



OFFICIAL REPORT
AITHISG OIFIGEIL

Constitution, Europe, External Affairs and Culture Committee

Thursday 21 November 2024

Session 6



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CONTENTS

	Col.
DECISION ON TAKING BUSINESS IN PRIVATE	1
REVIEW OF THE UK-EU TRADE AND CO-OPERATION AGREEMENT	2
EUROPEAN UNION ALIGNMENT (ANNUAL REPORTS).....	25

CONSTITUTION, EUROPE, EXTERNAL AFFAIRS AND CULTURE COMMITTEE
25th Meeting 2024, Session 6

CONVENER

*Clare Adamson (Motherwell and Wishaw) (SNP)

DEPUTY CONVENER

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

COMMITTEE MEMBERS

*George Adam (Paisley) (SNP)

*Neil Bibby (West Scotland) (Lab)

*Keith Brown (Clackmannanshire and Dunblane) (SNP)

*Patrick Harvie (Glasgow) (Green)

*Stephen Kerr (Central Scotland) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Professor Catherine Barnard (University of Cambridge)

Mike Buckley (Independent Commission on UK EU Relations)

Professor Sarah Hall (UK in a Changing Europe)

Professor Jonathan Portes (King's College London)

Angus Robertson (Cabinet Secretary for Constitution, External Affairs and Culture)

CLERK TO THE COMMITTEE

James Johnston

LOCATION

The Robert Burns Room (CR1)

Scottish Parliament

Constitution, Europe, External Affairs and Culture Committee

Thursday 21 November 2024

[The Convener opened the meeting at 09:00]

Decision on Taking Business in Private

The Convener (Clare Adamson): Good morning, and welcome to the 25th meeting in 2024 of the Constitution, Europe, External Affairs and Culture Committee. Our first agenda item is a decision on taking business in private. Are members content to take item 4 in private?

Members indicated agreement.

Review of the UK-EU Trade and Co-operation Agreement

09:00

The Convener: Under our second agenda item, we will continue to take evidence on the second phase of our review of the trade and co-operation agreement between the United Kingdom and the European Union. The second phase focuses on mobility and trade in services. All our witnesses join us remotely, and I welcome Professor Catherine Barnard, professor of European and employment law at the University of Cambridge; Professor Sarah Hall, deputy director of UK in a Changing Europe; Mike Buckley, director of the Independent Commission on UK-EU Relations; and Professor Jonathan Portes, professor of economics and public policy at King's College London. I appreciate that Professor Barnard and Mr Buckley have only a short time with us, so we will try to be succinct, which is always a good thing, and succinct answers might help with that, too.

I will ask the first question. In his recent Mansion house speech, the governor of the Bank of England said:

“The changing trading relationship with the EU has weighed on the level of potential supply. The impact on trade seems to be more in goods than services”.

Guidance from the European Commission has suggested that the TCA

“provides for a significant level of openness for trade in services and investment in many sectors including professional and business services”.

What is your assessment of the impact that the TCA has had on services from a UK perspective?

Professor Catherine Barnard (University of Cambridge): Thank you very much for the kind invitation to be here.

I am a lawyer, so I will leave it to Jonathan Portes to talk about the economics. The TCA provisions on the mobility of people, which is crucial to the provision of services—[*Inaudible.*]—if it was contact, are, in fact, incredibly limited. If services can be provided online, which happens a lot, that avoids a lot of the limitations under the TCA.

If I wanted to go to work in a university in France and to get paid there, the TCA would not help me. I would have to get a work permit, and that would very much depend on the vagaries of French law, including whether the university could show that it could not get a suitable European to do the job. There is provision for short-term business visitors, but the crucial thing is that they cannot be paid. Key sectors are also excluded from the list of

short-term business visitors. Perhaps we will come back to this point, but touring musicians and artists are good examples of those who are excluded from the categories of people who can benefit from protection under the TCA.

Professor Sarah Hall (UK in a Changing Europe): Thank you very much for the invitation to be here.

The Office for Budget Responsibility recently concluded that the data that it has seen on Brexit is broadly in line with its initial assumption that Brexit would reduce the UK's trade intensity—a measure of how much the UK is trading—by about 15 per cent in the long term. The OBR argues that it has not seen data that would change that assumption. It is interesting that, at least on the surface, services exports to the EU have held up rather better than we might have expected, whereas the hit has been particularly in goods.

My interests are in financial services. That sector, which is strategically, politically and economically central to the UK economy, does not enjoy anything like the amount of market access that it did when the UK was an EU member state. When assessing the TCA, it is important to consider the baseline as the position when the UK was a member state. It is different from comparing the relationship between, say, Singapore and the EU. That is where some of the confusion arises about what the impacts have been.

Mike Buckley (Independent Commission on UK EU Relations): I do not want to repeat things that have already been said. I am sure that you are aware that services make up the bulk of our economy—72.8 per cent of our gross domestic product. Goods are, of course, also very important, and there are much greater barriers in place for goods than there are for services, but when it comes to the overall impact on the UK economy, services are incredibly important. It is very good news that the services trade has held up, but we need to compare the current position not just with the past but with the future that we might have had. Had we remained a member of the EU and the single market, the services trade with the EU would certainly have grown much more than it has done.

Professor Hall referred to financial services. In relation to financial services, transport and other sectors, it is important to recognise that the EU single market is not fully integrated with all aspects of services. Regulations in different member states can create barriers even between member states, but they are progressively working to reduce those. Of course, those barriers are not being reduced for the UK because we are no longer part of the EU.

Financial services and transport are two sectors that are particularly well integrated with the single market. The UK used to be part of that market, but we are not any more, and because those two sectors—particularly financial services—are seen as being important to the EU economy, the EU has quite strict barriers for outsiders, which we now are. The EU and its member states see the City of London as a major financial services centre and, therefore, as a rival, so they, in essence, want to keep it out, and they have devised the TCA to enable that to happen, which has made things difficult for the City of London.

Like me, committee members will, no doubt, have read articles and news pieces that say that the City of London is doing very well, as not many jobs have been lost. However, in reality, the growth that there would have been in the City of London has not happened, and the jobs that would have been created in the City of London have, instead, been created in Amsterdam, Paris and Frankfurt.

There has been a major hit to the financial services sector, which is not really being talked about. Importantly and understandably, the big institutions in the City of London are not really talking publicly about that hit, because they want to talk up their sector and say that it is thriving; they do not want to point to the negatives and the downsides. From a commerce perspective, I fully understand that, but you, as legislators, should recognise and understand what is happening. It does not necessarily need to go on the front pages, but Governments ought to respond, because we should do all that we can to help the sector, which is central to our GDP.

Professor Jonathan Portes (King's College London): I echo what Catherine Barnard and Sarah Hall have said. Clearly, there are some additional barriers to the services trade as a consequence of Brexit and the operation of the TCA, but the fact is that, in macroeconomic terms, the UK's overall performance on services exports has been good. It is broadly in line with the pre-pandemic trend, and it is very difficult to see any obvious Brexit effects. I am sure that, at the micro level, some jobs and services are now located on the continent rather than in London and other financial centres here, but Brexit has not really moved the dial.

If we look at the big picture, we see that Scotland and the rest of the UK have a lot of big structural economic problems with productivity, investment and demography—all the things that we know about. However, we have one really big advantage, which is that we clearly have a very significant comparative advantage in tradeable services, which has survived Brexit in a considerably better way than I and other

economists expected. Given all our other problems, we absolutely need to make the most of that. I am not making any specific policy recommendations at this stage, but that is a good news story. Brexit has not been the disaster for that sector that we might have thought it would be, and we have a big advantage in that sector, so we need to make the most of it in relation to the TCA and much more broadly.

The Convener: It will be a bit tricky to manage the meeting, given that all the witnesses are online, so I ask members to direct their questions to certain witnesses. If anyone wants to add anything to what has been said, they should say so in the chat, and the clerks will let me know that they want to come in.

Alexander Stewart (Mid Scotland and Fife) (Con): Good morning. You have all touched on the challenges that we have faced and that we continue to face in managing the processes for our sectors. Professor Portes, you touched on potential successes in how things have progressed. Are there specific areas and sectors in which there has been real change, with activity going from vibrant to non-existent, and are there others in which there was an acceptable level of activity and there are now further opportunities? We have heard that some organisations have relocated their offices to other locations to try to develop and expand some of their processes to ensure that they can tap into opportunities, whereas other organisations have not done that but have been reasonably successful. Do you believe that there is an opportunity to try to do that as we move forward? I ask Professor Portes to answer first.

Professor Portes: It is very unfortunate that—as, I suspect, you know—the data on the UK services trade is considerably less timely than the data on its goods trade. We do not know exactly whether this is the case, but I and, I suspect, others are strongly of the view that the data on the services trade is also significantly more inaccurate, because it is very hard to measure some of the trade that happens remotely. However, we know that organisations under the general category of other business services—in other words, legal, consultancy and accounting services—have been doing extremely well. That has particularly been the case for consultancy services, broadly defined, as there are relatively few trade barriers of any sort.

We can see why that is the case from this morning's meeting. I regularly do this sort of thing remotely, including for people in foreign countries for money. That is an export. That did not happen—certainly not in the same way—five or 10 years ago, so that is the opportunity.

In relation to Scotland's relative competitive advantage within the UK, there might be some specific advantages to Scotland in that regard. On trade promotion, you should consider those competitive advantages. Scotland has a lot of space and a lot of beautiful countryside. In some ways, it is easier for people in Scotland to live near large cities and to be within reach of the countryside than it is for some of us down here in the crowded greater south-east of England. There are potential competitive advantages in those growth sectors. I would look for opportunities in those sectors and consider what is needed to reduce barriers to entry. I suspect that the issues are not specifically about trade arrangements but about immigration policy, mobility, the position of universities within the business ecosystem and so on.

09:15

The Convener: Mr Bibby has a quick supplementary, and then I will bring in Professor Barnard.

Neil Bibby (West Scotland) (Lab): I want to follow up on the points that were just raised about trade in services, although it is largely excluded from the TCA, holding up better than trade in goods. What analysis is there on that? We have heard this morning about online remote working being a big factor. Is that enough to largely explain what has happened, or are there other factors?

Professor Portes: There is quite a lot of analysis but, as I said, it is slightly hampered by the fact that the data is far from ideal even at a UK level, let alone at a country level. The Resolution Foundation has produced some excellent analysis, and the Office for National Statistics does analysis of the issue for the whole country. On a more specific and detailed disaggregated level, our colleague Jun Du at Aston University business school has done some work on trade in services, and Sarah Hall has written on the issue, too. So, there is some analysis and, as I said, it all probably supports the picture of the UK's relatively good performance in the area. However, it is a frustratingly moving target, because of the nature of the data.

