



OFFICIAL REPORT
AITHISG OIFIGEIL

Culture, Tourism, Europe and External Relations Committee

Thursday 2 November 2017

Session 5



The Scottish Parliament
Pàrlamaid na h-Alba

Thursday 2 November 2017

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CULTURE, TOURISM, EUROPE AND EXTERNAL RELATIONS COMMITTEE
25th Meeting 2017, Session 5

CONVENER

*Joan McAlpine (South Scotland) (SNP)

DEPUTY CONVENER

*Lewis Macdonald (North East Scotland) (Lab)

COMMITTEE MEMBERS

*Jackson Carlaw (Eastwood) (Con)

*Mairi Gougeon (Angus North and Mearns) (SNP)

*Ross Greer (West Scotland) (Green)

*Rachael Hamilton (Ettrick, Roxburgh and Berwickshire) (Con)

*Richard Lochhead (Moray) (SNP)

*Stuart McMillan (Greenock and Inverclyde) (SNP)

*Tavish Scott (Shetland Islands) (LD)

*attended

THE FOLLOWING ALSO PARTICIPATED:

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

CLERK TO THE COMMITTEE

Katy Orr

LOCATION

The David Livingstone Room (CR6)

Scottish Parliament

Culture, Tourism, Europe and External Relations Committee

Thursday 2 November 2017

[The Convener opened the meeting at 10:00]

Withdrawal from the European Union (Negotiations)

The Convener (Joan McAlpine): Good morning and welcome to the 26th meeting in 2017 of the Culture, Tourism, Europe and External Relations Committee. I remind members and the public to turn off their mobile phones. Any members using electronic devices to access their committee papers should ensure that they are turned to silent.

We have agreed to take our final item today in private, so our main item of business is an evidence session with the Rt Hon David Mundell MP, Secretary of State for Scotland, United Kingdom Government. Welcome to the meeting, Mr Mundell. I understand that you would like to make an opening statement.

Rt Hon David Mundell MP (Secretary of State for Scotland): Yes, thank you, convener. I would like to make a short opening statement.

I am pleased to be here again with the committee to discuss the on-going negotiations on the United Kingdom's exit from the European Union. I was last in front of the committee in February. At least one thing that we will be able to agree on, I think, is that quite a lot has happened since then. At that appearance we discussed the Prime Minister's speech at Lancaster house and the 12 principles that will shape the Government's approach to and strategy for negotiations. We also discussed the Scottish Government's white paper on "Scotland's Place in Europe" and the introduction of the European Union (Notification of Withdrawal) Bill.

Since then we have seen significant developments and I remain ambitious and positive about the UK and Scotland's future and the negotiations. First, we have seen significant developments in the talks with the EU. Both sides have approached the talks with professionalism and a constructive spirit and we should recognise what has been achieved to date. In particular, the Prime Minister has repeatedly emphasised that safeguarding the status of EU citizens in the UK and UK nationals in the EU is one of our first goals in negotiations. Through the citizens' rights negotiations, we have reached agreement on a

range of issues with the European Commission and are now within touching distance of a deal. For example, we already have complete agreement on the broad framework that will be used to grant residence, including who will be considered in scope. On key issues such as social security, we have reached agreement on the bulk of the areas and we have agreement on all aspects of reciprocal healthcare.

The Prime Minister's recent speech in Florence also moved forward the negotiations, with two important steps adding a new impetus on the financial settlement and a time-limited implementation period. At the latest meeting of the European Council, the 27 member states responded by agreeing to start their preparations for moving negotiations on to trade and future relationships that we want to see. I believe that by approaching the negotiations in a constructive way, in a spirit of friendship and co-operation, the UK Government can and will deliver the best possible outcome that works for the whole of the UK. I am confident that we will be able to negotiate a new, deep and special partnership between a sovereign UK and our friends in the EU.

Secondly, we have seen positive collaboration between the UK Government and the devolved Administrations and legislatures on the UK's exit from the EU. Close engagement with the Scottish Government and the Scottish Parliament has been and remains a top priority for me. One of the core principles of the negotiations is to strengthen the UK and to deliver a deal that secures the specific interests of Scotland, Wales and Northern Ireland. As the committee would expect, I am working hard to ensure that Scotland gets the best possible deal from the process of EU exit and takes all opportunities available.

There are signs of real progress. For example, the joint ministerial committee on European Union negotiations was able to meet again last month and I found that to be an extremely constructive meeting. It was the very first meeting where ministerial colleagues from the UK Government and devolved Administrations were able to note positive progress being made on the consideration of common frameworks and agreed principles that will underpin this work. Indeed, across all policy areas the UK Government continues to work constructively with the Scottish Government, at ministerial and official levels.

As well as being pleased to appear before you today, I am glad that ministerial colleagues of mine have been invited to appear before committees here at Holyrood. I will appear again next week at the Finance and Constitution Committee with my colleague Robin Walker from the Department for Exiting the European Union, and Robin will also appear before the Delegated Powers and Law

Reform Committee on the same day. I will meet members of the Justice Committee when they visit Westminster at the end of this month.

Thirdly, it is vital that voices of Scottish business and other stakeholders are heard clearly in the debate. My colleague Lord Duncan and I, along with officials from the department, travelled the length and breadth of Scotland, listening to stakeholders in key sectors and feeding their views on EU exit directly to relevant departments, to ensure that Scotland's voice is heard and understood in Whitehall. We have prioritised engagement on EU exit with key sectors across Scotland, from farmers in Shetland to tourism representatives on Skye, fishermen in Peterhead, financial services here in Edinburgh, soft fruit producers in Angus and distillers on Harris. That work is on-going and we have a series of activities lined up to ensure continued engagement with Scottish stakeholders, ensuring that their concerns are recognised and acknowledged as we leave the EU.

The UK's exit from the EU remains one of the most high-profile and engaging issues and there remains much work ahead to deliver a smooth, orderly exit from the EU. I welcome the committee's continued contribution to that work and look forward to our discussion today and our continued engagement.

