands: You are asking about freedom of movement being non-negotiable. Different interlocutors of the European Union have said that the four pillars—the four parts—of the EU single market stand together, which is why Theresa May, in her speech in January, and the Government's white paper have said that we are not setting out a cherry-picking approach. We have been clear that the UK will take back control of immigration policy in full. We will have to see, but the UK will be able to set its own immigration policy, which will be very important as we move forward.

To come back to your earlier point about the status of EU nationals, I do not think that there is any degree of uncertainty. The UK Government has been absolutely clear that it is one of our earliest and most important priorities, and we expect it to be agreed very quickly. I do not think that it is in either side's interest to jeopardise or call into question the status of five million people. The magnitude of that would be huge. I do not think that the EU would want to jeopardise the status of two million British people, including a large number of people from Scotland, who are in other EU countries.

Rachael Hamilton (South Scotland) (Con): Good morning, Mr Hands. I bring you back to trade, as we have the opportunity to discuss that

in committee today. As you will be aware, Scotch whisky is one of Scotland's most important exports to the world and the single biggest net contributor to the UK's balance of trade in goods.

The Scotch Whisky Association, as the industry body, has been clear about its approach to Brexit. It says:

“In many markets Scotch will also continue to benefit from existing zero tariffs, for example in the US, Canada, and Mexico, as these are offered to all countries already. In many other markets that already demand high tariffs, for example India, Brexit will not make the situation any worse.”

How will your role in the UK Government as Minister of State for Trade and Investment make the best use of those trade opportunities for the Scotch whisky industry and for other industries?

Greg Hands: We work closely with the Scotch Whisky Association. When my boss, Liam Fox, was in Scotland last August, his second most important meeting after meeting the Scottish Government was with the Scotch Whisky Association.

I mentioned earlier my trade talks with Taiwan, which, if I am not mistaken, is the fourth-largest export market for Scotch whisky. I had long and detailed discussions with the Taiwanese authorities about the lot codes on Scotch whisky bottles. A key concern for the industry in exporting to Taiwan is to ensure that those lot codes remain intact and sacrosanct.

We are keenly aware of the industry's importance. For example, Scotch whisky is protected in Canada as a registered geographical indicator, which was negotiated directly with Canada. Trade is important for Scotch whisky, as 93 per cent of the Scotch whisky that is produced is exported. Last year, the total value of that export trade reached the slightly incredible figure of £3.999 billion—it must have been just a few bottles short of reaching £4 billion—which was up from £3.845 billion in 2015. By the way, single malt Scotch whisky exports topped £1 billion for the first time in 2016. I think that you mentioned the US, which remains the biggest market of all for the value of sales, which has risen from £749 million to £854 million.

We go in to bat for the industry regularly and comprehensively, and that will continue in conjunction with ensuring that we talk to interested stakeholders in Scotland—not only the producers, but the Scottish Government and Scottish Development International.

Rachael Hamilton: I am sure that the Scotch whisky industry will be pleased to hear about the work that you are doing and will continue to do.

Stuart McMillan (Greenock and Inverclyde) (SNP): Good morning, minister. I invite you to reflect on the comments that you made a few moments ago about Scotland and foreign direct investment. You referred to Scotland as a region—in fact, Scotland is a country. Bearing in mind the language that has been used in the past about a family of nations and a respect agenda, I am sure that you would like to reflect on your comments.

I have a question about the WTO. You will be aware that it can take some time for WTO schedules to be discussed and certified. What schedules do you anticipate that the UK Government will consider in any negotiations and how do you anticipate that it will do so?

Greg Hands: Of course I recognise that Scotland is a nation. My mother is from Scotland and I have a large number of relatives in Edinburgh, who may even be watching the committee broadcast.

I will answer your question on the WTO. In leaving the EU, we need to update the terms of our WTO membership as, at present, our commitments are applied through the European Union as a whole. The UK is a founding member of the WTO's predecessor organisation. We need to ensure that the UK has its own independent schedule at the WTO. At the moment, that will simply involve a transfer of the European Union schedules to the UK's name without any change. Any future change would have to go through the UK Parliament, where Scotland has representation as well.

Stuart McMillan: Do you have any idea of the time that further discussions with the WTO and the attempt to get a set of longer-term agreements would take? I am conscious of the delay between the EU's enlargement to 25 member states in 2004 and an agreement with the WTO being certified in December 2016. Getting WTO agreements in place does not seem to be a short-term process.

Greg Hands: If it is okay with you, I will write to the committee about the WTO process that you mentioned.

Stuart McMillan: That would be helpful.

The committee commissioned research from the Fraser of Allander institute, whose report "Long-term Economic Implications for Brexit: A Report for the Scottish Parliament" made a number of points and suggestions about the WTO model. It suggested that real wages were expected to be 7 per cent lower, which is equivalent to a reduction of about £2,000 per person per year; that GDP was expected to be more than 5 per cent lower than would otherwise have been the case; and that export levels were expected to be more than 11 per cent lower, because WTO tariffs are more

stringent and challenging than the arrangements that we have had with the EU.

I heard what you said about the work that the UK Government has been undertaking. Nonetheless, using trade agreements under WTO rules is expected to be more challenging and to have a potentially negative effect, with up to 80,000 jobs lost in Scotland. What would the UK Government attempt to do to deal with the negative effects of using WTO rules?

Greg Hands: The important thing to understand is that our objective is not to have tariffs at all. In the negotiation of a comprehensive free-trade agreement with the European Union, the aim is to have frictionless and tariff-free trade. That is what all our efforts are being put towards. That is why we are engaging with the Scottish Government to make sure that we work together to get not only reasonable terms of departure but reasonable terms of trade with the European Union for the future.

I talked earlier at some length about what I see as the strong common interest that exists between the UK and the EU in making sure that we have the frictionless and tariff-free trade that would avoid such questions entirely. That is our objective and I am confident that we will achieve it.

Stuart McMillan: Most people would agree on that objective.

It has been suggested that, in the longer term, there would be an average of a 2 per cent increase in trade tariffs under the WTO scenario. An objective is one thing, but discussions and a final outcome can be totally different.

Greg Hands: First, our objective is to avoid having any tariffs in place where there is currently tariff-free trade between us and the European Union.

Another point is about the importance of the United Kingdom as a market for Scottish goods. I mentioned the figures. Anybody who is thinking of breaking up that union would need to ask about the 63 per cent of Scottish exports that go to the rest of the United Kingdom, compared with the 15 per cent that go to the European Union. It would be interesting for somebody to study the implications that leaving the United Kingdom might have for trade, exports and investment that comes into Scotland from outside. That situation would be absolutely catastrophic, which is a relevant consideration.