On how much the situation is accounted for by remote working, it is certainly very hard to imagine that you would see the growth in the general catch-all category of other business services without the use of remote working. It is just inconceivable that we would have had that, because remote working is such an integral part of the business process. So much of the necessary co-ordination between teams across different countries and the direct interaction with clients now happens remotely in a way that it did not previously. You would previously see a lot more

activity taking place in the individual country or in the city offices of firms, whereas now it happens much more across different locations. Personally, I am completely convinced but, again, we do not have very much quantitative analysis.

Professor Hall: I totally agree with what has been said on other business services. It is important to set out that that is an area where future research is needed. It is an incredibly broad category, as set out by the Office for National Statistics. There are some activities where the data clearly shows that Scotland does very well—I am thinking of fintech, which is at the intersection between financial services, technology and consultancy—but that do not fit neatly into the Office for National Statistics categorisations. When the ONS set up the business codes, something like fintech did not exist as an activity. We do not accurately know how those new and emerging activities are playing into our economy, so that is still an area of uncertainty.

Another important point is that, in many ways, we should not be surprised that other business services are doing well, given how they are traded and the barriers to trade. The barriers to trade in services are not tariffs; they are essentially about regulatory alignment between the two trading parties. In many ways that regulation is sensible and important. I think that we would all agree that we want to be certain about a medic's qualifications before they operate in our country—there is a really good rationale for that. However, that means that, for services such as consultancy, which have much lower regulatory standards—I could set up as a consultant with no professional qualification if I had the capital do to that—it is much easier to sell services into another country. It is not like being an architect, where you need to have a professional qualification. I have a degree of caution around the data, because a lot of the other business services activity is new and does not fit neatly into our existing data.

Another important explanatory variable is that there are services that have quite low barriers to services trade, because they are not reliant on regulatory closure—for example, that applies to those who can operate as information technology consultants.

The Convener: I will bring in Professor Barnard on Alexander Stewart's original question.

Professor Barnard: I will answer the first part of that question, which was about which sectors have been badly affected, so I am looking at the negative rather than the positive. The sectors that we know have been particularly badly affected are those in the creative industries—musicians, artists, models and things like that.

I will briefly talk about a bit of law to help you to understand why they have been so badly affected. The first thing to understand is that the trade and co-operation agreement is not EU law minus; it is actually World Trade Organization law with a tiny bit plus. In other words, it would be totally wrong to look at the TCA as some sort of substandard version of free movement of services. The reason why that is relevant is because there are categories of individuals who are allowed to move, and the three categories that are most relevant for the purposes of creative professionals are short-term business visitors, contractual service suppliers and independent professionals.

From those three titles, you might think that it is obvious that creative professionals would probably fall into one of those. The problem is that the TCA operates based on what is called a positive listing system, which means that you enjoy the rights under those three headings—short-term business visitors, contractual service suppliers and independent professionals—only if your activity, profession or sector is listed in one of the annexes to the TCA. The problem is that none of the creative industries is listed in those annexes. Under those annexes, consultants and academics can physically move but cannot be paid for their work if they go as a short-term visitor.

The big difference between the creative industries and those providing the other business services that we have been talking about is that the creative industries require physical presence. If you are going to perform in the opera in Paris, you cannot do it online and you want to be physically there as part of the orchestra. You have to move physically. That would in principle be in the provisions of the TCA but, as I have just explained, the TCA does not cover any of the creative industries, because of the system of listing. Those who want to move to do jobs that require you to be there in person have been particularly badly affected.

Keith Brown (Clackmannanshire and Dunblane) (SNP): Good morning. I am a wee bit stunned by the diversity in the responses, which go from quoting the OBR talking about a 15 per cent drop in trade intensity over the long term, which is absolutely astonishing if you think about the impact on the economy, to a statement that Brexit has not really moved the dial. I find it hard to reconcile those two different views.

My specific question is the balance of payments, which is something we used to agonise over. I appreciate that this information may not be readily to hand for the panel members, but the balance of payments for the UK has been massively negative over a long period, although Scotland's balance of payments has—notionally, I suppose—been positive, with exports exceeding imports over a

long period. Are any members of the panel aware of how that might have changed as a result of Brexit? I imagine, for example, that if there is any data on Northern Ireland, that would have seen an improvement given its special status, but I am just guessing.

Professor Hall: I do not have balance of payments figures readily available, but there are indications that the impacts have been different across the UK. I refer you to Professor Portes's earlier remarks about the challenge of data and particularly the challenge of data disaggregation within the United Kingdom. As a researcher in my field, you end up almost using workarounds to try to understand exactly what is going on. With financial services, which is the sector that I am most familiar with, there is clear evidence that London has held up more than anticipated or projected at the start of the process, but sometimes the focus on what has been going on in London maybe masks other quite important trends, particularly the ways in which mid-tier financial centres in the UK have perhaps taken more of a hit than we readily acknowledge.

There is quite clear evidence of significant growth in places such as Warsaw and Lisbon in mid and back-office functions, and that should not be ignored, particularly when thinking about the expertise that Scotland has in financial services. What was the rationale for foreign direct investment in financial services in Birmingham, Belfast or Glasgow? A lot of it was that you were getting a highly skilled workforce that was fluent in English and able to work in the English common law system but also able to access the single market. We are now without single market access, and some of those attributes of a highly skilled workforce are available at lower cost in EU member states. That is how I would summarise the situation from the data that I know of.

Mike Buckley: On the difference between the OBR saying that there is a 15 per cent drop in trade intensity and other people saying that things are not so bad and are much better than they would have been, that is partly a result of looking at different data sources and it is partly about people's different perspectives. You will remember that, pre our leaving the single market, the customs union and the EU, there were lots of projections as to how bad the economic impact was going to be but, in the event, it often has not been as bad as people expected it to be. As a result, a cohort of people are saying that things are not quite so bad as we thought they were going to be.

However, other people compare with things as they could have been and look at a counterfactual. That is about asking, "Had we stayed in the EU, the single market and the customs union, where

would the UK economy now be and where would trade in goods and services now be?" If you look from that latter perspective, you have a much more pessimistic view on where we are on trade in goods and services or indeed just on sectors thriving.

Another problem is that there is lots of data that we do not have, as others have referred to. With industries such as the automobile industry—those that make big physical things that are constructed, sold and traded by big companies that gather data and can communicate it—there is a lot of readily available data, but with some of the newer industries such as fintech, which was referred to earlier, there is much less data gathering.

That is also the case with small and medium-sized enterprises. I have spoken to a lot of people working in SMEs across a range of sectors who have stopped trading with the EU entirely. Others have just stopped trading at all, because that was what they used to do, or they have shifted to doing other things. Nobody is systematically gathering that data, so nobody really knows, other than from anecdotal evidence, what the impact has been. Because those smaller organisations do not have the capacity to employ lots of people to fill in forms if they are trading in goods or to adjust to the fact that their mobility is reduced if they are trading in services, many SMEs have shifted to doing different things, but they have had nobody to tell that to. The Government has not been interested in that information. The previous Government was not interested in it, and I am not sure how interested the current Government is.

09:30

We are missing data on the regional impacts. Before Brexit happened, research was done into what the regional impacts would be. Essentially, the determination was that areas such as London and other high-performing areas of the UK would not be particularly badly affected, but that the regions of the UK that were already poorer, such as Northern Ireland, the north-east, the poorer parts of Wales and south Yorkshire, would be much more badly impacted. It was expected that the impact in London would be a loss of, say, 1 per cent of GDP and that the loss in the north-east would be something like 12 per cent of GDP.

We simply do not know whether that has been borne out. I suspect that it probably has been, but I am not aware of anybody who has the capacity or the choice to do that research, and certainly the previous Government was not interested in doing it. As yet, we do not know whether the current Government will be. However, there is some evidence from the regional GDP figures, which show that Northern Ireland has jumped from being bottom of the pile in every survey pre-Brexit to

being consistently number 2 after London. London is not doing too badly, as far as we know. Northern Ireland is in both markets for goods and is doing better as a result. We can all celebrate that but, from the data that we have, it sounds as if the rest of the UK, including Scotland, is doing worse.

I would love to do that research but, as an organisation, we simply do not have the capacity. However, I am continually aware that it is a job that needs to be done. If it was borne out that already poorer regions of the UK are losing out, partly as a loss of structural adjustment funding but also just because of a loss of economic activity, that would be really important. Another piece of work that needs to be done is consistent, or much more in-depth, research with SMEs.

Keith Brown: Before I bring Professor Portes in, I note in response to what Mr Buckley has just said that the vast majority of the evidence that the committee has heard has veered towards identifying disastrous effects. People have said that they stopped trading with the EU immediately. An example is small seafood producers. Some businesses have outsourced to parts of the EU and others have had to go through parts of the EU in order to continue. On the point about the lack of data, as a former economy secretary in Scotland, I note that it is very difficult to get information about Scotland from UK sources. The information is very often not disaggregated and it is often based just on surveys.

I appreciate that it is difficult, but my question was about the balance of payments. Professor Portes, can you say anything about what the balance of payments was before Brexit over the longer term and what it might be now? I realise that it is difficult, but is there any way in which you can disaggregate that to different parts of the UK?

Professor Portes: Picking up the original question about the difference between the OBR assessment and mine, I note that the answer is easy—there is no difference. The OBR said that the long-run negative impact of Brexit would be 15 per cent on trade intensity and, as a consequence, about 4 per cent on GDP per capita. It sees no reason to change that long-run assessment, and neither do I.

The point that I was making is that the impact on trade has been felt on trade in goods. At a macro level at least, it is hard to see that it has been felt on trade in services. The negative effects that we have seen so far in macro-level data are very much effects on trade in goods. They are not really on trade in services, despite the points that other witnesses have made, which I do not dispute, about individual impacts on particular businesses or particular small sectors. Overall, trade in services has continued to perform very well despite Brexit.

As I said, the OBR's overall assessment of the impact of Brexit on the UK economy remains the best guess that we have, uncertainties notwithstanding. There is a negative impact on trade in goods. It is a negative impact on trade and a negative impact on GDP and productivity.

When you refer to Scotland's balance of payments, which is an interesting issue, I am not entirely sure whether you are referring to Scotland's international trade, on which we have figures, albeit that they are out of date and subject to the same issues as those that are relevant to the rest of the UK, or to Scotland's balance of payments in the economic sense—that is to say, taking into account its imports and exports with the rest of the UK and with the rest of the world at the same time. My take on it is that, even with the best will in the world, it is unfortunately very difficult to get data on that, particularly on the latter. I think that the latest data that is available is from 2021. That was during the bounce-back from the pandemic and it is not clear that we can read anything into that in relation to long-term trends.