The Convener: Thank you very much, secretary of state. This week, in a letter to Baroness Verma, the UK Secretary of State for Exiting the European Union listed 58 sectors that have been subject to Government analysis on how they will be affected by Brexit. They have remained secret until now. Last night in the House of Commons, a motion was passed saying that the analyses should be shared with the House of Commons Brexit committee. Will they be shared?

David Mundell: The Government had previously indicated that such assessments and analyses had been made. The letter to which you refer set out the detail of which areas they covered. I will make one clarification in relation to some media reports that there is a Scotland-specific analysis. There is not a Scotland-specific analysis; there is analysis of how those sectors apply within Scotland.

The Government is reflecting on last night's vote. Of course the Government respects the decisions of Parliament—and indeed the decisions of this Parliament—but, on the other hand, the Government has a duty to act in the best interests of the UK. The Government still believes that sharing all the information that is contained in the analyses would not be in the interests of the UK's ability to achieve the best possible outcome in the negotiations.

The Convener: Thank you for clarifying that there is not a Scotland-specific analysis. When you appeared before the Scottish Affairs Committee, the very strong impression was given that there was one and that you would share it.

David Mundell: If that was an impression, it was not one that I intended to give. What I said at that committee was that there was analysis that covered Scotland. We had agreed at the joint ministerial committee on European Union negotiations that officials from the UK Government and the Scottish Government would engage on the analyses that we had both done, because the Scottish Government has done some of its own analysis in these and other areas. It was agreed that officials would begin discussions about sharing our respective analyses.

The Convener: Why is there not a Scotland-specific analysis on a par with the 58 sectoral analyses?

David Mundell: The analyses are in relation to sectors that will be impacted by leaving the EU. Many of the sectors are very prominent in Scotland and, therefore, Scotland's interests in those sectors are part of the analyses, but they are UK-wide analyses of important sectors.

The Convener: I have a copy of the freedom of information request to your department relating to the 58 sectoral analyses. In your response to that FOI request, the Scotland Office says that it was involved in preparing the 58 analyses. Can you tell us which ones you were involved in preparing?

David Mundell: I am not going to respond in specifics to that, other than to say that you would expect us—and want us, I would hope—to ensure that when the analyses were prepared, Scotland's interest in the particular sectors and industries was fully represented in the work. That is what we sought to do.

The Convener: Have you read any of them?

David Mundell: I have seen some of the analyses, because obviously some of them are much more relevant to Scotland than others. There are 58 sectors, as you have alluded to, set out in the letter. I have taken a close interest in those sectors that have a particular relevance to Scotland.

The Convener: Can you give us any hint? For example, what does number 2, on agriculture, animal health and food and drink, say about the impact of Brexit on Scotland?

David Mundell: I have just set out that the Government is going to respond to the vote in the House of Commons last night in relation to the analyses, and I am not going to pre-empt that. Our position remains that putting the analyses into the public domain would not be beneficial to the

interests of the UK as we take the negotiations forward.

The Convener: Do you not think that in order to make a proper analysis of whether Brexit is a good or bad thing we should have access to all the information? For example, you say that you have seen the report on agriculture, animal health and food and drink. Does it say that Brexit is good or bad for Scotland in that area?

David Mundell: I do not see that the analysis is about whether Brexit is good or bad. A decision has been taken across the United Kingdom to leave the EU. We are preparing to do that and to negotiate to get the best possible deal. I know that there are people who will think that that is, per se, a bad thing and will wish that that was not the case, and I respect that, but that is the basis on which we are proceeding. What the analysis is about and what it backs up is our work to ensure that we get the best possible deal for Scotland and the rest of the UK. When one is involved in such detailed negotiations, it is not beneficial to disclose to the people on the other side of the negotiations all the information that one holds in relation to one's position. That is not the best way in which to achieve the best outcome.

The Convener: There have been quite a lot of other analyses by independent academic organisations, most recently the London School of Economics, which, unlike the UK Government, has done a Scotland-specific analysis. It showed that leaving without a deal would cost Scotland £30 billion. Does your analysis indicate that that is the case?

David Mundell: I do not want to leave the EU without a deal, and therefore our efforts are focused on getting the best possible deal. I recognise all the reports that appear in the media from all sorts of sources that paint all sorts of very dark outcomes, but rather than focus on the worst possible outcome, it is incumbent on the Government to seek to achieve the best possible outcome. That is what I want to do and that is what I want to do in conjunction with the Scottish Government. We have reached a point. I think that in your meeting with Mr Barnier, he said that the clock is ticking, and it is. That means that we all need to focus our efforts on the negotiations and on getting the best outcome, not reflecting on what the worst possible outcomes could be.

The Convener: I think that some of your colleagues have argued for the worst possible outcome but, at that, I will hand over to my colleague Lewis Macdonald.

Lewis Macdonald (North East Scotland) (Lab): Good morning, secretary of state. I would like to ask you about the relationship between the policy process in relation to the negotiations with

the EU and its domestic consequences, in particular in relation to withdrawal from the EU. How do the discussions that you are having with Europe relate to your discussions with colleagues in the devolved Governments about future arrangements?

10:15

David Mundell: There has been a step change in the working between the UK Government and both the Scottish Government and the Welsh Assembly Government. I do not want to detain the committee with the difficulties of the situation in Northern Ireland, which has complicated things—especially the operation of the joint ministerial committee on European Union negotiations. It is very difficult when you have political representatives from two Governments present, but one civil servant has had, in effect, to represent the Northern Ireland Executive. We have, however, seen a major step change.

I put on the record that Mr Swinney's involvement in the process since June has been very helpful. He is very experienced in negotiations and discussions with the UK Government, and has brought a certain order to the process, which I personally have found very helpful. The basis on which we are proceeding is that we recognise that there are areas where we are not in agreement, but those are put to one side so that we can move on to discuss a wide range of other issues.

