



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Culture, Tourism, Europe and External Relations Committee

**Thursday 17 November 2016**

**Session 5**



The Scottish Parliament  
Pàrlamaid na h-Alba



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**CULTURE, TOURISM, EUROPE AND EXTERNAL RELATIONS COMMITTEE**  
**11<sup>th</sup> Meeting 2016, Session 5**

**CONVENER**

\*Joan McAlpine (South Scotland) (SNP)

**DEPUTY CONVENER**

\*Lewis Macdonald (North East Scotland) (Lab)

**COMMITTEE MEMBERS**

\*Jackson Carlaw (Eastwood) (Con)

\*Ross Greer (West Scotland) (Green)

\*Rachael Hamilton (South Scotland) (Con)

\*Emma Harper (South Scotland) (SNP)

\*Richard Lochhead (Moray) (SNP)

\*Stuart McMillan (Greenock and Inverclyde) (SNP)

\*Tavish Scott (Shetland Islands) (LD)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Tore Myhre (Confederation of Norwegian Enterprise)

Dr Ulf Sverdrup (Norwegian Institute for International Affairs)

Marius Vahl (European Free Trade Association)

Dag Wernø Holter (European Free Trade Association)

**CLERK TO THE COMMITTEE**

Katy Orr

**LOCATION**

The Robert Burns Room (CR1)



## Scottish Parliament

### Culture, Tourism, Europe and External Relations Committee

*Thursday 17 November 2016*

*[The Convener opened the meeting at 09:00]*

### European Union Referendum (Implications for Scotland)

**The Convener (Joan McAlpine):** Good morning and welcome to the 11th meeting in session 5 of the Culture, Tourism, Europe and External Relations Committee. I remind members and the public to turn off mobile phones. Any members who use electronic devices to access committee papers should ensure that they are switched to silent during the meeting. No apologies have been received.

Our first item of business is evidence on the implications of the European Union referendum for Scotland, focusing on the European Free Trade Association and the European Economic Area. I welcome our first panel of witnesses, who will give evidence on Norway's relationship with the EU and its trading relationships more generally. Dr Ulf Sverdrup is the director of the Norwegian Institute of Economic Affairs. Tore Myhre, the director of the Confederation of Norwegian Enterprise, and Anne Louise Aartun Bye, the assistant director of the Confederation of Norwegian Enterprise, are joining us by videoconference from Oslo.

Welcome. I hope that you can hear us all right in Oslo. I invite you to make some short opening remarks before we move to questions from the committee.

**Dr Ulf Sverdrup (Norwegian Institute for International Affairs):** Thank you for the invitation to address the committee. It is a great honour to be here. I hope that I can contribute to your ongoing reflections on Brexit. Today I will speak in a private capacity, not as a representative of the Norwegian Government. I also thank you for the opportunity to say a few words of introduction. I will limit myself to three themes: the general issues, some specific features of the Norwegian model of association with the EU and our experiences of dealing with the EU.

The good news is that it is possible to prosper as a non-member of the EU. As you know, Norway is not a member of the EU, but Norway is very much a European country. Our geography, history and identity are European. Norway has decided to co-operate and integrate itself with the European Union but not as an EU member. It has done so

because it is in Norway's economic and political interests to do so, and that has been very beneficial for Norwegian society—our review of Norway's agreements with the EU demonstrated that extensively. In addition, for a small state such as Norway, a Europe that is governed by rules is much preferable to a Europe that is governed by power politics. Norway is integrated with Europe but in a slightly odd fashion. We are, in a sense, in the same gravity field but orbiting at a greater distance. That is the starting point and how you should think about Norway.

My second theme relates to some key features of the model. Norway is deeply integrated with the European Union. The agreements with the EU cover all sectors and policy areas, and they affect all the ministries in Norway, even in the municipalities. Our agreements with the EU are the most important international agreements that we have. They regulate our relationships with the EU, with all EU member states and with all the EFTA states. In addition—people tend to forget this—they regulate relations within Norway in the Norwegian economy. Therefore, they are extremely important. The EEA agreement is the most important of those agreements. It provides not access to, but membership of, the single market.

Norway has many other agreements with the EU, for example in justice and home affairs and defence and security co-operation. We also co-operate extensively in areas that are not covered by any agreements—for instance, Norway subscribes to EU sanctions. I say that because many people tend to put a lot of emphasis on the EEA agreement. The EEA agreement is the most important agreement, but it is only one of a number of agreements. In looking at Norway, it is necessary to have a view of the totality.

In our review, which we carried out using three different methods, we concluded that the best estimate is that, in total, Norway's agreements with the EU cover around three quarters of all EU rules and regulations. That said, they cover 100 per cent of the single market, which is more than can be said of many member states, including the United Kingdom.

What are the key features of that model? Here, it is necessary to focus on the principles that regulate the EEA agreement. The first is the principle that there should be a level playing field or homogeneous rules. That means that exceptions must be exceptions, not the rule. Secondly, there must be a mechanism for ensuring legal certainty that protects not only Norwegian interests in Europe, but the interests of the EU and the businesses in Norway. In order to do that, we have the EFTA Surveillance Authority and the EFTA Court. In addition, there are the

loyalty obligations that are imposed on Norwegian national courts and national Administrations. There is also a mechanism for ensuring that rules and regulations are updated, so that as soon as rules and regulations evolve in the EU, that is reflected in Norway. I think that those three principles—the principle of homogeneity, the principle of legal certainty and the principle of dynamic development—are critical for the EU and for the functioning of the EEA.

We cannot think of the Norwegian model as a nice, tailor-made solution. It is not an off-the-shelf model—it is much more of a patchwork of patches that have been stitched together in a messy and complicated fashion. It has evolved over time, and a lot of technical and complex adjustments have been necessary. It was designed as a transitional arrangement prior to 1994, but it has become permanent. It has served as a platform for domestic political compromise in Norway, where public opinion has been split on its relationship with the European Union. It is in no sense an optimal model—it has huge costs in terms of representation and efficiency—but it is seen as an acceptable solution.

I will now say a few words about our experiences in dealing with the EU. First, the process has worked well. It has been beneficial to the Norwegian economy and Norwegian society, and it has contributed to the modernisation of Norway. The goodness of fit between Norway and the EU has improved over time as the EU has changed its governance procedures and Norway has become less strange, as it were, in a European setting.

From the EU side, I think that it is fair to say that the agreements with Norway, including the EEA agreement, are seen as the best functioning of all its agreements with third countries. The only problem is that we hear from the EU, “There is no problem.” In our experience, the EU has been a fairly constructive partner in that it has tried to accommodate Norwegian interests and concerns. However, we have also learned that it can be a fairly tough negotiator. It can be more unified in relation to third countries than many people tend to think. The EU might be fighting internally, but it is often quite unified vis-à-vis Norway, for instance.

We have learned that it is possible to find solutions, but you cannot expect the EU to invent them. You have to innovate and come up with the solutions yourselves. Finally, that means that, when approaching the negotiations with the EU, you have to be very clear and open on what you want to achieve. At the same time, you cannot expect to have it all.

**The Convener:** Thank you. I invite our other witnesses to say a few words before we move on to questions.

**Tore Myhre (Confederation of Norwegian Enterprise):** Thank you. I am director of international relations at the Confederation of Norwegian Enterprise here in Norway and I am joined by my colleague Anne Louise Aartun Bye. I hope that you can hear us okay.

**The Convener:** We can hear you very well.

**Tore Myhre:** The picture is a little bit blurred from time to time, but we will try to make the best of it.

Thank you very much for inviting us to this hearing and for your interest in Norway and our experiences of the EEA agreement. NHO is an employer association, but also a business lobby. Our association with the European Union is extremely important to us as the confederation and to Norwegian business in general.

I think that I can agree with everything that Dr Sverdrup said. I underline that the EEA agreement is vital to the Norwegian economy. When we got the agreement in the early 1990s, the main focus for us was to take part in the internal market, and that has been the main focus ever since. It became a sort of national compromise in Norway. As you know, we had two referendums, and there were quite polarised discussions—rather similar to the discussions in the UK, I think, with some of the same issues regarding sovereignty and self-determination. The EEA agreement became a national compromise in the sense that we, as business, got our main interest in taking part in the internal market while those who were sceptical of the European Union got their part in keeping the formal sovereignty.