As you will know better than I do, the value of Scotland's exports in the short term is quite volatile as a consequence of the impact of energy prices. They went up a lot during the energy price spike and then down a lot as that receded. That is quite normal in the broad sweep of history and it is not directly attributable to Brexit.

My perception is that Scotland still does relatively well compared with the rest of the UK in terms of international trade overall, but it has a significant deficit with the rest of the UK. From a macroeconomic perspective, that is an almost inevitable counterpart of the fact that, on net, from a fiscal point of view—I know that this is a hugely controversial topic in Scotland and I suspect that we do not want to get into it today—there are significant transfers from the rest of the UK to Scotland. As a macroeconomic fact, capital that flows one way must be mirrored by a trade deficit the other way. If Scotland is spending more than it is getting in tax, there will be a counterpart trade deficit to that within the UK.

Keith Brown: I will bring in our last witness. Professor, on that point, you said that, even with the best will in the world, the information is not available. There is no will to look at the information on exactly the point that you made. What are Scotland's exports? We can think about whisky and oil, but oil comes ashore, it gets sold in the Netherlands and it is apportioned to the UK. There is a lot of clarity on fiscal transfers but very little on what goes out of Scotland. I ask the last professor to wind up on that, if possible.

Professor Hall: I think that that was Professor Barnard. I do not have anything to add on your question.

Professor Barnard: On your point about goods versus services—you specifically mentioned seafood producers—you are absolutely right. We are mainly talking about services, but what the data shows about goods is that small and medium-sized enterprises have stopped exporting to the EU because the burdens that are associated with the paperwork and rules of origin are so crippling that it is just not worth the effort. Some businesses are still exporting and are actually paying tariffs on the goods even though they are not obliged to do so under the TCA because it is easier to do that than it is to go through all the paperwork and prove the origin of the goods. Although services may have held up in certain areas, goods have been significantly affected.

Could we get some form of sanitary and phytosanitary standards agreement or veterinary agreement with the EU as part of the reset? I suspect that the EU will not even countenance discussing anything to do with that until after 21 January, when President Trump takes office, for the simple reason that it will want to see which way the UK Government goes in relation to the US. Will it trend the UK much more closely into the US orbit by offering a trade deal with tariffs, but on condition that we accept President Trump's terms in the field of agriculture? That would have the effect of making it more difficult to trade with the EU rather than less, because there would be more checks. At the moment, we are broadly aligned. If we entered any deal with the US on those terms, we would increasingly de-align, which would further aggravate the problem with the Northern Ireland border.

Stephen Kerr (Central Scotland) (Con): I would like us to try to get our arms around what we are talking about. We are exclusively talking about services here. The UK is currently the third biggest exporter to the European Union, with 7.1 per cent of the entire EU imports being from the UK. Can someone tell me, as a matter of fact, the split between services and goods of the \$193 billion of trade that we do with the EU? I presume that it is predominantly services. Can anyone cast any light on that? Professor Barnard, you are nodding.

Professor Barnard: I am a lawyer, but it is clearly dominated by services.

Stephen Kerr: Does anyone have a more definitive split?

Mike Buckley: They are not necessarily what you want, but I can give you some statistics that I have in front of me. They are on our services exports, but not necessarily directly to the EU. I am not sure which year they refer to, but the most recent figures I have for our exports are £61.3 billion in financial services, £28.4 billion in travel,

£5.4 billion in telecoms and £29.4 billion in transport.

Stephen Kerr: Those are global figures rather than being specifically on exports to the EU.

Mike Buckley: Yes.

Stephen Kerr: Professor Portes, do you want to comment?

You are speaking, but we cannot hear anything.

Professor Portes: The muting is happening centrally; it is being controlled from Edinburgh and not from London.

The picture may be slightly misleading. Our exports to the EU are considerably more goods heavy than services heavy. Given that the issue has come up in the context of the threat from Trump's tariff policy, it is interesting to note that we export mostly services to the US and mostly goods to the EU. In 2023, we exported £138 billion of services to the EU, which is a lot, but we exported £243 billion outside the EU, whereas our goods exports were £153 billion to the EU and £162 outside the EU. In other words, almost half of our goods exports go to the EU but only roughly a third of our services exports go to the EU.

I keep coming back to the problem with measuring these things. I know that that is frustrating for you, and it is frustrating for us as well. However, as far as we can tell, our services exports are considerably more global whereas our goods exports are more weighted to the EU.

Stephen Kerr: The balance of our exports to the EU is towards goods rather than services. Mike Buckley has put his hand up, so he might be about to shed some more light on that.

Mike Buckley: I am looking at a report that we are to publish shortly on trade in services. I have some statistics from Deloitte, which did some research recently and published an article titled "Why has the UK missed out on a trade boom?" It makes the point that non-EU services trade from the UK has grown more than EU services trade. It compares the position now with the position in 2016. In 2016, our services trade with the EU and our services trade with the rest of the world were relatively similar. The figure for our services trade exports to the EU was £160 billion and the figure for our non-EU services trade exports was £150 billion. The gap was only £10 billion, so we were exporting about the same to both.

Since 2016, that has shifted. We now export significantly more to the non-EU part of the world than to the EU. The figure for EU services exports has gone down slightly, from £160 billion to £155 billion. That is only a small reduction, but the figure for non-EU exports has gone up to £185 billion, which represents a £35 billion increase. Services

exports to the EU have gone down slightly and those to the non-EU part of the world have gone up by about £35 billion.

Stephen Kerr: What is your analysis of the reason for that? How much is being driven by the issues that we are discussing today and how much is being driven by market opportunities for UK service companies?

09:45

Mike Buckley: Clearly, it will be a combination of things, including regulatory barriers and movement. On movement, which we talked about earlier, the Government talks about mutual recognition of professional qualifications. Most of the businesspeople that I speak to say that that would be nice to have but that they do not expect to get it, partly because it would take years to negotiate if it was to happen. However, they want business mobility. They want to be able to go over there and get paid and to have face-to-face conversations with people and run training courses. They want to be able to send staff on short-term assignments, because they have staff with particular expertise, either here or in EU member states, and they want people to be able to go back and forth without facing barriers or feeling like they are breaking the law in doing so.

There will, of course, also be a shift with people looking beyond the EU for opportunities, finding those opportunities and exploiting them, in part precipitated by the fact that we have left the EU.

Stephen Kerr: Is the conclusion to that that it is easier for service-orientated businesses and individuals to trade in, for example, the United States than in the EU?

Mike Buckley: It might be similarly easy or difficult. It might be easier in some areas or sectors; I am afraid that I do not know which off the top of my head. It is clearly easier for a services exporter to adjust than a goods exporter. A goods exporter is limited by proximity to the place that they are exporting to. It is obviously easier and cheaper to get something across the English Channel than it is to send it to the States or Panama, but a services exporter can look further afield. I imagine that one of the reasons that we do particularly well with the US is just that we have a shared language and it is easier to export to people with whom you can more easily communicate.

Stephen Kerr: When it comes to the EU, are there any statistics on what sectors we are talking about within the generic term “services”? Do we have a breakdown? Financial services were mentioned but I have not heard any of the others mentioned. We took evidence from the legal sector last week. What are the other main sectors,

and how would you apportion the split by importance?

Professor Portes: As we discussed earlier, the biggest sector by far is other business services, which includes the legal sector as a subsector. “Other business services” is an umbrella term covering legal services, consultancy, accounting, advertising, architecture and so on. It varies between things that are quite well regulated or in which regulation matters, such as architecture, to less regulated things such as consultancy, as Sarah Hall rightly said. My consultancy business took me £10 to set up. I registered it at Companies House, I have a laptop and I do it in our spare room. That is it.

Stephen Kerr: Yes, Bob’s your uncle.

Professor Portes: I believe that I am qualified to do what I do—and so do my clients, I think—but there is absolutely no regulation involved.

Stephen Kerr: Let us stick on the area that you have just raised. Mutual recognition of qualifications is an issue. Of the sectors that you have mentioned, which have suffered more because of the loss of mutual recognition of qualifications? Has that mattered? It was highlighted last week in our evidence from the legal profession that qualifications in Scotland are not even recognised in England or vice versa. How much of an impact has this really had?

Professor Portes: That is very much a question for Catherine Barnard.

Professor Barnard: When we were in the EU, there was a directive on mutual recognition of qualifications. The broad principle of the directive was immensely simple—the clue is in the title—and it was meant to be straightforward. However, even when we were in the EU, the mutual recognition provisions did not work terribly well, because there is a lot of vested interest in each state to ensure that its people get the jobs and professions and that those are not very open to other people. The legal profession is a good example of that.

In leaving the EU, of course, we have lost access to that directive and to the principles and enforcement mechanisms that underpin it. There is a provision in the TCA whereby it is possible to negotiate mutual recognition agreement. It is based on an equivalent provision in the FTA between Canada and the EU—the comprehensive economic and trade agreement, or CETA. However, there is only one sector in which there has been an agreement between the EU and Canada, which is architecture, and that took up to about seven years to negotiate, depending on how you count it. It certainly took a very large number of months to get to the agreement on that.

What we are seeing a bit of is bilateral arrangements whereby, for example, law societies might try to enter into some form of agreement with their opposite numbers. However, as Stephen Kerr has already said, that does not go swimmingly even between Edinburgh and London, and we share a common supreme court. As you can imagine, it will go even less swimmingly when trying to get the Bulgarians, for example, to recognise British qualifications. Mutual recognition of qualifications is probably the biggest stumbling block for professionals to work with.

Stephen Kerr: Which sectors have been particularly negatively impacted?

Professor Barnard: Law.

Stephen Kerr: Law is the biggest issue.

Professor Barnard: Yes—the legal sector. Although I do not have the data on this, I imagine that accountancy and all sectors that are underpinned by a detailed—[*Inaudible.*]*—national legal system have been impacted, too.*

Professor Hall: I want to follow up on that and make two points. The first is that you need to think about the value of mutual recognition of professional qualifications alongside mobility agreements, because, if you had MRPQ but only limited mobility, you would not exploit the full economic value of MRPQ. Someone might be qualified to work as an architect in Germany but they also need the mobility to deliver that service face to face.

It is an important area. The terms under which UK service providers trade with the EU are now more like a complex web of interrelated policies and regulations. If you are a service provider, you have to think about your sector, what service you are providing, which member state you are providing it in, whether you are qualified to do it and whether you have the mobility to do it. It is quite complicated.