11:00

Stuart McMillan: Similarly, I am sure that you would not want to jeopardise the £63 billion-worth of goods and services that Scotland buys from the

rest of the UK, if you are using the language of achieving frictionless trade.

Greg Hands: In that case, we can both agree on the importance of avoiding tariffs with the EU and making sure that we have good trade between Scotland and the rest of the UK and between the UK as a whole and the 27 EU members.

I return to a point that I made earlier. Throughout the process, we will remain friends, because the UK and the EU need each other. We have a strong common interest in the world, which includes but goes far beyond our economies and our trade picture. That is why I am fundamentally optimistic that the negotiation will go well and end up well; we will get to a good agreement and be able to have frictionless trade and a comprehensive free-trade agreement with the EU that will suit the whole UK, including Scotland.

Stuart McMillan: On your point about frictionless trade and remaining friends, I gently urge you to speak to some of your colleagues, because some of the language that they have used about our European friends and historical events is not keeping friends in the EU. That point was raised with committee members by a number of people when we went to Brussels a few weeks ago.

Greg Hands: Let us make a deal that we will both speak to our colleagues. I will speak to any Conservative members of Parliament who might be felt to have said things that have upset people, and you can have a word with your MPs in Westminster who on the Monday did not oppose the comprehensive economic trade agreement with Canada in a vote in the House of Commons, although on the Wednesday the Scottish National Party voted en masse to oppose CETA, which did not go down well in the EU or with our key Canadian partners. If you will have a word with your colleagues as well, we have got a deal.

Stuart McMillan: I am happy to speak to my colleagues at any time.

The Convener: I have a supplementary question on what you say is the comprehensive free-trade deal that you will negotiate with the EU within two years. Will it cover services and agriculture? Most free-trade deals do not.

Greg Hands: That remains to be seen. When I say that the deal will be comprehensive, I mean that we want to have as many sectors in the deal as we reasonably can, while keeping to the parameters of negotiating it within the timeframe. We have said that we want the deal to be the most comprehensive free-trade agreement that anybody has yet negotiated in the world. We want to have the maximum number of sectors in the deal that is consistent with negotiating, agreeing and delivering the deal and with having it ratified.

The Convener: Will the deal include agriculture and services?

Greg Hands: Services are extremely important to the UK economy as a whole—they account for 89 per cent of GDP and 79 per cent of jobs across the UK—and agriculture is a massively important sector in Scotland and across the UK. However, we will have to see precisely what goes into the FTA. I repeat that we want it to be as comprehensive and all-encompassing as we can get it to be.

The Convener: So you cannot tell us whether those two key sectors of the economy will be included in the free-trade deal, which most observers say that you cannot negotiate within two years.

Greg Hands: A negotiation is involved, so I cannot tell you anything that will definitely be agreed at the end of it.

The Convener: We are weeks away from triggering article 50. Surely you should have a position in place.

Greg Hands: I can tell you that the scale of the UK's ambition for the FTA is for it to be as comprehensive and all-encompassing as possible. I am not going to state today which sectors will definitely be in and which will definitely not be in, but you can see from the direction of travel that, as the agriculture and services sectors are so large, they will inevitably be part of our consideration.

Lewis Macdonald: In your evidence, you have talked about maintaining common standards with current European standards and inheriting the WTO schedules that we have as a member of the European Union. As you will understand, the Court of Justice of the European Union plays an important role in interpreting and applying standards in relation to trade. Do you feel that the UK Government's apparent determination to disengage from it limits the scope of any potential agreement in the customs area or in relation to the single market?

Greg Hands: Common to all free-trade agreements is an ability to assess and enforce standards in the areas where that is appropriate and in the areas within those agreements. Leaving the ECJ's jurisdiction does not prevent us from having a common assessment of standards, just as any other free-trade agreement will have a process for determining what those standards are and how one can challenge something that one thinks is not in accordance with the agreement and with those standards. That is what I expect to happen in this case.

Lewis Macdonald: How do you envisage the design of that process? The ECJ has the final word, if you like, on the interpretation of rules in

the European Union, and the UK Supreme Court plays a parallel role here. However, I presume that any trade agreement has to have a third source of authority that both parties accept. What might that source of authority be?

Greg Hands: It is too early to predict that, but I am sure that both parties will have a strong interest in ensuring that trade flows and that common standards, where appropriate, are agreed. We have to remember that the process is a bit different from negotiating a free-trade agreement to bring down any barriers that might exist. In this case, we are talking about a free-trade agreement that will preserve barrier-free trade, which is a rather different proposition as we go into the negotiation.

It is impossible to say where that negotiation will lead. All that I can say is that the strong common interest in trade between the United Kingdom and the European Union; the fact that 44 per cent of our global exports as a whole from the UK—and about the same figure from Scotland—go to the EU; and the fact that the EU has a substantial trade surplus with the United Kingdom give me confidence that we will come to a good agreement to ensure that there is frictionless and tariff-free trade between the UK and the EU.

However, this is a negotiation and I cannot guarantee what it will deliver before it has even begun. All that I can guarantee is that the UK will enter into that negotiation seeking to represent the whole UK in conjunction and working closely with the Scottish Government, as well as the other devolved Administrations. We will ensure that everybody's voice is heard around the table and that we deliver the best possible agreement for the whole UK.

The Convener: Just before we wind up the session, I note that you previously engaged with the Parliament as part of your role in the Treasury and that you have considerable expertise in the fiscal framework, under which funds are transferred between Scotland and the UK. Scotland currently gets 16 per cent of common agricultural policy funds. How do you foresee that 16 per cent being transferred to Scotland after we leave the European Union?

Greg Hands: That will be a matter for the Treasury and the Department for Environment, Food and Rural Affairs, but the most important thing is that we have guaranteed common agricultural policy funding up to 2020. I am sure that delivering that equitably will be ensured in the proper way, in conjunction with the Scottish Government.

The Convener: Will the funding be delivered equitably, as you say, or will we get the 16 per

cent that we currently get—is that what you mean by being equitable?

Greg Hands: I think that the question is perhaps best put to others because, strictly speaking, the matter does not fall within the Department for International Trade's remit. You are perhaps trying to lure me back on to ground that might be more relevant to Her Majesty's Treasury, but I thank you for the reference to my previous engagement. I enjoyed appearing before your two sister committees this time a year ago, and I am sure that such engagement will continue.