A kind of a paradox that will also be important for your discussion is that we are obliged to take on all new legislation regarding the single market. That is the premise for the EEA to function, because we need a level playing field. At the same time, however, it is not totally automatic, because a law first has to be taken into the EEA agreement and then it has to be transposed into Norwegian legislation, so there is a formal possibility of rejecting new pieces of legislation. Importantly, we have never rejected a piece of EU legislation. The real situation is that, if we do that, we risk compromising the agreement.

There are clauses in the agreement that say that, if we do not take up new legislation, the EU can suspend that part of the agreement. That is so serious for us that we have never challenged the EU in that respect. That is also the reason why, as Dr Sverdrup said, the agreement has worked so well. It is because we basically do our job in integrating new legislation. For business, that has

been tremendously important because we are so integrated in Europe. As 80 per cent of our exports go to the EU, 60 per cent of our imports come from it and investments are huge, we all have an interest in preserving the EEA agreement.

Now that we have witnessed the Brexit vote, we are of course worried that that could affect the discussion on the EEA here in Norway. For us, as business, the main priority is to maintain the EEA agreement and not have it weakened or renegotiated in any way that could make it less viable.

I will stop my introductory remarks there. I look forward to the questions.

09:15

**The Convener:** Thank you very much. The EEA agreement in Norway dates from 1994. As Dr Sverdrup said, it gives you full access to the single market as opposed to partial access. What difference has having that full access to the single market made to you? What was the situation like before 1994?

**Tore Myhre:** Before we had the EEA agreement, we had a free-trade agreement with the European Union. That was a rather old-fashioned first-generation agreement covering goods. The single market and the EEA agreement are totally different qualitatively. The old-fashioned agreement would definitely not preserve our interest in today's integrated world. The EEA agreement covers all four freedoms, and that is not to mention services, which have become much more important than previously. There are some voices who argue that we should change the EEA agreement for a free-trade agreement, but we are very much opposed to that, as that would be a tremendous setback for our participation in the internal market.

**The Convener:** Do you consider the EEA to be the same as membership of the single market?

**Tore Myhre:** In a way, it is, but it is a membership without voting rights. As Dr Sverdrup mentioned, that is the main challenge, because we cannot take part in the decision making. History shows that, in general, we are pretty happy with the regulations coming out of Brussels. They make sense, and that is why we have a fairly good experience with the agreement. Of course, from time to time there are issues on which we do not agree and on which we would like different rules and regulations. As Norway is an energy producer and exporter, especially in the energy field, we sometimes have different interests, as you in Scotland will be very much aware. However, in general, it has worked well.

There is a formal right in the EEA agreement to take part in the decision-shaping process, which means that our bureaucrats take part in hundreds of the committees in Brussels where new legislation is prepared. When the Commission is preparing new proposals, Norway can take part in that process but, when it comes to the Parliament and the Council, we are totally out.

**Dr Sverdrup:** It is important not to make this into a history lesson. We have to keep in mind the fact that, prior to the establishment of the internal market, the EU was not very dynamic and it did not cover that much. It was the launch of the internal market that really moved things on.

At that time, the seven EFTA countries were fearful that they could be excluded from engaging with that internal market. You also have to remember that EFTA was the biggest trading partner with the European community as it was, so it was important for those countries to come to some kind of arrangement. The EEA was seen as a mechanism to prevent exclusion without bringing those countries into the EU when it was making critical adjustments. You have to keep that in mind.

On voting rights, it was designed as a two pillar structure where the EU was supposed to be one and EFTA was supposed to be the other. Over time, things have changed because the EU has grown from 12 countries to 27 whereas EFTA has been shrinking. It is not two pillars any more; it is like one pillar and a toothpick.

**The Convener:** Thank you. That was very well put. Richard Lochhead has a supplementary question.

**Richard Lochhead (Moray) (SNP):** It is not so much a supplementary question.

I thank you for giving evidence today. Norway often tops international league tables for standard of living. To what extent is that linked with the EEA? Has the economy performed particularly well since Norway joined the EEA?

**Dr Sverdrup:** We wrote several chapters about that in our Europe reviews. As an academic, I can say that it is extremely difficult to assess the economic implications of different agreements. There are different methods, but it is really hard to come up with a counterfactual method to control for different factors.

In addition, you have to take into account the fact that it is not only about the EEA agreement and cross-border issues; it is also about developments within the Norwegian economy. The Norwegian economy has been performing well. Some might say that that is because of high commodity prices and the high production of oil and gas. There are also other elements in our

society that are related to trust, adaptability and so on. The Nordic countries are, in general, fairly competitive and they are performing pretty well in the global markets. At the same time, the Nordic countries have different ties to the EU. Some of them are members of the euro, such as Finland, and some are members of NATO or the EEA. It is difficult to isolate the effect of that. If you look into the specific sectors, as we did, you will see that, for example, in almost all sectors, the Norwegian economy has also benefited hugely from specific regulations.

In our report, we concluded that it was impossible to end up with a 2, 3 or 4 per cent increase in GDP as a result of the agreements. We could not say that on a sound basis.

**Richard Lochhead:** I want to look at the economic impact of the absence of a customs union, because that is not part of the EEA agreement. The big debate that we are having in Scotland and the UK is about the potential options for Scotland to remain in the single market and the potential for hard borders if we are not in customs unions. How does not having a customs union while being a member of the single market work in Norway?

**Dr Sverdrup:** It works pretty well as I understand it. By not being part of the customs union, you have to be concerned about rules of origin. That increases transaction costs a bit, but those are carried by businesses and—probably ultimately—by consumers. It might make it more difficult to have a more value chain-based economy, but a huge part of the Norwegian economy is not based on that, so it is not that big an issue. In addition, not being part of the customs union might be a factor in making digital trade for foreign consumers and so on a bit more difficult, if you understand my point.

I am not an expert on the matter, so maybe our friends in Oslo can say more about the customs union.

**The Convener:** Are you able to come in on that, Mr Myhre? Did you hear that?

**Tore Myhre:** We lost the sound for a moment, so we did not get the complete picture. However, Dr Sverdrup is right to say that not being part of the customs union has not been tremendously difficult.

A lot of practical procedures are now in place with the automatised and digitalisation of all the customs declarations, so we avoid the long queues at the border. However, it is a practical hurdle for companies. We know that many companies have set up storage spaces or branches in Sweden or other European countries to get around the challenge of not being part of the customs union.

Business adapts. We have learned to live with the situation. Norway wanted to maintain high tariffs to protect agriculture. That is why trade policy and the customs union are not part of the EEA agreement.

**The Convener:** Tavish Scott, did you want to come in on that point?

**Tavish Scott (Shetland Islands) (LD):** It is on a slightly different point, but it is related to the evidence. Tore Myhre, on behalf of the Confederation of Norwegian Enterprise, said that the regulations that Brussels introduces are accepted in Norway and therefore are accepted by business. Do you take any role in trying to influence those regulations? Obviously, you do not have a formal decision-making role, but does Norwegian business—either through the Government or through your organisation—seek to lobby in Brussels on the impact that the regulations would have on your businesses?

**Tore Myhre:** Absolutely. That is one of our most important tasks. NHO is a full member—so, too, is the Confederation of British Industry—of BusinessEurope, which is our sister organisation. It represents business in general in Europe. That is our main channel to lobby the institutions in Brussels.

In addition, we, of course, work at the national level and on domestic issues that are relevant to Brussels. We have an office—it is not very big—in Brussels. We are far from being a forceful lobbyist; that would require much more resource.

The main challenge in Norway not being a member is that, when our politicians are not present in the decision-making bodies in Brussels, they do not pay the attention that we would like them to pay to legislative processes. Therefore, although we are heavily affected by legislation from Brussels, the Norwegian political system is not geared towards trying to make an impact on it. However, we make an impact from time to time and, as the business sector, we try to influence our Government in protecting our interests. As I said, we also work with Government in its participation in all the different committees and working groups under the Commission. Of course, it is at the early stage of the process that you have a chance of influencing policy. We have examples of good people making a difference in Brussels.