I acknowledge that the Scottish Government has issues with parts of the European Union (Withdrawal) Bill, but rather than spend the whole of our last joint ministerial meeting discussing that, we were able to focus very productively on how we might take forward work on frameworks and the powers that will return to the UK and here, to the Scottish Parliament.

There has been extensive engagement on the various position and policy papers that have been produced in setting the backdrop for the discussion on the future relationship. That engagement is on-going daily between officials in the Scottish Government and the UK Government. We have had some process issues—I will not suggest otherwise—with timing and with getting things passed between the Governments. However, generally, there has, in relation to the position papers, been a good level of agreement about what we want from the next stage.

As we move forward, there will be some very big policy decisions to be taken, but those will be the subject of parliamentary scrutiny and parliamentary debate. As, I think, members will be aware, there will, in addition to the European Union (Withdrawal) Bill, be a number of other

specific bills—a fisheries bill, an agriculture bill, an immigration bill, a customs bill and a trade bill. All those will be the subjects of the usual debate, discussion and parliamentary scrutiny.

Lewis Macdonald: On how you are making policy within the UK Government, there was an announcement a couple of days ago about Cabinet committees that are dealing with Brexit. I note, for example, that you are, as one would expect, a member of the EU Exit and Trade (Domestic Preparedness, Legislation and Devolution) Sub-committee. I think that you are also a member of the EU Exit and Trade Committee. How does that structure work? How do you influence or engage with your colleagues who are in the process of negotiations with the EU?

David Mundell: I hope that the announcement of the change in that structure represents recognition of that influence. I have placed at the heart of discussions the need to work with the devolved Administrations to ensure that the Scottish Government and the Welsh Assembly Government play a full part in the process. That is almost formal recognition of the importance that the devolved Administrations will have in the next phase of leaving, and as we move outwith the EU. It is about making sure that issues in relation to the Scottish Government and the operation of many devolved areas are recognised at the heart of the process. That is what we are looking to do.

We will not always agree; we acknowledge that. We also respect that decisions in devolved areas are not ours in the UK Government to make: it is not for the UK Government to say who should get healthcare in Scotland or who should access further and higher education. However, we want to work with the Scottish Government to ensure that we have a coherent approach, even if we have different approaches.

Lewis Macdonald: Within that new structure, however, perhaps the most critical sub-committee is the EU Exit and Trade (Strategy and Negotiations) Sub-committee, which is chaired by Theresa May. I am looking at the list of members: Damian Green, Philip Hammond, Amber Rudd, Boris Johnson, David Davis, Liam Fox, Greg Clark, Michael Gove and Sir Michael Fallon—but no David Mundell. How are you able to influence the strategy or the negotiations without having a seat at that table?

David Mundell: As you have set out, that is a sub-committee of the Cabinet. The way in which we approach all such matters is that they are, ultimately, decisions of the Cabinet in terms of strategy and approach. I am satisfied that I have the opportunity, with direct access to the Prime Minister and other ministers, to ensure that my

contribution to the debate is heard and, I hope, acted on.

Lewis Macdonald: Examples of practical things that I know you will be discussing with Scottish ministers include the future frameworks for fisheries and agriculture. Will the EU Exit and Trade (Strategy and Negotiations) Sub-committee be doing the work to identify the future arrangements that the UK will have with the EU in those policy areas?

David Mundell: I can update you with the information that Mr Ewing, his counterpart from Wales and a representative from Northern Ireland will meet Michael Gove on Monday to begin a discussion about what frameworks for fisheries and agriculture might look like. There will be a direct Scottish Government and UK Government policy discussion on those departmental areas.

Lewis Macdonald: Will you or a member of your team be at that meeting?

David Mundell: Lord Duncan will be at that meeting.

Lewis Macdonald: Lord Duncan will engage with those people.

David Mundell: Yes. I have committed to being in Paisley then, in support of its city of culture application, which—for the record—I strongly support.

Richard Lochhead (Moray) (SNP): I find it astonishing that the Secretary of State for Scotland has not commissioned a Scotland-specific analysis of the impact of Brexit, especially now that you have, I understand, up to 70 staff working in the Scotland Office.

Notwithstanding that, let us talk about sectors. I am the member of the Scottish Parliament who represents Speyside, where about half of Scotch whisky production takes place. Can you give us an insight into what the analysis for the Scotch whisky sector is of the impact of Brexit, given the concerns over cheap imitations and the need for continuity of trade relations, agreements and so on?

David Mundell: As I said to the convener, I have set out the Government's position in relation to releasing details of analyses, but we absolutely and fully acknowledge the importance of the whisky industry. We are clear on the need to protect the geographic indicators for whisky products, to continue in existing markets and to open new markets. I am heartened by the positive approach that the Scotch Whisky Association and others are taking to the opportunities that Brexit could provide for them, and the opportunities to grow the industry. If you look at the comments that that industry has made, you will see that it has been very positive about opportunities. I am

focused on getting the best possible outcome for that industry.

Richard Lochhead: Scotch whisky is the biggest drink export from the UK, and Scottish salmon is the biggest food export from the UK. They are both Scottish industries. Two thirds of UK fishing opportunities are in Scottish waters. That is why I am astonished that you are not on that sub-committee, which will, I presume, be discussing many of the really important industries that have disproportionate importance to Scotland.

David Mundell: I said in my answer to Mr Macdonald how those very important industries' interests are being represented and taken forward in the direct interrelationship between the Governments, which involves the Scotland Office and UK departments. It is not just about what happens at one sub-committee meeting; it is about the overall approach. The overall approach recognises the importance of those industries and of achieving the best possible outcome in the negotiations for those industries.

Richard Lochhead: My final line of questioning relates to the transition deal. There is a lot of debate over the negotiations for a transition deal. According to Lord Duncan, Michael Gove has said that agriculture and fishing will not be part of any transition deal, which therefore suggests that within a year or two full control over Scottish waters will be returned to the Scottish Parliament. What makes you believe that the other member states of Europe will allow the UK to cherry pick, and will allow transition in some areas and also say, "And you can have our fishing quotas in 2019"? Are you confident that agriculture and fishing can be separated from the rest of the issues in the transition deal—if there is one?

