



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Culture, Tourism, Europe and External Affairs Committee

**Thursday 4 October 2018**

**Session 3**



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**CULTURE, TOURISM, EUROPE AND EXTERNAL AFFAIRS COMMITTEE**  
**25<sup>th</sup> Meeting 2018, Session 3**

**CONVENER**

\*Joan McAlpine (South Scotland) (SNP)

**DEPUTY CONVENER**

\*Claire Baker (Mid Scotland and Fife) (Lab)

**COMMITTEE MEMBERS**

\*Annabelle Ewing (Cowdenbeath) (SNP)

\*Kenneth Gibson (Cunninghame North) (SNP)

Jamie Greene (West Scotland) (Con)

\*Ross Greer (West Scotland) (Green)

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

\*Tavish Scott (Shetland Islands) (LD)

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

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Fiona Campbell (Association of Scotland's Self-Caterers)

Marc Crothall (Scottish Tourism Alliance)

Peter Irvine MBE

William Macleod (UKHospitality)

Professor Anand Menon (UK in a Changing Europe)

**CLERK TO THE COMMITTEE**

Stephen Herbert

**LOCATION**

The David Livingstone Room (CR6)



# Scottish Parliament

## Culture, Tourism, Europe and External Affairs Committee

Thursday 4 October 2018

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

### Article 50 Negotiations

**The Convener (Joan McAlpine):** Good morning and welcome to the 25th meeting of the Culture, Tourism, Europe and External Affairs Committee in 2018. I remind members and the public to turn off their mobile phones. Any members using electronic devices to access committee papers should ensure that they are turned to silent.

We have received apologies from Jamie Greene MSP.

Our first item of business today is an evidence session on the article 50 negotiations with Professor Anand Menon, director of the Economic and Social Research Council's UK in a changing Europe programme. Professor Menon has indicated that he would like to make a short opening statement.

**Professor Anand Menon (UK in a Changing Europe):** I think that all that I will do is briefly summarise what I put in the written submission that I gave to you.

Some of the questions that I was asked to answer are unanswerable. What is the current state of play in the article 50 negotiations? It is very hard to say. What is obviously clear is that the big issue on the table at the moment is the Northern Ireland backstop. What is equally clear is that the issue that has got Westminster in a frenzy is Chequers, even though, actually, Chequers is not going to be part of any legally binding agreement that we come out with after the article 50 process. There is a curious disjuncture between the attention of Westminster and the focus of the talks at the moment, because the European Union are adamant that this is about the past, not the future.

There is a long way to go. One of the most remarkable things about the article 50 process is that we are so deep into it and it is impossible to know where it is going to end up. You can trace a logical and relatively convincing path from where we are now to any conceivable outcome, whether that is no deal, another referendum or some sort of patched-up vague deal. The first key milestones are the October summit and, potentially, a November summit. It is conceivable that the

process at EU level will not end there. It is perfectly conceivable that we will end up with another special summit after November in the event that we do not end up with a deal. It is worth bearing in mind that there are lots of different deadlines in the article 50 process. For some people, the deadline is Christmas, because Christmas is when firms are going to trigger contingency plans if there is no certainty about the future. However, in political terms, we could sort out the deal with the EU in January and still have time for the process to wend its way through until the end of March.

Looking at the domestic level, the key milestones are the vote in Westminster on the deal that comes back and then the vote in Westminster on the bill that puts that deal into law. I would just point out that historical precedent suggests that members of Parliament will not always vote the same way in the first vote as they do in the second. If you go back to the process that enabled us to join the European communities in 1973, there was a big majority for the agreement to join and a majority of only nine for the European Communities Act 1972. When MPs see the detail of the legislation that puts in place the agreement that they have signed with the EU, they might change their minds. They effectively have two bites at the cherry and two opportunities to veto the deal. We are not entirely sure when that second vote will be held.

In terms of impacts, first, leaving the single market and the customs union will have a profound impact on our economy; there is no point in trying to deny that. Secondly, those impacts are going to vary considerably regionally. Ironically, simply in terms of trade interdependence, the two parts of the United Kingdom that are least exposed to issues with trade with the EU are Scotland and London. I say that that is ironic because, of course, they are the two parts of the country that voted most strongly to remain. We have a research team—I am happy to point you towards their website—who do a detailed tracking of what they expect regional impacts to be, and they are in a far better position than I am to talk about the detailed economics.