**Tavish Scott:** Thank you. That is very useful.

09:30

**The Convener:** Stuart McMillan, do you want to come in on that point?

**Stuart McMillan (Greenock and Inverclyde) (SNP):** My question is on the membership of the EEA. At the moment, the UK is a member as one



of the 28 EU member states. Looking ahead, if the UK were to become a member of the EEA as a separate, independent country, how would you expect the dynamic of the EEA to change?

**Dr Sverdrup:** If the UK prefers to enter EFTA?

**Stuart McMillan:** Yes.

**Dr Sverdrup:** You are right in saying that all EU members shall be members of the EEA. In that sense, all EU members and EFTA members, excluding Switzerland, are members of the EEA. The question is what happens if an EU member—for instance, the UK—prefers to leave the EU. We are now entering uncharted territory, because that has never happened before. It seems that leaving the EU would also mean leaving the EEA. The question would then be about the UK re-entering the EEA, or remaining in the EEA, by switching sides to EFTA. In addition to joining EFTA, the UK would also have to join the surveillance and court agreement of the EEA. It would probably also have to agree with the EU on some kind of financial mechanism such as Norway has.

Those are the three things that the UK would have to do. The first one—joining EFTA—would require unanimity among all the EFTA member states: Liechtenstein, Iceland, Norway and Switzerland. Joining the surveillance and court agreement would probably require the agreement of Norway, Iceland and Liechtenstein. The financial agreement would require agreement with the EU and the EU member states.

The EFTA countries have never been in the business of recruiting countries. They have never done that, except when they brought in Liechtenstein. They are not in the business of recruiting the UK but, if the UK prefers to join EFTA and the EU would like to see that happen, I do not think that the EFTA countries would oppose that as an option.

Would that change the dynamics within EFTA or the EEA? For sure. When the EU makes a rule that is to be transferred over to the EFTA side, the EFTA countries in the EEA are supposed to talk with just one voice, in unanimity, and that is the biggest issue. Another issue is the optics of it. The EFTA/EEA countries have used the EEA to promote their integration with the EU but, if the UK enters the EFTA/EEA group in order to disengage from the EU, the optics will be very different.

**The Convener:** Ross Greer has to pop out, so I will bring him in next.

**Ross Greer (West Scotland) (Green):** Thanks very much.

Can you talk a bit about Norway's role when the European Union negotiates new trade deals such as the transatlantic trade and investment partnership? Such deals are, in some quarters,

politically infamous for their lack of transparency and their inaccessibility to EU member states that might want to influence them. I would be interested in hearing about Norway's experience of being affected by such deals and the relationship that you have with the EU when they are being negotiated.

**Dr Sverdrup:** As you know, we in Norway are free to engage in all kinds of free trade agreements by ourselves, but we have typically done free trade agreements together with other EFTA countries, including Switzerland. It is a bit easier to go out in the world saying that we are a European Free Trade Association, even though we are small countries.

Most of those free trade agreements are signed after the EU has completed its agreements. During the past eight to 10 years, however, there have been a few instances when EFTA countries have completed negotiations before the EU, and we have discovered that that could be a bit beneficial.

When it comes to TTIP, you are right that Norway and EFTA are not part of those negotiations. It is not certain what kind of relationship it is possible for the EFTA or EEA countries to have with TTIP. I do not fully agree with what you said, Mr Greer, regarding transparency. Typically, most free trade agreements and negotiations are not very transparent, and I think that TTIP is a bit more transparent than many others.

The issue is about how TTIP—if there is a TTIP—will affect Norway's relationship with the EU. The basic idea is that that is not a big problem, because things might come through the EEA into Norway. The big issue is about what kind of agreement we could have with the US. It is a bit of a concern, so the Norwegian Government has been exploring options and has been in conversations with both the EU and the US on it, although no modalities have been fixed, and access to it is not so easy. That said, it is obvious that it is a huge benefit for Norway if the US economy and the European economy are growing, because that creates trade spillovers for us.

**Lewis Macdonald (North East Scotland) (Lab):** My apologies, Dr Sverdrup, for missing the first part of your presentation. I was very interested in some of the discussion that we have had about the relationship between the single market and the customs union. I would like to understand a little better how it works practically, both for businesses and for citizens. My understanding of what you have described is that Norway has freedom of movement within the single market and is a member of the Schengen agreement, so there is no restriction on the movement of people between Norway and Sweden or between Norway and the UK, for example. On the other hand, because

Norway is outwith the customs union, there are clearly restrictions or some requirements in relation to the movement of goods between Norway and EU member countries.

Could you explain how that works in practice? That sounds as if, on the one hand, people can move freely across borders but, on the other, goods cannot. Therefore, I suppose that the issue for business is how to manage that discrepancy. Are there some restrictions on the movement of citizens in practice, because citizens may be moving with goods, for example in a motor vehicle?

**Dr Sverdrup:** As Tore Myhre indicated, the end consumer does not notice it that much, but if a business imports a container of goods from the EU, it must electronically, or through other instruments, make some kind of customs declaration. Then, the goods are in the shops.

Another problem arises for businesses that are engaged in some kind of value-chain economics, where a part of what they put together is originally from another country. Then there must be rules of origin, under which you can document that the product that you are selling or putting on the market originated in your country. That is the rules of origin issue.

The final issue arises when consumers want to make purchases themselves. That is increasing with digital trade. People want to buy things from Amazon.com, for example, and they have to make a customs declaration themselves.

The issue is that transaction costs are introduced, and they have to be carried either by businesses or by consumers.

**Tore Myhre:** What Dr Sverdrup said is correct. In practice, there is total free movement of goods, even though we are outside the customs union. That is mainly taken care of through the customs procedures, many of which have been digitalised, so they are fairly automatic. The middleman companies also help to facilitate that. There are clear rules of origin and rules on how to declare the origin of a product that is going into the value chain. That seems to work pretty well in practice.

**Dr Sverdrup:** We have customs on some things. For instance, fish are partly in and partly outside the EEA. It is worth noting that the EU has higher tariffs on processed fish products than on unprocessed fish. That means that Norway's salmon, for instance, is mostly exported to Poland and Denmark, where it is smoked and sliced. That creates employment effects in the Norwegian economy.

**Lewis Macdonald:** Are there any consequences of being outwith the customs union for citizens who are crossing the border, whether

they are flying from Oslo to Scotland or driving from Norway to Sweden?

**Dr Sverdrup:** Yes. There are Government regulations on how much people can import and take home. In addition, some consumers can enjoy tax-free spirits and tobacco, for instance. Those are the issues. In the EU, there are all kinds of possibilities, of course—for instance, a person can buy a car in one country and bring it over to their country. Those things are not as easy in Norway. People have to make customs declarations.

**Lewis Macdonald:** So Norway is very like the UK was before the creation of the single market.

**Dr Sverdrup:** Yes.

**Jackson Carlaw (Eastwood) (Con):** Good morning. It is probably worth saying that we were over in Brussels, where we had the opportunity to meet your ambassador to the European Union. You will be somewhat relieved to hear that there is conformity in the responses that you have given us.

I am interested in the process that Stuart McMillan touched on. We are looking at opportunities for both the United Kingdom and Scotland. I do not know how enthusiastic the UK Government has been about EFTA as an opportunity, but Norway is currently the largest and most influential of the existing EFTA members, of course. Although Dr Sverdrup said that he could see no opposition to the idea of the United Kingdom being a member of EFTA, its membership would clearly change the dynamic.

I am interested in two things. First, to what extent have you looked to the United Kingdom as a member state of the European Union to take a line that you have agreed with, but which you are concerned may no longer be represented in the European Union? Secondly, do you believe that there would be no obstacle to the United Kingdom being a member of EFTA, given the hugely disproportionate influence and size that it would have in that organisation?

09:45

**Dr Sverdrup:** In Norway, we love Brits and Scots, and we have a very strong cultural and identity linkage with the people in these islands. At the same time, the interests are often very different, as you suggest. In general, the perception in Norway is that Brussels is too much of a liberal free-trade regime, while the Tory party sees it as a socialist construction. That says it all, somehow. If we break those things apart, Norway has very much supported the UK in its general push to make European economies competitive, transparent and open, particularly in the fields of

energy and climate policy. Those are important elements where Norway has supported the UK.