Secondly, I want to follow up on the case of architecture, which is one of the impacted sectors, because a professional qualification is required to practise as an architect. Catherine Barnard is exactly right that the EU and the UK can try to agree an MRPQ that follows the Canadian deal. In fact, in October 2022, the European Commission received a joint recommendation from the Architects Council of Europe and the Architects Registration Board in the UK, which set out a proposal for mutual recognition of architecture qualifications. However, the Commission turned it down, arguing that the proposal was

“unbalanced and prejudicial to EU architects”,

because, under the proposal, UK architects would have had a level of recognition similar to that

which they enjoyed when the United Kingdom was a member state.

That points to the difficulty of translating an agreement that the EU has with Canada to an agreement that the EU might have with the UK, because of the proximity of the UK to the EU—

Stephen Kerr: Also because of the politics.

Professor Hall: —and because of the UK’s relative strength in services. The really important point is that the EU met a lot of its negotiating ambitions on its strategically strong goods sector, but, arguably, the UK did not meet as many of its negotiating objectives around the UK’s strategic strengths in services. That is where some of the complexity lies.

Stephen Kerr: If the Commission acceded to the request that the architects had all agreed among themselves, it would see that as a threat to the agreement itself—I get that. Convener, have I used up all my time?

The Convener: Yes, because we have a second evidence session today. I move to questions from Patrick Harvie.

Patrick Harvie (Glasgow) (Green): Good morning to our witnesses. You might be aware that, later in this inquiry, we will have sessions specifically on mobility; in particular, the committee has an interest in youth mobility. I want to ask about the connection between that theme and the trade in services that we have been discussing; it has come up in a number of your answers.

For me, people’s freedom of movement and young people’s opportunity to move can be justified in its own terms due to the social and immediate benefit that people get from it. Should we also regard it as an economic investment for the future, to ensure that we have a generation of people coming up in every walk of life and business who have personal connections with people in other European countries, particularly in the fields in which they have studied, and who regard European countries as something more than a holiday destination?

If we do not restore that opportunity for the upcoming generation, what will be the impact of the loss of youth mobility, not just on trade and services at the moment but in the longer term? Regardless of whether the UK and the EU agree improvements in this area, is there anything more that the Scottish Government should be doing to maximise the opportunities in the current context for young people in Scotland to experience a connection with European countries and for young people in Europe to experience a connection with Scotland?

Professor Barnard: As you can imagine, those of us who work in a university feel strongly about

having some sort of youth mobility scheme. We have already seen the impact of Brexit on numbers of applicants coming from Europe, which have gone down significantly. It has also become much harder for British universities that teach modern languages courses to be able to send students on years abroad, not least because they now have to go through a visa application process to study at, say, a Spanish university.

The EU proposed an ambitious youth mobility scheme in May 2024, which was very quickly rejected by the Conservatives and just as quickly by Labour. It was an ambitious ask, including on universities, that the fees should be set at home fee rates—of course, that is not an issue for Scotland in the same way as it is for England—and with no health service surcharge, and both aspects seem to be unacceptable to the UK. Yvette Cooper has come out very publicly to say there will be no youth mobility deal. That said, if there is a reset, some sort of deal that might be described as a cultural exchange might be a way forward.

What are the benefits of having access to European universities? The loss of Erasmus has of course been keenly felt by British universities, and the Turing programme has not been an adequate replacement for its loss. Even under the Conservative Government, there was recognition of the value of having young people staying in the UK after they complete their degrees. The UK Government introduced the graduate visa, so, after you had done a degree in the UK, you could stay and work for two years. The Conservative Government also recognised the value of having young people studying here and then using their skills to work—if they got a long-term job, they could then get a five-year visa to stay and, eventually, apply for citizenship.

Patrick Harvie: Hands have gone up, and the order was Mike Buckley, Professor Hall and then Professor Portes.

Mike Buckley: I am afraid that I have to leave very shortly but, before I go, I want to talk a bit about youth mobility. It strikes me that there is a huge disconnect between the UK and the EU, which goes back to the disconnect that has been there the whole way along of the non-UK parts of the EU seeing the EU fundamentally as a peace project in bringing nations together, preventing war in Europe, creating mutual understanding and so on.

Mobility, and youth mobility in particular, is an emotional thing for the EU, which of course it is not in the UK. The UK has pretty much always seen the EU and the single market as an economic issue—does it make us rich or does it make us poorer? For the moment, we have just made the assessment, “Well, it makes us poorer

but we do not care because of the politics”, not wanting to go back to the leave or remain divide, and with the Labour Party not wanting to upset the red wall and give Nigel Farage a way in.

Indeed, we see that in youth mobility. The whole youth mobility issue came up because the previous Conservative Government was running around Europe, talking to EU member states that it liked, particularly Germany and France, and trying to persuade them to do bilateral youth mobility deals. Although the Conservative Party will probably never admit that publicly, that is what was happening. That set the whole process off, because the EU Commission decided, “This is our competence, not your competence”. When it came out with its proposal in March, that was not really anything to do with the UK; it was simply saying to member states, “You need to get back in line because this is our competence, not your competence”. That is why it announced what it did back in March.

10:00

That had the effect, in the run-up to the UK general election, of making the issue public and giving red meat to the right-wing press, forcing the Labour Party and the Conservative Party to say they would not go near the issue in the run-up to a general election, and it made Labour state a position.

Since the election, the EU has put forward different proposals, which are somewhat reduced from the ones that it proposed before.

I have said to people from the EU many times that it is really unhelpful that this debate has become a notable, front-page issue in the UK. In the UK, the most difficult thing in the whole Brexit debate has been mobility and the perception that freedom of movement was taking people’s jobs and keeping their wages down. Regardless of how true that was, that was the perception and the story that has been put forward by Nigel Farage and others on the right. That story has never really been countered—or certainly not strongly enough—by people in the Labour Party or others on the left in the UK. Therefore, freedom of movement is the most difficult issue.

Even though youth mobility is completely different to freedom of movement, it sounds too similar to too many people. When Maroš Šefčovič talked about it publicly in Brussels recently, he started talking about it as a youth opportunity scheme rather than a youth mobility scheme. I have advised multiple people to do that in the EU, because even just using a word that is not a long word that starts with the letter M is helpful when describing it. It would be good if they can continue on that basis.

The other thing that I have said to people in the EU is to stop talking about youth mobility as a stand-alone issue and to just talk about it in the wider reset as part of a piece. They should not use the words “mobility” or “movement”. If they talk about it as opportunities or an exchange programme or something, they are much more likely to get what they want.

On what Scotland can do, I do not know what freedom of manoeuvre you have to do anything, particularly when it comes to university education or exchange programmes. There is the slight workaround for school trips, whereby people can come in on their identity cards rather than their passports. Would it be possible for Scotland to do something similar for people who are at university age, even if only for a month or a term or something like that? I simply do not know, but you could investigate that.

It is hard to say what the long-term impact will be on services, trade and GDP. Yesterday, or this morning, I read that we are losing somewhere between 100,000 and 150,000 EU nationals from the UK, just because, over time, people who were here have decided to go home or somewhere else, and people are not being replaced, in part because it is much more expensive for someone from the EU to come to the UK than vice versa. There are fewer barriers for somebody here wanting to go to the EU on a digital nomad visa, for example, or to study, whereas people coming here are not allowed to bring family members or spouses, and there is also the national health service surcharge.

We deliberately make it very difficult in lots of ways for people to come to the UK. It is understandable that a European person—Polish, Romanian, Portuguese, French or whatever—who is looking at different options of where to go will decide to go to Germany or Spain, because that is logistically so much easier than jumping through the many hoops to come to the UK. There might be things that the Scottish Government could do to remove some of those barriers. I do not know.

I apologise for having to leave. Thank you for the invitation to join you today—it has been a pleasure to meet you all.

Patrick Harvie: Many thanks. I wish we had time for a long exchange about the political points that you have made but we do not. I will move on to Professor Hall.

Professor Hall: I want to return to the part of the question about the longer-term impacts on youth mobility. As Mike Buckley said, it is hard to measure that in quantitative economic terms. However, there is clear evidence in the research literature that the UK developed quite a lot of soft power through having a very open and

international approach, particularly in the higher education setting.

I have done some research on why Chinese banks arrived in London in the early 2000s. One of the common stories was that senior officials in those banks had been educated in the UK. They felt an affinity for the country and they felt that they understood the political and regulatory norms. That can sound a bit woolly, but when you think about what services are, a lot of it is about developing trust between clients and service providers. We know that things such as common backgrounds, including shared educational backgrounds, can be quite an important plank in delivering the trust that is needed to deliver services. I think that it is quite clear that the UK has developed quite a lot of soft power through an internationalised higher education system and youth mobility.

Patrick Harvie: That is helpful, thank you.

Professor Portes: There is quite a lot here, so I will try to be brief. First, I will zoom out to examine the overall impact of Brexit, in particular on the labour market and the Scottish population and economy. My particular field is immigration, much more than trade. Those of us in that field were pretty unanimous in predicting that Brexit would have a negative economic impact on the UK and certainly on Scotland, as a result of the loss of free movement and the impact that that had on migration and, hence, the labour force.

However, on that, in contrast to the OBR macro picture, we were clearly wrong. If we look at what has happened to the Scottish workforce—I am referring to the most recent data from His Majesty’s Revenue and Customs on the number of people on company payrolls—we can see that the number of EU nationals who are employed in Scotland has fallen slightly from the pre-pandemic high, which was about 145,000, to 135,000. That is a fall of about 10,000 and is clearly a Brexit impact. Therefore, Brexit has reduced the number of EU nationals working in Scotland.

On the other hand, that has been far more than outweighed by a very large increase in the number of non-EU nationals employed in Scotland, which has more than doubled from about 75,000 or 80,000 before the pandemic to 160,000. Therefore, the liberalisation of the migration system, which has resulted in very large increases in immigration overall to the UK, has very much impacted Scotland and has done quite a lot to sustain the Scottish workforce over the last five years. Whether you call that a Brexit impact is a semi-political question, but the fact is that we have seen is a large increase in the number of non-EU nationals working in Scotland, which has clearly been beneficial for the Scottish economy and labour market.

The same impact has been seen in universities. In the most recent year for which we have figures, Scottish universities got a record number of non-UK, and in particular non-EU, students. The loss of EU students has been more than compensated for by the rise in non-EU students.

For me, the big strategic question is, how does Scotland make the most of that? How do you get those people to stay, to thrive, to prosper and to progress in the labour market? How do you work with universities to make the maximum use of the graduate visa, make sure that people who come to Scottish universities—whether they are from France, Bulgaria, elsewhere in the EU, India or China—stay and work in Scotland and contribute to Scotland after they have graduated. They do not have to, of course. They can graduate from a university in Dundee and go and work in Dunstable, but you do not want them to do that. I think that working with universities to try to get people who have come partly because of the availability of the graduate visa to stay on and contribute to Scotland would be my number 1 priority in this area.