David Mundell: I think that the position that Mr Gove confirmed is that there have been no firm decisions in relation to agriculture and fisheries during the transition period, so those matters are still under consideration. I was pleased that the Scottish Government welcomed the transition period—that was very welcome. The specifics of the transition period have not been agreed or fully negotiated, so it would be wrong to suggest that they have, or that an approach such as cherry picking is going to be followed. That is just not the case.

Richard Lochhead: My final question relates to the powers that we have just discussed relating to agriculture and fishing. There are enormous expectations, particularly among our fishing communities. Every cloud has a silver lining: even exiting the EU has a silver lining in terms of the return to Scottish control of our fishing waters. Are you able to give a guarantee to the committee and to fishing communities that in 2019, perhaps, if the transition goes the way that you would like it to go,

100 per cent control of Scottish fishing grounds will be returned to the Scottish Parliament?

10:30

David Mundell: We are in discussion now about what will happen in relation to the 111 powers and responsibilities that were on the list that the Scottish Government sent to the Finance and Constitution Committee. I am not going to pre-empt the outcome of that discussion, which is on-going, but I have set out previously that my principle is the principle of devolving: I proceed on that basis and it is that principle that will guide me, although there are detailed discussions to be had, and they are on-going.

Richard Lochhead: Is it possible that we will not have our waters returned to Scottish Parliament control?

David Mundell: What is possible is to construe every statement in the most negative way possible, and to present it in such a way. I have been around that course many times, Mr Lochhead.

Richard Lochhead: The return of that control was promised.

David Mundell: Yes—but I have been around that course many times in relation to, for example, the Scotland Act 2016, when we were told that promises that had been made would not be delivered. They were delivered: the Scotland Act 2016 delivered the Smith commission in full. I have been very clear that significant powers and responsibilities will come to the Scottish Parliament as a result of our leaving the EU, and I am absolutely clear that that will be the case.

Jackson Carlaw (Eastwood) (Con): Good morning, secretary of state. You alluded in your opening remarks to the outcome of the most recent meeting of the European Council, at which the 27 member states agreed to begin preparations on their position to allow trade talks to proceed in the event that sufficient progress is deemed to have been made by the December meeting of the European Council.

The determination of whether there has been sufficient progress relates, of course, to citizens' rights and to Northern Ireland, about which Governments and many people in this Parliament have a great deal to say, but it will also concern the progress that is being made on the divorce bill, and you alluded to the Prime Minister's statement about that. I am unclear—and I wonder whether you are any clearer—about what the other political parties at Westminster regard an acceptable divorce bill to be. Have you, as secretary of state, had any intimation from the other political parties, which have a great deal to say on so many

different aspects of the negotiation that is under way, on what they regard as an acceptable divorce bill? In so far as you have had indications from them, do you find those to be credible and acceptable?

David Mundell: The answer is that I have not had any such representations.

Jackson Carlaw: When we were in Brussels, there seemed to be agreement that considerable progress was being made on the issues of Northern Ireland and citizens' rights, although there was still some more to be made, and that the budget was going to be a critical factor in the determination of whether there has been sufficient progress. Is an agreement in principle on how the budget will progress the issue on which a great deal of support for the Government's position will ultimately need to be achieved?

David Mundell: A negotiation has two parties—in this case, we could say 28 parties plus the European Commission plus the European Parliament—so we cannot assert what the process is or how it will unfold or the relative importance that is placed on different issues. We have acknowledged that. We would not always have wanted to proceed on the basis of what has been the actual outcome.

However, your more general point is correct and it goes back to something that I said earlier. We are at a key point in the negotiation and I think that it would be much better for the country as a whole—the UK and Scotland—if we all pulled together in the negotiations and tried to get the best possible deal and did not seek political objectives or to defeat the Government simply because that was possible on the basis of parliamentary numbers. We should all rally round and try to get the best possible deal. It is clear to me that all the other countries involved will be significantly pursuing their own interests. We need to pursue our own interests and we need to do it in as united and as cohesive a way as possible.

Jackson Carlaw: I have only one other question, which is on the 111 powers that have been identified, on which I know there has been sustained and on-going engagement with the Scottish Government. I know that Mr Green has been involved in the conversations about how these matters will proceed. As I understand it, you have said that those powers will either be transferred to the Scottish Parliament or come under framework agreements in which the Scottish Government will have been party to agreeing. Do you regard that as a significant way in which to develop these matters and to arrive at a final agreement?

David Mundell: As I said recently at the Scottish Affairs Committee in Westminster, I would like us to get very quickly to a situation in which there is a series of powers and responsibilities—and 111 is an arbitrary number, because some of the powers contain a range of things—that everyone agrees come to the Scottish Parliament as soon as is practicable. There is a second group of powers and responsibilities for which everyone agrees a framework is necessary; the Scottish Government acknowledges that there are areas in which frameworks will be necessary. At this stage, there are areas about which there is some continued discussion, but I think that it would be extremely helpful to the process—and extremely helpful to giving Mr Lochhead and others confidence in our approach—if we were able to achieve that. I hope that that will be forthcoming relatively shortly.

At the moment, a deep dive is taking place, in which officials from both Governments are working on two areas—justice and agriculture—to look at what frameworks might look like and to look at all the technical areas. A third area—health—is also being looked at because, obviously, Wales does not have its own justice system separate from that of England. That work is on-going and I want to see it expedited so that we are in a position to be able to set out in detail what will happen in relation to the various areas. Where there is a UK framework, that does not mean that the UK Government imposes a position on the respective Administrations in the UK. It means that there is an agreement on what arrangements should apply across the UK.

Mairi Gougeon (Angus North and Mearns) (SNP): I have a quick supplementary point. In his question, Richard Lochhead touched on the transition period. If that is agreed, would the UK Government continue to contribute to the EU budget during that time? Am I correct in saying that, if the transition period is agreed, the UK will still be subject to all the rules and regulations of the EU but will have no political representation in or influence on the decision making during that time?