I did not say that there is no opposition to the UK joining EFTA. There are many concerns relating to size, geography, history, mentality and the different optics that I alluded to. At the same time, as I said, I do not think that the Norwegian or other EFTA Governments would oppose that if it is served on a plate in front of them. They will not embrace or encourage it, but they will not oppose it.

**Tore Myhre:** The question is very relevant. Now that the UK is leaving the European Union, one of our concerns is that we will lose one of our best allies within it. Especially in the oil and gas sector and on petroleum issues, we have relied on the UK to defend our interests, in a way. We saw that when the Commission wanted to introduce new offshore safety directives or regulations that took a totally different approach from what we have been used to, which is based on the experience that we have developed together in the North Sea over the past decades. It was good for us to have the UK inside the EU to protect those interests, in a way. Also, the UK has been the most important voice on an open and liberal European Union focusing on trade. The dynamic might now change, as the southern European countries are not that open to a liberalised economy, and that worries us.

In the discussion in Norway, we have tried to say that we should make a distinction between the EEA and EFTA as a solution for the UK. If you want to be in the EEA as it is now, you will first have to become a member of EFTA, but you could also have the Swiss solution, whereby you would choose to join EFTA in order to take part in our free-trade agreements with non-EU countries. That would make it easier for you, as you would not have to start from scratch in negotiating free-trade agreements with countries such as India, Singapore or Turkey. In a way, that would be good for us, because you would be party to the EFTA convention, which regulates trade between Norway, Switzerland and Iceland, and it would also regulate trade with the UK.

If you do not do that and you leave the EEA as well, we will have to enter some sort of bilateral negotiations to sort out our bilateral relationship. One of our worries is that, in the worst case, we will be left in a transitory period without any agreements between Norway and the United Kingdom once you leave the European Union.

**Jackson Carlaw:** Including the EFTA element, 30 EEA member states would require to agree to the United Kingdom entering. It is helpful that we are taking evidence from you this week, because the Scottish Government has been floating its operational alternative, which is to have Scotland and the United Kingdom leaving the European

Union, with Scotland remaining part of the United Kingdom but at the same time joining EFTA and the EEA.

Presumably, that hybrid arrangement would require the approval of not only the 30 states in the EEA, but the United Kingdom Government, too. It seems quite a complicated arrangement. Are you aware of that suggestion, which I think the Scottish Government rejected in 2013 but is now reviving? If you are aware of it, what complications might arise from it?

**Dr Sverdrup:** I am aware of it. My understanding is that it would create some challenges for the EFTA countries to integrate a country that is not seen as a sovereign country, but other witnesses later today might say more about that. We have some experience with the Faroe Islands that relates to that issue. It is an interesting suggestion in some senses, but it also raises issues about sovereignty and how such a move might affect the relationship with the UK in general.

I am not ready to make any further specific comments on that issue, but it would certainly be an interesting development—and a challenging one.

**The Convener:** You mentioned your relationship with the UK. If such an arrangement was proposed and the UK supported it, I guess that that would make a critical difference to how it was received by the EFTA countries.

**Dr Sverdrup:** That would probably help a lot.

**Emma Harper (South Scotland) (SNP):** I am interested in trade arrangements to do with agriculture and fishing, although I am not a fishing expert and I am sure that Richard Lochhead would be interested in exploring that area. I have recently gained a better understanding of the complexities of trade. I know that Norway can negotiate and make free trade arrangements by itself, but that there are several important constraints and complexities in negotiations relating to tariffs in agriculture. For example, suggestions have been made on beef tariffs at 12 per cent and dairy at 42 per cent. Will you comment on the trade arrangements for agriculture?

**Dr Sverdrup:** Agriculture is not part of the EEA agreement—at least, most of agriculture is not part of it—but you should be aware that there are some general ideas about moving in the direction of trade liberalisation in both agricultural products and processed products that are covered by the EEA agreement.

Apart from that, Norway has some discretion in adjusting its tariffs and quotas for trade in agricultural products. Recently, the Norwegian Government decided to increase tariffs and reduce

quotas on some elements in order to protect Norwegian farmers, and that has not been seen as very constructive from the European side. For Norwegian consumers, it has meant higher prices on agricultural products and a poorer selection of products on the shelves in stores. That is a policy choice. Norway has discretion to subsidise its agriculture and has continued to do so, and it has been willing to pay the costs of that.

**Tore Myhre:** That is completely right. Agricultural policy and the tariffs that protect Norwegian agriculture are outside the EEA because of our climate and harsh conditions. Part of the national compromise when we negotiated the EEA was that fisheries and agriculture would be outside it, and that means that we have our own customs policy. It is interesting that, in the years that have followed, all the legislation on standards and veterinary products have become part of the EEA agreement. That is the biggest part of the regulations that we take in, and many are related to food safety standards so that we can sell our products freely.

The main reason for fisheries and seafood being outside the agreement was the concerns of our fishermen, who were afraid of EU fishermen coming in and taking Norwegian fish quotas. However, the consequence is that the development of our fish farming industry in the sea is also outside the agreement, which means that we do not have free trade of seafood and fish to the European Union. That is a tremendous hurdle for us because it means that we have a number of quotas and tariffs depending on the species of fish. In addition, as Dr Sverdrup mentioned, the more processed the product is, the higher the tariffs. In retrospect, therefore, it was a bad choice for Norway to have seafood outside the EEA agreement, but that is how it is.

**The Convener:** Are farmers and fishermen happy with the arrangement?

**Dr Sverdrup:** They have very different views. The farmers are happy being outside the EU. Their political party—the Centre Party—is the most prominent anti-EU membership party. The farmers benefit from the subsidies and having the high level of food security through EU rules. In addition, a lot of migrants from eastern Europe work on farms in Norway. The farmers therefore benefit from the markets but, at the same time, can keep the subsidies, so it is good for them.

The fishing industry is very different because it is separated into two parts. The part that catches wild fish has historically supported not joining the EU, whereas the fish farming industry is not concerned about fishing quotas, the ownership of fishing vessels and so on: it is concerned about market access. The fish farming industry would

probably prefer EU membership if that was the only issue at stake.

**The Convener:** That is interesting.

**Rachael Hamilton (South Scotland) (Con):** I have a supplementary question on the issue that Tavish Scott asked about. You have the ability to lobby on behalf of business through the members of BusinessEurope. Norway can decide to make free trade agreements, but there are constraints on that freedom and you said that rules of origin are an issue in that regard. Will you outline any further regulatory restraints that can occur within business trading and affect businesses?

**Dr Sverdrup:** To supplement what was said on the EFTA agreements, I add that you might be interested to learn that EFTA free trade agreements often have a part that is a common agreement, as well as a bilateral agreement. It is not so easy for new countries to enter into such free trade agreements. The EFTA free trade agreements are negotiated on the platform of the World Trade Organisation, and we also have to take into account the EU *acquis* that regulates standards et cetera. We are therefore not starting from scratch when we negotiate free trade agreements. I do not know whether that answers your question.

**Rachael Hamilton:** You said that rules of origin are an issue. How easy is it to make free trade deals for your businesses?

**Dr Sverdrup:** I do not think that rules of origin are a key issue in making it difficult to have agreements, because they are a standard thing in international trade. The biggest challenge in entering free trade agreements is probably that, as the EFTA countries have such small economies, the benefits of having such agreements are not necessarily evident. Norway and Switzerland do not have free trade agreements with the biggest economies: the US, Brazil, Russia, China, Japan and India.

In addition, to have free trade agreements with some of those countries would probably require the EFTA countries to open their agricultural sectors. We cannot expect to have free trade in fish without having free trade in meat, for instance, if we are negotiating with Brazil. There are some issues with linkages, which have—up to now, at least—been difficult to make, more because of domestic concerns than because of our partners.

