



OFFICIAL REPORT
AITHISG OIFIGEIL

DRAFT

Constitution, Europe, External Affairs and Culture Committee

Thursday 16 May 2024

Session 6



The Scottish Parliament
Pàrlamaid na h-Alba

© Parliamentary copyright. Scottish Parliamentary Corporate Body

Information on the Scottish Parliament's copyright policy can be found on the website - www.parliament.scot or by contacting Public Information on 0131 348 5000

Thursday 16 May 2024

CONTENTS

	Col.
DECISION ON TAKING BUSINESS IN PRIVATE	1
OFFICE FOR THE INTERNAL MARKET (ANNUAL REPORT)	2
NATIONAL OUTCOMES	29

CONSTITUTION, EUROPE, EXTERNAL AFFAIRS AND CULTURE COMMITTEE
12th Meeting 2024, Session 6

CONVENER

*Clare Adamson (Motherwell and Wishaw) (SNP)

DEPUTY CONVENER

*Alexander Stewart (Mid Scotland and Fife) (Con)

COMMITTEE MEMBERS

Neil Bibby (West Scotland) (Lab)

*Keith Brown (Clackmannanshire and Dunblane) (SNP)

Meghan Gallacher (Central Scotland) (Con)

*Mark Ruskell (Mid Scotland and Fife) (Green)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Foysoyl Choudhury (Lothian) (Lab) (Committee Substitute)

Louise Davies (Scotland's International Development Alliance)

Dr Graham Long (Newcastle University)

James Macbeth (Office for the Internal Market)

Murdoch MacLennan (Office for the Internal Market)

Lewis Ryder-Jones (Oxfam Scotland)

Kevin Stewart (Aberdeen Central) (SNP) (Committee Substitute)

CLERK TO THE COMMITTEE

James Johnston

LOCATION

The Robert Burns Room (CR1)

Scottish Parliament

Constitution, Europe, External Affairs and Culture Committee

Thursday 16 May 2024

[The Convener opened the meeting at 09:00]

Decision on Taking Business in Private

The Convener (Clare Adamson): Good morning, and a warm welcome to the 12th meeting in 2024 of the Constitution, Europe, External Affairs and Culture Committee. We have apologies from Neil Bibby, and we welcome committee substitutes Foysoyl Choudhury and Kevin Stewart to the committee. We have also received apologies from Meghan Gallacher.

Agenda item 1 is a decision on taking business in private. Are members content to take agenda item 4 in private?

Members *indicated agreement.*

Office for the Internal Market (Annual Report)

09:00

The Convener: Our second agenda item is to take evidence from the Office for the Internal Market on its annual report. We are joined by Murdoch MacLennan, chair, and James Macbeth, director, both from the Office for the Internal Market. I give a warm welcome to you both. I invite Mr MacLennan to make an opening statement.

Murdoch MacLennan (Office for the Internal Market): Thank you, convener. As you mentioned, I am the panel chair for the Office for the Internal Market, or the OIM. It is a pleasure to be back in front of the committee, having given evidence last September. On this occasion, I am joined by James Macbeth, who is one of the directors of the OIM and who was responsible for the OIM's 2023-24 annual report. James and I welcome the opportunity to meet you this morning, because we plan to update the committee on the OIM's recent work. With your permission, I would like to briefly set out some points.

As the committee is aware, our role is to assist Governments, legislatures, businesses and other key stakeholders across the United Kingdom in understanding how the UK internal market is operating and the impact of regulatory provisions. Our advice and reports are absolutely non-binding. The OIM is not the regulator of the internal market, and we have no enforcement role whatsoever, so we are there in an advisory capacity. Since our previous evidence session with the committee, the OIM has produced two key outputs, which I will turn to shortly.

In November, we welcomed the appointment of the OIM panel, after the best part of two years trying to recruit the panel members. The seven members are outstanding and bring with them a variety of relevant experience from across the UK. We are grateful for their input and insight into the OIM's work so far, and I look forward to working with them further to consider the effective operation of the UK internal market.

In March 2024, the OIM published its 2023-24 annual report on the operation of the internal market. That was our second annual report, which builds on the previous iteration. The report expands our coverage of the UK internal market to include analysis of services sectors and regulated professions, as well as goods sectors, which featured heavily in the previous report. The report also includes four case studies, on high fat, salt and sugar foods, precision breeding—otherwise known as gene editing—deposit return schemes and single-use plastics, some of which are areas

that we discussed with the committee previously. The case studies have helped us to better understand how businesses are working with regulatory differences that are arising or are likely to arise across the internal market. They provide some takeaways for policy makers on how policy design choices might impact the internal market.

We continue to progress our data strategy. Last week, on 9 May, we published an update on the data strategy road map. The committee is aware that the road map was first published in March 2023 and looks to promote the collection and publication of data on the operation of the UK internal market. The update provides an overview of progress that has been made on initiatives that are outlined in that road map. It also sets out our intention to identify data sources, which will enable us to build a more complete or holistic picture of how the internal market is operating from the perspective of businesses and from consumers' point of view.

We continue to have excellent engagement with a wide range of stakeholders in Scotland, as well as Scottish Government officials. The OIM works even-handedly across the four nations—I make that point time and again—and it has developed open and equal working relationships across each Government more widely.

We welcome our on-going engagement with the committee and we are pleased to be appearing here today. We are keen to expand our portfolio of work to reveal more of the emerging picture of the internal market and how successfully it is operating. We remain available as a source of advice for all four Governments and we will continue to work closely with them and other stakeholders to see where the OIM can best add value in the coming year.

I hope that was helpful as a general picture. We are trying to make a bit of a sales pitch today to offer the skills and services of the whole department, if you want to avail yourselves of them. If we can give any further clarification, we are happy to do so.

The Convener: I will open with a question about the case studies. You say that there is

“a clear view, particularly among the larger businesses ... that the Market Access Principles are unlikely to be used as the preferred approach to address regulatory differences.

Could you expand on that and say what the implications of that will be for the Internal Market Act 2020?

Murdoch MacLennan: Businesses do not seem to need or want to use that approach. They just get on and do business, picking what is probably the least difficult option for themselves and move on. They have hardly picked up on the principles at all.

James Macbeth (Office for the Internal Market): I think that that is right. The important thing to note is that we have drawn that conclusion from the four case studies that we have undertaken. Those case studies were stronger on evidence from larger businesses that had quite extended and complex supply chains and often higher brand values than maybe some smaller businesses or microbusinesses. That is the first thing, and I think that it is quite an important caveat. It conditions how much we think we can apply those specific findings to the economy more generally.

That said, the stakeholders that we spoke to are businesses of a significant size. We are talking about supermarkets and large food producers whose impact would be significant and would account for a very large amount of turnover.

The specifics are really about how those businesses make the trade-offs between, on the one hand, potentially using the opportunity presented by the market access principles to do business in a slightly different way and, on the other, a quite complex set of considerations around things like brand values, wanting to be able to comply with local regulations wherever possible, their customers' expectations, which are particularly important, and their view of how things might develop in future. Many of those businesses are making strategic decisions not just for the next six months or the next year or two, but often for many years into the future, particularly where that involves relationships that might involve a variety of suppliers, their overall logistics and supply chain operation. They do not want to be changing that regularly.

If we put all those factors together, we see that, certainly for some businesses, as long as the design of the regulation permits it—we come back to this in some of our findings later in the report—the most attractive option is to ask what the highest common denominator is and whether the businesses can develop a single product that allows them to satisfy the regulations everywhere in the United Kingdom. If they can, that might be the best way to go.

That was true across the four case studies that we looked at, but it also emerged from our studies of the peat industry. Earlier in the year, we looked at a potential ban on using peat-based media to develop a range of potting composts and other types of growing media for the retail and professional markets. There was a similar finding: businesses wanted to be able to produce a single product that they could sell everywhere across the United Kingdom using consistent branding and marketing, rather than having to adapt a product to lots of different scenarios.

That is particularly interesting because it has quite wide ramifications for efficient policy design and for how the impacts of policy might be felt on the ground. What we do not yet know—I go back to the caveat that I gave at the beginning—is how much that applies to all sorts of businesses right across the economy. It is not hard to see that a different approach might be taken by some microbusinesses, by businesses that work in areas in which brand values matter a bit less and price matters more, and by businesses that are involved in the production of intermediate goods. We will need to explore such issues again in the future.

Alexander Stewart (Mid Scotland and Fife)

(Con): Good morning. You have touched on the sizes of the businesses that seem to manage to co-ordinate and cope. You have indicated, as others have done in the past, that larger businesses manage to cope much better in these scenarios, because they have the means to do so. Smaller businesses have had much bigger challenges, and some have chosen not to continue with the process as a result.

We have talked about some of the existing common frameworks, and you have touched on the data that you have collected and collated. It would be useful to get a flavour of how you see the situation progressing for businesses as a whole. Your scenarios and case studies provide us with examples of what has happened and what might happen in the future, depending on how things go. The data that you collect will give us a much better understanding of how things are progressing and a road map to ensure that we manage to collate information in the future. It would be useful to hear from you on where you see things going.

Murdoch MacLennan: The overall position on data collection is mixed, but it is encouraging that the Office for National Statistics will publish consistent estimates of trade between the four nations in the autumn and will then do so annually. We are still getting our act together.

The picture is mixed mainly because the devolved Governments' trade surveys are our main source of data, and no data whatsoever is produced for England. In addition, Wales is pausing its trade survey for 2023, which was due to be published next year. That means that it will not be possible to produce robust UK interregional trade data for 2023. However, I think that the situation will steadily improve, as there will be a demonstrable need for such information in the future.

James Macbeth: That is very helpful. I will set out some context. When we talk about data, we need to think about data collection on three levels. First, we have data that is collected at the level of

the economy as a whole. The picture is very challenging in that regard, because, as Murdoch MacLennan said, we do not have any trade statistics to speak of for England. Although we have trade statistics for Northern Ireland, Wales and Scotland, the situation there might look less good in future years than it looks now. For example, the trade survey for Wales, which is a critical component in building a UK-wide picture, is likely to be paused for the reference year 2023, with the results being published in 2025. As I understand it, there is also some discussion about whether the Northern Ireland trade statistics might be paused or scaled back for some years, which would obviously also have an impact.

It is not inconceivable that there might be a year or two in the future when we have data only for Scotland. That would necessarily have an impact on the good work that the ONS has been doing, which Murdoch MacLennan referred to, to create a consistent interregional data set. We are expecting the first results of that work later this year, but it is highly dependent on those underlying trade surveys. If they are not being run, the interregional data set will be compromised, which would be a real shame because it would really cloud the view. That is the high-level data set.

At the intermediate level, we look at data at the level of individual sectors. We might ask questions about a particular industry. That matters because although individual regulations are important, we should also look at the way in which they interact. We see that picture most clearly when we look across a sector and ask businesses to examine the overall regulatory environment in which they work and how they integrate. We are considering doing more work on that in the future.

09:15

The third is more of a micro level, which I would describe as probably being best illustrated by our case studies. In those, we closely examine a development that is taking place for specific businesses, and we ask them what changes they are making as a result. We then get to understand something of the mechanics that drive those changes. In contrast, when we look solely at the broad trade statistics, we might see what is happening but we do not always get much of a clear picture as to why.

In our view, therefore, all three of those different perspectives need to be put together in order to have a really clear picture. However, for some of them, and in particular high-level data, the picture looks challenging for the next few years at least.

Alexander Stewart: You have identified possibilities that could be problematic for some sectors. You also said that if the data is not

complete, so that we do not have a complete picture, that might give a skewed view as to how things will go in future.