The final question that I tried to address was whether it is conceivable that the UK will remain in the single market or that Scotland will. I will just point you to two things that we say in the written evidence. First, while the EU is clearly willing to consider a unique deal for Northern Ireland, I think that that absolutely does not mean the EU will be willing to do the same for Scotland. The reason why it is showing flexibility over Northern Ireland—despite grave disquiet about that special deal on the part of some member states—is because the Republic of Ireland is insisting on it. That will not apply to the same extent to Scotland.

The second thing that I would say is that, whatever flexibility the current Government might show in negotiations with the EU, I cannot conceive of that extending to anything remotely like single market membership, because that brings into play the fundamental three red lines. I will leave it there, if that is okay.

**The Convener:** Thank you, and thanks for your written evidence as well; it was very useful.

In your written evidence, you suggest that a compromise is possible on the backstop to facilitate the completion of the overall withdrawal agreement, yet key people in Europe, such as Guy Verhofstadt, in his tweets this morning, and also the convener of the European Parliament Committee on Constitutional Affairs, Danuta Hübner, have suggested that the proposed Chequers deal, even if a Northern Ireland backstop was worked out, would still not be acceptable because it violates the four principles of the single market. Even if a backstop was somehow agreed, is there any guarantee—given everything that has happened, given Salzburg—that the Chequers plan could get through, because it divides the single market, in the sense that it wants the UK to be in the single market for goods but not for services, and because, of course, it does not sign up to free movement of people?

**Professor Menon:** First, on Guy Verhofstadt, it is worth bearing in mind that the European Parliament will have a vote on the terms of the deal. There is some slight confusion over this, because he also tweeted yesterday that,

“We will never accept an extension on article 50”

but the European Parliament does not get a vote on that, so that is slightly misleading.

I would separate two things: there is the backstop and there is Chequers. Chequers is an attempt to ensure that implementation of a backstop does not lead to regulatory checks within the UK. You are absolutely right to say that the EU has addressed all sorts of concerns about the backstop. My personal view is that the EU has a tendency to address interest as principle, in the sense that there are several instances where the EU has waived its principles—for example, the association agreement with Ukraine, the deal with Switzerland and the deal that is on offer to Northern Ireland—and in all those instances, the integrity of the four freedoms is somewhat mitigated. What the EU is saying, though, is that it will not do that for the UK as a whole, which is fair enough. There are good economic reasons not to do that.

I do not think Chequers as it will fly. I still remain cautiously optimistic that, between them, the British Government and the EU will find a way of preventing a hard border in the island of Ireland

while reducing, as far as possible, the visibility and the impact of checks across the Irish Sea. There will have to be some sort of differentiation, I think, between Northern Ireland and the rest of the UK, because of the EU's insistence that either we all remain in the single market or there will have to be checks.

**The Convener:** In your written evidence, you set up a timeline to the end of March. When do you think that the withdrawal agreement needs to be negotiated by so that it can ensure full implementation?

**Professor Menon:** I would say that, to be safe, by about mid to late January it needs to be signed off in the European Council in order to go to the European Parliament and be done by 29 March. There are two ultimate deadlines. There is 29 March, which is a political deadline. I find it very hard to see how this Government under this Prime Minister politically will be able to extend that deadline, because it has made great play of stressing that date. The ultimate practical deadline beyond which Brexit gets delayed quite significantly is the end of April, because that is the last plenary sitting of the European Parliament, after which it breaks up for elections and then nothing is going happen again until the autumn.

**The Convener:** Thank you. Kenneth Gibson will ask the next questions.

**Kenneth Gibson (Cunninghame North) (SNP):** The negotiated transition period, as part of the withdrawal agreement, is scheduled to end in December 2020, but obviously it is going to be extremely challenging to negotiate and finalise the future relationship within those 21 months after the UK has left the EU. Is there a need to include provision in the withdrawal agreement for an extension to the transition period, as argued by Fabian Zuleeg and Tobias Lock?