10:00

**The Convener:** I know that you have to leave at 10:05 to catch a flight, so we have you for only another five minutes. One issue that we have not covered is migration. In your paper for the Institute of Economic Affairs, you say that, during the

referendum campaign in the UK, the Norwegian example was often held up by the leave campaign as an alternative for the UK. You talk about how Norway's status in EFTA and the EEA is, in a sense, a political compromise for people in your country who voted against joining the EU. Where does migration fit into that compromise? We are now told that migration is a key issue in the UK's future relationship with the EU. Is the fact that there is free movement of people in Norway evidence that that is part of the compromise that people are happy to live with?

**Dr Sverdrup:** There are lots of things to be said about migration. As you say, the EEA agreement says that there will be free movement of persons within the EU. In addition, we have agreements with the EU regulating migration from outside the EU—the Schengen and Dublin systems—but let us keep that to one side.

Up until 2004, Norway did not have much migration and one of the problems for Norway was in attracting high-skilled labour. After the enlargement of the EU and its extension into eastern and central Europe, we saw a rapid increase in the number of migrants coming to Norway. Per capita, the number of migrants is more or less at the same level as in the UK, and 60 per cent of the migrants who came to the Nordic countries came to Norway.

What has been the experience of that? It has been beneficial to the Norwegian economy, reducing incentives for businesses to outsource their activities. At the same time, a bit of downward pressure has been exerted on salaries, which there is a bit of concern about. Some of the concern relates to access to welfare benefits and so on. However, the situation is not comparable to the situation in the UK or France, where discussions have focused on the Polish plumber issue. Norwegians are not protesting—there is no active opposition to migration. My interpretation is that, if there is concern about migration, it is more about migration from third countries outside the EU than about migration from within the EU.

Since the financial crisis in 2008, the profile of migrants from the EU has shifted a bit. Those who are coming are not only people from eastern and central Europe, who are typically low skilled, but people from France, Spain, Portugal, Italy and so on, who are highly skilled. That, too, has been good for the economy.

That is the situation. We have been experiencing a period of not very strong economic growth over the past one and a half years—things are not looking that good—and it remains to be seen whether support for migrants will hold up during the economic downturn.

**The Convener:** Thank you very much, Dr Sverdrup. I know that you have to leave now; we can continue for another few minutes with Mr Myhre. Thank you for coming all the way from Norway to speak to us. It has been extremely helpful to our inquiry.

**Dr Sverdrup:** Thank you so much.

I would like to make one final remark. You mentioned the UK debate and the issue of compromise. It is now extremely important for the UK and for the Scots to think about finding compromises. You must find a compromise in a political dimension that respects the outcome of the referendum, but which also takes care of and protects the rights of minorities and deals with other concerns. At the same time, you must look at another sphere—you need to find solutions that are acceptable for the market and the economy. Finally, you must find solutions that are practically, legally and constitutionally feasible. Within those three circles—the political, the administrative and the economic—you must find an overlapping solution.

In other words, I think that, rather than being in a process of optimising or maximising your interests, you are involved in a search to find acceptable or satisfactory solutions. I suspect that any solution will be a messy one. Often, a good compromise involves a solution that no one prefers and no one loves. That is the true Norwegian experience.

**The Convener:** Thank you very much.

**Lewis Macdonald:** Thank you, Dr Sverdrup.

Mr Myhre, I think you said earlier that one of your great concerns was about what would happen to economic relations between Norway and the UK in the event that the UK leaves the single market. You mentioned EFTA as a possible staging post. In your view, if the UK chooses not to be a member of the single market, what else is possible when it comes to maintaining the economic relationships that all parts of the UK currently enjoy with Norway? I am thinking, for example, of the fact that Switzerland has a very complex arrangement with the EU and with the EEA. I would like to get a Norwegian perspective on what other possibilities might exist for Britain as a whole.

**Tore Myhre:** We would prefer a solution whereby Britain maintained the closest possible links with both the EU and the single market and thus Norway. A sort of EEA agreement would probably be the best solution. I am not sure that the current set-up of the EEA would be preferable either for us or for the UK, which obviously wants a tailor-made agreement. Our fear would be that, if the UK just entered the current EEA set-up, given the broad variety of interests and sectors in the

UK, at some point it would probably challenge the principle of taking on board all pieces of EU legislation without any changes, which could trigger a response from the EU side to suspend parts of the EEA agreement. As I mentioned, we have never used the right to challenge that principle, and that is why the EEA agreement functions. If the UK joined the EEA, it might challenge that principle, and the consequences of the EU suspending parts of the agreement would be felt by all EFTA members. In other words, not just the UK but Norway would suffer from that.

However, I could envisage a tailor-made agreement that would be close to the EEA agreement, whereby the UK would maintain most of its participation in the single market. Of course, the UK has sovereignty issues with the court and surveillance system. That is an extremely important point.

If a Norwegian company wants to invest in the UK but knows that, in the event of a conflict or dispute, a UK court, which may not be neutral if the conflict is with a UK company, would have the last say, the investor will lose the predictability that we have at present with the surveillance and court system. Finding solutions to that would be very important.

If the UK chooses not to have an EEA-type solution and there is more of a free trade agreement, whether it is the Canadian option or any other, the UK would be a regular third country and Norway would have to negotiate with it. We would have to determine whether those negotiations should be between EFTA on our side and the UK on the other side—as happens at present with India—or whether there should be bilateral negotiations between Norway and the UK.

In any of those events, we would like the agreement to be as comprehensive as possible so that the difference between the current system and the new system is not too big. Our worry is that it will take a long time to negotiate those agreements, both between the UK and the EU and then with us, so we could be left with a transition period with no agreement. We would fear that and we hope to avoid it.

**Lewis Macdonald:** Thank you for that interesting run-through of your perspective. What I take from it is that, on the decisions to be made by the UK in the immediate future, a parallel to the EEA—in other words, a separate but similar agreement that maintained British access to the single market—would be something that the existing European Economic Area members would welcome rather than worry about, because it would free you from some of the consequences of some of the issues that might arise between the UK and the EU. Is that fair?

**Tore Myhre:** Absolutely. Maintaining the closest possible relations, predictability and institutional set-up would be preferable.

**The Convener:** However, you said that that cannot come through a free trade agreement.

**Tore Myhre:** It could also come through a free trade agreement. Such an agreement is, of course, different from the EEA agreement. An important point in our domestic discussion and the discussion leading up to Brexit is that we need to understand the difference between, on the one hand, a free trade agreement, which is basically about customs, tariffs and some rules and, on the other hand, the EEA and the single market, which are about harmonisation of the rules. That is a whole different ball game, but people do not really see the difference. In the public rhetoric, we hear people say that we can “take part in” or “have access to” the single market, but it is something completely different to also take on all the rules and regulations.

For example, we are having a discussion in Norway about one of the regulations that we have not taken on board in the EEA agreement. That regulation is about organic food—we had some problem on the agricultural side—and Norwegian fish producers are prevented from exporting organic seafood because it is not yet part of the EEA agreement. That is a big problem for us, and it is not about the tariffs; it is about the rules on what is an organic product. There are rules about everything from the contents to how the food has been produced and whether poisons have been used, or what have you. That is why the rules part of the internal market is important.

**The Convener:** I am afraid that we have to finish there and move on to our next panel of witnesses. Thank you very much for joining us. We will have a brief suspension.

10:14

*Meeting suspended.*

10:19

*On resuming—*

**The Convener:** I welcome our second panel of witnesses: Dag Wernø Holter, deputy secretary general, and Marius Vahl, head of EEA policy co-ordination, from the European Free Trade Association. They have travelled from Brussels today, so I thank them for that. Would you like to make some opening remarks?

**Dag Wernø Holter (European Free Trade Association):** Thank you very much for inviting us. We are very pleased to be able to be here—it is a pleasure.

In introducing ourselves, I underline that, as you have just mentioned, we represent the EFTA secretariat. Both of us are Norwegian nationals, like your previous two witnesses, and I have a background from the Norwegian foreign service, but in our present capacity we are speaking on behalf of the EFTA secretariat and definitely not on behalf of any of the EFTA member states. I will say a few words later about the role of the EFTA secretariat, just to set out where we are coming from and what we are representing.