It has been interesting to see that businesses have been resilient. In some of the areas that you have explored they have adapted so that they can progress towards what they see the future holding. However, there is no doubt that we are not sure what the end of the journey will be, depending on where we take this. If we do not have all the data packages for the future, then it becomes even harder to analyse how successful some sectors have been or how difficult they have found it to cope, depending on the information that you have to hand.

James Macbeth: It is fair to say that we do not always have the complete picture in our hands for any given year. However, if we think that we might have, say, a gap in a particular area, we can ensure that in those areas that are much more under our control—for example, those where we do case studies—we can balance the work out a little more in order to compensate. That approach is not perfect, but it is certainly better than doing nothing in response to those challenges.

We talk closely and regularly with the statistics teams in each of the Governments, to understand exactly what the future developments might be. There is a common understanding on that: everybody recognises that we would like to keep the production of these statistics as broad and as well managed as we possibly can, for exactly the reasons that you have mentioned. The challenges are principally on budget; they are not on appreciation of the value of the data.

Mark Ruskell (Mid Scotland and Fife) (Green): Good morning. Thanks for joining us.

I would like to hear your reflections on the UK Internal Market Act 2020 exemptions process. I presume that you will be reluctant to talk about individual decisions, and their merits or otherwise. What are your reflections on how the process by which IMA exemptions are granted or denied has worked in various sectors, given the number of different policies that have been in place over the last year or two?

James Macbeth: The OIM does not have a formal role in that process. There is no point at which we are required to do anything under our specific remit. We have told all four Governments that if the collective view is that it would be helpful for us to offer our technical advice in a certain area, we would be happy to do that.

However, that approach would have to be conditioned by two or three criteria if we were to make it useful. First, there would have to be broad buy-in for the work, because it would require us to engage with officials within each Government. We

would therefore need to have a good, co-operative relationship with the policy teams who work up the policies that would be affected.

Secondly, it would have to be done at the right time in the process. We would need a little bit of time to do our research, largely because much of it is driven by speaking to external stakeholders. That means that the timing decision often needs to be finely calibrated, because we do not want to talk to businesses and other stakeholders too early. If we do that, they often have not got their heads around the facts and so are not in a position to give us particularly clear answers. If we do it too late, it will be too late to genuinely influence the policy development process. There is therefore what we might call a sweet spot in which the work can be valuable.

Thirdly, it would need to be done on the understanding that all the work would have to be brought forward in an even-handed manner. That would mean that, when we are collecting evidence, reporting back our draft findings and talking to people about the direction and the scoping of the work, it would have to be done on the basis of all four Governments being involved.

We think that, subject to those conditions, there is potentially a role that we could play. As things stand, the IMA does not give us any formal role to do that, but it could be done by agreement between the four Governments.

Mark Ruskell: You have reflected on the IMA's role within the decision-making process. Given that you have reflected on and have spoken to businesses to get an understanding of their view of the exemptions process, do you have thoughts on whether the process is working effectively? I will use the example of the deposit return scheme. The UK Government granted an exemption for a DRS in Scotland, with an exclusion of glass as part of the scheme. A requirement was that any scheme that was brought forward in Scotland would have to align with an English scheme and the rules around that. However, that has effectively provided a block, because there is no English scheme to align with, which means that there is a lack of clarity around what the future rules might be. Of course, in the past couple of weeks, the current UK Government has announced that it will not be moving forward with an English DRS scheme until 2027.

From what you have heard from the businesses that you speak to and your reflections on that process, do you think that we have an ideally functioning process at the moment? There is now a lot of uncertainty about the direction of the regulations in England, and, given the announcement that has been made, it feels like there needs to be another stage in the process where businesses can say that the position needs

to be revisited. I do not know, but it feels as though the voice of those who are affected by such decisions is not built into the process.

I am trying to tease you into reflecting on all the evidence that you have gathered from businesses and to say whether you feel that the process in relation to DRS has left us in a place where businesses can get certainty around what the market for glass and other recyclates is going to be through deposit return.

Murdoch MacLennan: To go back to the way in which we operate, we have not been involved in that exercise. It is not as if anyone has missed the boat, because we are still in our infancy. We have produced one periodic report and we will be getting involved in other issues going forward.

The issue that you raise is not one that we were asked to be involved in. That makes it sound as if we would have been involved if only we had been asked, but, at that point, we were just at the inception stage, as it were, and, as far as the exclusions are concerned, that is not part of our remit.

Mark Ruskell: But you could have been asked for an opinion on what the view of businesses might be and what the impacts might be.

I am not trying to get you to comment on the merits or otherwise of the decision, but what I am seeing is a process that is very uncodified and I am struggling to see what the role of the OIM is within it. You are, not an arbiter, but a sort of independent body that is able to gather evidence that is useful for ministers when they make decisions within a common framework, but I do not see that your role is codified in the way that, say, the role of the Climate Change Committee is in relation to decisions on climate. I am struggling to see where you should and must fit within that process. It feels that we have had some decisions that have created a huge amount of business uncertainty and are certainly now subject to an enormous amount of criticism in this Parliament and at Westminster. However, we are still struggling to see where you might have fitted within that and where you may fit in the future.

Murdoch MacLennan: We may fit into the process in the future, but we were not asked to fit in at the beginning of that particular exercise. Part of the reason why we are here is to make a pitch about what we can do in future.

We have expert technical and economic advisers at the top end in our business, and we are well represented in Edinburgh. I am not saying that, at some future stage, we will not be involved in that, but this is what we can offer. We are totally impartial, and we work across the four Governments. We are part of the Competitions and Markets Authority, and it is the same sort of

business, in that we are completely independent and very willing and happy to be involved in any exercise that you would deem us fit to help you with. If there are any future regulatory changes, we can advise and, as I said the last time, the best thing of all is that you do not have to take the advice if you do not want to—but why not use the skill sets that we have?

Mark Ruskell: I appreciate that you are here to make a pitch for your use, but it feels a bit odd. If you have a critical role in the process, it should surely be codified. You are an independent voice, and you are able to gather the evidence and present it to all Governments. Certainly with the DRS, and certainly on one side, it felt as though the political decision making was led by what the Secretary of State was reading in the *Daily Express*. Now, that is a very political statement, but I think that there was a role in that situation for an independent body to gather the independent views of businesses and ensure that evidence was presented to all parties so that a rational decision could be made. Instead, we had a very amplified argument and discussion in the press and in politics, which perhaps masked the genuine issues in the integration of schemes in the market that were operating in the UK.

Murdoch MacLennan: Thank you, Mr Ruskell, for helping us to make the pitch.

James Macbeth: I will answer your question in two parts: there is a general proposition and there is something a bit more specific about DRS.

On the general question about whether we have reviewed the exclusions process end to end, the answer is that that is normally taken forward through our periodic report, which we are required to publish every five years. The last one was published in March 2023. We are currently considering when will be the appropriate moment to publish the next one. We will, obviously, need to see things move on a little bit from where we were in March 2023. That report would have to pick up the operation of common frameworks and, within that, something about the exclusions process, I am sure. It would be good to be able to look across several examples and, as we see, that is now starting to build up over time.

Mark Ruskell: I am asking you to comment on whether you think that it is working.

James Macbeth: Our periodic reports ask us to look specifically at the functioning of the regime in that way, so I would expect us to be able to do that at some point in the future.

Murdoch MacLennan: But not right now.

James Macbeth: Well, yes—as I say, we will have to find the right moment to do that.

The second point is the more specific one around DRS. It is an interesting case because it is a scenario in which the regulatory difference, if you want to give it that term, arose from a situation not so much where some parts of the UK were static and one part was moving but where all the parts were in place simultaneously. At least to begin with, the differences were predominantly intertemporal, and there was an expectation that, sooner or later, there would be a DRS in operation everywhere across the UK. Scotland was in the vanguard.

The question then became, what are the differences that will emerge? There are two challenges in that from a practical perspective, if we just address the practicalities. One is that, as I said earlier, there is a sweet spot for doing the analysis in relation to such cases. DRS is one of a very small number of regulations whose origins predated UKIMA and, indeed, even the existence of the OIM. If I am being completely open with you, the opportunity to influence the design of the Scottish regulations through any input that we might have given was probably at a point before we even existed.

Mark Ruskell: [*Inaudible.*]—regulations. We discussed them in this room, actually.

James Macbeth: That does not mean that the opportunity has been lost, but it probably means that the most appropriate moment might now be at some point in the future, once the regulations have started to have some effect.

09:30

The other practical reality, which is not something that is within the Scottish Government's control necessarily, is that it is much easier to say something about what the effects are likely to be and to draw that evidence from businesses once there is some clarity on the design of the schemes in England, Wales and Northern Ireland. Last summer, in the run-up to the Scottish scheme going live, there was still a great deal of uncertainty about exactly what those schemes would look like, including in relation to some of the issues around the scope of the articles that might be included and around the interoperability of schemes.

It is not impossible to try to do some work in those scenarios, but, clearly you will get a much more robust and comprehensive piece of work if you have a bit more clarity about what the four elements will look like. This particular question, in which the divergences are intertemporal—it is not a situation in which something is static and something else is moving—will probably be one of the more challenging areas to deal with. It remains to be seen what role common frameworks and

intergovernmental co-operation of other types will have to play in that.

All that said, I still think that we can potentially play a role, but that would require good quality dialogue with the Governments in advance to scope out what the work is for—that is, what question it is trying to answer, given some of those uncertainties—and to figure out what the timing is. The earlier we have those conversations in the development of any regulation, the better.

Kevin Stewart (Aberdeen Central) (SNP): You have said that you are not an arbiter and that you cannot get involved in dispute resolution. In your report, you said:

“We have not attempted to draw firm conclusions about the future direction of travel for the UK internal market.”

I will play devil's advocate: what is the point of the Office for the Internal Market?

Murdoch MacLennan: We are there as an advisory function, part and parcel of the CMA. As I said earlier, we have experts on the technical and economic side. When you are thinking about putting a new law in place, if you want an expert take on the economic and technical side, why would you not ask us for some advice?

Kevin Stewart: Why would I ask you for advice? By the sounds of it—again, I am playing devil's advocate—I cannot see a huge amount in the report. It mentions the peat industry. How many other industries have engaged with you on a regular basis? Has any survey work been done to find out how many businesses know of your existence?

Murdoch MacLennan: That is a fair question. I met different parts of the Scottish business community when I was in Edinburgh with the CMA board, including the Institute of Directors, the Food and Drink Federation Scotland and the Federation of Small Businesses Scotland. Since we last met you, the OIM team has had a number of meetings with trade groups, including the British Retail Consortium and the Agricultural Industries Confederation. It has also engaged extensively with business groups as part of the annual case studies report, including the Scotch Whisky Association and the Scotch Whisky Research Institute. We have also met think tanks—the Fraser of Allander Institute and the Institute for Public Policy Research.

It is important to emphasise the importance of the new panel of members we have just appointed, who are hugely experienced and knowledgeable. They are already contributing to the work of the OIM. To return to your question, it is our intention to have the panel engage with key business groups in Scotland.

We are also encouraging businesses to contact us directly through our online form and to share experiences. We have very good contacts in the Scottish scene. Our CMA operation, which has more than 100 people in Edinburgh, is well plugged into Scottish Government and Scottish business.

Do you want to know about our contacts with Scottish Government officials or just with businesses?

Kevin Stewart: I am asking about businesses, although I might come on to officials in a little bit. Taking an example of some of the areas that have been dealt with lately—although avoiding the DRS—say that I have a business in the area of fireworks and have concerns about how I can sell in the UK. Why would I come to you as a body for advice when I know that you are powerless, because you are not an arbiter and you cannot do dispute resolution? What is the point?