David Mundell: I caveat my response by saying that, obviously, the transition period has not been agreed. However, the intention, as David Davis set out when he appeared before the Exiting the European Union Committee in the House of Commons, is that as much as possible will stay the same, because the feedback from business and other stakeholders is that they want just one point of change. They do not want to have to go through a change in March 2019, when we enter the transition period, and another change as we leave it. Our wish for the transition period is that, as far as possible, everything will be equivalent to the arrangements that exist now.

Of course there are some complexities. Mr Lochhead alluded to one in relation to the common fisheries policy and the common agricultural policy once we have effectively left the EU, and those issues will have to be resolved. The Government has made a clear statement on the funding position that would continue in that period as part of the overall arrangements for, as we would see it, meeting all our obligations as we leave.

Mairi Gougeon: But we would have no political representation in seeing how the important decisions that you touched on, for example on agriculture and fisheries, are made?

David Mundell: We will not be a member state of the EU. That is the consequence of the outcome of the referendum and that is a fact, but of course that would be the same if we were in the European Free Trade Association or European Economic Area arrangements. That is the basis on which they proceed.

Mairi Gougeon: Thank you for clarifying that. I want to focus on EU citizens. In your opening statement, you said that we are within touching distance of a deal with the EU on citizens' rights. However, would it not be fair to say that there are substantial hurdles to be overcome in relation to the rights of extended family and the role of the European Court of Justice in upholding citizens' rights? How will those hurdles be overcome?

David Mundell: The level of agreement that we have managed to reach gives us hope that the outstanding issues can be resolved. I think that we have come a very significant distance. We want to make sure that EU citizens can remain in the UK. The Prime Minister has always set out the value and importance of EU citizens to her and the welcome that she has for them, so we want to be able to conclude those arrangements. Of course, as we have set out previously, we want to ensure that UK citizens who are resident in other parts of the EU have equivalent rights. I am confident that we will be able to get a resolution in that area.

Mairi Gougeon: It is all very well that the Prime Minister welcomes EU citizens and offers those platitudes, but essentially that is all they are. It is not very reassuring to the EU citizens living in this country when they really do not know what is going on. I understand why you may not want a no-deal scenario, but at the Scottish Affairs Committee last week, you said:

"We understand the need to prepare for a no-deal scenario. That is the responsible thing to do."

What does a no-deal scenario look like for the EU citizens living in this country and indeed for the UK citizens living in the EU?

David Mundell: A no-deal scenario is, in my view, where we effectively leave the EU on World

Trade Organization terms but various other agreements have been put in place. Although that is characterised as no deal, it is in effect a minimalist deal. I would expect that, even if we left on the basis of a minimalist deal, we would fully implement the arrangements that have already been negotiated and are close to being finalised in relation to EU citizens. We want EU citizens to be able to remain in the UK and UK citizens to be able to remain in the EU.

Mairi Gougeon: There are a couple of other points that I feel are really important and need to be discussed. The committee was told in evidence that there is a legal uncertainty around the term "settled status" and it is particularly problematic because of the uncertainty that it gives for landlords, employers and indeed the national health service in how they will treat people. Are you able to tell us exactly what "settled status" will mean and how that will compare to the current rights that EU citizens living in this country have?

10:45

David Mundell: These are complex issues and I will write specifically to the committee on the settled status issue, but, basically, anyone who has been in the UK for five years—a date that will be the subject of negotiation—will be able to achieve settled status. If they have not achieved the five years, they will be able to remain for the remaining part of the five-year period to reach that point. I recognise the complexity of the issue and the points that you raise, so I will write to the committee in greater detail on that.

Mairi Gougeon: Thank you. I appreciate that but, to be honest, although it is all very well writing to the committee, we are not the ones who need to be informed about what is happening. There is uncertainty for the EU citizens living here and they need to know what is going on.

That leads me on to the issue of communication. What is the communication strategy for informing EU citizens of the most up-to-date information on what is happening with EU negotiations and about what their future status might be? The committee took evidence from EU citizens who told us that they are dependent on newspaper reports and checking things online, with no direct communication. How will that be handled from here on in?

David Mundell: There is a very specific online opportunity to get the maximum possible information and I will share that with the committee. I accept that that needs to be widely promulgated. I understand the concerns that people have had. I absolutely understand that this is an uncertain period, but that is why we want to resolve it as quickly as possible, to bring as much

certainty as is possible. I would have preferred that we had been able to negotiate this immediately that article 50 was triggered, but the EU did not want to proceed on that basis at that time. You are absolutely right that it is incumbent on us to get as much information to people as we can. There are different ways of doing that, but the website, which I will provide details of, is very comprehensive.

Mairi Gougeon: To be honest, I do not think that it is acceptable that, rather than receiving direct communication, people have to actively try to find information.

One final point that it is vitally important to raise is discrimination. We heard direct evidence here that people are being actively discriminated against when applying for jobs, mortgages or housing. As well as that, there were reports in the press last week about the increase in exploitation by unscrupulous employers, who are taking advantage of the uncertainty over Brexit with trafficking and slavery. What work is being undertaken by the UK Government on all those issues? How aware are you of the problems there and what specific actions are being taken to tackle that?

David Mundell: We are aware. The evidence that you took was an important validation that such things are taking place. In Scotland and the UK, we have comprehensive anti-discrimination legislation and that in itself should be utilised where cases come to the fore. In Scotland and the UK, we have comprehensive anti-slavery legislation and a real determination by both Governments not to tolerate modern slavery or trafficking in any way. We must utilise those laws and means and anybody who has any information about that happening needs to get it to the police. It is not acceptable.

We take very seriously the discrimination that you mentioned in relation to financial arrangements and mortgages and housing and are looking at what measures could be taken in addition to the comprehensive arrangements that are in place.

Mairi Gougeon: Is nothing being done proactively? I understand what you say about the legislation being there to tackle that. It is all very well looking at it now, but it has been going on for a while and is continuing to happen. I think that people need to be reassured that the Government is proactively looking at ways to tackle this. We would want to hear more about proactive actions.