The Convener: Thank you very much. We will have a short suspension before the next evidence-taking session.

11:11

Meeting suspended.

11:13

On resuming—

The Convener: I now welcome to the meeting the Rt Hon David Mundell, the Secretary of State for Scotland. I thank you for your patience, and I apologise for our running slightly behind time. I invite you to make an opening statement.

Rt Hon David Mundell MP (Secretary of State for Scotland): Thank you, convener. I am pleased to be here to discuss the progress of the Government's work to take forward the referendum decision to leave the EU. I am aware that the committee has just completed an evidence-taking session with my colleague, the Minister for Trade and Investment, on the vital work that is being taken forward to ensure that the UK secures the strongest possible trading relationships with the EU and the rest of the world.

I will give a short update on other aspects of the Government's work. Since I last appeared before the committee in October, we have seen significant developments. The Prime Minister's speech at Lancaster house and the subsequent white paper set out 12 principles that will shape the Government's approach and strategy. One of the core principles is strengthening the UK and delivering a deal that secures the specific interests of Scotland, Wales and Northern Ireland.

It is important to be clear—there has been a lot of public debate on this point—that Scotland will not be in the EU at the end of the process. There is no set of circumstances in which Scotland could remain a member of the EU after the rest of the UK has left. If Scotland's constitutional position were ever to change, it would have to apply to be a member of the EU afresh and we should not make easy assumptions about the length of time

that that would take, the process that Scotland would have to follow or the terms of membership that might be on offer.

11:15

The Scottish Government published its paper “Scotland’s Place in Europe” in December. I have made it clear that I recognise that as a serious contribution to the debate and that serious work is under way to consider it, as I set out in my letter yesterday to committee members. In addition, the Secretary of State for Exiting the European Union will meet Michael Russell today for a further discussion. Close engagement with the devolved Administrations remains a top priority for the UK Government and that will continue to be the case following the triggering of article 50, as we move into the next stage of work to leave the EU.

We have also seen the introduction of the European Union (Notification of Withdrawal) Bill and the completion of its passage through the House of Commons. It is currently being considered by the House of Lords and, subject to the completion of the bill’s parliamentary passage, article 50 will be triggered by the end of March.

Looking forward, the great repeal bill will be included in the Queen’s speech. That important piece of legislation will provide legal certainty by ensuring that, wherever practical and appropriate, the same rules and laws will apply on the day after we leave the EU as did on the day before. The Government will introduce a white paper providing more detail on that bill in due course. Legal certainty will be extremely important for business, the public sector and people in Scotland, and we need to work closely with the Scottish Government and the Scottish Parliament to provide it.

Engagement with sectors around Scotland continues to be a top priority for the Government. Lord Dunlop and I have now held over 100 such meetings to ensure that we fully take into account the priorities and issues for Scotland as the UK prepares for negotiations. Most recently, I held two very productive round-table meetings on Thursday last week with the business community and with academics and constitutional experts.

These are complex issues and there remains much work ahead to deliver a smooth, orderly exit from the EU. I greatly welcome the committee’s reports to date—to which we will issue a formal response—and look forward to continued engagement with the committee.

The Convener: Thank you very much, secretary of state. Since you last appeared before the committee, the Scottish Government published “Scotland’s Place in Europe”, as you said, and this Parliament endorsed its principles. This Parliament also voted against triggering article 50.

You said in your letter that you have been engaging in a productive way with the Scottish Government, but the evidence that we have received from the Scottish Government does not back that up. For example, when Mr Russell came before the committee, he said that JMC (EN) meetings tended to be arranged without a great deal of input from the devolved Administrations. They had very little control over the agendas and officials confirmed that the papers came in late. In his most recent letter about the last JMC (EN) meeting, he said:

“I was not content with the proposed work programme for the JMC (EN) programme as it was presented to me which I felt lacked focus on Article 50. A joint communique was not agreed to at the meeting”.

Taking all that together, it does not sound as though there is a great deal of respect from the UK Government for the Scottish Government’s position or for the Scottish Parliament.

David Mundell: I completely refute that. First, as I set out in my letter, there have been six substantive meetings in the past couple of weeks involving Scottish Government and UK Government officials that have looked in detail at the proposals in the Scottish Government’s paper. They have looked at how some of the proposals could be progressed in order to achieve the outcome in different ways and at the legal basis of those proposals. That is substantive work. I have to say that I find offensive—and I raised this issue at the previous JMC (EN) meeting—the way in which Mr Russell dismisses the efforts of officials in both the UK and Scottish Governments who are doing sterling work in taking forward a difficult task. Of course we are going to have political disagreements, but to dispute the fact that substantive work is going on to consider the Scottish Government’s proposals is simply not correct.

The Convener: I see. Mr Russell brought along one of his senior officials with him to our meeting, and it was that official who said that the papers came in very late and that they did not have good notice of the agenda. He did not seem to think that it was working well. Can I just—

David Mundell: With respect, convener, I think that we have all attended meetings where papers have come in very late. I do not think that papers coming in very late suggests that there is not serious engagement.

The Convener: We are talking about the biggest constitutional change in this country since the second world war. It is not just the Scottish Government that says that the process is flawed. Chatham House recently brought out a report—“Devolved External Affairs: The Impact of Brexit”—on the interaction between the UK Government and devolved Administrations. It says:

“The institutional arrangement for decision-making between the UK and devolved governments—the Joint Ministerial Committee (JMC)—is not suited to developing a joint position on leaving the EU.”

David Mundell: Chatham House is entitled to set out its opinion. When the JMC met at the end of January in Cardiff, I think that all the participants in the meeting—the First Ministers of Scotland, Wales and Northern Ireland and the leader of Sinn Féin—acknowledged that that meeting had provided a basis for setting out a full and frank exchange of views. In relation to Scotland, it certainly set out a decision, which has been followed through, to intensify the discussions on the Scottish Government’s paper. I regard that meeting as a productive one. I do not dispute the challenges in such an environment, in which some of the protagonists are coming from radically different perspectives, but it is an opportunity for a full and frank exchange of views—and that is what took place.

The Convener: You can have a full and frank exchange of views, but that does not mean to say that you are going to move forward. How are you changing your position as a result of hearing Scotland, Wales and Northern Ireland’s views? Can you name a change in the past few weeks that has happened as a result of hearing those robust views?

David Mundell: What I can say is that the process has been evolving through the Prime Minister’s speech and the white paper. An area that is included in the Prime Minister’s 12 priorities as a direct result of input from Scotland—and the Prime Minister has acknowledged that—is item 10, which is about ensuring that the UK remains

“The best place for science, innovation”.