James Macbeth: One thing that we are trying to do with our work is to frame our findings in a way that is helpful for policy makers in particular. As a general rule, the advice that we wind up giving will be to Governments and policy makers rather than to businesses directly. The output is designed to be helpful for those who are developing policy. It aims to give them a better handle on how decisions that they might make on policy design—there will always be trade-offs in policy design—might be used to help achieve the best of both worlds. Whatever the primary policy objective might be—it could be public safety or environmental protection—it is about how that might be achieved with the minimal effect on trade, competition and other aspects of the internal market.

If our work is primarily about having a conversation with Governments about policy design, that of course raises the question of why a business would be interested in speaking to us. The answer is that, if businesses understand that relationship and understand that we are providing advice that might be helpful to policy makers and might even influence their decisions, clearly, they have an interest in speaking to us.

There are a variety of mechanisms through which businesses choose to engage. Some of it is done through trade bodies, which are very effective at representing the views of their members and with which we have had a good deal of engagement, as Murdoch MacLennan has explained. Some of the engagement can be done directly with us. We have a web form so that people can contact us and submit information about things that they think we should look at. That is used from time to time by relatively small businesses that want to raise issues that they want us to look at.

The other way is by talking to other people who are involved in having conversations with businesses. For example, a couple of weeks ago, I was presenting to the UK Regulators Network. One thing that we discussed was how we might use other regulators' contacts with the wider business communities that they serve to inform our work, and vice versa.

We have different mechanisms or touch points with businesses but, fundamentally, what is driving our approach is a shared initiative and endeavour to try to provide the best evidence base on which policy can be put.

Kevin Stewart: As a minister—I speak as a former minister—why would I take advice from your organisation and not go directly to the businesses or take advice from the civil service in such matters? I am trying to figure out what the point of the organisation is if it deals only with advice, it is not an arbiter and it cannot resolve any disputes. Let us be honest, in the interactions between Governments, what is required in some regards is dispute resolution rather than advice.

Murdoch MacLennan: I assume that you would be interested in taking the best technical advice that you can get from any quarter. We have to be realistic and recognise that there are political sensitivities, but I have to say that, in the meetings that we have had, I have been impressed with the ministers and officials from across all four Governments. My experience in business is that demonstrating success is always the best way to win hearts and minds. The report on the banning of peat in England, or the annual periodic reports and the developing data strategy, should go a long way to adding value to the decision-making process so that ministers are not going in there blind.

I suggest that it is always good to take advice or listen to it. At the end of the day, you do not have to take it, but I implore you to consider that asking for our involvement might help you in the decision-making process to see cause and effect.

To go back to James Macbeth's point, we have a statutory duty to act in an even-handed way in respect of the relevant national authorities. We do not take sides. That is another real benefit from it.

Kevin Stewart: You came in this morning, Mr MacLennan, and said that you wanted to give us the "pitch". I am quite a cynical person, as you have probably gathered. How would you pitch to not only me but the general public out there to explain why we should not think that you are just another bit of bureaucracy that is not really required?

Murdoch MacLennan: I will use the peat report as an example, because James Macbeth was the architect of it. It was an important project and,

when James explains what he did and how he was involved, it will show you the detail that we go into.

James Macbeth: On your question about where the value is in this, if you are a minister looking for input, for example, we can draw in evidence from right across the UK to inform policy making in a particular nation, because we can operate on a four-nations basis.

One of the things that we were able to do with the peat report, and which we would no doubt look to do with any similar work in the future, is to engage with all the Governments, draw together a data set that previously did not exist, and then use that new data set to analyse the likely impacts. That information is then there for everybody. It is not there just for the Government that has requested that advice; it gets put into the public domain and is there for everybody to use. The value flows from such activities. It goes beyond what might be done in another context.

Kevin Stewart: If I were pitching, I would find an example other than peat—not that I do not think that peat is important but, if you will excuse the pun, it hardly sets the heather alight.

Keith Brown (Clackmannanshire and Dunblane) (SNP): Thanks for coming along this morning. It is probably true of any new organisation that you are basically asked to justify your existence. It is not unexpected; it is true of most such bodies. Given that Scottish taxpayers will be contributing to the cost of your organisation, it is legitimate that we ask such questions.

In a similar vein to the previous questions, there are things that concern me. First, I ask you to accept my assurance that, if you were a department of the Scottish Government, you would be frequently termed “the Scottish National Party OIM” or “a creature of the Scottish Government” and you would be derided regularly in the media for being such. That is just the nature of politics in Scotland. However, you are a department of the UK Government, and surely some people will raise questions about your independence and the nature of your advice. It is quite dispiriting to hear you say that you do not take sides—not that I am asking you to take my side, but, in some cases, surely there is a side to be taken, presumably on the basis of an open market.

Some of the background in relation to the DRS has been mentioned. If it seems as though the way in which the market operates is at the behest of one party to it, which is how it is perceived by many people, that hobbles that market. The DRS could be termed as being regulatory. Others could say that it is part of the market itself and that markets will have to adapt to climate change. However, that development was stymied because

of the interests of one group, according to some people’s interpretations.

The extent to which you may be seen—I am sure wrongly—as being supportive of the UK Government, which you are a department of, perhaps undermines your purpose, as does the lack of powers. I appreciate the point that, if you got such powers, we would be duplicating powers that others already have, such as the CMA. How do you overcome that? That is one question.

09:45

Secondly, to go back to Alexander Stewart’s question, there is an appalling lack of proper data on economic and market conditions. That also undermines your powers. Even ONS-produced stuff is based on surveys; it is not based on data. Employment figures are based on surveys. Export figures are completely opaque in the UK. It is not possible to have a proper estimate of what exports go from Scotland or from other parts of the UK. Given how bad it is to hear of and read about the lack of data in England, I ask you to consider a situation whereby a future UK Government decided that it did not like something that a Scottish or Welsh Government did and was able to say, without any evidence, that that would affect the English market. If nobody knows the conditions of the English market, that cannot be tested.

There are three things that might undermine your role. The first is the lack of powers. The second is your attachment to the UK Government as a department of that Government. Presumably, the panel appointments were agreed by the UK Government, but I do not know that. The third is that you are being asked to work in an environment in which you have very poor data, which cannot be conducive to the efficient working of a market economy. What is your response to that?

Murdoch MacLennan: I can say categorically that we are not a weapon of the UK Government. We operate on the basis of looking after the four Governments of the UK, and we value our independence. The key message from us is that we are here to assist Governments, parliamentarians, lawmakers, businesses and other key stakeholders, which might be professional trade bodies. We are not a regulator of the internal market. As I said at the beginning, we have no enforcement role at all, which must be helpful. I am still continuing with my sales pitch on that bit.

The second annual report that was produced extended to an analysis of the service sectors and regulated professions. There is lots of detail, and we are building up a strong statistical base. As you

can probably gather, I am neither a politician nor a civil servant. My background and career lie in the private sector and the world of business—in the media industry to be exact. I am no expert in the world of information technology, but a major part of my work as a chief executive officer in the printed media sector was leading and managing the transition from print to digital, which included being a member of Google’s digital news initiative council. There has been enormous technical and cultural change, and the change is still on-going today.

I guess that I am trying to say that I understand the particular challenges that are faced in dealing with something that is very new like this, where little case history exists—we are back to data—and new systems and structures are still under development. The OIM is kind of in that position. It does not necessarily mean that everything is plain sailing, but we are here to help to make the act work as best we can in the best interests of every part of the UK. I cannot emphasise enough that we are very much an impartial organisation. We are a resource for you to use and gain maximum benefit from. If changes need to be made to the act, perhaps in the light of experience, that would not be up to the likes of us; that would be up to you as lawmakers. Again, I am putting forward that I am here to help as much as I can.

The data thing is often confusing. As I said, I am no IT expert or statistician, but throughout my long career—longer than I care to remember, actually—I have always been aware of the key distinction between data and information. Data, or lots of it, can be of little use unless it is providing the information that matters. With the data strategy road map, the OIM team is seeking to identify the relevant data, much of which is compiled and gathered by different organisations from a range of different applications at different times, and to repurpose that to provide the information that we need to understand the trade flows that James Macbeth talked about. That work is on-going.

Does that help?

Keith Brown: I understand your points. However, on the point about data and information, you can understand why a business survey would be the appropriate way to test business confidence, for example—that is, people’s attitudes and how they feel. However, there is no information, or very little information, on things such as the level of trade flows for the biggest part of the UK—England—or on many other economic indices. I realise that that is not your job. All that I am asking, notwithstanding the previous concerns that I mentioned, is whether you would be a voice to say to the ONS and others, such as the UK Government and other bodies—you have rightly said that there are many different bodies that

collate that information—that, in the 21st century, we should have proper data that we can base decisions on. If we do not start from that basis, we are groping around in the dark.

Murdoch MacLennan: We are not really grasping around in the dark. We have obtained a data set of firm-to-firm payments in different parts of the UK, which was published last year. In July 2023, the ONS published a helpful experimental methodology for the production of interregional trade estimates. That would give us a better understanding of the trade flows between the four nations. The ONS was very helpful, and we have also been helped by the business insights and conditions survey.

We have worked with other organisations, such as His Majesty’s Revenue and Customs, the Department for Transport and Ofcom, on gathering data—we have not tried to reinvent the wheel. Each devolved Government also publishes statistics, and that has been helpful.

James Macbeth: We would agree completely with the point about the importance of data. Quite early on in our existence, we recognised that one thing that we could do for which there would probably be broad buy-in was to develop a data strategy, act as a convening power to try to bring together everybody who has a role in developing statistics that might illuminate questions of trade, and see what might be done to improve those things.

Just a few days ago, we published our data strategy update, which built on one that we published more or less a year ago. That does as clear a job as we can to set out what we think the problems are and what we think the road forward might be.

As Murdoch MacLennan has said, there are some initiatives that look quite promising, but they will be dependent on the underlying trade data—some of which is, I acknowledge, survey based—continuing to be produced. However, the ONS is fairly confident that, with those new techniques, we can develop a much better, more comprehensive and clearer view of trade on an interregional basis across the UK. That is a good starting point, if we can maintain that.

We have also tried to look at whether there are other sources of data that might not be that useful by themselves, taken individually, but which might build a richer picture when they are combined with other data sources. We have been looking at what we might be able to do with parcels data. A lot of things are sold online now. What can we do with data on parcels crossing borders, for example? Similarly, we are looking at freight data and whether we can use some of the freight statistics that are collected to illuminate questions around

freight. There are other initiatives, such as the trade in value added initiative, which is run by the Organisation for Economic Co-operation and Development—it is not a UK initiative, but the UK participates in it. We are looking at whether that will allow us to get a handle on some of the issues that are illuminated there.

To be realistic, the best picture will emerge by bringing together a lot of different data sources and effectively cross-checking between them to try to get a better picture.

I go back to something that I said earlier. What we might call the high-level picture—the one that just deals with trade statistics and the total value of exports, and breaks those down by sector—is very important, and we need it, but we also need the more micro-level analysis that illuminates why we are seeing the changes, because it is when we understand why something is happening, not only what is happening, that we really empower ourselves to do something about it.

We will continue to need to supplement whatever we do through the data strategy and what I hope will be improved trade data with the sort of stuff that we have done with the case studies, which are expanding across an increasing number of areas. As well as peat, we have looked at deposit return schemes, single-use plastic, foods that are high in fat, salt and sugar, and precision-bred or gene-edited crops. Those relate to big sectors and by studying them we can start to learn things about quite large chunks of the economy and ask other, arguably more interesting, questions about how regulations might be interacting with other regulations, which businesses are very well positioned to advise us on.