David Mundell: There is a lot of proactive action going ahead on the modern slavery and trafficking front. I am making it as clear as I can that the sort of discrimination that you mentioned is not acceptable. It is not acceptable here in

Scotland or anywhere in the UK. We have comprehensive discrimination laws in both Scotland and the UK, but if they are not adequate, something further will need to be done.

Tavish Scott (Shetland Islands) (LD): Secretary of state, will the final deal—whatever form that takes—be subject to a vote in the House of Commons before 30 March 2019?

David Mundell: It is my understanding that it will. It is our intention that it will and that it will take place before the vote in the European Parliament.

Tavish Scott: Thank you. My other questions are supplementaries to some of the questions about fisheries. I am not clear on your point about fisheries and agriculture in transition. Will the current regimes that we all understand and either love or hate—the common fisheries policy and the common agricultural policy—continue as they are currently delivered during the transition period?

David Mundell: A final decision has not been taken on those matters, because the transition arrangements have not been fully negotiated, so I could not give you a definitive position now. I do not think that it is a breach of confidence to say that the position of the Scottish Government, for example, is that it would wish for both of those arrangements to continue during the transition period. My understanding is that NFU Scotland would wish the CAP position to continue during the transition but the Scottish Fishermen's Federation would not wish for the common fisheries policy to proceed during the transition. Obviously there are discussions to be had and, ultimately, decisions to be made, but there is not a definitive response at this moment.

Tavish Scott: No, I understand that. You have said what the Scottish Government's position is, but what is the UK Government's position on both the common agricultural policy and the common fisheries policy during the transition? Is the UK Government's position that those policies should continue during the transition as they work currently?

David Mundell: Our position, as I have set out, is that we are still engaging on both of those issues. I have set out what that engagement has brought forward in relation to Scotland.

Tavish Scott: I think that you said earlier that there is a meeting on Monday. Is that a meeting to discuss the transition?

David Mundell: No, it is about frameworks. I think that Mr Lochhead might have been part of one before; it is called a quad, which seems to be a very popular term these days. The three devolved Administrations and the Department for Environment, Food and Rural Affairs come together, and Mr Gove's intention is that the

meeting will be the beginning of a discussion about frameworks.

Tavish Scott: Can you clarify when the devolved Administrations of the UK will be involved in the discussions about the transition period as it affects agriculture and fisheries? Is that part of the process to be worked out?

David Mundell: I would imagine that the transition period would be discussed at the next meeting of the joint ministerial committee on European Union negotiations, which is scheduled in the next few weeks.

Tavish Scott: Thank you. The final question I have is on no deal. I take your point that obviously you are not seeking no deal, but no deal is clearly one of the things that could happen. Have all the sectoral analyses that you were being asked about earlier included an assessment of what would happen to every part of the UK economy if there was no deal or a minimalist deal, to use your phrase?

David Mundell: The analyses are not uniform, because there are different elements to them. It would not be possible to say that all analyses contained a reflection of all scenarios.

Tavish Scott: But the scenario in which there is a minimalist deal is clearly the one that is the easiest to define, in some ways.

David Mundell: Well, it is possible in relation to each of the areas to determine what the WTO terms are for that area, for example.

Ross Greer (West Scotland) (Green): I have one brief supplementary on Mairi Gougeon's point before moving on. The committee's evidence session with European citizens has been mentioned. One of the witnesses that we had, a woman from Romania who is here with her family—her husband and two young children—said that, like other European citizens, she feels that her family has been treated like the dog that the UK bought for Christmas but does not want anymore. Given the uncertainty that the 180,000 people in Scotland and 3 million across the UK have had to face over the past year—or more than a year—do you believe that the UK Government owes them an apology?

David Mundell: I do not think that to be the case. I am always concerned to hear about people who feel that they have been badly treated and about their personal experiences, but I think that the Government has made it clear throughout that resolving that issue is a priority. It has been pretty clear throughout that we wish people to stay—and, through the Prime Minister, me and other members of the Government, we have sought to convey that we want people to be able to stay. It is also very important in the discussions to ensure

that UK citizens who are living in other parts of the EU are able to stay there.

Ross Greer: You are correct that the Government has prioritised that in the negotiations, but you could have simply removed it from the negotiations and taken unilateral action to reassure people.

Moving on to the form of the deal, I think that it was either yesterday or this morning that your Cabinet colleague, Liam Fox, said that he is not afraid of a no-deal Brexit scenario. Are you afraid of a no-deal scenario?

David Mundell: We are in a negotiation to try to achieve the best possible deal. We are not seeking no deal, but we have to plan for there being no deal. That is basically where we are. I do not think that characterising a no-deal scenario as cataclysmic is a helpful way of taking forward getting a good deal, which is what we want to do. Therefore, the reality is that if we are not able to get a deal, we will be in a no-deal scenario and we will look to manage that and to get the best possible outcome from a no-deal scenario. As I said, and as Mr Scott, I think, characterised it, a no-deal scenario is essentially a minimalist scenario. It is not, as it is sometimes portrayed, a case of our crashing out of the EU; it is just that we would be leaving the EU on WTO terms and on the basis of certain specific agreements.

Ross Greer: The projections that this committee commissioned from the Fraser of Allander institute for the minimalist/no-deal range of scenarios showed that Scotland would be set to lose 80,000 jobs and the average wage would drop by £2,000. You say that it is not helpful to characterise that negatively, but that is simply the economic analysis; there was no political spin on it. Surely workers in Scotland would be concerned and would be afraid of a £2,000 drop in average wages. Why are you, as their secretary of state, not also concerned and afraid of that?

David Mundell: I am attempting, as I think I have set out, to ensure that we do not leave the EU on a no-deal basis because I—

Ross Greer: But would you be willing to leave the EU on a no-deal basis? If that is the deal that was presented, would you, as a Scottish MP, be willing to vote for that in the end?