In these brief introductory remarks, I will say a few words about the European Free Trade Association and the EEA agreement. Although you may be well aware of most of it, you may find it useful to situate both EFTA and the agreement in a broader historical and political context. As you know very well, EFTA was established in 1960, with a focus on free trade and based on a traditional intergovernmental co-operation model. The UK was a founding member of EFTA, together with six other European countries: the three Scandinavian countries—Norway, Sweden and Denmark—Austria, Switzerland and Portugal.

The founding of EFTA was a response to the development of the European Communities of the six continental European countries, which had existed for some years, albeit based on a different model of co-operation. Throughout the history of EFTA, we have had a shift in membership. Finland was part of EFTA from the beginning, but only as an associated member to start with. Iceland joined in 1970, and Liechtenstein somewhat later. Then, members of EFTA left to join the European Communities, as you know. Today, the membership consists of Iceland, Liechtenstein, Norway and Switzerland.

The EEA agreement was the result of an initiative taken by the EU side in 1989 against the background of the new and increased focus on integration and the realisation of the internal market of the European Communities. As Dr Sverdrup mentioned, at the time EFTA was the most important trading partner of the European Communities, with seven member states. That was a very important background for the negotiations that took place between the two groups of countries. Switzerland rejected that agreement in a referendum in 1992, and the agreement entered into force in 1994. Three other EFTA states that were part of the EEA agreement on the EFTA side at the beginning left EFTA to join the European Union in 1995: Austria, Finland and Sweden. That left us, on the EFTA side, with only three relatively small countries: Norway, Iceland and the very small state of Liechtenstein.

I will say a few sentences about the basic objective and principles of the EEA agreement, which are important, although they have been

touched upon already. The basic objective was to extend the single market to the participating EFTA states and, by doing so, apply the four freedoms to those countries. The previous speaker said that that was more than access, and that it was full membership. Personally I would nuance that somewhat, because full membership of the single market would normally also imply being part of the customs union, but as you have been discussing already, the EEA-EFTA states are not part of the customs union, although we have access to the single market.

There are also other exceptions, as has been mentioned. The agriculture sector is not part of the EEA, which means that there is a limit to the free movement of goods within the single market as far as the EEA and EFTA states are concerned.

The basic principle of the extension of the single market to the participating EFTA states is homogeneity of legislation. All legislation that is relevant to the single market, or for the areas that are covered by the agreement, was incorporated into that agreement when it was concluded in 1992 and 1994. The agreement itself has set up a system for the further incorporation of new relevant legislation into the agreement, along with adoption of such legislation on the EU side. My colleague Marius Vahl will speak a little bit about that in his introductory remarks.

The main principle of the homogeneity of legislation and institutional set-up is based on the two pillar system. That is quite an innovative and creative set-up that tries to bring together two systems of co-operation among states that are based on different legal principles. You are familiar with the EU side, which has the supranationality principles and the whole structure of decision making. On the EFTA side, we have more traditional intergovernmental co-operation based on the traditional consensus principle.

How can those two systems be brought together? We have a system, and my colleague will give you its main features. In concluding the agreement, we had to find a solution to meet the requirement of the EU side to have a system for surveillance and judicial settlement of disagreements or disputes. As the EFTA side is based on traditional intergovernmental co-operation, it could not accept submission to EU jurisdiction or the EU system of surveillance so we had to establish a separate set of institutions for that purpose. That was why we established our own EFTA Surveillance Authority, which is an independent authority that surveys the implementation of regulations on the EFTA side. We also have a separate EFTA Court, which has the last word on the interpretation of the agreement and regulations on the EFTA side. Those institutions mirror the Commission with its

responsibility for surveillance and the European Court of Justice.

The EFTA secretariat is, as the word suggests, a secretariat. It is not an independent institution as the Commission is. It services the member states. We have different roles in the sense that we also serve the four member states, including Switzerland, and the member states work on free trade agreements with third parties. The part of the secretariat that is based in Brussels, where we are based, mainly provides services to member states on the management of the EEA agreement.

The headquarters of EFTA is still in Geneva, although the secretariat in Geneva is the smaller part of the EFTA secretariat. The larger part is the one in Brussels, which has responsibilities for servicing member states on the management of the EEA agreement. My colleague Marius Vahl will say a few words about the decision-making principles and procedures.

10:30

**Marius Vahl (European Free Trade Association):** Thank you for inviting us. I will say a little bit about what the day-to-day management of the EEA agreement entails.

Our key role is to draft and prepare the formal decisions in the EEA, whereby new EU single market legislation becomes part of the EEA agreement. A little more than 400 legal acts every year are taken into the agreement, so that is quite a large task. Alongside that, we monitor EU developments and ensure the participation and involvement from our side in the process to the extent that that is provided for by the EEA agreement. All those tasks are carried out by quite a large number of bodies—various councils, committees, subcommittees, expert groups, working groups and so on. I have tried to add up all the meetings, and it comes to more than 100 a year—it is quite a large machine.

I should also mention our financial mechanisms, which I presume that you will ask questions about. They are financial contributions to reduce social and economic disparities in Europe. That is also managed by EFTA—it is a separate office in Brussels, but it is the one that manages this process on behalf of our member states.

I will leave it there and we can move to questions.

**The Convener:** Thank you. The UK Government has suggested that it is looking at what it calls a bespoke deal with the European Union, by which it means an individually tailored deal especially for the UK that is not EFTA or the EEA. How feasible do you think that that is?

**Dag Wernø Holter:** I think that the EFTA secretariat is perhaps not the best placed institution to answer that question. I think that you would have to ask representatives of the European Union rather than us.

What I can say is that the EFTA states have different frameworks for their relations with the European Union. We have the EEA agreement for the three EEA-EFTA states, and Switzerland is an EFTA state that has its own set of bilateral agreements with the European Union that cover almost as much as the EEA agreement covers. That whole set of bilateral agreements has been negotiated over a number of years and is regularly updated. Of course, representatives of Switzerland would be best able to answer questions about how that particular deal works, but we can say that the framework relationship between Switzerland and the European Union is under some kind of pressure precisely because it lacks the institutional set-up to deal with surveillance of implementation and settlement of disputes. Those elements will be quite central in discussions between Switzerland and the European Union in the time ahead. Will that sort of arrangement be the case if the UK were to negotiate a separate framework with the European Union? Obviously, that is not for me to answer but, given the example of Switzerland, I would be surprised if that were that case.

**Marius Vahl:** I will add something that might seem a bit obvious. The EEA and EFTA arrangements have been going on for a long time. It is clear, from our side, that the EFTA states are very happy with EFTA, and the EEA-EFTA states are very happy with the EEA. The same is true for the European Union. This is an agreement that functions very well. As we have heard previously, most people did not imagine the arrangement as a permanent solution but it still works very well, which is quite remarkable if you think about all the major transformations that Europe has gone through over the past 25 years. All those institutional innovations were very novel at the time, but they are still able to work; they are now well established and function very well.

Our member states are happy and their key interest in what is happening in the UK is to ensure that the arrangements that they have in place are maintained and safeguarded.

**The Convener:** The arrangements function well but, as our previous witnesses said, they are a patchwork of compromises that have been struck over the years. You will have heard our discussion with the previous panel about the customs union. We heard that being outwith the customs union was very much a choice of Norway, to protect its agriculture and fisheries sectors, but there are also countries such as Turkey that are outwith the single market but in the customs union. Is there an



opportunity for compromise there? To be more precise, is being outside the customs union absolutely part of being in EFTA?

**Dag Wernø Holter:** The reason why the EEA agreement did not set up a customs union was not only because of Norway; it was to do with the agreement that was struck to exclude certain areas and not include everything. It was not only Norway but probably Iceland and Switzerland that were opposed to including agriculture, for instance, when the agreement was negotiated. Turkey's relationship with the European Union as a customs union is very different. I am not really in a position to comment on the details of the differences there.

I do not know whether my colleague has anything to add to that.

**Marius Vahl:** We know that, in the customs union between the EU and Turkey, neither side is very happy with how it is functioning, which is why they are now in the middle of, or are going to start, negotiations—I am not precisely sure where they are in the process—to see how they can modernise the customs union agreement and make it work better.