I have a little to add on what others have said on youth mobility. It is not a question of freedom of movement. It has the beneficial long-term impacts that you and others have discussed. There is a need to pressure the UK Government to not be so silly about this issue—because it is not a question of freedom of movement, and, frankly, the idea that this is some big issue that people are worried about is a political mirage. Apart from doing that, there is a need to think about, again at the micro level, what schemes exist and, as they are expanded, to try to maximise the relative attractiveness of Scotland within the UK as a whole. What are the particular strengths of Scotland in terms of attractiveness that you can use within the framework of the UK-wide immigration system, which you broadly have to take as given, to make the most of the opportunities for Scotland?

The Convener: The post-study work visa, as it was, was made in Scotland initially, and we had an exception for that. It was then taken on and rolled out across the UK but was subsequently withdrawn, except in relation to Cambridge and Oxford. It is difficult to see the balance from a Scottish perspective, as the issue is complicated, and we have been impacted slightly differently by that process. However, the figures are interesting, nonetheless.

I am glad that Professor Portes and Professor Hall are still with us, as my question is probably best directed to you. It concerns the issue of data. We have heard that a lot of financial services are now going through Irish companies—those in the EU, so not Northern Ireland. We have also heard

from the culture sector and touring artists that many of them are now joining Celtic-type festivals through an Irish base and that Scottish artists are losing out from that point of view. I want to get to the nub of whether there is any way of capturing that economic impact—the benefit to Ireland—or any way at all that we could expose or understand that data more broadly?

Professor Portes: I am not sure that I can help on that. I think that you would have to ask the Scottish Government statisticians what they could do or what extra information or help they would need from the ONS in London and Newport to make that feasible. It is obviously very difficult to do what you are asking, because, ultimately, you have to get those records from individual businesses—you have to require a bunch of people who are mostly involved in small businesses that are struggling to get by to fill in an extra bunch of forms. Understandably, that is hard. I think it is quite a difficult task but you would be probably best advised asking the ONS what is available and what more could be done.

The Convener: Professor Hall, have you any final thoughts?

Professor Hall: I agree with Jonathan Portes. I think, though, that it is important to note that part of the story in financial services is that Dublin was a strong financial centre within the EU before Brexit, has English as its main language and, crucially, has quite strong trading links with the US. Throughout the conversation, it is important to note that the US has been doing very well in financial services activity. It may be that this is not just a Brexit effect. It is quite important to locate the impact of the TCA within these broader global trade trends.

The data that I am more familiar with is financial services foreign direct investment into Northern Ireland. It is quite clear that that has increased, particularly from the US, in areas at the crossover between fintech and insurance in particular—“insurtech”, as it is often termed. You can piece together data that suggests that Dublin has fared quite well compared with other international financial centres. However, I think that it would be worth asking statisticians officially for the specific data that you are talking about.

The Convener: That has exhausted questions from the committee. I thank you all and put on record my thanks also to Mr Buckley and Professor Barnard for their attendance. It has been very helpful.

10:14

Meeting suspended.

10:22

On resuming—

European Union Alignment (Annual Reports)

The Convener: A warm welcome back to everyone. Our third agenda item is to take evidence on a series of reports regarding the Scottish Government's commitment to align with the European Union where appropriate. The reports include a draft of the Scottish Government's 2024 annual report on the use of the keeping pace power within the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021.

We are joined by Angus Robertson MSP, the Cabinet Secretary for Constitution, External Affairs and Culture. With him from the Scottish Government are George Macpherson, who is the head of EU policy and alignment, and Lorraine Walkinshaw, who is from the legal directorate. I invite the cabinet secretary to make an opening statement.

The Cabinet Secretary for Constitution, External Affairs and Culture (Angus Robertson): Thank you very much for the opportunity to speak to you on the subject of European Union alignment and our latest reports to the Scottish Parliament.

Scotland voted to remain in the European Union and we continue to share the European Union's values and respect the high regulatory standards from which we previously benefited. Our EU alignment policy aims to act as a brake on regulatory divergence by aligning with the European Union where it is meaningful and possible for us to do so. As a result, standards set by the European Union will continue to influence many of the policy frameworks and initiatives that we are developing domestically, which will achieve practical outcomes for the people of Scotland. Seeking to align with key pieces of EU legislation supports our businesses by providing the consistency, transparency and certainty that they need, and it reduces the burden posed by different sets of rules.

As I said in my supporting letter of 31 October, I extend my thanks to Dr Whitten for the Parliament's EU law tracker report. The EU law tracker provides valuable support, insight and reassurance that the approach that we have taken to monitoring and reporting on our delivery of EU alignment is the right one.

Our reporting process is now maturing and we have made further changes to support transparency, as suggested by the committee. I would like to thank the committee for its

collaborative approach to this important area of work. The expansion of our annual reporting highlights the complexity of taking alignment decisions and the need for a proportionate approach, as not all EU law has direct relevance for Scotland.

We hold strongly to the view that remaining aligned with the largest single market in the world is the correct policy. Scottish businesses overwhelmingly provided the same view to the committee in the committee's recent inquiry into the implementation of the EU-UK trade and co-operation agreement. The British Chambers of Commerce has also called for

"as much alignment as possible"

and has called for the UK to make following EU regulations the default position.

The previous UK Government caused significant legislative and regulatory uncertainty in its pursuit of the Retained EU Law (Revocation and Reform) Act 2023 and so-called Brexit benefits. Throughout, the Scottish Government has consistently aimed to align its legislation with EU law where it is possible and meaningful to do so, from banning problematic single-use plastic items to improving the quality of drinking water and considering improvements to waste water treatment.

I am pleased that the current UK Government is looking to improve its relationship with the European Union on trade and other issues. That is likely to require a degree of alignment with EU law. I am pleased, too, that the current UK Government has now expressed a desire to avoid divergence. That will bring further benefits to the Scottish people and to Scottish businesses.

That confirms that our approach has been the right one all along for our people and our businesses, and I will be encouraging the UK Government to think positively and creatively about this. Thank you very much. I welcome your questions.

The Convener: Thank you very much, and thank you for acknowledging the committee-commissioned EU tracker and the work of Dr Whitten, which has been very helpful to this committee and to other parliamentary committees too.

The committee visited Brussels recently to present our TCA report. As we approach the review of that, the EU institutions that we spoke with were very happy to consider proposals for a UK veterinary agreement, but on the basis of full regulatory alignment in the areas covered by the agreement. What is the Scottish Government's view on how that might work, including the role of this Parliament in scrutinising the necessary

legislation to comply with regulatory alignment and the full agreement?

Angus Robertson: I am glad that your visit to Brussels was so successful. It underlines the importance of having regular contact between the Scottish Parliament, the Scottish Government and European institutions—whether that is the commission or the Parliament—and also having an on-going dialogue with colleagues working at Scotland house, which is the eyes and ears of a range of Scottish institutions. The then Conservative Government had tremendous foresight in establishing Scotland house in Brussels and, since then, Scotland house has shown its worth. It is an important part of our monitoring of developments in the European Union.

On the specific question about what I now prefer to call an agriculture, food and drinks agreement—because I think that when we talk about a veterinary agreement or a sanitary and phytosanitary agreement, it is jargon that is often heard in a European context but is not particularly well understood—having an agreement that relates to agriculture, food and drink would have a profoundly positive impact on the Scottish economy and the Scottish agricultural sector, and would also be of benefit to the rest of Great Britain and to European exporters.

That is not just the view of the Scottish Government. It is now the view of the UK Government as well. I welcome the fact that the new UK Government, at least rhetorically, is in exactly the same place as us in terms of a reset of relations with the EU and on securing an agreement that would cover this area of agriculture, food and drink, which I think was a manifesto commitment.

If committee members have not already read it, I would like to draw their attention to a Scottish Government document on the issue entitled, “Trading Arrangements with the EU: the case for a comprehensive veterinary and sanitary and phytosanitary agreement after Brexit”. The document has details about why that should be so, including points around what is known as dynamic alignment, which is about maintaining standards in line with the European Union.

10:30

The document has been shared with colleagues in Brussels and with the UK Government and it is part of on-going conversations with UK colleagues. We have a forthcoming interministerial group meeting with the UK Government and other devolved Administrations, where this will form part of the conversation.

There is an on-going dialogue between the UK Government and the European Commission about this area and other areas where a reset might be meaningful. I think that that has been a matter of discussion in the chamber, as have the opportunities around rejoining Erasmus+, of Creative Europe, and of a mobility agreement, especially for younger people, in a European context.

This potential agreement, which would impact so much on agriculture, food and drink, is one that we will be raising again. It is a subject that the relevant UK minister and Maroš Šefčovič, who is the relevant commissioner who is dealing with these matters, will be discussing. I believe that I am right in saying that there is a summit meeting to discuss this in April next year.

We have an interministerial group meeting with the UK Government shortly—in early December, I believe. That meeting will happen in advance of the meeting between the UK Government and the European Union, so we will take that opportunity to underline our support for such an agreement.

The Convener: Thank you. We move to questions, starting with Mr Stewart.

Alexander Stewart: In your letter and your opening statement, you mentioned the “proportionate approach” that you are taking to EU alignment and the fact that you are not being complacent in guarding against any future risks. In that respect, it is vital that records are kept and information is shared, and our tracker report has identified some of that. What do you see those risks as being? Will you expand on some of the risks that we now face, in comparison with those that we thought that we might face when we started the process?

Angus Robertson: I take the opportunity to formally welcome Stephen Kerr and Patrick Harvie to the committee.

Other members will have heard me say previously that, because of my membership of the European Scrutiny Committee of the House of Commons for the best part of a decade, I genuinely understand why it is important that relevant committees have access to the information that they need to have access to in order to perform their scrutiny function.

Since I began my conversation with the committee, I have said repeatedly, and I say so again today, that I am extremely keen that my officials work with the committee clerks to make sure that we have the appropriate reporting mechanism in place that allows the committee to do its job and that gives me the assurance that we are reporting in the most appropriate way—not only in a way that the committee would wish, but in a way that is proportionate from the point of view

of officials' time. I think that I am right in saying that we are probably in a good place in getting that balance right. The taking of a proportionate approach in that regard is one aspect.

The other aspect relates to the need to understand the mechanism by which an assessment can be made of the relevance of any particular legislative or broader policy proposal emanating from the European Union. The Government goes through a series of steps and stages to work that out.

In Scotland house in Brussels, we have our own tracking mechanisms to see what is emanating from European institutions and to work out whether that will have an impact on Scottish legislation, the Scottish economy and so on. That early reporting is then subject to a degree of validation in Scotland in the Scottish Government. At that point—maybe we will have an opportunity to come back to this, because it is an important point—individual cases are shared with the different parts of the Scottish Government that have responsibility for policy areas.