There were very strong representations from Scotland about that issue, which have shaped how the Prime Minister has set out her priorities, and the area is included in the white paper.

The white paper and the Prime Minister’s speech reflect a whole range of views that are in the Scottish Government’s paper, including issues to do with workers’ rights and the sharing of information on criminal justice and security. There is a huge amount of common ground. Even where there is political dispute, in most cases, the objective is the same. Indeed, our officials are currently discussing whether we get to the same objective by different routes.

The Convener: You paint a very rosy picture, but the fact is that this Parliament voted against triggering article 50.

David Mundell: I acknowledge that, and I acknowledge the right of the Scottish Parliament to have a debate and to express its views on that. When I was a member of this Parliament, along

with Mr Scott, Mr Lochhead and Mr Macdonald, we had a lively and full debate on the UK’s participation in the war in Iraq. That was an important opportunity for people to express their views, but the ultimate responsibility for foreign affairs in the devolution arrangement rests with the UK Government.

The Convener: You say that you have been listening. The Prime Minister will soon give the article 50 letter to the EU. What reference will there be to Scotland in that article 50 letter?

David Mundell: The structure of the article 50 letter has not been finalised. I am sure that the Scottish Government’s input to that letter might well be part of Mr Russell’s discussions with Mr Davis today. It will certainly be part of the discussions the next time the JMC (EN) meets.

The Convener: You are Scotland’s representative in London, although many people say that you are the UK Government’s person in Scotland.

David Mundell: I do not think that that was an appropriate remark from somebody who is a convener of a committee in this Parliament.

The Convener: Can you tell us whether Scotland will be mentioned in the letter? The point that I am making is that, as the person on whom we are relying to advance Scotland’s position when Scotland voted to remain, you should know.

David Mundell: I can give you the assurance that Scotland’s interests will be represented in the letter. A final decision on the exact nature of the letter has not yet been made. Scotland’s position will not be prejudiced in any way by the way in which that letter is set out. As you rightly say, it is my responsibility within the UK Government to ensure that Scotland’s interests are represented, and I will make sure that they are in the drafting of that letter. However, I cannot set out to you what will be in the letter at this time because it has not been drafted.

The Convener: Will it ask for a differentiated position for Scotland that will reflect the 62 per cent of people who voted to remain in the EU?

David Mundell: Again, we could take a route that has been well rehearsed. First, the vote in Scotland was a vote on whether the United Kingdom should remain in the EU, Scotland having voted to remain in the United Kingdom. Secondly, we have given a serious commitment to look at the proposals for a differentiated settlement. I remain to be convinced in that regard, but I am still open minded about whether bringing forward evidence for a differentiated settlement will be to the benefit of Scotland and its economy and will not be driven by a particular

ideology. That is what we continue to look at. We are still engaged in that process.

Richard Lochhead: I want to return to the theme of how you are representing Scotland's interests. You were the only Scottish MP who voted to trigger article 50. We have a Government and Parliament in Scotland, and the result of the referendum in Scotland was that 62 per cent of people voted to remain in the EU. I also hope that we agree that most people who voted to leave the EU probably thought that we would stay in the single market or at least maintain very strong links with it. You voted for article 50, so can you give us an example of how you are representing Scotland's interests? You are the only MP in Scotland who voted to trigger article 50.

David Mundell: I have set out clearly my rationale for doing that. I voted to remain; that was my view. However, the overall result in the UK was to leave the EU. I am a democrat and I accept that result. As I have said many times before, if in 2014 the result of the independence referendum had been yes, I would have accepted that vote and worked to make an independent Scotland a success. I would not have campaigned to change the vote. As a democrat, I accept that the vote was a UK-wide decision and that it was for the UK to leave the EU.

We need to leave on the best possible terms and secure the best outcome for Scotland's economy and the people of Scotland and the wider UK.

Richard Lochhead: We have in the UK Government a secretary of state for Brexit, a Secretary of State for International Trade and a Secretary of State for Foreign and Commonwealth Affairs, but you are the Secretary of State for Scotland. How does your position differ from that of the rest-of-UK politicians given that your job is to stand up and represent Scotland? You have given no evidence to the committee and we have heard none in the public domain about how Scotland's vote—62 per cent of Scots voted to remain in Europe—has been taken on board.

11:30

David Mundell: Sixty-two per cent of people in Scotland voted for the United Kingdom to remain in Europe, Mr Lochhead. I voted to remain in the EU, but I did not do it on the basis that somehow, if I did not get my way, we would reopen the constitutional debate about whether Scotland should be independent, which seems to be the line that some of your colleagues have been very keen to take. My job is to look at an assessment of the issues as they affect Scotland.

In terms of access to the single market, I am quite clear that the issues that affect Scotland are

the same as those that affect the whole of the UK. An arrangement that allows frictionless access—barrier-free and tariff-free access—to that market is therefore the best arrangement for Scotland and for the whole of the UK.

On the other significant issue of migration, my view is that it is an issue that impacts on the whole of the United Kingdom and that arrangements that follow on from leaving the EU are as significant to other areas of the United Kingdom as they are to Scotland. I think that you have previously raised issues around, for example, seasonal workers. There are more seasonal workers in the east of England than there are in the whole of Scotland, so the issue of seasonal workers is important at the UK level.

The issue that is very distinct for Scotland and which I have highlighted—I mentioned it the last time that I was here—will be what happens to powers that are currently exercised in Brussels when they return to the United Kingdom. There is a very distinct Scottish interest in that regard.

However, even in relation to the first two issues that I set out, I have been very clear that I am still open minded about the Scottish Government's proposals if it can be evidenced that there is a differential arrangement that would be beneficial to Scotland.

Richard Lochhead: But can you not help the Scottish Government to reach that position if you think that it is in Scotland's interests? You are saying that you want more detail and evidence because the clock is ticking and article 50 is to be triggered in a few weeks' time. Are you just playing along, going through the motions and stringing the Scottish Government along?

David Mundell: We are absolutely not doing that. We are working very constructively with the Scottish Government, certainly at official level. There will come a point when we say what we agree on and what we do not agree on. I have said several times previously that I have not seen evidence that demonstrates that Scotland would benefit from a differential arrangement, but I am still open minded in that regard. On the two big issues of migration and access to the single market, I think that the resolution that we get across the UK is the one that will be best in Scotland.