**Dag Wernø Holter:** The convener mentioned the relations being a patchwork, which was the expression that Dr Sverdrup used. The EEA agreement is part of that patchwork, but it is definitely the most important part. Although it represents a compromise, it is comprehensive. It covers practically all of the single market, with the exceptions that we have mentioned. The EEA agreement, with the constant incorporation of new legislation to ensure that we continue to have a homogeneous legal area that regulates exchanges and economic activities, is a well-functioning institutional set-up.

When we speak about a compromise in the Norwegian context, at least, I would say that it is a compromise between the economic interests of being part of the single market on the one hand and the opposition against full membership for a number of reasons on the part of a majority of the Norwegian population, which has been expressed twice in referenda. That is partly because of the interests of the agriculture sector and partly a link to the interests of the fisheries sector, although that is mainly the management of the fisheries sector and not so much the processing industry and the fish farming industry, which have different interests. It is also to an extent for historical political reasons that are to do with preserving Norwegian sovereignty and so on.

That is a key issue with regard to the functioning of the EEA agreement. It has been criticised for not offering the EEA member states sufficient participation in the decision-making processes. It

is worth mentioning that the EEA countries in practice are more or less obliged to take on EU regulations and legislation as it is developed in the EU. On the other hand, formally speaking, in EFTA, we take the decisions based on consensus. The political agreement behind that means that the compromise is accepted. In that sense, there is a compromise, but the agreement functions well.

**The Convener:** I ask people to keep their questions and answers as brief as possible so that we can make progress.

**Jackson Carlaw:** I have a supplementary question on the very point that has just been made.

I asked the previous panel about the influence of Norway in EFTA, and you have both come out as Norwegians, which is interesting. That underscores the point.

As I understand it, the disadvantage of being a member of EFTA is that the country is not at the table where the decisions are taken in the European Union and it does not have a vote on the decisions. I have been told that you therefore seek to influence as best as you can the formation of outcomes in the interests of EFTA members, but nobody has really been able to give me a candid assessment of how successful you are at doing that and what the actual processes are. It is very easy to say, "Well, there are discussions here and there," but what process would you use to try to influence an outcome? Norway is an EFTA member and is not in the EU. Can you give me a candid assessment of the success that you think you have in securing adjustments that you wish?

**Dag Wernø Holter:** It is very difficult to give that kind of assessment. I am speaking not on behalf of Norway, but on behalf of the EFTA secretariat, so I will say a few words about how we try to make things work from the secretariat's point of view, as it is part of the processes.

The main opportunity that was set up in the agreement for the EEA-EFTA states to participate in shaping decisions on new regulations and legislation relevant to the internal market is participation in the work of expert groups and working groups under the European Commission in the preparatory stages. The EFTA secretariat is involved in that. We take part in its management and help the member states as they wish.

The importance of that participation could be discussed in the present situation in particular. We have seen that the decision-making processes on the EU side have evolved quite a lot over the years since the conclusion of the agreement. In particular, the European Parliament has been given far stronger powers and far stronger participation rights in those decision-making

processes. That means that the process from when a proposal is prepared under the European Commission until a decision is reached by the European Council involves sometimes very long and complicated negotiations between the European Council, the European Commission and the European Parliament, and the outcome might be very different from what was discussed at the outset in the working groups or the expert groups under the Commission.

The EFTA states have no formal access to the discussions in that whole process. It is up to each EFTA member state to see whether it can influence the process by maintaining contacts at the political or the official level with relevant EU member states, members of the European Parliament or the Commission services. The EFTA secretariat is not involved in that; it is done by member states mostly at the individual level and bilaterally.

10:45

Is that successful? It is difficult for us to assess that, and I would not dare to give you any general comment on that, but there are examples where a country such as Norway, with particular interests, expertise and competence in fields that are also important to the European Union, may have been able to influence some regulations. It is hard to assess it; I am sorry about that.

**Stuart McMillan:** If the UK were to join EFTA, how do you imagine that the balance of EFTA would change?

**Dag Wernø Holter:** It would definitely be a very different situation. It would bring us back closer to the original EFTA of seven member states. The UK played a primary role in not only the founding of the organisation, but the running of the organisation in the first 12 years of its history. It would change the dynamics—that is obvious—but it is difficult to say much more than that.

As I pointed out earlier, all four EFTA states have very strong economic ties to the United Kingdom. Regardless of the relationship that the United Kingdom would like to establish with the European Union and based on whatever might come out of the Brexit process, the EFTA states have underlined very clearly at political level that our core interest is to maintain our strong economic and political ties with the United Kingdom, which are very important to all four EFTA states, not least Norway. That is also the case for Iceland. It has a small economy and the United Kingdom is its largest trading partner. For Norway, the UK is among its largest and most important trading partners. Switzerland also has very strong economic ties to the UK. If the UK should join EFTA, our economic ties would be

regulated by the EFTA convention, and most of those economic interests would be secured in that case.

**Stuart McMillan:** That is very helpful, and it takes me on to my next question: are EFTA member states allowed to have opt-outs from any decisions?

**Dag Wernø Holter:** Opt-outs in what sense?

**Stuart McMillan:** If an EFTA member state was not too content with a policy area, would it be allowed to opt-out from implementing the policy?

**Dag Wernø Holter:** I do not think that there are any examples of opting out of the EFTA convention, which provides for free trade between and free movement of people among the EFTA states. Perhaps Marius could add something?

**Marius Vahl:** On the point about how things would change with a new EFTA member, you would, of course, go from four to five member states. The organisation makes decisions by consensus, so the fifth member state's interests would have to be taken into account, irrespective of whether that new member state is small or large. You would move from having four people around the table to having five people who would have to agree on every decision that is made—there would of course be an influence.

On EFTA's variable geometry, a state can, like Switzerland, be a member of EFTA without being part of the EEA. When it comes to the EFTA convention, there are no real opt-outs—there is no such differentiation. However, some permanent derogations were agreed from the EEA agreement when it was concluded 25 years ago, but no derogations or exemptions have been accepted or agreed since then.

**Dag Wernø Holter:** With regard to relations with third countries, it is possible for EFTA states to conclude direct bilateral agreements with third countries, although I do not know whether we should call that an opt-out or not. As a general rule, we first try to negotiate agreements together, but there have been examples when that has turned out not to be possible and individual EFTA states have concluded bilateral agreements on their own. There is some flexibility there as well.

**Rachael Hamilton:** Article 128 of the EEA agreement refers to the process by which a European state can become a member. Would that rule Scotland out of the process for seeking membership of EFTA and the EEA?

**Dag Wernø Holter:** The EFTA convention says that any state can apply for membership of EFTA. As to how that is interpreted, it is definitely not for the secretariat to judge. If you take one step further and look at the EEA agreement, it is inherent in its very structure that you cannot

access it or be party to it without being either a member of the European Union or a member of EFTA.

If Scotland wants to join the EEA by that path, the first question would be to reach an agreement on your relations with the UK. Secondly, the crucial question of statehood would have to be settled with EFTA. Again, it is not for the secretariat to have any opinion on that. Once a member of EFTA, you would have to apply to accede to the EEA agreement.

**The Convener:** An earlier witness spoke about the Faroe Islands. Are discussions happening there?

**Dag Wernø Holter:** What Ulf Sverdrup referred to was the interest that the Faroe Islands expressed in setting up a closer relationship—possibly in the way of membership—with EFTA. That is also a situation in which several issues have to be clarified. The status of the Faroe Islands in the kingdom of Denmark must be clarified with Denmark—as you know, the Faroe Islands is not an independent state, but it has a certain autonomy within the kingdom of Denmark—and, secondly, the question of statehood has to be assessed by the EFTA member states. So far, there have been no concrete, direct discussions either between the EFTA states or between EFTA and the Faroe Islands on that matter in any substantial way. There has been a clearly expressed interest on the part of the Faroe Islands, but EFTA has not yet responded formally to that.

**Ross Greer:** In answer to Stuart McMillan's question, you briefly outlined how EFTA—as a whole or as individual members—concludes trade deals with other countries. If the UK were to be such a third party—if we were to pursue what has been deemed the hard Brexit option—would those negotiations be able to take place only once the article 50 process had been completed? How long do such negotiations tend to take?