The next stage involves understanding the possible impacts of such changes on, for example, the United Kingdom Internal Market Act 2020, our international obligations and trade and co-operation agreement constraints. An assessment will be undertaken of the proposals, which will be published, and recommendations will be made to ministers on the alignment issues, whether that is direct legislative alignment or broader alignment on policy and the potential outcomes.

What are the risks in all of that? I am reading Mr Stewart's mind. The first thing to say is that this whole process is still relatively new, so it is important to have an open mind in seeking to understand whether it is working as well as we—and you—would wish it to. I think that a balance has been struck, as we see the ebb and flow of how much emanates from decision-making bodies in the European Union.

As the evidence that Dr Whitten has given to the committee suggests, if there is a risk in relation to alignment, it is thought to be most likely to arise as a result of legislation at a UK or a Scottish level that would lead to a change in things. I do not think that there is any tremendous evidence of that taking place yet. Is there a risk that that might happen? Of course there is, but given that it is the position of the Scottish Government and, now, the UK Government to try to remain aligned with the EU, I think that that risk is reducing.

It has been put to me in conversation with officials that there is a definite sense in Whitehall that a brake is being applied to any potential risk of divergence. That can be seen very clearly in the current example of the Product Regulation and

Metrology Bill. I will certainly be taking a closer look at that bill as a Scottish Government minister, and perhaps the committee will, too, because it impacts on devolved areas of responsibility.

Another risk relates to whether Scottish interests, as expressed by the Government or by the Parliament more generally, are listened to. I hope that they will be. Officials are working proactively with their colleagues in the UK Government to make sure that they know what any such risks might be. The Product Regulation and Metrology Bill is an emerging example. A UK legislative proposal has been made. Might that have an impact on alignment? Yes, it might. Are we part of a process? We are trying to be part of a process, in order to make sure that there is no disbenefit.

The process must, surely, be about more than risk. It should be about opportunity, should it not? I hope that we all want the best form of regulation. I know that one person's red tape is another person's safeguard—I understand that. There is a balance to be struck here, but I think that there is an opportunity to maintain high standards and to maintain our democratic interests, as a Government and as a Parliament, by making sure that the new process works for us, and through our democratic institutions, as well as possible.

Alexander Stewart: You identify the opportunities that might arise; it is undoubtedly the case that a number of opportunities might arise. Whether there will be conflict in the future depends on where the risks are and where there is potential for divergence. In the past, we have heard about power grabs and things being done in a confrontational way. A problem could still potentially arise if there was such a difficulty, given the amount of red tape and bureaucracy involved, to which you referred.

As we look to improve the situation—you have identified that you believe that the new UK Government might want to be more aligned with the EU than the previous one—what progress do you think that we will see in the next 12 months or whatever?

Angus Robertson: In fairness to the new Government, it is a new Government. That is the first thing to say about the UK level of governance. We also need to be aware that the membership of the new European Commission was approved—I think that I am right in saying this—only yesterday, so it has not even got on to its future legislative programme. Because of the European Parliament elections and the formation of a new Commission, there has not been a lot emanating from Brussels.

My answer to Mr Stewart is that proposals will be made, and we will deal with them at face value. We will work with colleagues at a UK Government

and a European level as well as we can to make sure that we pursue our avowed aim of remaining aligned with the European Union.

We are making sure that that aim is understood right across Government, by which I mean the Scottish Government. Historically, there has always been a risk that a European issue has been seen as something that needs to be dealt with by the people who deal with Europe, whether that means this committee or, previously, the European Scrutiny Committee at Westminster or a Europe minister or a minister for external affairs. In talking about different policy proposals, as a Government, we are committed to making sure that individual cabinet secretaries who have responsibility for different areas—agriculture and fisheries, justice and the environment are three areas where there is a particular European locus to proposals—understand why those matters are relevant right across Government. That is why we have been holding interministerial groups. I have been holding bilateral meetings with my colleagues in the Scottish Government to explain all of that.

Of course, it is for Parliament to make a decision about the extent to which the scrutiny of individual proposals is undertaken by subject committees of the Scottish Parliament or by this committee. I gently put down a marker that, where proposals have a particular locus in the environment, agriculture and fisheries or justice, because it will be my colleagues who have a responsibility for that at a policy level, they will probably be best placed to answer questions, whether here or in other committees. I am always happy to come to this committee, as Mr Stewart knows.

Proposals will emanate not only from the European Union, but from the UK Government. The examples that Mr Stewart gave of suboptimal relations are totally avoidable. I look back at the extensive efforts that I have made since 2021 to have good working relationships with colleagues in London and in Brussels to make sure that there is no reason to fall out about things for any reason other than that one has a difference of principle on a particular proposal. Administrative relationships between officials and colleagues in UK Government departments and in Brussels should be good and those channels should be open. I think that they are.

We await the reset of the UK Government and what that will mean in concrete terms. We can be pretty confident that that will involve a proposal for an agreement on agriculture and food and drink. I am very confident that the UK Government will wish to make progress on that. That raises questions for us, because a lot of that area is devolved. Therefore, how will that work?

On the direction of travel, I am as certain as I can be that that will be coming down the track. At this stage, we do not know how complex a legislative proposal that will be. In fairness, we cannot know that, because the UK Government will still be working out its preferred route for making such an agreement. I think that that is definitely coming, and we will need to have a think about how we make sure that devolved interests are part of that process.

There are other potential areas for agreement with the European Union before we get into what is described as “cherry picking”, which is unlikely to be welcomed by the EU. It is clear that the potential to rejoin Erasmus+ is on the table. We know that the opportunity to rejoin the creative Europe programme is on the table, and we know—because the Commission proposed it—that there is the opportunity for a mobility agreement, particularly for younger people. Such an agreement would be important in general, but it would be of particular importance in specific areas of the economy or cultural life—for example, in relation to touring for creatives and artists.

That dialogue will continue with the UK Government, and I will be impressing on it—I encourage colleagues to do likewise—the desirability of reaching such agreements. In that respect, we can perhaps be inspired by the most recent Conservative UK Government in reaching agreement with the European Union on the horizon programme, which I was very pleased to see. If it was possible to do that on the horizon programme, I hope that the UK Government could see its way to doing that on Erasmus+, creative Europe and mobility.

10:45

The Convener: Thank you, cabinet secretary. I acknowledge the significant progress that has been made by the clerks and the officials in getting the data that we need, and I thank them for that work.

I have a caveat. As someone who attends meetings of the Conveners Group, I know that lots of legislation comes through in the latter part of a session. Therefore, it might be challenging for the Parliament from a committee workload point of view to have the capacity to pick up extra bits of work. It is worth putting that on the record, too.

Patrick Harvie: Good morning, cabinet secretary. I will keep this part brief, but you have talked about negotiating positions on a veterinary and sanitary and phytosanitary agreement and youth mobility and whether there is room for an improved position between the UK and the EU. On our visit to Brussels, I picked up some views from the EU perspective to the effect that, as one

person put it, “You will have to accept every dot and comma of regulatory alignment”, while from a UK perspective, I picked up the expectation that the Europeans will, of course, give us what we want, because it is in their interests to, really. Is it your view that the negotiating positions are naturally going to begin at those extremes and that the potential for something that is agreeable, even to a pro-Brexit UK Government, is simply a matter of political will?

Angus Robertson: First, on an agriculture, food and drink agreement, that will, because it will relate to border controls, necessitate what is known as dynamic alignment. Therefore, there will need to be common rules, which I think would be a good thing, as does this Government. Having an understanding of that is important for those who are supporters of Brexit; Mr Kerr, perhaps, might not welcome such a thing. It is, though, the difference between a hard Brexit and a less-hard Brexit.

If you work in an exporting industry or in agriculture or you operate in the food and drink sector—and we understand how absolutely vital that is to the Scottish economy; indeed, it is among the UK’s biggest exports—you want the access to the European single market that such an agreement will give. What it means, in effect, is a massive reduction in the necessity for border controls. If you are trying to export shellfish, seafood or anything that is fresh, where time is of the essence, the ability to export quickly is absolutely key. We know from a lot of feedback from business in Scotland—and I am sure you will have heard it in your evidence sessions, too—that large parts of the economy have basically given up exporting to the single market, because of the complications that are now involved. Therefore, anything that we can do to obviate the problem should be explored.

In my view, there is a much better solution, which is being in the European single market and being a member state in the European Union. That is what everybody else in the EU thinks is the best thing, and I agree with them. However, if in the meantime we had an agreement that reduced all the problems of exporting—I was going to say “and all controls”, but it will not be all controls; instead, I should say for the record “significant aspects of controls”—such an agreement would be welcomed.

Of course, there will be different negotiating positions, but we are talking about existing schemes. Erasmus+ is an existing scheme that we are not a part of; Creative Europe is an existing scheme that we are not a part of; and the European single market is a product of treaty agreement between member states. The idea that a UK Government would seek to renegotiate

unilaterally all those areas of agreement between European countries is just not realistic, nor do I think that it is particularly sensible. Are there individual areas where there can be negotiations on things? No doubt there are.

I also imagine that Mr Harvie and colleagues who were in Brussels were probably hearing a little bit of encouragement from European colleagues to say what the UK actually wants.

Patrick Harvie: More than a little.

Angus Robertson: We need to be cognisant of that, because there is a willingness—and a wish—to have a better relationship with the UK post Brexit, and there is an opportunity to have arrangements in place. Incidentally, plenty of other countries that have this sort of thing too, so there is no reason why the UK would not. However, it will be the subject of negotiation.

At some point—and this is the process that I was explaining—there will be discussions between Nick Thomas-Symonds and his opposite number, Maroš Šefčovič, working towards a meeting in April. That is the timescale where it will become more apparent to us all what the UK Government’s formal position is likely to be on these individual opportunities: Erasmus+, Creative Europe, an agriculture, food and drink agreement, and mobility.

To my mind, there is a sliding scale of likelihood of agreement. After all, the Labour Party declined the European Commission’s previous proposal for a mobility agreement before the then UK Government did. I imagine that there will be less chance of reaching an agreement on that than there might be on an agriculture, food and drink agreement, with Erasmus+ and Creative Europe being somewhere in the middle. I would still encourage the UK Government to adopt all of them as improvements in our relations with the European Union.

Patrick Harvie: In that case, I want to ask about the Scottish Government’s policy of maximum alignment. Obviously, the extent to which alignment can be maximised is not absolute. We are going to see some level of divergence from both sides, including, in some instances, on matters that are devolved; however, in many matters that are not devolved, we might well see divergence happening on the UK side as well as on the European side.