**Professor Menon:** There are two things to consider. First, it will not be a 21-month negotiation, because, if you think about it, from the end of March until probably the start of autumn there will be little in the way of negotiations, because we will be appointing a new European Commission and, therefore, a new trade commissioner, and we will have the European Parliament elections. Further, of course, it takes anything from nine to 12 months to get these things ratified, because, in the EU, trade deals have to be ratified by national Parliaments and, in cases such as Belgium—which we are now all too familiar with—by regional Parliaments as well. The time period is actually far less than 21 months.

All I can do here is report the views of my EU law colleagues, and of course each of them has a different view, but the consensus opinion seems to be that it will be necessary to have something in

the withdrawal agreement that makes reference to an ability to extend the transition period. The reasoning for that is that, for some people, the transition, even as it stands, is a bit of a stretch of article 50, because article 50 is basically about the past, not the future, which means that the European Council is kind of overstepping its powers by agreeing a new third-party relationship, albeit for only those 21 months, with a third country. It looks like we are not going to have a legal challenge to that—so far, so good. There are some EU law experts who would argue that, once we start transition, even if the withdrawal agreement contains provisions for extending transition, that is not legally foolproof, because it will look to some people like an usurpation of power by the European Council, because it will involve the European Council deciding on an ability to lengthen a third-party agreement that formally should go through another process involving the European Commission and European Parliament. We do not know yet whether that will be the case, but it certainly seems to me wise to include provisions in the withdrawal agreement that will make it safer.

**Kenneth Gibson:** I understand that there has already been agreement to contribute to EU data systems up to 2026, so there have already effectively been agreements to go beyond the stated transition period of 21 months.

**Professor Menon:** Absolutely. Our untangling from EU institutions and policies and processes is going to be staggered and will take place at different points and at different times. You are absolutely right to say that data is one of those areas, but that is slightly different from transition. Transition is a specific status that we will enjoy with regard to the EU, where in economic terms we continue as we are now but without representation in the institution. That is very different to the individual sectoral deals.

**Annabelle Ewing (Cowdenbeath) (SNP):** I would like to pick up on a couple of points. The Irish backstop issue remains unresolved at this stage and it is difficult to see how it will be resolved, given the diametrically opposed views that are emerging. What is your view on the unity or otherwise of the 27 on that issue, and, indeed, more generally? It seems in terms of the public position that the 27 member states remain unified on their negotiating stance.

**Professor Menon:** There is all sorts of rumour and counter-rumour on this. There is a piece in the *Financial Times* today that hints at the fact that the Irish might be softening towards British proposals more than other EU member states. I do not know whether that is true or not.

The EU has certainly publicly kept its unity quite impressively. There are different shades of opinion

among the member states about whether the EU should or should not be more flexible. Ultimately, all national capitals realise that it is simply not worth the hassle to engage in a damaging full-scale fight among themselves and it is far easier to leave this with the European Commission.

One other point of division is that there are some member states that are already rather twitchy about the Northern Ireland backstop as proposed in the December agreement. I have heard people who are close to the French Government say that it raises a profound danger that Northern Ireland will become a manufacturing hub and that manufacturers from the rest of the UK will relocate to Northern Ireland to benefit from the fact that Northern Ireland will be in some of the single market, but not all of it, and will therefore gain a comparative advantage. There are already divisions on that, but they are not breaking through to the political level as yet.

We do not know what will happen in the future. It seems clear to me that the British Government is still hoping that, as we reach the end point, the combination of the prospect of no deal, plus the increased involvement of political principals in the process, will lead to those divisions becoming more pronounced. The rationale is that, at the moment, Brexit in the national capitals across the EU is handled by sectoral experts who are steeped in EU law but perhaps not so steeped in geopolitics, and that the more that heads of state and Government get involved in this, the more that they will recognise that there need to be trade-offs. That is why, for instance, the new foreign secretary, when he went to Berlin soon after his appointment, was talking about the dangers to the western alliance if we do not get this right. He was appealing to the broader geopolitical issues that are at stake, rather than simply the technical issues of EU law.

I do not know what will happen. It seems to me very unlikely that EU unity is going to break publicly and to our benefit before the end of this process.

09:15

**Annabelle Ewing:** I speak as a former lawyer practising EU law, mostly in the private sector. You speak of the process moving out of the realm of EU lawyers into the realm of those engaged in geopolitics. I wonder, would that apply to the Democratic Unionist Party? Its statements this week suggest that the geopolitical situation on a wider scale is not really something that is at the forefront of its position.