**Dag Wernø Holter:** Would you like to comment on that?

**Marius Vahl:** Yes, I could try. Whether the UK would be able to negotiate anything while it is still a member of the EU is not really a question for us; it is a question for the Treaty on European Union. From looking at the treaty, it seems to me that the answer is no.

How long it takes EFTA to negotiate free trade agreements can vary a great deal—it can take one year or it can take a decade. I do not know that that is a very good answer. If you are very interested, you can look on our website, where we have an overview of precisely how long it has taken to conclude each of the 27 agreements that we have concluded so far. In the quickest cases,

the process has taken about a year, but there are examples in which it has taken more than 10 years. It depends—politics interferes in such processes.

**Ross Greer:** Absolutely. If the UK is pursuing a hard Brexit, I am somewhat concerned about what the immediate aftermath would be for us, so even the answer that it is uncertain is useful.

**The Convener:** Richard Lochhead has a supplementary.

**Richard Lochhead:** Given what you said about the Faroe Islands, is it fair to say that it is not impossible that the current EFTA members could agree to permit membership for a country that is not a fully fledged independent state?

**Dag Wernø Holter:** So far, there has been no consensus within EFTA with regard to the possible admission of the Faroe Islands precisely because of formal legal reasons related to the issue of statehood. I am sorry, but I do not think that I can go any further than that.

**Lewis Macdonald:** In the earlier session, you will have heard Tore Myhre talk about the possibility that the UK could negotiate something parallel to but separate from the EEA agreement. The advantage of that from a Norwegian business perspective would be that if there was any debate between the UK and the EU about the application of particular decisions under EU law, any consequences for those areas of agreement would not have an impact on Norway, Iceland and Liechtenstein, because they would be covered by a separate agreement.

From the point of view of the EFTA secretariat, given that Switzerland has a distinct relationship with the EU, do you think that it would be feasible for the UK to go down the route that Tore Myhre felt might be useful and to have a parallel comprehensive agreement with the EU once it is no longer a member of the EU?

**Dag Wernø Holter:** I do not see why that would not be feasible but, in that case, the interest of the EFTA states would be to make sure that their economic ties with the UK were preserved in the best possible way. As the relations of our member states with the UK are regulated by two different frameworks—on one side, there are the Swiss bilateral agreements with the EU; on the other side, there is the EEA agreement—we would have to seek some kind of agreement with the UK based on the interests of the member state in those cases. In the present situation, it is absolutely impossible for us to say whether that should be done collectively by the EFTA countries or individually by the EEA countries on one side and Switzerland on the other.

There are many ways of proceeding but, from our perspective, it would be important to make sure that any transitional arrangements would work satisfactorily from an EEA-EFTA point of view. That is why it has been expressed very clearly by the EEA-EFTA side that it is important for our member states to be kept fully informed of the negotiations between the UK and the EU once they get going.

**Lewis Macdonald:** Would it be fair to say that it would be easier to secure the interests of EFTA member states vis-à-vis the UK in those circumstances if the UK applied for membership of EFTA?

11:00

**Dag Wernø Holter:** There are different ways of doing that, but it is obvious that, if the UK were to become a member of EFTA again, our economic relations would be taken care of by the provisions of the EFTA convention. That would be a very simple solution.

**Lewis Macdonald:** Would it be compatible with a UK-EU agreement parallel to the European economic agreement?

**Dag Wernø Holter:** I would say so, given that another EFTA state already has a separate framework for its relations with the EU.

**Lewis Macdonald:** That is very helpful.

In the earlier evidence session, reference was made to oil and gas, and the offshore safety directive that the European Commission proposed a number of years ago. Mr Myhre said that, as the UK was a member state of the European Union, it was able to secure Norway's interests in the outcome. The bilateral relationship between Norway and the UK was therefore very important in securing the offshore sector in both countries against an unwelcome innovation from Brussels.

Earlier you answered questions about influence. I acknowledge that there are limits to the extent that you can pass judgment on that but, if a similar circumstance were to arise, for example in the offshore energy sector, when the United Kingdom is no longer a member of the European Union, what influence would EFTA countries be able to bring to bear? How would they seek to do that?

**Dag Wernø Holter:** It would be along the lines that we have already touched upon. The EFTA states would have to exploit the possibilities for participation in the preparatory stages of decision making and shaping the decisions in the discussions, both formally, within the framework and working groups and so on—which is provided for in the agreement—and informally, through political contacts at all levels between our member states and the EU.

On the offshore safety directive, it is true that there have been close contacts and so on. However, to avoid any misunderstanding I should perhaps mention that the issue is not yet settled. As you may know, Norway has objected to incorporating the directive into the EEA agreement because it claims that it is not covered by the EEA agreement and therefore should not be part of it, whereas the EU side continues to maintain that the directive is EEA-relevant and should be incorporated. That disagreement persists between the two sides.

**Lewis Macdonald:** So it is perhaps a good example of a vital national interest of an EFTA member state and the challenge that is posed by being subject to EEA rules without having a say in EEA rules. Is that fair? Is the potential consequence of that that the EEA ceases to apply in that sector?

**Dag Wernø Holter:** Well, so far we have not seen any indications on the EU side that it would take any action under article 102 of the EEA agreement, which could ultimately lead to a suspension of the affected part of the agreement. The two sides are still in the process of discussing what to do about the directive. The EFTA side maintains that the directive should not be incorporated because Norway is strongly opposed to it, whereas the EU side stands on its reasoning and arguments. So far, we are not beyond that stage, although this has been going on for quite some time.

**Lewis Macdonald:** I presume that the UK position within the EU is weighted in favour of not taking undue enforcement action in relation to Norway.

**Dag Wernø Holter:** I am sorry but I do not know what the UK position is. It is clear, however, that, even if the UK shares Norway's view on this, it has no bearing on the EU's position because the position of the EU is one position.

**The Convener:** I have a supplementary to Mr Macdonald's earlier question. I am not sure that my interpretation of what Mr Myhre was saying was that he would be happy with some kind of separate arrangement for the UK. Professor Sverdrup states in his article about compliance that

"A separate EFTA Surveillance Authority and an EFTA Court have the task of monitoring and ensuring compliance in Norway, much like the European Commission and the European Court of Justice do for the member states. In the case of Switzerland, there is no such third party independent court system, and the EU is insisting on the need to establish one."

That gets to the core of why you have these arrangements. The EFTA arrangement and the EU arrangement need compliance. If we are trying to negotiate some kind of third system and do not

have a court such as EFTA and the EU have to ensure compliance, how does that work? It is clearly not working for Switzerland.

**Dag Wernø Holter:** The agreements between Switzerland and the EU obviously have some kind of mechanism for dispute settlement if there is disagreement between the two parties on implementation of the agreement or the rules and so on. However, the dispute settlement process is not an independent institutional mechanism; it is a traditional intergovernmental mechanism in the sense that the agreement provides for the two sides to sit down in the framework of a joint committee, or something like that, to discuss and agree. If they do not agree, there is no further mechanism other than suspending the agreement or withdrawing from it. The EEA agreement has an institutional set-up whereby there is independent surveillance and an independent court.

Of course, we do not sit at the table when Switzerland and the EU discuss the further development of their relations, so I hesitate to comment on that, but, as I said, our impression is that the lack of independent mechanisms for surveillance and settlement of disputes is part of the concern on the EU side. It is probably not hard to guess that, if there are to be discussions between the EU and the UK about agreement on a model, those aspects would be part of those negotiations, but—again—it is not for us to have an opinion on that.

**The Convener:** Does Mr Vahl have anything to add?

**Marius Vahl:** No. When we talk about whether there will be parallel agreements or that this will be part of an agreement, it is important to recognise that the substance of what is eventually agreed and the links between the agreements will be key. We cannot say that one option will be better than the other because we need to see what they are. Right now, we do not know the substance, so it becomes too hypothetical for anyone to have an opinion.

**The Convener:** As no other members wish to come in, we thank our witnesses for attending and move into private session.

11:08

*Meeting continued in private until 11:35.*



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