You have set out, first, in your letter and, secondly, in your comments today, two key reasons for that policy of maximum alignment. One is to maintain high standards, and the other is to avoid the unnecessary creation of additional non-tariff trade barriers—that is, the sorts of issues that we have been discussing in the TCA inquiry.

Is there not, though, a third objective of the policy, something that will actually become more important over time? Again, some people will disagree with this, but a clear majority in this Parliament—and a clear majority of the public—recognise that Brexit was a mistake and support rejoining, whether that be in the context of Scotland or the context of the UK. It might be a long-term objective—it might not happen in this decade and, to be even more pessimistic, might not even happen in the next—but surely the longer there is some divergence, the more value there is in minimising it and maximising alignment as best we can, so that when a process of rejoining becomes politically possible, it is not more complicated than it needs to be.

Angus Robertson: I totally agree with Mr Harvie. Because the UK, and Scotland as a constituent part of it, had been in the European Union since 1973, there was a massive alignment of policies and legislation between the UK and what was at the time European Economic Community, now the European Union. We still remain very aligned.

Now that a hard Brexit has been foisted upon us, there has been the risk of significant divergence being sought; indeed, it was the position of the last UK Government. Whether one views it as positive or negative, there was a view that that was the rationale of Brexit—that is, the ability to make very different policies. There was a sense that that was an aim in itself, although the U-turn on retained EU law proved that the aspiration was not as simple as the rhetoric might have been.

However, for those of us who would prefer us to be in the European Union—that is, the majority of people in Scotland and, as has been shown, the UK—one has to understand the route by which one would do so. I am not talking about the politics of the stage at which we can reapply for EU membership; I am talking about the understanding that, when one joins, one does so on the basis of adopting the *acquis communautaire*—the body of law of the European Union. If we are as aligned as we are—or not, though we have not significantly diverged—it will be significantly easier for us to rejoin than it will be for other countries that have never been in the European Union and which are not aligned at all. For those of us who support a future for this country in the European Union, alignment is really important.

Indeed, that is one of the driving rationales behind alignment. Yes, it is about maintaining the highest standards; yes, it is about maintaining certainty for business, exporters and so on; and yes, it matters for transparency and democratic oversight. However, it is also the route back to rejoining the European Union for this country, and

I very much hope that that will happen as soon as possible.

My preference would be for Scotland to be a member state of the European Union, so that we had Scottish ministers in the Council of Ministers, a Scottish nominee to the Commission and Scottish representation in the European Parliament. All of those would be good things, but I wish, too, that the UK would be part of the European Union. It would be in all of our interests for it to be so.

Alignment represents a pragmatic approach in that respect. However, as Mr Harvie has outlined, it comes with the potential prize of making our membership of the European Union again a much easier prospect than it would be for countries that are not, in a significant way, aligned with the EU and its legislation.

Neil Bibby: The Scottish Government has a stated policy of EU alignment, but it comes with important caveats—where appropriate—which I think are sensible. However, they sometimes get missed or forgotten in discussions, certainly in the public domain. You told the committee last year, and repeated today, that you mean

“where it is meaningful and possible ... to do so.”

You have talked about the practical outcomes and reducing burdens, and I welcome what you said about the new UK Government looking to take a new approach.

My question is whether the limited use of the keeping pace power reflects a shift in what the Scottish Government has regarded as appropriate since the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021 was passed and the EU alignment policy was set? Could the Scottish Government have done more to explain those caveats in policy around alignment when considering the gap between the use of the keeping pace power and the different regulations that have not been brought in?

Angus Robertson: I think that those are entirely reasonable questions from Mr Bibby. He will know this because I have given evidence to the committee on this area a number of times—and I made the point twice in my introductory statement, so I will say it a third time. The consistent aim of our position is to align legislation with EU law where that is “meaningful and possible”. That is the caveat that Mr Bibby draws attention to.

One particular and significant reason for having that caveat is that a large part of European legislation has nothing at all to do with Scotland. Why would we use the time of this Parliament and its committees to introduce legislation that relates to things that do not form part of or have any

relation to the Scottish agricultural sector or Scottish fisheries? I could go on. That is perhaps the biggest reason why a caveat is in place.

11:00

I do not rule out there being areas that come along where there is a solution that is best suited—whether it is short term, medium term or long term—and which is different from that which has been pursued by the European Union. However, it has to be seen in the round, and that is without prejudice to a longer-term decision that would need to be taken on alignment through negotiation at the point of rejoining the European Union.

The other part of Mr Bibby's question was about which powers could and should be used to retain alignment. This is where I think that we are beginning to better understand that we have a range of ways in which we can remain aligned with the European Union. The impression that was created for some people that the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021 is the primary and only way in which one can remain aligned is not correct. The act has been used and will be used, but I think that it is becoming ever-more obvious that there is a wider range of ways in which alignment can be pursued, and they are all subject to oversight by the committee and Parliament. For parliamentarians, it is relatively easy to understand, as it is exactly the same as there being some things that require primary legislation, some things that require secondary legislation and some things that can just be decided on by ministerial direction. There is a range of ways in which that alignment process can be satisfied.

That is where we are in this symbiotic relationship of making sure that the committee is satisfied that we are reporting on the process and the rationale for why we have pursued alignment using a particular route, and for you to get under the rationale to understand whether that is the best way of doing things. I am very open to hearing from colleagues on the committee whether you feel that there are more appropriate ways in which we can do things.

I was having a conversation with officials beforehand about impending legislation that is coming down the track, where we will have to use the act for very particular legal reasons. That makes the point: you would use the act in that case but it would not be necessary to do so in other cases.

Neil Bibby: My second point was whether you think that the Scottish Government could have done more to explain those caveats. I think that an impression was created that we were going to

align with EU law, and a lot of people expected a lot more alignment from the Scottish Government than there has been. Perhaps those important caveats, which I agree are sensible—this is not a criticism—about what is possible and meaningful have not been articulated to the public as well as they could have been.

Angus Robertson: If people ever got the impression that the 2021 act was the sole route by which alignment was going to be pursued, that does not reflect the reality of the situation. However, I do not think that that is the case. As I have said, I have been back to the committee and we have had debates in the chamber about the 2021 act, the different powers and the different ways of doing things. Can we continue to explain that? Yes, we can, and we will.

The examples of specific alignment measures are relatively limited at present—they relate to a series of issues such as single-use plastics and waste water. Those may not be the issues of highest priority for the public at large and perhaps they are better understood by the areas of the economy or society that have a particular interest in environmental standards or food standards or whatever.

As more legislative proposals come forward and as we get better used to how we to use the different tools to remain aligned, I think that there will be a better understanding that we have a palette of options. We will try to pursue the best way and you will hold us to account on whether it is indeed the best way.

The 2021 act is not and never was the only way to keep pace with European Union legislation. If people have had that impression, I wish to disabuse them of it because we have more ways in which we can remain aligned, and we are using them.

Stephen Kerr: I should welcome the cabinet secretary to the divergence club, because in his answer to Neil Bibby he made the case for divergence. When something comes from Brussels, Strasbourg or wherever that is not in Scotland's best interests, you have indicated a spirit of pragmatism, which I wholly support. Have I heard you correctly?

Angus Robertson: I hope that I am pragmatic, although I would leave that to other committee members to decide.

Stephen Kerr: On the principle of divergence, you are a pragmatist.

Angus Robertson: We are pragmatic. I do not want to repeat the different stages of the process by which an assessment is made of particular proposals—

Stephen Kerr: You do not need to do that. I just need to hear that what you said earlier is the Government's position. Divergence will be pursued when anything that you previously signed up to, which you do not know about—the unknown unknowns—comes in our direction if it is not in Scotland's best interests. The Government will not move in lockstep with that EU directive.

Angus Robertson: I am a glass half-full cabinet secretary, as Stephen Kerr knows. My position is that we are trying to remain focused on remaining aligned with the European Union—

Stephen Kerr: It is not always possible, is it?

Angus Robertson: I was making the point that the biggest single challenge is working out which proposals have direct relevance for us here in Scotland.

Stephen Kerr: Good point.

Angus Robertson: I will make something up about Greek olives. We do not need to have a position on Greek olives in Scotland, and we are not in the European Union. Therefore, I can confirm that I will not be making proposals in the Scottish Parliament about Greek olives.

Stephen Kerr: I do not think that you need to apologise for being in favour of divergence when it is in the national interest. I think that that is very pragmatic.

Can I ask you not about Greek olives but about the principle that you have raised? We know that, in 2023, there were 576 legislative acts, and 1,222 directives from the European Union. Can you roughly break down how many of those ended up being not about Greek olives but things that were pertinent to Scotland? What resource was involved? You were on the European Scrutiny Committee with Bill Cash, so you must have sat through many hours of him waxing lyrical—

Angus Robertson: More than I care to remember, Mr Kerr.

Stephen Kerr: I am sure. He was waxing lyrical about unaccountable law coming into this country and fitting into UK law under the direction of the European Union. What is the breakdown of the 576 legislative acts and the 1,222 directives? How many were pertinent to the devolved space?

Angus Robertson: I know that Mr Kerr is relatively new to the committee, so perhaps he has not read the reports that have been provided to the committee, as we are now doing—

Stephen Kerr: I have it here. I have not added up how many lines there are on the pages and pages of report that have been provided showing directives that have come from the European Union but which you have not brought forward. There is a column here on future consideration—it

goes on and on and on; there are pages of it. I want to get a sense of how pragmatic you are being about this unending wave upon wave of directives from Brussels.

Angus Robertson: This is the process that I described at the beginning of the evidence session. A sift takes place in Brussels and in Edinburgh. There was previously a sift—I do not remember whether Mr Kerr was ever a member of the committee concerned, but it was ably advised by four former UK ambassadors and undertook significant work. That has always informed my thinking about this committee, and it is why I have been so keen to make sure that we can find the balance between reporting what is being considered by the Scottish Government and the use of your time and focus on the committee, so that you do not have to spend too much time looking at specific proposals for things, especially those that do not have direct relevance.

If there is a view in the committee, convener, that not enough information is being provided to you about things, I would take that very seriously. We are working very hard to make sure that we get that balance right. However, if the committee wishes to see more material, I am happy to take that away for discussion.

Stephen Kerr: That is certainly not what I am asking, convener.

The Convener: It is worth pointing out my previous experience as a member of the European and External Relations Committee, which received information in previous sessions when we were part of the EU. Of course, the information still has to be sifted through by the UK Government to ensure dynamic alignment in Northern Ireland.