**Professor Menon:** It is absolutely not. At the moment, several simultaneous games of chicken are being played by different people against

different people. The British Government is playing chicken with its back benchers, the EU and the Republic of Ireland; and the DUP is playing chicken with the British Government. There are people in the British Government who, in private, will say that, ultimately, the DUP would rather compromise than face the risk of a Corbyn Government. Everyone is assuming that everyone else is talking tough but will soften towards the deadline.

What is very interesting to me is that the December agreement and the words spoken by the Prime Minister in the heat of battle immediately after Salzburg both contained the statement that there will be no new checks between Northern Ireland and the rest of the United Kingdom “unless Stormont agrees” to that. It is still conceivable that, behind the scenes, the Government is asking politicians in Northern Ireland, “What will it take for you to sign this off?”

**Annabelle Ewing:** That remains to be seen.

You suggested that the fundamental freedoms had been somewhat mitigated in other examples of trade agreements. I hear what you say, but is it not the case that, if you do not have the jurisdiction of the European Court of Justice as far as the four fundamental freedoms are concerned, that means absolutely that you have a very loose form of co-operation and you do not have anything near the status quo in terms of freedom of movement of goods, for example, because those are the rules of the club? If you are not subject to the umpire, you do not have the same set of rules. Is that not, nonetheless, still the position? Irrespective of what the EU’s motivation in terms of matter of principle might be, the fact remains, as a matter of law, that it has very little leeway to go beyond the structures of the tenets of the single market.

**Professor Menon:** I would say that that is true with wrinkles, in the sense that, for instance, if you look at the European Economic Area agreement, it is a way—if you want to be cynical about it—of dressing up the direct authority of the European Court of Justice. Proponents of the EEA model will say, “Look, you are slightly freer of the ECJ with the EEA.” Actually, I do not think you are that much freer, because ultimately, if you look at the track record, EU law gets implemented and the ECJ has oversight.

I think that your point is absolutely right, but there are two different issues. There are the issues of whether you are within the whole of the single market or bits of it and there is the issue of how those bits you are in are justiciable. The negotiations over governance will be absolutely fundamental. It is something that we have not yet spoken about enough. The UK Government’s white paper put forward some very vague

proposals on governance and how governance can be managed short of direct ECJ authority, but I think that you are absolutely right to say that, from the EU side, that is non-negotiable. That is one of the big cultural differences between the two sides. You hear the British Government say things like, “Obviously our laws will be equivalent to EU law, so we do not need to bother,” and, from the EU side, you hear, “That is all very well but, ultimately, there has to be a court overseeing it, and as far as we are concerned, it is our court.”

**Stuart McMillan (Greenock and Inverclyde) (SNP):** I will follow on from Annabelle Ewing’s questions. Notwithstanding your comment regarding the different players playing chicken with each other, have you seen or are you aware of any evidence at all of a semblance of common sense, from an economic perspective, in the various political players to try to get to a successful outcome, particularly regarding the Northern Ireland situation?

**Professor Menon:** It is clear that both sides are committed to not having a border on the island of Ireland. They differ on how to get there and in how sacrosanct their principles are in terms of a final deal. Ultimately, at its simplest level, the Brexit decision was a decision to make trade with our biggest and nearest trading partners slightly more difficult. One way that I interpret the Brexit vote is that it is a triumph of politics over economics. Curiously, economics is no longer driving political decisions in this post-Brexit world. That is clear if you look at the Chequers agreement, which is a wonderful example of politics triumphing over economics.

If an economist wanted to write Chequers to ensure the best economic deal for the United Kingdom in its relations with the European Union, they would turn it on its head. They would say, “We don’t have to worry about agriculture, because it’s such an insignificant proportion of our gross domestic product, and manufacturing is relatively unimportant, but we need to strike a deal on services, because that ultimately is what our economy is about.” Chequers turns that logic on its head for political reasons, including the political reason of the Northern Ireland border. Chequers was written with a view to avoiding a border rather than with a view to anything else, and because of the political rather than the economic salience of sectors such as manufacturing.

I do not think that economics is driving the process on either side. You will remember that, during the referendum, several spokespeople of the leave camp expressed their confidence that the German car makers would go and see the German Chancellor and say, “This will be bad for business,” and that therefore the German



Chancellor would cave. On both sides, politics is running the show, rather than economics.