David Mundell: What I have said and made clear today is that the UK has voted to leave the EU. It is incumbent on the UK Government, working in conjunction with the Scottish Government and others, to get the best possible deal. That is what I want to focus on, not on all sorts of negative scenarios when those are not what is currently in play. I am confident that we will be able to get—

Ross Greer: If negative scenarios are not in play, have you taken no deal off the table?

11:00

David Mundell: We have to prepare for a no-deal scenario. It would be irresponsible of the Government not to prepare for a no-deal scenario but it is not what we are seeking to achieve. What we are seeking to achieve is a new economic partnership with the EU, which the Prime Minister has set out, which we hope we can begin negotiating after the December Council.

That is where we are putting our focus. It is clear that there are some people who argue for no deal, just as there are some people who argue that we should abandon Brexit and remain in the EU. People have their reasons for arguing for both and other scenarios, but the UK Government is about getting the best possible deal. That is our focus in relation to the shape of the future economic partnership that we want to achieve.

Ross Greer: You mentioned, I think in your opening remarks, the respect that you and the UK Government have for this Parliament. Last week in this Parliament, we voted overwhelmingly to call for a no-deal scenario to be ruled out. What is your response to that?

David Mundell: I listen to everything that is communicated from this Parliament, but we know on the basis of the devolution settlement—and we have had this discussion before—where the respective responsibilities lie. While I will always listen to what is said in this Parliament and to the views of this Parliament, ultimately responsibility for the nature of the negotiations, as I think Mr Barnier has confirmed, is with the UK Government.

Rachael Hamilton (Ettrick, Roxburgh and Berwickshire) (Con): Good morning, secretary of state. Are you happy with the current progress of negotiations and do you think that sufficient progress will be made before the next meeting of the European Council in December?

David Mundell: There is what is described as an EU task force in situ, so while there is no formal negotiation process in this period, negotiations/discussions are still on-going. Of course we would have preferred there to have been a decision by the council in October to proceed at that point with discussions about the future relationship—I think that that would have been preferable—but that was not the decision. However, the decision was to begin preparations for that, which indicates to me and my colleagues in the Government that we should be in a position to take that forward in December.

There is a huge amount of work to be done and I am very seized of the amount of work that we will need to do with the Scottish Government and this Parliament in relation to a lot of the statutory instruments and other legislation that require to come through Parliament. We go back to the fact that the clock is ticking and that there is a lot to be done in a relatively short time, but I am confident that with the right spirit and the right will, we will be able to do it.

Rachael Hamilton: On the divorce settlement, David Davis has said that the withdrawal agreement will probably favour the EU in money terms but the future relationship will favour both sides. Does that indicate that he is willing to be flexible in order to strike a deal? Has the Scottish Government made any comments about its views on the financial settlement?

David Mundell: This is a negotiation and in any negotiation financial arrangements are important. I think that we have made a generous offer in relation to the financial arrangements. We are seeing through all our obligations and we have undertaken everything currently that countries could expect the UK would be contributing to various arrangements, including the common agricultural policy and others. I think that the financial arrangement that we have put forward is a generous but appropriate one, but clearly the financial negotiation has not been concluded and, therefore, the Government will have to have the flexibility to continue negotiations in that area.

Rachael Hamilton: Is that something that the devolved Administrations feed into in the JMC process?

David Mundell: The devolved Administrations are able to feed in on any issue that they wish to. I very much welcome the constructive way in which the Scottish Government approached the transitional period, which is something that it wanted to see and something that is going to happen. We would listen to what was said in relation to any particular aspect but, ultimately, as I said to Mr Greer, it is the responsibility of the UK Government to conclude the negotiations.

Rachael Hamilton: There has been much discussion today about whether there will be a deal or whether there will not be a deal and we will fall to WTO rules. On your recent visit to Skye, what did the tourism businesses that you spoke to highlight to you about the opportunities that they see and the concerns that they have about Brexit? What reassurance did you give them that businesses would have certainty?

David Mundell: Their biggest concern was the fact that, during the summer, people had gone around saying that Skye was full when it was not,

and they wanted to make it clear that there are always opportunities for people to go to Skye.

One of the biggest issues that tourism businesses raise is the availability of seasonal workers. We are very seized of that issue and I hope that it will be a big part of the work of the Migration Advisory Council. When I meet its chairman later this month, I will be stressing the fact that the work that it does in Scotland needs to be not just in Edinburgh; it needs to get out and about to places such as Skye. But, overall, the tourism industry is optimistic.

Stuart McMillan (Greenock and Inverclyde) (SNP): Good morning, secretary of state. I have a brief supplementary to the convener's line of questioning before I get into a couple of other questions, regarding the vote that took place in the Commons last night. I have read reports this morning claiming that Speaker Bercow stated that the vote last night was binding. If that is the case, when will the reports be published?

David Mundell: I have indicated what the Government's position is, which is to reflect on the vote and to balance both respect for the vote and the Government's requirement to act in the national interest.

Stuart McMillan: On the issue of devolution and the 111 powers, devolution is based on the principle that everything is devolved to the Scottish Parliament unless it is reserved to Westminster. Earlier this morning, you spoke of wanting to have a united and cohesive way of going forward and also about the parties coming together as opposed to having a set of political objectives. A number of amendments have been tabled to the EU (Withdrawal) Bill by both the Scottish and Welsh Governments. If you want to have that united and cohesive way of going forward, will the UK Government accept those amendments?

David Mundell: What we have said, which we said at the JMC, is that we take the amendments in the spirit in which they were offered—to be helpful and to make a better bill. We are in detailed discussions with the Scottish Government and the Welsh Government on the nature of the amendments—there are a number of amendments. We are reflecting on what approach we will take to the amendments, but I can assure you, Mr McMillan, that we take them seriously. There is a difference of approach in how the respective Governments think that the process should proceed, but overall I think that our general direction of travel is the same and I hope that we will be able to reach agreement.