Lewis Macdonald: When the Scottish Parliament voted on these matters, it called for the UK Government to give serious consideration to what the Scottish Government has proposed. You laid out clearly in your letter that some substantial work has been undertaken over the past two weeks since that vote. Can you tell us at this stage what conclusions the UK Government is coming to? I think that you said in response to the last

question from Mr Lochhead that you have not seen any evidence that would support UK Government intervention on the matter. Can you tell us what evidence has been gleaned from the process and what conclusions you have reached on, for example, the proposition that Scotland should maintain membership of the single market alongside membership of the UK customs union?

David Mundell: I think that we touched on this the last time I was here. I have not seen evidence that suggests that there is a possibility of membership of the single market without EU membership and the various things that go with that. As, I think, I set out in detail in my letter, a work stream has been established on access to the single market, whereby all the alternatives are being examined and the detail of proposals is being gone through by lawyers and others.

Lewis Macdonald: What will the outcome of that process be? Will the UK Government publish its conclusions on that process and, if so, at what stage in relation to the invoking of article 50 will it do that?

David Mundell: My view is that the invoking of article 50 is not a red line in the process. It is possible that discussions could continue after the invoking of article 50.

However, it is clear that the committee and the Scottish Government are entitled to a response, so the UK Government will respond formally to the proposals in the document. We have already acknowledged the areas on which we are in agreement.

Lewis Macdonald: You say that you do not see the invoking of article 50 as a cut-off point for a response, but can you give us a timescale in which you hope to respond to not just the Scottish Government, but the Welsh Government, which has made proposals that have some things in common with the Scottish Government's proposals and are important, too? What timescale do you have in mind for responding and for completing the work that is under way at the moment?

David Mundell: We want to do that as soon as is practical. I know that that is not definitive, but it will be to everyone's benefit that we reach a conclusion as soon as we can.

Lewis Macdonald: It has become clear in the past few weeks that the Prime Minister and the UK Government have come to conclusions on UK membership of the single market. We raised with Mr Hands the question about alternatives to membership that would provide access. Given what you have said about the importance of such issues from a Scottish perspective, what role does the Scotland Office have in relation to access to the single market? Are particular aspects

important to you and the interests that you represent?

David Mundell: I absolutely acknowledge that there are many areas of the Scottish economy for which access to the single market is vital. Work is on-going on which there is agreement with the Scottish Government—at least, in relation to the data; everyone is clear that we must have a common set of data on which to proceed. Mr Russell might disagree, but one of the issues on which I thought that we had pretty substantive discussion at the most recent meeting of the JMC(EN) was financial services and the significance of that sector.

I feel that the phrase “City of London” is used far too glibly when people talk about financial services, so anything that can be done about that by the Scottish Government and members of the Scottish Parliament would be helpful. The phrase has certain connotations that are sometimes negative. In fact, financial services are important right across the UK, as the Northern Ireland Executive and the Welsh Government said at the JMC(EN). There was significant discussion of financial services and of whether, if the current passporting regime does not continue, something equivalent could take its place. The Chancellor of the Exchequer was involved in that dialogue. Financial services are an example of an area whose importance to Scotland and, in particular, to Edinburgh needs to be emphasised.

Lewis Macdonald: Earlier, you mentioned migration as an issue on which Scotland has common interests with the rest of the UK. Do you accept that it is possible to envisage a situation in which we could have a common UK immigration system within which there was differentiation not just for Scotland, but potentially for London—that was raised when we met a committee from the Greater London Assembly—and other parts of the UK?

David Mundell: First, I received the committee's report “EU Migration and EU Citizens' Rights”, and I want to respond to it formally by saying that it is a serious and substantial piece of work. The Scottish Affairs Select Committee has also done some work in that regard.

The position—it is important that it is clear—is that we will bring back control of immigration in relation to people from the EU coming to the United Kingdom. That does not mean that immigration is being switched off. Clearly there will still need to be significant numbers of people coming to do a wide range of things, from specialist work through to the seasonal work that we have talked about. That is why the Government has announced that there will be an immigration bill, which will, in essence, parallel or be dovetailed with the great repeal bill. The

immigration bill will be an opportunity for debate and discussion of the specific issue of immigration in relation to EU citizens for whom the current arrangements will no longer apply.

Lewis Macdonald: Finally, when that bill comes before Parliament, will you oppose in principle or be open to the possibility of differential arrangements for European Union migration, on either a sectoral or a geographical basis?

David Mundell: It is clear that sectoral considerations will be required. We will require some arrangement that is equivalent to the previous seasonal workers scheme. Clearly we need to address issues around depopulation and provision of services in sectors.

As I have said previously—this was not part of the work of the Smith commission—I am not minded towards the view that immigration should be devolved; the Scottish Government has made that case.

Going forward, we want an immigration system that allows jobs that are necessary to our economy to be filled.

Jackson Carlaw: Good morning. You have covered a lot of ground in the answers that you have given. I would like to come back to the letter that you have supplied to the committee this morning and to thank you for it—especially for the detail that you have been able to share with us on the various meetings that have taken place. I have to say that Mr Russell has been rather economical with details; most of what is in it is news to the committee. I certainly feel that I have been misled by the minister about the extent of the discussions that have taken place. Indeed, it is only through you that we know about his meeting Mr Davis.

You make reference in the letter to the work streams that are under way. I think that it was in response to Lewis Macdonald that you confirmed that at some point there will be an official response to the Scottish Government's white paper. Will the work streams of the various groups that have been taking the proposals through be made available for public scrutiny, as part of any response that the UK Government is ultimately able to publish?

David Mundell: Those are joint activities between the UK and Scottish Governments. If you are expressing a view that they should be made public, I will go back and raise that point. I could not unilaterally say yes to that, obviously.

Jackson Carlaw: You characterise the nature of the discussions that are taking place as constructive and positive. The officials are making progress in teasing out the particular issues on which conclusions need to be reached.

David Mundell: I think that the officials have made significant progress in taking the issues forward.

Jackson Carlaw: Thank you.

Emma Harper: Good morning, Secretary of State.

David Mundell: Good morning.

11:45

Emma Harper: My questions are around repatriation of powers from the EU. In line with the Scotland Act 1998, any such powers that come back to the UK from Brussels should automatically come to Holyrood. The leave campaign promised that that would happen and, only a few months ago, you categorically stated:

“Whatever the circumstances, no powers will be reserved to Westminster.”

Will you guarantee that there will not be any reappropriation of powers that are specifically devolved to Holyrood under the Scotland Act 1998?

David Mundell: There will be no taking back of any powers that are currently exercised here in the Scottish Parliament or, indeed, the Welsh Assembly or the Northern Ireland Executive. We are absolutely clear in relation to that.