**Stuart McMillan:** On the issue of Germany and the other EU27 nations, the committee has heard on more than one occasion that Brexit is not the burning issue for the EU27. They have many other domestic issues and Brexit is just number 5, 6 or 7 down the line. Is that the case?

**Professor Menon:** Yes, it probably is the case, certainly in the short term, which is one reason why the British Government is saying, "If you look beyond the actual exit date, there will be all sorts of spillover effects on security, co-operation and other things that you need to think about." Day to day in the European capitals, they are worrying about the migration crisis; the east-west values division that is rearing its head in the European Union and causing a lot of people sleepless nights; and of course a resurgence of the eurozone crisis, particularly in Italy, because of the Italian budget situation.

Brexit is not their most pressing issue, which is one reason why I said in answer to an earlier question that I do not think that EU disunity will happen. That is for two reasons. One is that the stakes are not quite high enough for people to put their heads over the parapet. Basically, that means that if an EU member state—let us say a Scandinavian Government—is slightly concerned about the way that Britain is being treated and would like the EU to show more flexibility, it has to decide whether to burn political capital in the EU fighting that corner or to keep its powder dry to fight the wars over the eurozone that are bound to come. Everyone is making the calculation that, actually, Brexit is not their first priority at the moment.

**Alexander Stewart (Mid Scotland and Fife) (Con):** Will the provisions of the future relationship form part of a formal withdrawal agreement or will there be another document to deal with all of that?

**Professor Menon:** There will be a separate document, but they will be voted on as a package by the British Parliament.

**Alexander Stewart:** How will that impact going forward?

**Professor Menon:** In what way?

**Alexander Stewart:** On how the process will be managed.

**Professor Menon:** The crucial thing going forward is that the European Union will not bind itself. The Government has made noises about making the agreement legally binding in some way, but I find it hard to see how to do that, not least because there will be a new negotiating team in place next year, and Governments might change in Europe and so preferences might

change. My sense is that what we agree on the future relationship will be political. That does not mean that it will not have weight, but it will not have the weight of a legally binding agreement. I am yet to hear anything that convinces me that there is a way of making it legally binding.

**Alexander Stewart:** As you have indicated, the complexities of that become apparent, depending on where we end up. If that is the case, what is the next step? If there is not a legally binding process that gives us the expected opportunities and if there are changes in the views of Governments across Europe, the whole idea becomes even more problematic.

**Professor Menon:** That is where the phrase "blind Brexit"—I think that it was the First Minister who coined it—comes into play. For me, a blind Brexit or a blind exit is the necessary outcome of any decision to leave the European Union because of its own rules. The EU cannot formally negotiate a trade deal with a member state. The article 50 process is backward rather than forward looking. Therefore, I do not see how you are not at least partially blind, because, by law, you cannot be anything but that. It is a real danger.

David Davis was absolutely right that, ultimately, the problem for the United Kingdom is that our moment of maximum leverage would be when we can link the withdrawal process, and in particular the European Union (Withdrawal) Act 2018, with concessions that we would like the EU to make over the future relationship, but the structure of the process means that that is not going to happen. To go back to an earlier question, the danger is that, once we leave and the withdrawal agreement is signed, we become even less of a priority than we are now, and therefore moving the trade negotiations forward and getting concessions will be even harder. However, I do not see any way around that.

**The Convener:** I have a supplementary on that. Obviously, as you have said, the withdrawal agreement and the transition terms are legally binding, whereas the future relationship is a political statement. A number of UK politicians, such as Michael Gove, have hinted that we should simply get out and we can worry about the future later, or that we can make promises now that we could renege on in future. How do such statements affect the negotiations?

**Professor Menon:** It is hard to say. I have just come here from the Conservative Party conference. You have to hope that statements like that do not affect negotiations too badly, because that was all that we heard in Birmingham. The remarkable thing about Michael Gove's statement was that it managed to unite the Brexiters and the Government in opposition to it, but there is absolutely no doubt that people on the continent

listen to what we say here. For instance, one reason why the French in particular are absolutely dead set against anything that looks like partial single market membership and are slightly nervous about it even for Northern Ireland, is that they have listened to rhetoric from London since the 1980s about deregulation and they take it seriously. I do not think that we have ever acted in the way that we have spoken, but a succession of Prime Ministers from both the big parties have taken great pleasure in going to Brussels and talking about the need to get rid of regulations. As we have said that for so long, it is perhaps unsurprising that our European partners take it seriously.