Keith Brown: I will finish with a statement; I am not looking for an answer. It seems that you are talking about reinventing the wheel, although that is not a bad idea. However, if there were to be a proper root and branch look at what economic data is required across the board, the Office for the Internal Market seems to be a key place to say, “We need to have this data in order to tell you whether the internal market is working properly.” If, through convenership or other means, the OIM could be in the forefront of the quest to get proper data, that would be a worthwhile objective. I will leave it at that, convener.

Foyso Choudhury (Lothian) (Lab): Good morning. I have a few small questions. First, are the regulations in the UK different from what we have in Scotland, in general? In your view, what are the barriers for businesses that want to trade in Scotland if the regulations are different?

Murdoch MacLennan: At the moment, companies are trading quite well and there are no

real issues. It was the same last year—we found that companies were managing to trade across borders without any great difficulty. As time goes on and more regulations come into play, as lawmakers, you might want to get the best advice that you can on the likely implications of any changes.

James Macbeth: You asked whether there is anything different about the regulatory environment in Scotland compared with that in England, Wales and Northern Ireland. Obviously, each country will develop its own regulations, so there are differences at that level. We have not picked up any fundamental or systemic differences in the work that we have done so far.

Where the situation perhaps gets interesting is when you think about how regulations that might have been developed for a specific Scottish context start to interact with regulations that have been developed on a UK-wide basis. Businesses that are complying with those regulations have to triangulate that position with regulations that they might be complying with in their export markets, such as the EU or America.

It came through clearly from the precision breeding case study that the emphasis with regard to what drives business behaviour shifts from market to market—it is very fact specific. In that work, businesses were saying, “Well, actually, we’ve always got to have an eye on what is going on in the EU.” Some industries, such as the whisky industry, need to keep an eye on what is happening in America and Japan, because those are important markets for their end products. They need to be thinking all the time about how they are managing their supply chain in order to comply with regulations in those countries. That raises an important question for anyone who is involved in developing policy or, for that matter, anyone who is trying to pull together statistics: we always need to be thinking about the interplay between these things.

That is a rather long way of saying that the answer to your question is that it depends. It will vary from industry to industry, but we understand that we must keep the issue squarely within our view when we do our work.

Murdoch MacLennan: At this stage, if I may, I will put in a word for the panel that has just been appointed by a committee from across the four nations. The panel members are outstanding people. They have expertise in economics, business, academia, the public sector, law and the civil service, and they have experience of working across the four nations. Some of you might be familiar with one of the panel members, Mike Neilson, who is also doing some work for the Scottish Government.

10:00

In an advisory capacity, the panel members are extremely helpful to the OIM on its work and projects. They have already given very useful feedback on the annual report, albeit that they came in at the tail end of last year's, and they will work from the beginning of the process this time. They have excellent contacts across the UK, and they have certainly supported the OIM team in widening the engagement process. That is part of it.

Foyso Choudhury: I do not want to go on the data, but do businesses understand the new regulatory development and how it might affect them?

James Macbeth: A little over a year ago, we ran a survey, which we published in March 2023, that looked at what businesses understood of UKIMA. The knowledge of most businesses was very low. Many were not even aware of it, and those that were did not necessarily understand all of its provisions or how it works.

That picture needs to be contrasted with our experience in talking to industries that are experiencing regulatory change, especially regulatory change that might bring about different regulations in different parts of the UK. In those cases, across businesses large and small, we found that the level of understanding was much better—it was much higher. That is probably because trade associations do good work in making sure that their members understand the environment in which they operate and how new regulations might affect them. It is simply the case that that picture is not universal.

I suspect that, over time, that level of knowledge and understanding will increase. It will spread through word of mouth and through trade associations, for example. However, when we ran our survey a little over a year ago, the general picture was that knowledge of UKIMA was pretty low.

Foyso Choudhury: Does the Government need to improve messaging or engagement?

James Macbeth: In any scenario in which there is a relatively low level of understanding, more could potentially be done. However, there is an organic process, whereby, as regulatory change that affects a particular industry or sector comes along, that industry or sector's knowledge quickly comes up the learning curve. I suspect that that will ripple out across the economy over time as more regulations change and businesses have to adapt. Their knowledge of UKIMA will expand with that, as people try to understand what it means for them and their business.

Let us look at the case studies that we did relatively recently. For example, we had anticipated that, in relation to precision breeding, some of the smaller businesses might not have had a great deal of knowledge of things such as the market access principles, how those work in practice and what that would mean if they were to try to use them. However, we found the opposite—we found that even relatively small businesses had quite a good grasp of that and had already started to think those things through.

That shows that, when the time is right, knowledge is acquired pretty quickly. It is simply the case that, if the topic is not on people's horizon, they will be busy running their business rather than necessarily tracking every regulatory development.

The Convener: As members have no further questions, I will finish with one. I am sorry to return to the DRS, but I guess that it is the most controversial example that we have had. I appreciate that you were not involved in that.

Mr Macbeth, you said that part of the issue was that nations were going at different speeds in that regard. However, we are politicians in devolved legislatures, which should have competence in certain areas. I am trying to understand what would have happened if you had been involved.

If the Scottish Government had asked for advice, would you have looked purely at its proposals, or would you have looked at the wider context in the rest of the UK? I do not want to put words in your mouth, but, in that example, it seems from what you have said that the only advice that you would be able to provide would be cautionary and that, until the four nations have an idea of what they will do, it is a big risk for policy makers and business to go ahead when, in effect, we do not have an English devolved settlement but an English trump card, in the sense that that market will always trump what is happening in Wales, Scotland or Northern Ireland.

James Macbeth: It is important to recognise what that would not be. It would not be a rerun of the Scottish Government's impact assessment. That is a much broader-based exercise that looks at all the areas on which the policy might impact and tries to evaluate and quantify those things, and to trade them off against one another.

To address your question directly, our work is much more about comparative analysis. It is about asking what the differences are between nations A, B, C and D, and what those differences might do to the flow of goods and services, what changes we might expect to see and to what extent those are tied to specific features of policy design in any of those nations, not just in the one

that is requesting the advice. Our work is always rooted in that bigger context.

To come back to what I said earlier, in order to do that work to the best standard that it can be done, it is better to do it at a time when there is clarity about what each of the four nations will do. That does not mean that it is impossible to do a piece of work when there might be much more clarity in one nation than in another. Let us face it—in many scenarios, we will be working in exactly those circumstances. However, it does mean that that necessarily conditions what we are probably going to be able to find out.

When we go to businesses, for example, and we ask them what they would do in a scenario in which a particular thing is going to happen, they might be able to respond to that on a hypothetical basis, but they will probably not be in a position to say, absolutely and categorically, “I’m going to do this particular thing. I’m going to do A, B and C.” Normally, they will say that they need to see what happens in the other nations first, and then they will take a view.

In an effort to address that difficulty, we tried to use the most recent annual report to extract some more generalised themes about how policy design and the shape of policy design might have variable effects on internal market things. For example, one of our findings, which we have already discussed today, was in relation to how readily and enthusiastically businesses might want to use the MAPs. We can see that, in certain types of market circumstances, they are unlikely to be businesses’ first choice as a way of addressing regulatory difference.

There were some other findings, one of which was that, if regulations can be designed in a way that allows businesses to move towards a highest common denominator standard, that can facilitate such a response. I will explain what I mean by that. Let us imagine that there is a regulation that bans a certain level of a toxic compound in a product. Let us say that nation A sets the standard at 5 per cent, nation B sets it at 4 per cent, nation C sets it at 3 per cent and so on. If a business wants to, it can go for the lowest component and then sell that product everywhere.

A much harder scenario would be one in which the regulation said that, in nation A, the product must have a blue label of a particular size that contains certain wording, but that, in nation B, it must have a label that is a different colour and a different size and that has different wording. In that scenario, it is not so easy to come up with a single product that serves all markets. Policy makers will have some choices—at the margins, I suggest—on things that have effect.

One of the other things that came through quite clearly from doing the analysis was that regulations that have their effects later in the supply chain—that is, closer to the final consumer rather than earlier on in the supply chain—seem to be easier for businesses to assimilate, adopt and work with. Again, that might, in some circumstances, give policy makers some choices about exactly how they design the regulation, such that it gets the primary policy benefit, but does so in a way that makes it easier for businesses to carry on trading using their existing supply chains, logistics and so on.

Those more general findings are the sorts of things that I can see that we might be able to use in a scenario in which we are asked to comment on a particular regulation, when the other elements that are important for that analysis might not yet be fully clear. It is not that you cannot do anything, but you have to use slightly different techniques to progress the analysis.

Keith Brown: I have a final point, which arises from the convener’s question.

What you have just described sounds like the antithesis of a free market, because it involves introducing a level of uncertainty and bureaucracy before anything can be developed. There seems always to be an assumption that more regulation will be attempted and that we will have to respond to that.

This Parliament was set up with specific tax-raising powers, and it has grown many powers since then. In fact, it has been described, perhaps somewhat foolishly, as the most powerful devolved Parliament in the world. In my opinion, the internal market act completely cuts across that and drives a coach and horses through the devolved powers that we thought we had.

That is a political viewpoint, but, on a non-political basis, would it not be useful for your organisation to come up with ideas about the collision points between what we think our powers are and what the internal market act will allow? That would create an environment in which we would be able to move forward without the bureaucracy that you have just mentioned, and it would free things up because people would know what the boundaries were.

It is not for me to say so—although it might be for the convener or someone else to do so—but I think that Parliament would find it useful to have someone map out what those boundaries are, so that businesses and individuals who want to innovate or to do something different, with less regulation, could act in the knowledge that they could move forward without having to check with every Administration. I suggest that as a possible

piece of work for the OIM. I am not looking for an answer.

Mark Ruskell: I will return briefly to the issue of the DRS. Mr Macbeth, in effect, you are saying that it would not have been possible for the OIM to offer advice because, although the rules of a Scottish scheme were clear and were there in the regulations, there was no clarity on what an English DRS scheme would look like. That lack of clarity remains, so it would be difficult to go to businesses to ask what they think when the scheme does not exist and we do not know how it would interrelate with a Scottish DRS. Is that correct?

James Macbeth: I would not go as far as to say that it would be impossible for us to offer advice, but we need to recognise that there would be some quite significant constraints on coming in at that particular point to develop something. The proof of the pudding would be in the eating; we would know when we spoke to the businesses. In the past, we have found that businesses find it difficult to engage with a hypothetical scenario, because they do not tend to plan hypothetically—they tend to work with what is actually happening. The more detail we have in hand, the better, but, for the reasons that I gave, I think you can do something.

Mark Ruskell: So, if an English scheme came forward and the rules were clear, you could do some work on that.

James Macbeth: The clearer the other schemes—not just the one in England, but those in Wales and Northern Ireland—are, and, in particular, the more the scheme in one nation diverges from what is happening in the other nations, the more important it is to have clarity around that divergence, including on questions about scope, interoperability and even the level of the deposit. All those things would matter, and that is where you would want to zero in when doing the analysis.

You need to have a certain level of detail in order to be able to do that. If you had no detail about what was going on in those other places—I appreciate that that was not strictly the case with the DRS; there was some detail—that would be quite challenging. Ultimately, it would come down to what businesses would tell us about how they were managing that scenario. One relevant question that we would want to answer is that, if a business is being asked to prepare for nation A's scheme but does not know much about the schemes in nations B, C and D, except that they are coming along, what is the business going to do about that?