We need to begin discussion of how agriculture arrangements might come back to the UK and its constituent parts. A significant step on agriculture will be taken tomorrow, when Fergus Ewing will meet Andrea Leadsom, representatives of the Welsh Assembly's Government and the Northern Ireland Executive, my colleague Andrew Dunlop and the Secretary of State for Wales.

Emma Harper: I say for clarification that agriculture is currently devolved. Are you suggesting that you are going to look at repatriation of agricultural powers under the UK Government?

David Mundell: First, I am not looking to take away any powers that are currently exercised by the Scottish Parliament or the Scottish Government. We will seek to ensure that we can agree an arrangement, across the UK, on how agriculture will operate in the post-EU world. That will mean that there will, inevitably, have to be agreement among the Governments in the UK about ensuring common approaches to, for example, animal health. There are a number of areas in which there are common interests, so we need to find out what is the best common approach. That might be through what are sometimes referred to as framework agreements, in which the four Governments might come

together and reach agreement. That is the position that we are in as regards the process.

So far, several hundred powers and specific responsibilities have been identified that will come back to the UK. I want to proceed in an orderly fashion, considering the consequences and the implications in relation to each area.

Essentially, there are three ways in which matters will be taken forward. First, some powers will come directly to the Scottish Parliament; secondly, there are areas, in none of which power is currently exercised by the Scottish Parliament, that will go directly to Westminster; and, thirdly, there will be areas in which there will be some form of shared responsibility.

Emma Harper: Okay. Are you able to share with us the list of several hundred powers that have been identified?

My final question is on what the Prime Minister said in January. She said:

“Part of ... working ... carefully to ensure that ... powers are repatriated”

means that

“the right powers are returned to Westminster, and the right powers are passed to the devolved administrations of Scotland, Wales and Northern Ireland”.

What would be “the right powers” and what would be the wrong powers?

David Mundell: We are at the start of the process. You will appreciate—I hope—that I come from a very devolutionist approach; David Davis has confirmed that that is also his approach in relation to such matters. However, there are areas that are complex.

I will give the example of water standards, in which the issues are hugely complicated and in which a number of interlocking measures fit together to cover it. In fact, the whole batch of environmental responsibilities is very complex, so they need to be worked through. The UK Government is not coming at this with an approach to take from the Scottish Parliament powers that would naturally flow to it, but with one that will ensure that there is an orderly change.

Richard Lochhead: I want to pick up on the secretary of state’s point about framework agreements.

Framework agreements are completely different from powers. I think that the committee is looking for assurance that there will be no prevention of powers in devolved areas coming back to Scotland through a kind of repatriation to Westminster. Can you give the committee that assurance? An example of such an area would be fish quotas. Will 100 per cent of the powers over

fish quotas in Scottish territorial seas come back to the Scottish Parliament?

David Mundell: I can give the undertaking that there is no intention to prevent powers coming back to the Scottish Parliament: in fact, we are committed to a devolutionist approach. I am not going to get into specific commitments, because—as you will know from roles that you have held previously—there needs to be a degree of engagement in the process, with stakeholders and people who have interests, around how they see the approach. I am committed to that engagement, too. Nevertheless, I am clear that we want to adopt a devolutionist approach, and the presumption should be that powers will come to the Scottish Parliament.

Lewis Macdonald: In the past few days, Andrea Leadsom has been on record talking about Brexit as an opportunity for the creation of a whole new set of arrangements that are suitable to the interests of British agriculture. The question whether there will continue to be agricultural subsidies such as there are at the moment has been thoroughly examined in the committee. Can you envisage a situation in which a decision about the future of agricultural subsidies in Scotland would be different from a decision about the future of agricultural subsidies in England? If so, how would that situation be managed in terms of the UK constitution?

David Mundell: I cannot envisage a circumstance in which there would not be continued support for agriculture. That support is very important. Nevertheless, an important part of the dialogue will be about how that support is delivered post the common agricultural policy. It is a serious debate and I have encouraged NFU Scotland to engage in it.

I am sure that Richard Lochhead and Tavish Scott have spent a lot of time listening to people’s various concerns about the common agricultural policy. This is an opportunity to do something different, but people need to come forward with views and thoughts about how the policy should be progressed. We know—I fully acknowledge this—that there are some very distinct agricultural needs in Scotland, particularly in relation to less-favoured areas, which are an important part of the Scottish agricultural scene. Therefore, we need to have that full debate, discussion and participation, with people coming forward with views.

Tavish Scott (Shetland Islands) (LD): I apologise for being late. I was at the Education and Skills Committee. I have not yet mastered the ability to be in two places at once, even in this place.

I want to pursue the point that the secretary of state has been making about stakeholders,

particularly in relation to fisheries. For 17 years, you and I—to say nothing of Richard Lochhead and Lewis Macdonald—have heard nothing but criticism of the common fisheries policy, yet the European Parliament’s Committee on Fisheries said earlier this month that the

“granting of access to the EU domestic market to the UK”

post Brexit should be conditional on Britain continuing to respect the rights and obligations in the CFP. Did you notice that report?

David Mundell: I did notice that report. I am also aware that UK MEPs did not participate in that report.

As I understand it, all the committees of the European Parliament have been tasked with setting out their issues and priorities as the UK proceeds to leave the EU. It is not surprising that member states would express that view, but our position going into the negotiations—I make this absolutely clear, since it is occasionally referenced in the media—is that there is absolutely no situation in which fishing will be a bargaining chip in the negotiations. It is a very important industry here in Scotland and I very much welcome its positive approach. The Scottish Fishermen’s Federation document “Scottish Fisheries Post-Brexit: A Sea of Opportunities” certainly represents a very outward-looking approach. However, we should not—and I certainly do not wish to—display any complacency in relation to the tough nature of the negotiations that may lie ahead.

Tavish Scott: I presume that it is a statement of fact that Spain would like to keep the common fisheries policy and, therefore, the access to UK waters.

What discussions have there been with Mr Ewing, as the Scottish fisheries minister, and your ministerial colleagues in relation to that matter and therefore, in this case, the co-ordination of a negotiating position once that is established? How will that continue once article 50 has been formally triggered?

David Mundell: There will be discussions tomorrow, which will involve Ms Leadsom. That will be extremely important and I certainly give a commitment in terms of engagement going forward. Mr Russell, in his very able way, has represented all interests as we have moved through the process, but I envisage that, as we go forward into the next stage, portfolio holders in the Scottish Government will play a greater role in the discussions around negotiations.