That is why one of the big fights to come will be the fight over the so-called level playing field. There is a degree of nervousness that whatever we sign up to now we will not adhere to in the future. The European Union is anxious to get assurances over a level playing field and that we will not diverge from its policies, even in areas that are not directly covered under the ambit of the future relationship. It is not necessarily about what Michael Gove said, but years of rhetoric have made some of our partners a bit wary of allowing us to go where we want.

**The Convener:** The committee has already heard that the European Parliament is not comfortable with the agreement that has already been made in principle on guaranteeing the rights of EU citizens. The European Parliament is not convinced that the UK will stick by what it has promised.

**Professor Menon:** It was one of the great insights into our constitutional system that, when we started negotiating the withdrawal agreement, we realised that we cannot give the kind of long-term guarantees to citizens that the EU is after, because we have sovereignty of Parliament and one Parliament cannot bind the next. That is why, early in the article 50 process, there was an enormous fight over the European Court of Justice having jurisdiction over the elements of the withdrawal agreement that cover the rights of EU citizens. We ended up with a compromise of, I think, nine years for that.

There is concern but, personally, I am not that concerned about the European Parliament trying to block the agreement, not least because of the unprecedented level of co-ordination between the Commission, member states and Parliament, which has been one of the interesting things about the Brexit process. The European Parliament has been kept in the loop all the way through the process. During the negotiations, when citizens' rights were discussed, the European Parliament's concerns were fed into the EU negotiating position. There are concerns, but I do not think

that they will result in the European Parliament voting down the agreement. We have ended up with probably the only possible compromise between a legal system that is constitutionalised such as the European Union one, and one that is far less so, like ours.

09:30

**Ross Greer (West Scotland) (Green):** I will continue on the theme of the withdrawal agreement and the future relationship agreement. Some of the more rational Brexiters, looking at the clock ticking down, seem to be going back to where they were, at least rhetorically, a couple of years ago, in stating that the withdrawal agreement can be managed as, in essence, a monumental fudge by shifting as much of it as possible into the negotiations on the future relationship. Their argument is that we can fudge the issues that are causing difficulties for the withdrawal agreement by punting those into the next round of discussions on a future relationship. I do not see how that works, but it would be interesting to hear your thoughts on whether that has any chance at all politically. You talk about a series of games of chicken going on. The approach seems to be based on the idea that Europe will blink first in that regard. Is there any political possibility of that?

**Professor Menon:** I think that you are right and the Brexiters are wrong, given what is happening. One of the calculations of Government whips about the vote to come in Parliament is that they will be able to peel off a sufficient number of Brexiters who just want Brexit to happen because of the threat of a second referendum if the agreement is voted down. That is going on. There are some in the Brexit camp who just want us to be out and then to sort it out afterwards. However, we cannot fudge the withdrawal agreement. We can fudge the future relationship, which we want to trade against the withdrawal agreement, which puts us in a weaker position, but the withdrawal agreement, as we have seen in the sections on the money and citizens' rights, has to be crystal clear. Given what has happened over the Irish backstop, the European Union will make certain that there is no scope for ambiguity in the language around that in the version that is finally agreed.

**Ross Greer:** You mentioned the idea of a second referendum and a people's ratification vote. Beyond the domestic British political challenges of whether that is possible, how would the EU27 react to that? There have been a number of statements from various European politicians who are open to it. You have mentioned the impressive unity of the bloc so far. If the UK political environment got to the point where there

was a majority for a people's vote at Westminster, would the EU27 be open to the possibility of that being facilitated before 29 March? If so, how long before 29 March would that have to take place?

**Professor Menon:** I draw your attention to a report that is out or is about to come out from the constitutional unit at University College London on the procedural and legal steps that would need to be taken to get us to a second referendum. The unit strongly intimates that doing it before the end of March would be just about possible but extremely difficult. There are two different EU issues there. One is whether EU member states would be open to us staying, to which I think the honest answer is that, in public, they would have to be but, in private, probably less so, among some of them at least. The second is about how we would withdraw. This is speculation upon speculation: were we to have a referendum and were it to decide that we were to remain, what would happen then? No one legally knows whether we could unilaterally revoke article 50 or whether we would have to go back to the negotiating table. That is a point over which lawyers disagree, so we do not know.