Stephen Kerr: I am not asking for more information. I am making the point about the sift and the wave upon wave of directives that come from the European Union. When you were a member of the European Scrutiny Committee, cabinet secretary, those were automatically admitted into UK law. No resistance was possible—you had to agree to the directives. We do not have that now. That is why I am focusing on your pragmatism, which I applaud. I hope that you will take my compliment that you are being pragmatic in accepting that there is a need for divergence.

I will ask a broader question about the need for us to be in any kind of alignment with the European Union, given the current state of things in Brussels and in Strasbourg. There has been a subtle—actually, not very subtle—change in the dynamics of European politics, particularly on competition policy. The President of the French Republic said that the EU could die and that

“We are on the verge of a very important moment. Our former model is over—we are over-regulating and under-investing.”

He went on to say:

“In the two or three years to come, if we follow our classical agenda”—

he is referring to the regulatory agenda—

“we will be out of the market.”

We have to be very careful about this. The composition of the European Parliament has changed and the nature of the Commission’s remits are changing. There is a move towards deregulation, is there not? Should we not be very careful that we are not swimming in the wrong direction?

Angus Robertson: I definitely share President Macron’s view that there is a challenge to the European democratic mainstream, which is not what Mr Kerr went on to say in reflecting Mr Macron’s views on the challenge to politics in Europe. Countries such as France and, increasingly, Germany—and one might even say the United Kingdom—are facing an ever growing challenge from the populist right, which is calling into question our democratic institutions, including those of member states at a European level and multilaterally, at a world level.

I think that President Macron is right to make sure that all mainstream political parties and voices think about how, whether as independent states or as part of wider communities such as the European Union, we make sure that we are fit for purpose and making decisions as best we can.

Of course, the challenge for us in Scotland is that we are not part of that. We are outside, so we cannot make these points directly at the Council of Ministers. We do not have a nominee sitting on the Commission that is able to make the—

Stephen Kerr: That is not the point.

Angus Robertson: Well, that is my point, Mr Kerr—

The Convener: Mr Kerr, can you let the cabinet secretary respond to the question?

Stephen Kerr: The answers are very long and I know that we do not have very much time.

Angus Robertson: The problem for Mr Kerr is that I disagree with him, so I—

The Convener: Please can we have order in the committee and let the cabinet secretary speak?

Angus Robertson: I will choose to disagree agreeably with Mr Kerr. We take a different view. Mr Kerr is a Brexiteer. He does not believe in the European Union. He does not want to be part of

the European Union. I do not share that view. I wish us to be part of the EU. Of course, should there be a willingness to reform in the EU, the United Kingdom, Scotland, or, indeed, local government—well, that is what we do in politics, but I do not call into question the European Union or our wish to remain aligned. I pray in aid the fact that a majority of people not only in Scotland but now across the United Kingdom regret the Brexit referendum result and would wish to rejoin the European Union.

11:15

Stephen Kerr: I am just drawing the cabinet secretary’s attention to the current flow of opinion among mainstream political leadership in the European Union. I quoted Emmanuel Macron and Mario Draghi has produced a significant report produced. There is a mood in Brussels to deregulate, to free up economies from the stranglehold of the regulation that has been layered on over the decades. The only point that I am making to the cabinet secretary is that we should get into that mainstream as well and—I think that, except for one or two members of the committee, we all agree on this—understand that economic growth comes about as you free up the economy and allow it to expand and grow.

Angus Robertson: That was a statement. That was not a question.

Stephen Kerr: I was asking whether you agreed with that. That was my question.

Angus Robertson: I answered that previously. I think that all levels of government should be open to reform and to considering how we best make decisions, but the idea that, uniquely at a European level, there is legislation and different forms of regulation is one of the canards of the pro-Brexit argument that I do not accept.

We all need to make sure that we legislate proportionately and that regulation is balanced. Regulation is also about safeguards. Whether it is at a European level, a member state level or a sub-member state level, I think that all of us should aim for that.

Keith Brown: I have one question, cabinet secretary, which is on the same theme that members have been pursuing. I will take a nostalgic look at what used to happen in the House of Commons. When I was studying European institutions in the 1980s, and Margaret Thatcher was pushing very hard for greater European integration and economic integration, it was a truism—certainly in academic circles—that there was virtually no effective scrutiny of EU legislation in its various forms.

Notwithstanding the efforts of the House of Commons committee that you mentioned, such work that was done was really carried out in the House of Lords, but even that was recognised to be insufficient, given the volume of things that was coming out of the EU. That is a big task for the UK Government, and it is a big task for the Scottish Government. I am really pleased to hear you use phrases such as “proportionate”. You used another phrase in your introductory statement—I cannot quite read it—pointing out that you cannot do all that stuff, which is quite right.

As has been discussed, one of the stated aims of the Scottish Government is to make it as easy as possible for Scotland to rejoin the EU. Has there been dialogue or is there any scope for there to be dialogue with the EU, either at the Council of Ministers or European Commission level, to find out what would be important to them for Scotland to align with, to make rejoining as easy as possible? I am not quite as pessimistic as Patrick Harvie about Scotland’s opportunity to re-enter the EU.

The previous inhibition to that dialogue was that the UK was the member state, so there were limited conversations between Scotland and the EU. That inhibition is no longer there. Is that dialogue happening, or is it possible to have dialogue, on what aspects are crucial to facilitate Scotland’s re-entry into the EU as rapidly as possible?

Angus Robertson: In my experience of speaking with continental European decision makers, there is tremendous sympathy towards Scotland, as a nation that voted to remain in the European Union in the referendum and that was then taken out of it against the will of the majority of the public and the majority in our Parliament. The default position is that there is a lot of sympathy, and I have heard many people say that, were Scotland to wish to accede to the European Union in its own right and in a constitutionally agreed process, it would be among—if not be—the quickest-ever accessions there have ever been to the European Union.

A significant part of that is because of alignment. More than that, it is the understanding that Scotland would be a significant contributor to the European Union not just because of its important geostrategic or, indeed, economic position, but because it would be a good citizen and one of the most energy-rich parts of Europe, which is another reason that European colleagues are very interested in Scotland’s participation in a wider European context. Of course, that is now mediated through the UK Government, so we are dependent on decision makers in London understanding why hydrogen interconnectivity between Scotland and the European mainland is a

priority, and why regulatory agreement between the UK and the European Union on energy matters, including hydrogen, should be a priority. We are still waiting for progress on that.

I have not had a single European decision maker tell me that they are concerned because Scotland has diverged from any European approach in any measure, full stop. I think that the default position is that there is an understanding that the Scottish Government wishes to remain aligned with the European Union and that we wish to see a path back to European Union membership.

There is a very strong and sympathetic feeling among European decision makers towards Scotland. There is also a very strong feeling that they would wish the United Kingdom to return. However, there is also an awareness, given the politics down south where both of the major parties in England are now pro-Brexit, that that is unlikely to happen, even in the medium term.

I have not had any issues that are related to divergence flagged to me as being a concern, because there has not been any issue of significant divergence. There is a warm feeling towards Scotland and a willingness to see Scotland in the EU. I have not heard from a single European decision maker anything that would give me the impression that Scotland would be anything other than very warmly welcomed.

Keith Brown: I want to put to you a question that has already been asked. Given the burden on the Scottish Government—of course it is a burden, including on civil servants and on this committee—in trying to monitor alignment and any de-alignment, is it not possible to be proactive and initiate bilateral discussions, disregarding what has to go through the UK and for Scotland to separately have those discussions about the things that are most important to the EU to help relieve that burden?

Angus Robertson: I will draw colleagues’ attention to the prospectus documents that the Scottish Government has published during this session of Parliament, including one on the European Union. It was very well informed by the views of interlocutors in Brussels on a broad range of subjects. If colleagues, or viewers to this evidence session, have not yet read that particular document, I recommend their doing so.

Will the Scottish Government continue to speak with decision makers in the different European institutions about alignment, on what Scotland is planning to do, on what Europe is planning to do and on making sure that European decision makers understand where the balance of opinion is in Scotland? Yes, absolutely.

I remain committed to making sure that the committee receives as much information as you require. If there is a wish that there should be more, or that it should be presented differently, we will look sympathetically at that. We are getting towards the end of the first cycle of reporting to the committee, so we will no doubt have lessons to learn, but I think we are heading in the right direction.

I go back to Mr Brown's point about scrutiny and how it has operated elsewhere. There is a challenge, which I alluded to earlier in the evidence session, about things relating to Europe being seen by some colleagues as something that happens over there in the House of Commons European Scrutiny Committee, as was, or indeed in this committee in the Scottish Parliament. We need to understand that things relating to Europe—whether we like it or whether they are aligned—have a relevance for our different committees and for us, as different parliamentarians in different parties. That is true for all of us. I am hoping that our reporting mechanism not only can serve this committee well but can serve parliamentarians more broadly in understanding where things are.

The Convener: I bring in Mr Adam. You will need to be quick, as we are really short of time. If you could be succinct, I would really appreciate it. Thank you.

George Adam (Paisley) (SNP): Okay. I am always sharp and to the point—that is my preamble.

Cabinet secretary, you mentioned the veterinary agreement. You—quite rightly—said that you see that as an agriculture, food and drink agreement. On our trip to Brussels, those were key issues for us. To put it succinctly, my question is, are we doing enough to align with the EU? As Patrick Harvie said, it was mentioned that we would have to duplicate every dot and comma, particularly in those sectors, for all the reasons that you mentioned earlier. Are we aligning sufficiently to ensure that we can get ourselves into a position where we can negotiate and get those key sectors to trade in Europe? Do we need to do any more? If we do, what is it?

Angus Robertson: I am not aware of anything that would require significant change. We will need to have clarity—I do not think that this a contentious point—from the UK Government on the legislative mechanism, on the form of the legislation and on how we as a Government and as a Parliament can feed into the process of legislation that would then lead to an agriculture, food and drink agreement between the UK and the European Union.

We are having a very open dialogue. Next week, I am in London, and I will raise the issue with the UK Government then. I will also be raising it at an interministerial meeting with the UK Government in December. We want to work with the UK Government. I think that this is a shared priority for most parties and most members of the Scottish Parliament; it certainly is for the Scottish Government.

Where there is a will there is a way. An agreement would be hugely beneficial to the Scottish economy, which has suffered because of Brexit, to the agricultural sector, which has suffered because of Brexit, and it will be good for our food and drink sector, which has suffered because of Brexit. We can all play an active part in delivering that during this session of the Scottish Parliament and the current UK parliamentary term.

The Convener: I thank the cabinet secretary and his officials for attending. The session has been really interesting, and it has laid out some of the challenges on keeping pace when the pacemaker is neither in your team nor setting the pace nor the direction of travel.

I will close the committee meeting. We were going to review evidence today, but we will come back to that next week if that is possible.

Meeting closed at 11:27.

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