Tavish Scott: Thank you. Mr Russell always reminds me that he has fishermen in his constituency as well, which is important.

As far as I am aware, the Scottish Government has not yet worked out how it will transpose fishing regulation into Scots law. Some fishing lawyers think that it could literally take years and years. Has the UK Government done any work on that that it could genuinely share with the Scottish Government? This is a potentially fraught area of regulation.

David Mundell: It will not just be fishing—there will be other areas.

Tavish Scott: Sure.

David Mundell: I have had a serious conversation with Mr Russell about those legal issues. We can do all the necessary politicking, but I am absolutely clear that the Scottish Government recognises the importance of not ending up in a legal vacuum and of not creating unnecessary legal difficulties. Quite a lot of work is going on to scope the scale of that. I have met the Presiding Officer in the Scottish Parliament to scope the number of regulations that will need to be changed and the number of hours for which the Parliament might need to sit in order to change them.

Ultimately, both Governments would probably prefer to proceed on the basis of including a line that ministers will change legislation as required, but I very much doubt that that would pass through this Parliament and it certainly would not pass through the Commons or Lords, so we have to find a way of doing it. I know that the Scottish Government is contemplating whether we can proceed, as it would want to, by primary legislation in the Scottish Parliament or whether we would do it on a legislative consent basis as part of a wider package. We are conscious of those wider legal issues.

Tavish Scott: Thank you.

Alison Johnstone: Good morning, Mr Mundell. With regard to post-2020 funding for agriculture and fisheries, are you personally committed to opposing a Barnett-style formula for determining funding, which would see Scotland lose out compared with our current arrangements?

12:00

David Mundell: I am absolutely committed to ensuring that Scotland does not lose out. We now want to consider and develop what the support and policy will be in future. We are at the early stage of developing that.

For the reasons that I set out and because of the distinct needs of Scottish agriculture, I am absolutely committed to ensuring that Scotland does not lose out. However, there are a number of options for the replacement of the common agricultural policy. I think that it is important that

those discussions take place, as that process begins tomorrow. It is also important to be in dialogue with NFU Scotland, and Andrea Leadsom will meet its new president tomorrow.

Alison Johnstone: So you are determined that we will not lose out, relative to current arrangements.

David Mundell: I am absolutely determined to ensure that.

Alison Johnstone: Earlier, you were asked about funding for science, and I have a similar question with regard to horizon 2020 funding, which is not pre-allocated. If the United Kingdom replaces that funding, will it continue to be allocated on a competitive basis?

David Mundell: It is too early to say. We are alive to the issue with regard to that funding stream and others. Ten days ago, in Berlin, I visited the Free University of Berlin and had quite an extensive discussion about funding streams and Erasmus. We are alive to the issue, but I cannot give any commitments at this point.

The Convener: On that point, you will be aware of the recent report in *The Times* on the Government's sectoral priorities, which said that education was a low priority. I asked Mr Hands about this issue, too. Given the importance of universities to the Scottish economy, why has education been designated by your Government as a low priority?

David Mundell: It is not a low priority. If you look at the white paper, you will see that it is identified as one of the 12 priorities. The Prime Minister has been very—

The Convener: Are you saying that the report in *The Times* was wrong? It is a reputable newspaper.

David Mundell: There are many reports in many newspapers and I think that it is best not to comment on individual reports. We have a Government white paper that emphasises the importance that is placed on science and research.

The Convener: On Alison Johnstone's point about the common agricultural policy funds, Scotland currently gets 16 per cent of CAP funds, which support the rural economy as well as individual farmers. Can you guarantee that we will get the equivalent of that 16 per cent after we leave the EU?

David Mundell: As I set out, we do not know what the shape of that funding model will be in relation to the support for agriculture, but I have given Alison Johnstone a clear commitment. We have talked about what my roles and responsibilities should be, and I am absolutely

committed to ensuring that, under the new arrangements, Scottish agriculture does not lose out.

Stuart McMillan: I have a couple of questions regarding the Sewel convention. What is your assessment of section 28(8) of the Scotland Act 1998? It says:

"But it is recognised that the Parliament of the United Kingdom will not normally legislate with regard to devolved matters without the consent of the Scottish Parliament."

David Mundell: That is the position.

Stuart McMillan: After the 2014 referendum, the Smith commission recommended that the Sewel convention be put on a statutory footing. You will be aware that, when Lord Wallace was the Advocate General for Scotland, he stated in the House of Lords in March 2015:

"But, again, the Smith commission recommended that we should put the Sewel convention on a statutory footing. We have taken that faithfully and discharged it."

You will also be aware that the Devolution (Further Powers) Committee raised concerns about the proposals in its interim report of June 2015, which was a unanimous report, and that its final report of 11 March 2016 once again raised the issue of the Sewel convention and what was proposed in the Scotland Bill.

You said in the UK Parliament:

"The permanence of the Scottish Parliament is now written in law, as is the Sewel convention".

However, very recently, in the Supreme Court case, Mr Keen stated:

"The correct legal position is that Parliament is sovereign, and may legislate at any time on any matter and that is specifically set out in the devolved legislation itself, section 28 (7) of the Scotland Act".

Later, he stated:

"it does not appear to me there is any practical change as a result of section 28 subsection 8 emerging into the Scotland Act 1998."

I am quite sure that anyone who is listening to this and anyone who has read any of the online documentation will probably come to the same conclusion that I have come to, which is that what is in section 28(8) of the Scotland Act 1998 regarding the Sewel convention is meaningless and worthless and could be removed, as it does not have any effect on what takes place in the Parliament.

David Mundell: I do not accept that interpretation. If we look in detail at the Supreme Court judgment, we see that it sets out what a convention is. That convention has been placed on a legal footing, but it is a convention. It was thoroughly debated in its passage through Parliament, and I do not think that anyone who

paid specific attention to that issue was in any doubt about the legal basis of the convention. Indeed, if you care to look at the pleadings in the Supreme Court case that the Lord Advocate made on behalf of the Scottish Government, you will see that he did not challenge the basis of parliamentary sovereignty.

I have made it absolutely clear that, following the judgment, there is no intention to change the operation of the Sewel convention as we engage fully with the Scottish Parliament. For example, I have said—I was very clear and the Scottish Government appears to have accepted this—that the article 50 bill did not require a legislative consent motion because it relates to matters that are entirely the responsibility of the UK Government, but that, when we introduce the great repeal bill, which, on the basis of questions that I have answered before, I expect will change the Scottish Parliament's powers and responsibilities, subject to the drafting of course, that would require legislative consent, and we would of course seek that.