10:15

We got a flavour of that when we spoke to businesses about precision breeding. They said, "Well, actually, we're triangulating five points here—on top of what's going to happen in Scotland, Wales, Northern Ireland and England, there is what's going to happen in the EU. We will need a certain amount of clarity before we act." That was in a scenario where, essentially, the regulations were creating an opportunity, rather than an obligation, so businesses could decide to wait a bit, so that things could play out. It is much less certain how things would play out in a scenario where there was an obligation to do something and how that would affect what was going on under the hood with regard to supply chain management.

We saw a little bit of that in the case study, which discussed three main ways in which businesses were dealing with the level of uncertainty. It was partly a matter of dealing with the Scottish DRS on its own terms and, when they knew more about what was happening in the rest of the UK, they could adapt accordingly. Only at that moment would they make their grand plan. That was one scenario.

Another scenario was that the scheme would start to make things different from how they were before in a way that encouraged businesses to reduce the complexity in their supply chain, perhaps through range reduction. However, we pressed businesses on that and said to them, "Okay, if you are going to reduce your ranges, can you tell us which specific products you would withdraw, and from which retailers?", and nobody had gone as far as to go down to that level. That is out there, but even though the Scottish scheme was fairly close, businesses were not able to identify specific products in particular markets.

The third possibility, which I think is very much the nuclear option—nobody was able to say that they had made any firm plans to do this—is to withdraw from markets completely. It is important to recognise that that would not necessarily mean withdrawing from the Scottish market.

For example, we spoke to one Scotland-based business with very strong Scottish branding and marketing, which said, "Scotland is our mainstay—it's where we produce our products, where we have all our staff and where we sell most of our products." Although that business makes some sales outside of Scotland, predominantly in England and mostly through the hospitality trade in London, if push came to shove and it wanted to simplify things—possibly in the short run, just to get through this period—the market that it would withdraw from would be those sales that it is making in London. It said that it would simply double down on its core business in Scotland and

work with that, and that it would take a view once it had a bit more detail on what the rest of the UK looked like.

Businesses have mechanisms, and we would probably have wound up doing a piece of work that concluded that, while we might not know everything that we would like to know about what is going to happen in England, Wales, and Northern Ireland, we know a little bit. We could do a piece of analysis examining how businesses are coping with the same level of uncertainty. If things are uncertain for us, they are uncertain for them. That is probably where the insights would have been.

I hope that that gives a sense of what I mean when I say that such work would be challenging. I do not mean to say that nothing can be done, but you need to tailor the output to the information that you have.

The Convener: In evidence to the committee in March last year, the Institute for Government told us that UKIMA

“cut across the whole common frameworks programme in creating the market access principles that limit the scope for effective divergence”.—[*Official Report, Constitution, Europe, External Affairs and Culture Committee*, 16 March 2023; c 12.]

Do you agree, or do you see a pattern moving towards less regulatory divergence as a result of UKIMA?

James Macbeth: An awful lot will depend on the specific circumstances, industry by industry. We have seen from some of the work that we have done so far that the anticipated effects of the MAPs have not always played out in the way that we might have anticipated.

It is hard to know how far one can go with that analysis, for the reasons that I gave earlier. If that were to be the view of many large businesses—particularly of many large retailers, many of which have significant buying power and can shape the nature of the products that they are being provided with, as they control what they stock and what they promote—that could mean that UKIMA functions differently and has quite different impacts in some sectors of the economy, both on businesses and on how policy makers think about UKIMA, compared with others.

We can speculate as to what the driving factors might be between those things. We have already talked a little bit about the size of businesses, the complexity of their supply chains, the importance of branding and their perceptions of what might happen in the future in other parts of the United Kingdom, which is very important. There may be other factors, too.

It is very difficult to address a question like that with an assumption that things are the same everywhere. I would not be at all surprised if the situation varied quite a lot from one industry to another and from one regulation to another.

Murdoch MacLennan: James Macbeth always does this: he presents for the OIM in a very clear fashion and demonstrates the quality of the work that he and the team do. We have a very strong team in Edinburgh, and this is an important committee for us. We would welcome future invitations to come back and give evidence, and to help in any way that we can. James did an excellent pitch for us today. I thank the convener and the committee.

The Convener: You are very welcome. I thank both of you very much.

10:21

Meeting suspended.

10:25

On resuming—

National Outcomes

The Convener: Welcome back to the meeting. We will continue to take evidence for the inquiry into the Scottish Government's national outcomes and indicators relating to international policy. We are joined by Louise Davies, head of policy and communications at Scotland's International Development Alliance; Lewis Ryder-Jones, advocacy adviser at Oxfam Scotland; and Dr Graham Long, senior lecturer at Newcastle University. I thank you for proactively approaching the committee about your work in this area.

In response to the Scottish Government's public consultation, you called for measurement of more relevant indicators and better alignment with the United Nations sustainable development goals. What is your assessment of the document that has been laid before the Parliament for consultation? Have you had any role in the development of the new international indicators? I will start with Ms Davies.

Louise Davies (Scotland's International Development Alliance): Good morning, everyone. Thank you for inviting us to the meeting. We know that you have been looking at the national outcomes—and particularly the international outcome—for a number of meetings, and we are pleased to be here to talk about the global responsibility aspect of the international outcome, which we would argue is the most important.

The parliamentary report has been circulated. A key point that we made in our submission was that the indicators are flawed. They do not accurately reflect what we could be doing as a good global citizen. However, the report looks not at the indicators but at the outcomes that have been presented and the vision that accompanies them. I am happy to talk further about how we would like the indicators to be developed but, at this point, they have not been worked on, so we cannot really give any thoughts. We have not yet been approached by the team to feed into that process, but we hope that we will be able to do so.

Broadly, we welcome many of the changes that are presented in the report. It feels like a step in the right direction in acknowledging our global impact and global responsibility, but there is definitely room for improvement. If the national performance framework is to be a wellbeing framework, we need to think about wellbeing beyond Scotland's borders. We cannot have wellbeing in Scotland at the expense of communities in other countries, so we are keen to

see that reflected across the whole of the national outcomes.

We have a commitment to do no harm, and that should be the very least element that we see across everything. Beyond that, we talk about being a good global citizen, which means having a positive impact on communities. That should be the ambition. As an example of that, if we were looking at supply chains, doing no harm would mean working with companies that are not breaching human rights regulations; having a positive impact and being a good global citizen would mean promoting and using fair trade. That is the kind of shift that we would like to see.

We would like to see more reference to global responsibility across the outcomes, but in the international outcomes specifically, there are certainly areas to welcome in the changes that have been presented. It does feel as though there is a stronger reference to global citizenship and interconnectedness, which is positive, but there are still contradictions. For example, the report talks about enhancing our prosperity, but what we want to see is enhancing our wellbeing and, ideally, the wellbeing of everybody else globally. Enhancing our prosperity through international trade could cause harm, so we at least need to say that, if we are enhancing prosperity through trade, it must not cause harm. Ideally, that would be reworded to start talking about things that are not about prosperity but about wellbeing.

Our overarching view of the changes that are presented is that there is definitely some good stuff in there. We can go into more detail, particularly about welcoming the new climate action outcome, for example, but we would like to see a thread that runs through about global responsibility. There are lots of opportunities to address that, for example, in the wellbeing economy outcome.

Lewis Ryder-Jones (Oxfam Scotland): Thank you for having us today. First, Oxfam fully endorses everything that Louise Davies has just said. We have been involved in the current process. We were also involved in the process during the previous review, in the run-up to the 2018 to 2023 national outcome period. The process for developing the new national outcomes was very different from the previous process.

10:30

This time round, the level of public engagement was relatively low, having been slightly more comprehensive in the previous round. Oxfam was involved in the public engagement in 2018. Broadly speaking, however, the engagement on the international outcome at that point was not fantastic. In fact, that outcome was added after the

other outcomes had been broadly agreed by the public engagement process. We think that adding that outcome was a very good thing, by the way. It was really important, especially as the attempt to align with the SDGs—the United Nations sustainable development goals—was made so clear, so its retention this time round is hugely welcome.

In fact, if the international outcome was not there, that would be hugely problematic for alignment. There is no way that we can have alignment to the SDGs if there is not a universal and international dimension to how we view not only wellbeing but economic development and other elements of the framework.

The process this time and the content of the international outcome have improved, and we welcome a lot of the wording, as Louise Davies said. We also welcome subtle changes to other elements of the framework, such as the addition of the climate action outcome—there was no explicit outcome on climate action previously. Within the extended vision and definition of that outcome, there is a clear connection to the global issues on which our progress, or lack of it, on climate action has an impact, which we really welcome.

One thing that we are less sure about this time round—Louise Davies mentioned this—relates to the understanding that wellbeing in Scotland can be pursued only if we fully understand, or attempt to understand, our international impact. We cannot pursue wellbeing here at the expense of wellbeing elsewhere. That underpins the concept of the SDGs and was globally consulted on—I am sure that Graham Long will speak to that later—and underpins the foundations of the concept of sustainable development. Oxfam is clear from our work globally that collective long-term wellbeing is dependent on the wellbeing of everyone else.

There is no inherent connection in the outcomes. For example, in the economy outcome as it is currently worded, there is a lack of stated understanding of that issue. Oxfam thinks that, from a scrutiny perspective, the committee's role must go beyond the international outcome; it must look at each outcome through a global lens. If you do not do that, I do not think that any other committee can or will do it. My overarching call to you is to take the scrutiny period that we have until the end of November to look at not just the international outcome but the other ones, and to feed back to the Finance and Public Administration Committee on the need for the global lens.

On Louise Davies's point about potential inherent contradictions, there is a mild elephant in the room around what we could call brand Scotland, or Scotland's reputation globally and our impact through trade, and its connection to global

responsibility. There is a strong argument that brand Scotland should sit within Scotland's economy outcome and not our international outcome. The similar Welsh model has a global responsibility outcome but, in Scotland, that sits separately from elements of what would benefit Scotland. There is an argument to be made that we need to see the inherent contradictions that exist in the international outcome and in some of the evidence that the committee has received versus what we are telling you today. That is worthy of consideration.

Dr Graham Long (Newcastle University): Thank you for inviting me to be here; I will tack on one or two small points.

First, it is clear that wellbeing and sustainable development are linked. We have to understand those concepts as connected. Wellbeing, and the wellbeing of Scotland, is in the background of the NPF and its refresh, and sustainable development clearly has a global component that is inescapable and unavoidable. I also throw in the idea of future generations, which is a term that is talked about in the same area. It is important to clarify how those three things relate to each other and how you develop the indicators, policies and institutions that would do a good job of addressing all those concerns at the same time.

I have three further points. It is interesting and important to note that the international outcome is found across the other outcomes, too—there is no sense in which it can be wholly separated. That is consonant with the SDGs and the idea that they are “interlinked and indivisible”. It is also found across a lot of different indicators in the current NPF, and I take it that that will be the case in the future iteration.

As Louise Davies said, the report before Parliament that arises from the consultation deliberately does not go into the indicators; it takes the view that you set the outcomes first and then develop indicators that reflect those outcomes. From that perspective, the international outcome, in the way in which it is framed in its new version and its expanded text, is clear about the emphasis on good global citizenship. It seems to be a positive way of setting the direction for what the indicators should be—it sets a clear trajectory. Conversely, an indicator set that did not address aspects such as Scotland's spillovers or citizenship, or its global impact, would not be fit for purpose from that perspective, given the content of the international outcome that we have before us.

The indicators are important as one bit of the picture. Almost by definition, the national outcomes are aspirational and are designed to be readily communicable, but indicators can track, in a much more detailed sense, what needs to be

done to achieve the outcomes. Arguably, there is a role for identifying more precise targets or ambitions, too. Indicators have an important role in the process, but they are not the only element. Behind the scenes somewhere, it would be nice to have a stronger sense of exactly what sustainable development and wellbeing are taken to mean.