Stuart McMillan: Certainly. You have already said this morning that you will always listen to the views of this Parliament but ultimately it is up to the UK Government to take part in the discussions

with the EU. To come back to the point about having a united and cohesive approach going forward, surely not all the amendments are going to be rejected. There will be amendments that the UK Government can agree to, to have that united and cohesive approach going forward.

David Mundell: I hope that we can have a united and cohesive approach. That is in our best interests—for everyone in Scotland and the UK. The amendments to the withdrawal bill are part of that process. There are a number of other pieces of legislation that I have alluded to and a number of other processes, but I feel strongly that we are in a better position now in relation to being able to achieve that and I want to achieve that. I believe that the Scottish Government is seeking a constructive role. We are not going to agree on everything, but I think that we are recognising together the scale of the challenge and that if we can proceed in that cohesive way, we will get the best outcome.

Stuart McMillan: My final question is about the meeting on Monday, which has already been touched on earlier today. There is a £160 million shortfall in agricultural funding from the UK Government to the Scottish Government, and that is the situation now before any type of agreement or framework is put in place for agriculture going forward. Will that £160 million come to Scotland, where it should be, before any framework discussions take place? Will that be on the agenda on Monday?

David Mundell: On the convergence issue, what you have set out is an opinion, not a fact. The issue has been well debated and discussed and I understand that it was discussed in the Parliament last week. As you may have seen, Mr Gove is minded to have an independent review in relation to the issue, but I would be very surprised if it was not discussed at the meeting on Monday, because I think that it has been discussed at every meeting of the group in recent times.

Stuart McMillan: But will the money come to Scotland that is rightfully due to Scotland?

David Mundell: You are setting out an opinion in relation to convergence funding. I would very much welcome an independent review of that issue, which Mr Gove has indicated that he is minded to take forward.

The Convener: Thank you. Secretary of state, I would like to return to our initial line of questioning about your evidence to the Scottish Affairs Committee, when you clarified that you had not in fact been indicating that there was Scotland-specific research into the impacts of Brexit, although that was the wide interpretation of what you said. Just a few days after that, Mr Davis gave evidence to the Exiting the European Union

Committee and he was questioned on that research. He, too, seemed to confirm that there was Scotland-specific research that would be shared with the Scottish Government and he referenced your remarks to the Scottish Affairs Committee. Was he also misinterpreted?

David Mundell: I have in front of me David Davis's exchange with Ms Cherry and I would not place your interpretation on his remarks. Essentially, he said that the matter had been discussed at the JMC(EN) and that what I had said would be followed through on. That is how I read the various exchanges at that meeting.

The Convener: When Christine Jardine MP asked you:

"Will it be shared between Governments?"

you said, "It will".

David Mundell: I have said just now that officials are discussing sharing the analyses. That is what—

11:15

The Convener: You are saying that there are no Scotland-specific analyses on the impact of Brexit—we know that today. We also know, however, that there are 58 sectoral analyses, some of which relate entirely to devolved matters such as health, fisheries and agriculture, and higher education, which is a very important sector. Will you share those with the Scottish Government, as you indicated previously?

David Mundell: I want us to proceed on the basis of shared factual analyses, which I think is the best way to proceed. Officials are in discussion about the respective analyses, because the Scottish Government has also carried out various analyses. I am not aware that it has published them. I may be wrong; perhaps it has.

The Convener: They published them a few weeks ago and they have shared them with you. Those 58 pieces of—

David Mundell: I am not sure that that is a definitive statement for all analyses, but I will check that out and I will respond. I will write to you with an update on where officials are in sharing analyses.

The Convener: Is that specifically for those 58 sectoral analyses?

David Mundell: I will write to you about where officials are in sharing those 58 pieces.

The Convener: All right, but so far you cannot confirm whether they will be shared with the Scottish Government.

David Mundell: I have confirmed that Scottish Government and UK Government officials are in discussions about the analyses, our wish to share them and to have analyses that we agree on.

Mairi Gugeon: In response to Stuart McMillan's question on impact assessments, you talked about working on behalf of the UK, the national interest and the best interests of people in Scotland in trying to protect a negotiating position. Governments and Parliaments across the UK are elected to represent the best interests of the citizens who elect them and all the citizens who live here. Surely it is in the best interests of all the citizens in this country and across all the nations of the UK to know how their lives, their businesses and the industries that they are involved in will be affected?

David Mundell: It is in the best interests of the citizens of Scotland and the UK to get the best possible deal for Scotland and the UK in negotiations with the EU. Sharing absolutely every piece of information that you have, not just with your own citizens but with the people you are negotiating with, is not the best way to achieve that outcome.

Mairi Gugeon: You do not agree that people should understand how this will impact their businesses and their lives.

David Mundell: We had a referendum on whether we should remain in the EU. The subject of discussion in that referendum was how leaving the EU would impact on people. When the negotiations get to an end point, of course people will need to—and will—understand what the implications are, but sharing all the analysis and all the facts, and going naked into negotiations with the 27 other countries will not achieve the best possible outcome for Scotland and the rest of the UK.

Mairi Gugeon: People were not given all the factual information at the time of the referendum. For you to say that you do not agree that people should know how their lives will be impacted is ridiculous, quite frankly.

David Mundell: I am sorry that you feel that. Like everybody in this room, you had an opportunity to play a part in the referendum. We are not re-running the referendum. The decision has been taken that the UK will leave the EU. We need to proceed to do that and get the best possible outcome. That is what we are seeking to do. Obviously, we are not in agreement on this point. We have heard about yesterday's vote in the House of Commons. The Government is reflecting on that vote and will in due course set out how it intends to respond.

Mairi Gugeon: Your responses give me absolutely no confidence that a good outcome will

be achieved. I think that people are entitled to—they have a right to—know how this will impact their lives. That information needs to be forthcoming.

David Mundell: We are just not going to agree on that, are we?

The Convener: We have gone slightly over time. I thank the secretary of state for his evidence. We shall now move into private session. Thank you.

11:20

Meeting continued in private until 11:37.

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

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