Stuart McMillan: I am sure that you can understand my position and interpretation, which no doubt is the interpretation of many others as well. Mr Keen, who is a UK Government representative, stated:

“it does not appear to me there is any practical change as a result of section 28 subsection 8 emerging into the Scotland Act 1998.”

That clearly indicates that what is in that act does not mean anything.

David Mundell: It put the convention on a statutory footing, but it is a convention. All the other powers and responsibilities that were included in that act are, of course, very significant. I understand that, yesterday, this Parliament set the rates and bands for income tax for income earned in Scotland. I regard that as very significant, and it could not have happened other than on the basis of the Scotland Act 2016.

As I have said, the Sewel convention is a convention, and it has been put on a statutory footing. We could have a very academic argument about the issue. For example, there is the Ponsonby convention, which—if you will indulge me, convener—I have always wanted Bernard to ask me about but which I understand relates to international treaties. However, what we are talking about are conventions that have been given a statutory basis. We in the UK Government are absolutely committed to abiding with that convention, and that is the approach that we are taking in all our current dealings with the Scottish Parliament in relation to how we approach Brexit.

Stuart McMillan: That was very helpful. Thank you very much.

Rachael Hamilton: Since you last gave evidence to the committee, we visited Brussels, where I observed the notion of Scotland negotiating its own membership of the EU being dismissed by a number of officials. What is your assessment of the likelihood of the EU 27 agreeing to allow Scotland either to inherit the UK's EU membership or to join the EU with a differentiated arrangement?

David Mundell: In my opening remarks, I said that I did not believe that there was any evidence at all to suggest that Scotland could inherit the UK's position in the EU or remain in the EU once the UK left. Of course, if the constitutional arrangements in Scotland were to change, Scotland would have to apply to become a member of the EU. There are numerous conflicting newspaper reports on what that process would involve, but it is, I think, quite clear that, at the end of the Brexit process, Scotland will be outwith the EU, along with the rest of the United Kingdom.

The Convener: I accompanied Rachael Hamilton on that visit to Brussels, and I have to say that I was struck by the positive response that we got from many officials and politicians towards Scotland. In fact, we also met the European Parliament's Committee on Constitutional Affairs, which very recently said that calls for a differentiated approach for Scotland ought to be addressed. Indeed, it has taken quite substantive evidence on the matter. Does the fact that that very important committee of the European Parliament has said that Scotland's differentiated position should be addressed not put even more of an obligation on the UK Government to respond? After all, we now know that Europe is keen to respond.

David Mundell: I hope that I made it clear in my earlier remarks that the proposals in “Scotland's Place in Europe” are being addressed in a serious and, I hope, constructive way. I am in no way offering the pretence that we might ultimately agree on everything, but it is clear that there is a very substantial body of views and outcomes that we agree on and we will continue to work with the Scottish Government to reach a conclusion on which we will offer a definitive view.

The Convener: You will understand why people will be sceptical of that, secretary of state. The first part of “Scotland's Place in Europe” proposes that the UK remain in the EEA, but before that was even considered by the JMC, the Prime Minister completely dismissed it in her Lancaster house speech and said that we would be outside the single market. You talk about a respect agenda but, right from the outset, you have dismissed a key aspect of that document. Indeed, it represented a big compromise, because it talked about UK membership of the EEA. However, that

has not even been considered. Moreover, you are dismissing the committee's report on a differentiated immigration system for Scotland, which was unanimously signed off by members. You say that you are listening to this place and that you respect us, but you have dismissed Scotland's views on those two areas.

12:15

David Mundell: I do not think that I have done that. Of course, Scotland has two Parliaments. The views of the committee and this Parliament are important, but wider views are important, too.

From my reading, "Scotland's Place in Europe" is predicated on the view, "Here's what we'd ideally like the UK to do, but we don't anticipate that it'll do it because of various pronouncements that the Prime Minister has already made." It does not—at least from my reading—in any way expect part 1 to be the outcome; the substantive issue is parts 2 and 3 and how they can be achieved.

I am sorry if I did not make myself clear with regard to the committee's report. I have it, and I am taking it seriously; it contains detailed figures and numbers. We mentioned *The Times* earlier, and I note that today's edition contains an interesting report about migration. I give you and the committee an undertaking to respond formally which, as always with evidence that is provided, I will do with an open mind. However, I am not in any way disrespectful of the report or of the committee's work; indeed, I particularly commend the committee's first report, which sets out the initial views of the people from whom you took evidence. It has been extremely useful, and it has been used by the UK Government.

The Convener: Thank you. I am glad that you have found it useful, because the people involved overwhelmingly wanted to remain in the single market.

I realise that we have gone over time, secretary of state but, before you go, I note that, in response to Emma Harper, you mentioned water regulation as an area of interest with regard to regulations throughout the UK. I thought it an odd example, given that water has been privatised in England but not in Scotland.

David Mundell: Perhaps I should have been more specific, but I was actually referring to water in rivers and in the rain and coastal arrangements.

The Convener: Right.

David Mundell: I will caveat this by saying that I need to confirm this with officials, but I could share with you a specific example of what I was referring to. It was not in relation to drinking water as such, although there are other water sources, too.

The Convener: Our "What Scotland thinks" report, which you referred to, highlighted unanimous concern from environmental organisations that the loss of the European Court of Justice would mean that Scotland's high-quality environmental regulations would have no arbiter. Earlier, your colleague Greg Hands was unable to say what kind of arbiter would replace the European Court of Justice, which the Prime Minister has very clearly said we will be leaving. Do you understand those concerns expressed by environmental organisations in Scotland?

David Mundell: I do. We very much need to maintain environmental standards; indeed, it is one of the reasons why the great repeal bill, this whole process and the sort of legal issues that Mr Scott referred to are so important. We do not want what has in many cases been a hard-fought environmental framework to be undermined at the point when we leave the EU. That is why the great repeal bill is so important.

In our own UK legal system, there is, of course, the Supreme Court but, for other arrangements, there will have to be an arbitration body. There are such bodies in relation to a number of other arrangements that the EU has with different organisations. Mr Hands is being open and forthright in saying that it is not clear at this stage what such a body will be, but it is clear that there will have to be one.

The Convener: We will wait and see.

Thank you very much for giving evidence, Mr Mundell. Can you indicate whether you are able to come back after the article 50 letter is submitted?

David Mundell: I would be very pleased to do so, convener.

The Convener: Thank you. We now move into private session.

12:19

Meeting continued in private until 12:34.

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