We know that indicators can be quite blunt tools for steering policy. They are quite useful, because what gets measured gets done, but that can lead to people teaching to the test or simply doing what they are being asked to assess themselves or report on. It is therefore important to have a framework of guidance and support to ensure that the learning and the practice goes alongside simply reporting on paper, in a report card, whether there has been no reversal or positive progress. Indicators have an important role, but they are just one part of the larger picture, alongside ways to establish those aspects of a wider understanding of what sustainable development, wellbeing and international contributions involve.

The Convener: Could you dive more deeply into your comments on measuring progress and what gaps you think that there are in the current framework? I go back to Dr Long initially.

Dr Long: We did some work on that with the alliance. The gaps, as we saw them, were partly around just following up better on some things at home. In particular, there is an outcome that relates to migrants and their experience; we might want to see that deepened through better disaggregation of data on how migrants actually fare in different respects in Scotland. There is currently a very interesting debate in the United Kingdom, in the white paper on “International development in a contested world: ending extreme poverty and tackling climate change” and other such things, around remittances and remittance structures. Perhaps Scotland could pick up on some of that work in the future.

A clear element where we felt that there was scope for improvement was in the measurement of the impact elsewhere in the world of Scotland’s consumption at home. That might, as a minimum, with regard to environmental impacts, take the form of some kind of material footprint measure, which is a measure of raw material extracted in the course of consumption. That is a useful complement to enable us to look more widely to carbon emissions and those sorts of metrics. I think that it does a distinctive and worthwhile job in speaking to a wider account of environmental sustainability and environmental protection.

Measuring socio-economic spillovers and impacts elsewhere is quite difficult, so I do not blame Scotland’s national performance framework for not doing a great job of that the first time

around. Even countries that you would expect to be front runners do not do a great job on it, because the data science is very difficult. Drawing out individual country-level attribution of different points of the global supply chain and global value chain is very hard work.

It seems that you might be able to do something around measuring and aggregating the behaviour of firms across particular spheres. The garment industry is one area where lots of work is being done by firms that have a substantial retail footprint in Scotland, and you might draw on and aggregate that work. You could measure compliance with standards that are already out there, or develop new standards. You do not have to measure performance on a statistic; you can measure compliance with a framework that supports the statistic that you want to get to.

There is also a question about the impact of Scotland’s production. Looking at that, the two things that stand out as obvious components, because they are measured in global-level metrics, are around arms exports and oil and gas exports.

There are some concrete steps that might be taken in those ways. The environmental stuff at a global level is fairly well established, and there is stuff that you can draw on. The Office for National Statistics already measures material footprint for England, for example, and I think that Zero Waste Scotland measures it for Scotland, so it seems fairly painless to adopt that. The social and economic agenda takes a bit more work because the data science is harder, but that could be approached creatively and in partnership. It looks as though thinking about Scotland’s production and exports would be rather easier, because some of that data is already available.

Louise Davies: I have a couple of follow-ups. One is to say that I have a short briefing that outlines eight of the key recommendations, which I am happy to leave with you.

The other is to mention the flaws that we see in the current way in which the international outcome is measured. For example, we are looking at Scotland’s population size as one of the indicators, but that does not say much about Scotland’s contribution internationally.

There is another indicator called “contribution of development support to other nations”,

on which the Scottish Government commissioned quite a lot of research, which was published in 2020. The research explains a really rigorous way of measuring the indicator across more than just the international development outcome by looking at the way that it links with climate, trade and migration. All the statistics are there and were

pulled together for 2017, but we have had no updates since then. We have six years of no metrics on what could be a really useful measure. However, that work is already out there.

To follow up on what Graham said, there are some softer spillovers that could be considered for measuring. For example, Scotland's role in having a voice on key global issues and the work that Scotland did on promoting loss and damage and vaccine equity could be measured somehow. Our suggestion is that the global south panel could assess whether Scotland's voice on the global stage has been positive or negative over a period of a year, which would be a useful indication of whether our work is perceived positively.

On the production elements of fossil fuel extraction and export and the arms trade, our point is that those must be measured so that there is transparency and so that a reasonable conversation can happen with the Scottish public about whether those things are positive or negative. It is not necessarily taking a stance on those things, but without any of that data it is quite difficult to have those conversations.

Lewis Ryder-Jones: In truth, I do not have much to add. It has all been said, with perhaps one exception. The need to follow on with meaningful measurement connects very much to alignment with the SDGs. The SDGs have targets in place, which we do not within our NPF. You can take either side of the fence on the merits or not of targets for the NPF. It used to have them pre-2018, but now it does not.

Oxfam's position is that targets are useful because they drive progress, particularly against the scale of measurement within the NPF that goes from "worsening" to "maintaining" to "improving". To use climate as the example, if you look at the NPF measurement of climate impact over the past six years it says that we have been improving the whole time, yet we have missed eight out of 12 targets and we have just scrapped our interim 2030 target.

10:45

There is an inherent issue with the visualisation of the data that we measure. To improve alignment with the SDGs, we think that connecting NPF outcomes to existing targets, where there are legislative targets, makes sense. The measure of whether we are improving, worsening or maintaining should be benchmarked against that target, not against whether the arc is up or down. That is an important point to make—it is also how the SDGs operate.

When indicators are developed over the coming period, which they will be, there will be a real need to think through their alignment to the SDGs so

that that is done where it can be done. Of course, some SDG indicators and targets are not applicable to Scotland, which is why we need a local framework, such as the NPF to deliver the SDGs in Scotland. That connection is really important, even though it is not across the board.

Alexander Stewart: There is no doubt that the outcomes are linked, and there is a strong commitment to having that. We understand the complexities of the wellbeing economy and fair work. We need to balance good international trade and the relationships that we want to have, while, at the same time, supporting existing industry and sectors that we have and ensuring that we avoid potential harm to them.

You touched on the climate action outcome, which is vital, because we want to have a good global impact and to be seen as a global leader. Although we want to maximise what we are trying to achieve, actions to reduce climate can have harmful aspects in the world. We touched on the fact that many targets have been met but many have not been met. Many of those targets have been removed, changed, cancelled or dropped.

When we are thinking about being balanced and positive and making real progress, how can we as a nation produce the image that we want? At times, that image has been tarnished because of our deeds and our actions to date. It is about trying to balance that by ensuring that we can be taken seriously. We have not always managed to receive and attain what we should, but it is about making sure that we have that positivity, that balance and that practice. It would be good to get a view from you on that. I will start with you, Ms Davies.

Louise Davies: The point on the wellbeing economy outcome is interesting. You talked about the fact that it references that we want good international trade. We would question that. It is about exploring those definitions and what we mean by those terms. Who defines good international trade? A wellbeing economy is not just money. We would say that that wording needs some thought—"sustainable international trade" might be a better term.

The outcomes give us the opportunity to think holistically and make sure that things are not contradicting each other. We at SIDA have worked for some time on policy coherence for sustainable development. All policy decision making and spending should be in the service of sustainable development and we should ensure that we are not making those contradictions.

As you say, within climate action, there are human rights issues around the minerals that we are sourcing to support our transition. That needs to be addressed and considered as part of that. In

theory, the outcomes could help us do that if they are very clearly defined.

The other thing that would assist is legislation to help embed the national outcomes in decision making and ensure that public bodies are adhering to them in terms of not only accountability, but ensuring that public bodies have support, leadership and communications to help them understand how best to make those decisions.

We support the introduction of a wellbeing and sustainable development bill that would service all those things, along with a future generations commissioner who can provide support and toolkits to enable that decision making to happen in line with what the NPF vision sets out.

Alexander Stewart: Oxfam has strong, well-documented views on some of those areas. What should we be looking at to find that balance and make that progress?

Lewis Ryder-Jones: If I interpret it correctly, the question is about how we make this more useful for everyone. That is a big question. We are very supportive of the existence of national outcomes, which supports a journey of moving away from crude measures such as gross domestic product, and the development of a more meaningful wellbeing economy monitor, which is linked to the national outcomes. Those things are really positive. However, fundamentally, they do not drive policy and spending decisions. There is a complete disconnect between the vision of the national outcomes and the practice that happens—not all the time, but often.

Part of the problem is that, in the legislative underpinning of the national outcomes, there is a statutory requirement to consult as ministers see fit on the development of national outcomes, and a statutory requirement for the Parliament to be given a chance to look at them, but no statutory requirement for the Parliament to vote on those national outcomes nor a statutory requirement to think through how they are used. To echo what Louise Davies said, we probably need to change that.

We backed the wellbeing and sustainable development bill concept from very early on. For us, that is about strengthening what the national outcomes mean to this Parliament, the people of Scotland and decision makers in all sorts of public bodies—and businesses. Business is not the problem but part of the solution. However, there needs to be a level of accountability as to how shareholders act and what the priority is on profit versus other elements of sustainable development. The wellbeing and sustainable development bill could help that. That is about not just a stick, but a support mechanism and toolkits.

I will use one example. The Parliament's sustainable development impact assessment tool was really well developed by your colleagues in the Scottish Parliament information centre and should be used across all committees to help us take a global lens, using the national outcomes as a frame. That is a very practical way. The truth is that that is more time-consuming and more effort, and it takes more thought, but we cannot shy away from that. We live in complex times.

Dr Long: The idea of balance in your question is very common to definitions of sustainable development, to what we owe future generations and to notions of a just transition. The only way for a country to decide what its balance ought to be, and then be held responsible for what it has decided, is to have a national conversation of some kind, through its institutions and with the public, about what weighs for what in that balance. What goes on what side of the scale, and how much do those weigh against each other? Indicators can be a helpful part of that, and the outcomes can be helpful. They can frame that debate in a certain way.

Scottish public bodies are already under a range of duties to act sustainably in different ways. In some ways, it is a bit of a shame that there is no clearer sense of what that really requires. We need to get into the detail of some of that. The terms are very widely thrown around, and it would be easy to say back to you, yes, what we need is a just transition; however, the terms of that transition are genuinely contested and you have to have some way of sorting through them and thinking them through. The debate over what to measure—what things would be right—is always political and always reflects that conversation. What you end up measuring informs a further conversation about how much we should balance those things.

Lewis Ryder-Jones is right. For example, the point of having a metric on arms sales is not to say that arms sales are terrible, but to say, “We sell arms. Is that a good thing or a bad thing?” and have a conversation as a country about what should happen on that.

Having visibility on that data is an important first step. What gets measured gets done. However, we also find that what people want to do or want to be seen to be doing is what they end up measuring. Those things are intertwined. It is a good chance to have that conversation about what a transition involves, how the balance should be struck and what counts for what.

Alexander Stewart: Is there more need for public participation in some of that? Government and industry have a role, but could we talk about creating a bigger role for a group or a focus to which we could bring people from different parts of

society? It has a bigger impact on them as a nation; they do not seem to be part of the solution, but they can be looked on as a problem. Giving more potential for such public participation—creating some kind of opportunity—might be a way forward to dealing with some of that balance.

Dr Long: There are ways in which you can encourage more of that national dialogue. Every country does that differently, and I do not want to lay down any rules about how any country has to do it, but Scotland has a tradition of doing things in a participatory way—for example, there have been climate change assemblies and those sorts of things—and it would seem appropriate to use that tradition of open government in this case.

It seems clear that the SDGs have a localising component, which is helpful. Their language assumes whole-of-society implementation, with all sectors being involved. Maybe a commissioner would have a role to play in that, but even if you do not end up with a commissioner, having some kind of multistakeholder commission might be helpful.

There should be coherence between what is thought about these questions in Scottish public life and the kinds of institutions and policies that are put in place. It is about gently encouraging those things to align and go in the same direction, so that sustainable development becomes more widely understood across Government and it becomes a norm that people understand, including understanding why it is important and what its implications are. Then the conversation about the terms of a just transition will look a bit different.

I absolutely agree that public participation is important, and there are lots of ways to get it. Legislation might be an important part of that, and a commissioner or something similar might also be an important part of that.

Alexander Stewart: Thank you. Time is tight, so I am happy to leave it there.

Mark Ruskell: The Scottish Government is under new leadership, and one of the first changes that was made in the Cabinet was to remove the word “wellbeing” from the economy minister’s job title. There has also been quite a shift in the language in the last week or so. There is much more strident use of the term “economic growth”, and I think that I even heard the First Minister go back to using the phrase “sustainable economic growth”, which I had not heard for some time.

I am interested in your thoughts on that, because you are painting quite a positive picture about what has been happening up to now in terms of the review of the performance framework and the inclusion of a more well-rounded picture of what sustainable development means in that context. What are your thoughts on what the

Government’s direction might be, given those very public, headline indications about its priorities, which are for economic growth?

Lewis Ryder-Jones: The overarching decision not to change the name of the national performance framework to something else speaks to some of those points. There are tensions around what “wellbeing” means to whom and those tensions are clearly playing out at a political level, too. We strongly support the idea that the framework needs to have a name change and that “wellbeing” should appear front and centre in that name. That would help to develop more of a long-term understanding; it links to what Graham Long was alluding to about the need for building a shared understanding of these issues. I think that the national outcomes have a big role to play in that.

On the overarching purpose of the national performance framework linking to the politics of today, I think that we need to remove the politics of today from the framework. If we do not, this becomes a political conversation, whereas the framework is supposed to sit separately to that. That is how we understand it at Oxfam: a wellbeing framework must sit separately. The titles of ministerial roles and of portfolios are, for us, irrelevant to the delivery of a framework such as this, which should transcend the short to medium-term changes.

From an Oxfam perspective, the economic growth question is an interesting one. This might be moving us away from the focus of today’s meeting, so I will be brief. The value of economic growth is quite clear—nobody is arguing with that. The way in which economic growth is shared, however, is the most important question, and, in our view, that is not being approached in a sensible way politically. We would like to see a much more grown-up conversation about what economic growth means for different sectors, why, and for whom within those sectors. Then we can start having a meaningful conversation about what that really means.

Oxfam takes issue with the term “sustainable economic growth”, because it can perpetuate the problematic idea that we need perpetual economic growth in all sectors. To bring us back to the global lens, there are clear indicators that some sectors, such as the oil and gas sector, must ultimately not produce the same level of economic growth that they once did. In fact, they are not going to—we all know that. Oxfam’s perspective is that we need to see economic growth through a more nuanced lens, and this framework helps us to do that.

11:00

Mark Ruskell: Do the other panel members have brief comments? I have one more question as well.

Dr Long: The national outcomes paper that has been presented to the Parliament has the same kind of tension in it about growth. It wants to mention growth, but we all know that, as Lewis Ryder-Jones pointed out, ultimately, for growth to be compatible with a vision of sustainable development, it has to be decoupled from environmental degradation. Academically, the jury is out—or more than out—on whether that is possible, both in absolute logical possibility terms and in terms of whether the technology and the resources are in place to allow the transition to effectively decouple, so that we can continue growing at the same time as not harming the environment. I think that it would be a fair summary to say that that seems unlikely.

The political headwinds emphasise the importance of having other parts of the framework there and having a multilevel system. In some respects, having a legal framework in which this is talked about and having indicators that ensure that attention is paid and that there is transparency around the environmental aspects of the agenda become even more important if we do not have the same level of political focus on those aspects. If they are not front and centre in politicians' minds, and if you do not have that wider framework that calls attention to those things and allows the conversation to continue, the conversation will go one way.

Louise Davies: Briefly, on the political point, the Government made a manifesto commitment to introduce a wellbeing and sustainable development bill, and that has continued to be referenced in programmes for government. We therefore expect and hope that that will happen, and we look forward to seeing the report on the consultation in the next month or so. If that does not happen, it would be hugely concerning, based on the commitment so far that we value wellbeing and sustainable development as a society. That bill would include definitions of the terms “wellbeing” and “sustainable development”, which would help us to better understand what we mean by a wellbeing economy, and there may be supporting definitions of a wellbeing economy. Again, that would be valuable in providing a shared understanding of what we mean and what we are trying to achieve.

Mark Ruskell: That leads on to my last question, which is about one of the provisions in that bill: the establishment of a sustainable development commissioner. You may be aware that there are active conversations in the Parliament about the value of commissioners,

about where they sit in relation to committees and about the expense of commissioners and of running commissions. Why is a sustainable development commissioner a critical part of that bill? Can a better case be made for having a commissioner? If we are to continue with commissioners, why should we have a sustainable development commissioner?

Louise Davies: For clarity, there have been conversations about a wellbeing and sustainable development commissioner in some places and a future generations commissioner in others. Our view is that it would be one and the same. *[Interruption.]* It is just a question of semantics.

Graham Long can speak more to this, because he has done research on the different options and has looked at how the role could be serviced in different ways. However, our feeling is that a commissioner is needed to scrutinise delivery of a wellbeing and sustainable development bill, which would be about implementing the national outcomes, and to provide accountability and leadership. There are ways of doing that through other means, but it would be challenging and all of those ways would cost money.

The future generations role is about long-term and joined-up thinking, and eventually we would see cost savings because of that long-term thinking. We have the example from Wales: we have seen the impact that the role there has had. It would be very difficult for Wales to deliver its Well-being of Future Generations (Wales) Act 2015 without a commissioner to lead and service the delivery of that act. We have quite a lot on paper on that, which we can share with you later. Graham is perhaps best placed to follow up on that.

Dr Long: I will try to provide a quick summary but we have a paper on that, and we will send it to you.

One clear point that comes out of the question about the current political situation is the really important one about how we represent the interests of future generations within a political system. There seems to be a widespread mood that we need to move in that direction. We are seeing a lot of thinking about that issue at lots of levels in institutions—the European Union is thinking about it, as is the United Nations—and there is clearly a role for the commissioner in terms of representation. There are also functions around accountability, moving the national conversation on and creating some sort of institutional home for that discussion, as that is how you cement something as being part of a way of thinking in a country.

I would just highlight that, in other countries, it is not simply a question about having a

commissioner, because they have a commissioner and other things. For example, Canada has a commissioner and also a committee that does the scrutiny work, as does Finland, with the roles being split differently, so there are different ways of achieving the same ends.

If you decided that you could not afford a commissioner but you wanted to achieve the same ends, you could, for example, put in place a reporting duty on the part of the Government and a scrutiny duty on the part of a parliamentary committee or a set of parliamentary committees to do the accountability work. Alternatively, you could have some kind of stakeholder-convened commission that could do some of the investigative and supporting work, or you could create a series of networks that would bring together businesses and civil society organisations to develop some approaches.

If money is the obstacle, there are ways of putting in place some of the same functions through a range of alternatives. We can look to other countries to see how possible alternatives might work, but we should bear in mind that each country's context is different, so there has to be careful consideration of what will work for Scotland.

Lewis Ryder-Jones: I agree with all of that. Part of your question concerned things that would make this commissioner different. In the existing commissioner landscape, the Scottish Human Rights Commission is an existing body that could take on some of the roles that we propose that the new commissioner could do. However, there are key distinctions between human rights and sustainable development that get to the very core of why the issue is an overarching one. We are talking about not just the rights of people who live on planet earth now but about people who do not yet exist, and, crucially, we are also talking about the planet, and neither of those things is covered by human rights.

The other proposals for commissioners that are before the Parliament right now, including a disability commissioner and a commissioner for older people, concern important issues, and those commissioners could have an important role to play, but they are group specific. Sustainable development, on the other hand, is not about one person; it is about absolutely everyone on the planet. That is the distinction, for me.

Further to that, although there are clearly other routes that could be taken, what remains important from an Oxfam perspective is that we should not go down a route where a future generations commissioner becomes a Government body rather than being accountable to Parliament. There is an important distinction between those two types of commissions. The commissioner should be part of

the accountability structure that is required to ensure that the national outcomes actually drive policy and spending. That is another dimension with regard to why the issue is critically important, from our perspective.

Kevin Stewart: As I did earlier, I will play devil's advocate. A number of issues have been raised in the discussion, but I will start with the proposal to have a commissioner, as it has just been raised.

There has been talk that we should all be thinking about future generations. I do not disagree with the need to do that—I think about them every single day. There has also been a lot of talk about the number of commissioners that we have and the proposals to have even more. Many folk out there among the public—and the public are the most important people—think that commissioners are a complete and utter waste of time, in most regards, and that, with regard to the issue of accountability, which Dr Long and Mr Ryder-Jones mentioned, it is politicians who should be accountable. Is creating a commissioner taking away the accountability that every one of the politicians around this table should have?

Lewis Ryder-Jones: No, I do not think that it is. It is not an either/or question—it should always be about both Parliament and the commissioner. A commissioner's role can be quite extensive. They can introduce quite an important support mechanism for the role that you as parliamentarians play. That is critically overlooked in the role of commissioners a lot of the time. Nonetheless, Oxfam's position is that there are other routes to do that. A commissioner might not be the most cost-effective short-term route—that is fine. We think that they are because of the potential for a change in approach that would ultimately lead to preventative policy and spending over the medium term to long term, which would save the Scottish Parliament and the Scottish Government significant amounts of money. I think that the specificity of the accountability mechanism is less important than the principle of thinking long term, which is what a commissioner would support the Parliament and public bodies to do. That is the critical point that we want to get across.

Louise Davies: I do not have a huge amount to add. As Lewis Ryder-Jones mentioned earlier, it is unfortunate in a way that we are being presented with a whole bunch of commissioners, which makes us feel as though we have to make the case for commissioners as a whole. Our position is very much that a future generations commissioner is quite a distinct role that would be very difficult to service through other means. The role is not that of a rights-based commissioner—it is not about arguing for specific groups' rights. It is a much more holistic role that would consider planetary boundaries, the whole of the existing

population and future generations. That is quite hard to service through other means.

Dr Long: It is worth thinking about where the accountability ought to be and for what. It seems to me that, in Scotland, we are still at the stage of deciding what the accountability should be for. The commissioner has an important role in developing that. The commissioner might play a part for five, 10 or 15 years, and then wither away once—

Kevin Stewart: We have not seen any wither away.

Dr Long: There is no reason why this one could not break the pattern.

You might think about what the accountability position ought to be. Accountability is always accountability of someone to someone in respect of some standard. The standard is not yet very fixed there, and it is not necessarily fair to expect the public of Scotland to come up with that in their spare time. Giving somebody the task to come up with that and develop it over time might be a very sensible way of thinking about it.

Kevin Stewart: Would you want the commissioner—not the Parliament or the Government—to develop the standards?

Dr Long: No, although I think that the commissioner has a role in developing the standards, partly because of the concern about future generations and where they are represented in the system. It seems clear that we live in a world in which Parliaments are under short-term political pressures, and you might want to introduce a longer-term political perspective. Different countries do that in different ways. Singapore has a commissioner whose job is not about representing future generations in the sense of speaking to their interests so much as horizon scanning for future risks and projecting into the future what Singapore needs to do as a society to avoid those risks.

There is the question of how you want to encourage long-term policy making, or at least ensure that long-term policy making has a voice in the cycle somewhere. It may be that a commissioner ensures that, and the issue of independence is important.

Kevin Stewart: Again, I am playing devil's advocate here. We could set up a future generations commissioner who is a horizon gazer, if you like, and comes up with all that might need to be done—the long-term thinking—but we could still be stuck in a rut because we have a UK Treasury that gives only one-year funding and no long-term funding like that which exists in other places, including Singapore. How will all of that work when that commissioner can do nothing

about UK Government policy and UK Government spending? What is the point?

Dr Long: The point depends on each country's context. If what you are saying is that the Scottish position does not support the creation of that, I am not going to gainsay that. You are here representing the Scottish people to address that question in that capacity. It is not my job to tell you anything different. However, I point out that, in the situation that you mention, some of the same outcomes can be achieved in different ways.

11:15

There is no single way of representing future generations or of trying to encourage long-term policy making, nor is there only one way of ensuring that the Government is accountable for what it does or does not do about those questions or that Parliament is accountable in a range of ways to the public as a whole—no one thinks that there is a single way in which Parliament should be accountable; the idea of using commissioners and watchdog bodies for different things is widespread across the world.

This is about thinking through the best route to achieve those aims, given your financial constraints. The idea of a commissioner should not be off the table, but a parliamentary system with committee scrutiny involves giving committees space and time. If you want future generations to be properly represented but do not want a commissioner to do that, the next most obvious body to do that work is one that involves youth, which might involve injecting more life into a youth Parliament or integrating youth representation more fully into your parliamentary structures.

If you do not have that already but think that it is important to do it, there is no way of doing it justice without institutional change, but I cannot see institutional change ever coming without some sort of cost in time, effort or cash.

Kevin Stewart: I want to see massive institutional change, but we better not go there.

I will return to another important point that you made earlier, Dr Long. I am paraphrasing, but you said that there is already a range of duties for bodies to act sustainably. One good example of an area in which we have done well, but not quite as well as we could, is fair trade. The Economy and Fair Work Committee has been looking at procurement, but there is no particularly great definition of fair trade.

How do we move forward with meaningful measures? Would it be a good idea to look at the range of duties, tidy up definitions and get them

right where they are not quite right, to ensure that folk are living up to their responsibilities?

Dr Long: I do not see an either/or in anything that you have just said. If you want those things, and, to paraphrase you, if you want to hold people to account for their responsibilities, there must be some mechanism for that take place, either by improvement of the democratic politics that you have or by institutional change to ensure that that occurs.

Kevin Stewart: Or by enforcement of existing legislation.

Dr Long: My sense is that the existing legislation is not ripe for enforcement. When legislation is written, there is always a question about how much creative ambiguity to leave and whether that serves the purpose of the legislation. Legislation achieves its aims not only through enforcement but through what it says about norms, about where a society is at and about what the ambition is.

A sustainable development bill has a key job. You could revisit all the bits of legislation and insert a definition of sustainability into each one. When the Climate Change (Scotland) Act 2009 says that public bodies, including Parliament, Audit Scotland and the Government, have an obligation to act sustainably in fulfilling the climate change duty, you could add detail to that bill—and every other bill—to explain what that means. However, that might turn out to be more costly than having a new bill that just says, in some detail, what it means every time a bill says “sustainable” or “sustainable development”.

I do not know how the costs stack up, but I imagine that one argument for having a wellbeing and sustainable development bill or something like it would be that there are a number of definitions of sustainability out there, as well as of the word “wellbeing”, which is widely used in health and care contexts. It is important to get some clarity. You absolutely could do that by revisiting each bit of legislation, but you have to do that before you can start holding anyone to account, because if it is not at all clear what you are aiming at or trying to ensure, it is unfair to hold people to account for that.

That all points in the direction of having a body that would advise on, support and concretise those things. A bill is one good way of achieving clarity on some of those definitional questions.

Kevin Stewart: Does anybody else want to come in?

The Convener: I am very conscious of time, so I ask for succinct answers that do not repeat what has been said.

Louise Davies: Through the research that we—actually, Graham Long—carried out, anecdotally, we heard that most public bodies are not using the national outcomes or the national performance framework as a decision-making tool. They are reporting after the event, but it is not influencing their decision making. Therefore, it would help if the bill underpinned that.

On the other point, about scrutiny, the national outcomes come to Parliament every five years for Parliament to take a look at, but there is no parliamentary scrutiny of how we meet our indicators. Therefore, through the current process, we are not checking whether we are doing what we say we do.

Another option would be to do annual scrutiny of performance against the national performance framework. There is currently a framework and an element of scrutiny, but all that is scrutinised is what we actually want to measure, not whether we have achieved it.

Lewis Ryder-Jones: On sustainable development, around 10 per cent of Scottish legislation refers to sustainable development. Having definitions of what we mean by sustainable development would help with what you spoke about; there is no doubt about that, and the legislation is the perfect vehicle for it. I will stop there because if I go on I would be repeating what Louise and Graham have said.

Kevin Stewart: I could go on for much longer, convener, but I will not.

The Convener: I am sure that you could. Mr Brown, I am conscious of time, so if you could make it a quick question, and if we could have succinct answers, that would be helpful.

Keith Brown: I will ask my questions in one go, but first I will make a couple of points. On the commissioner, perhaps it is just a bad time to make the suggestion, because the Parliament is thinking about reducing the number of commissioners. I also have to say that appointed accountability is probably too widespread these days, and elected accountability is not widespread enough.

On the point that was made about climate action, I do not really see the issue with reporting the fact that there is an improvement, but that we have failed to meet climate targets; both things are true, and it is important to be true and accurate in such things.

My questions are about the framework in general. I am interested in your views on its purpose and effect. If we ask somebody in the street about the national performance framework, what kind of response would we get? Would it be wrong to ask that, because the framework is

meant for a different purpose? If so, what is that purpose? Is it mainly for the Government, non-governmental organisations and others to self-check?

The second point is that, if we take forward whatever is agreed on in terms of the outcomes of international activity, is it essential or desirable that we have a network of overseas bases in which to promulgate the activities, or is that by the by, and can it be done by another means?

Louise Davies: On the purpose and the public awareness, perhaps the consultation process was a missed opportunity to get more public awareness of what the framework is. It is supposed to be a vision for all of Scotland, and the public should know what it is. We probably all agree that, if we asked our families or friends, they would not know what it was.

As we talked about, there the name could be changed, so that it was called a wellbeing framework or something else that resonates a bit more with people. Further, the consultation process was under-resourced, and there was not enough consultation with different groups and in different ways. SIDA has a global citizenship group that represents voluntary organisations, researchers and activists from diaspora groups, and that would have been a perfect group to consult about its vision for Scotland, and particularly how global issues are dealt with.

On a point of clarification, at the start I was asked about whether we had been consulted on the indicator process, and I can confirm that we were consulted on the development of the international outcome and were pleased with the outreach that the national performance framework team did in terms of talking to the international development sector about encouraging responses to the consultations.

I do not have a comment on international offices. As Lewis Ryder-Jones said, there is a conflation between the international outcome where we talk about global responsibility and our global impact and the outcome that involves Scotland's reputation and brand Scotland, which is what those international offices are there for. Those are quite distinct things. In our global sustainable development work, we are concerned about global responsibility. Perhaps that work should sit in an economy discussion, but I do not want to comment on that.

Lewis Ryder-Jones: On the climate point, I agree with the statement that both are true. However, we need to present both things. Currently, we only present one, which is problematic for us. It is a question of having publicly available data visualisation that shows progress in the simplest way—on whether we are

getting worse or better—and on whether progress is related to targets that we set ourselves. Both are important, so I agree with that statement.

When Mr Brown asked about the issue of public understanding of the national performance framework, the first thing that I thought of was a friend of mine who lives in Finland whose child is five years old and sees SDGs on her local bus to school. That is the ideal: those frameworks and concepts being advertised quite clearly to the public. We do not have that in Scotland. I ask any one of my family members—I think about this all the time—if they know what they are, and they do not know until I tell them. That is just the reality.

Therefore, from the Oxfam perspective, these tools and this bill are primarily for the Government, public bodies, businesses and civil society to sense-check our direction of travel. That is the right place for it to be right now. In an ideal scenario, we would be investing in campaigns to improve public awareness, but I appreciate that we are not there yet.

On the international offices side, I echo the point that I have made a few times and that Louise Rennie has just made. There is a clear need for brand Scotland to be promoted globally. I do not question that. We live in a competitive world. The question is whether that sits alongside global responsibility. For us, it is quite clear that that is an uneasy link and that there is an inherent contradiction in promoting a brand—

Keith Brown: Do you know whether there is a directive that says that those offices can only promote brand Scotland and cannot talk about global responsibility? Why are the two antithetical? Perhaps I am missing a directive that says that you can talk about one but not the other.

Lewis Ryder-Jones: I suppose that I am coming at this from the perspective of the framework that we are talking about today: the national outcomes. For us to have a clear understanding of our global responsibility and what we are measuring in that regard, it does not make sense for the brand Scotland promotion to sit alongside that. I am not saying that the offices themselves cannot do both things—I cannot comment on that and I do not know whether they do. The point is that, from your perspective, looking at the national outcomes, those two things do not sit well with each other, especially when we do not have data to know how we are doing on the global responsibility side. That is the critical issue on which we need to feed back to the Government.

Dr Long: I do not think that it is important that every member of the public knows all the NPF outcomes or which indicator falls under which. However, it is important that, if you were to spend

an afternoon or an hour with those people talking through what they wanted in the Scotland and world in which they want to live and in which they want their children to live, it would make sense and they would be able to see what they wanted mapped against the set of outcomes. It is also important that those people who want to can go on a Scottish Government website and see the data, transparently, on how Scotland is doing on those things, given that there is that connection.

I would widen out the point on the international offices to a point about partnership. International partnerships are very important as vehicles for learning. There is a clear case that Scotland's international development partnerships would be useful vehicles for tracking Scotland's international impacts, both positive and negative.

It is quite apparent to me that global responsibility has always been a component and an underpinning of the brand. I have no view on brand Scotland, except to say that it seems clear that Scotland's global responsibility is clearly part of that picture, and, obviously, undercutting that will harm the picture. That will become more important in the future. I do not see people becoming less ethically interested in sustainable development, the fate of the planet, what goes on elsewhere in the world or how we are involved. Rather, the link will become stronger.

Keith Brown: I have a final point, which is not a question, because there is no time. I had wanted to ask about how your attitudes may have changed because of Brexit and because of what seems to be a very live discussion about whether the UK should come out of the European convention on human rights. If you want to submit something in writing, that would be really helpful, but we do not have time for an answer.

The Convener: I am very sorry that we have been so squeezed for time today, but that concludes the session. Thank you very much for your written communication to us and for coming along this morning.

11:29

Meeting continued in private until 11:30.

This is a draft *Official Report* and is subject to correction between publication and archiving, which will take place no later than 35 working days after the date of the meeting. The most up-to-date version is available here:
<https://www.parliament.scot/chamber-and-committees/official-report>

Members and other meeting participants who wish to suggest corrections to their contributions should contact the Official Report.

Official Report
Room T2.20
Scottish Parliament
Edinburgh
EH99 1SP

Email: official.report@parliament.scot
Telephone: 0131 348 5447
Fax: 0131 348 5423

The deadline for corrections to this edition is:

Wednesday 19 June 2024

Published in Edinburgh by the Scottish Parliamentary Corporate Body, the Scottish Parliament, Edinburgh, EH99 1SP

All documents are available on the Scottish Parliament website at:

www.parliament.scot

Information on non-endorsed print suppliers is available here:

www.parliament.scot/documents

For information on the Scottish Parliament contact Public Information on:

Telephone: 0131 348 5000

Textphone: 0800 092 7100

Email: sp.info@parliament.scot