**Ross Greer:** I am one of the pursuers in the case that is now going to the ECJ on exactly that point.

**Professor Menon:** Yes. Steve Peers has a blog on EU law and one of the blogs in that is a debate between him and Steve Weatherill of the University of Oxford in which they take opposing sides as to whether we can unilaterally revoke article 50. It is well worth reading to see some of the legal issues on that.

The third issue is whether the EU would grant us an extension in the event that we decided to have a referendum but we could not do it in time. That would be by unanimity, of course. I find it hard to believe that it would not do so, partly because I find it hard to see us getting to that point under the current Prime Minister, in which case we would have a new negotiating team, so it would be hard for the EU to say, "No, we've had enough of this—let's just stop and you can fall out with no deal".

**Tavish Scott (Shetland Islands) (LD):** Can I ask a more practical question? I am one of 20,000 Spaniards who cross the runway into Gibraltar every day—what is going to happen at the end of March next year?

**Professor Menon:** The honest answer is that I am not entirely certain.

**Tavish Scott:** No, indeed.

**Professor Menon:** In the short term, in the transition period, very little will happen, but beyond that I do not know. Spain is not the most stable of

countries politically at the moment either, which adds to the uncertainty. The danger is that a weak Spanish Government will see a chance to play the national card by playing hardball over Gibraltar. One of the tragedies of the Brexit process—it is perhaps inevitable—is how, given the stakes in what is going on, the special status of places such as Gibraltar and the Channel Islands has been overlooked. I do not blame the British Government for that, because there is so much going on that it is very hard to have the bandwidth to do this, but the sense of, "No one is talking about us," is very noticeable if you go to Gibraltar or the Channel Islands. The honest answer is that I do not know what the future holds.

**Tavish Scott:** I appreciate that; what you say is entirely fair. Do you think that the position of Gibraltar has any implications for the Northern Ireland border discussion? Is there any linkage, because it is another border?

**Professor Menon:** In the abstract, yes; in the political world so far, no. It is worth stressing the degree to which the Northern Ireland border is being treated differently by the EU because the Republic of Ireland insists that it should be. That is the key variable there. It is a nice example of how, if you are a member state and you really need the support of the EU and you get it, it makes a big difference.

**Tavish Scott:** I am sure that it would be different if the Gibraltar Government were in Birmingham like you, but it is just not getting through, is it?

**Professor Menon:** No. I should say that the Government of Gibraltar has been tireless, and barely a day goes by when you do not see its representatives in Parliament or at the party conferences. They have been working this as hard as they can, to the point where at least people are aware of the fact that there is a Gibraltar issue, but I just do not see how that issue can rise in political salience, given the scale of the other issues that are involved in this.

**Tavish Scott:** The other question that I want to ask is about fisheries. The fishing industry is getting well and truly done over, because we are soon to be in a position where our fisheries minister—and indeed, the UK fisheries minister—will not even be at the table when quotas for the future are being sorted out. That is what it will be like for lots of industries in the future, but fishing is an industry where that experience is real now.

**Professor Menon:** Absolutely—we will not be at the table. I do not know what the solution on fisheries will be. Again, I can point you to one of our teams. Craig McAngus at the University of the West of Scotland is doing a big research project on Brexit and fisheries and what Brexit means for

Scottish fishing communities. I would advise you to look at his website and perhaps talk to him at some point, because he knows everything about fish that there is to know, which is not something that can be said for me.

The broader point on regulation is absolutely true. I do not think that even something like Chequers solves the problem for manufacturing to the degree that people seem to think that it does, because for manufacturers the issue of regulation is as important as customs and tariffs.

I was talking to someone from one of the high-end car manufacturers recently, who said, "Look, we sell expensive cars. If there is a 10 per cent tariff, we just stick it on the price and no one will notice, but what we do not want is to know that Fiat and co are sitting around a table setting the regulations that will determine what our cars look like in the future and we are not even in the room." You are absolutely right that not being at the table when the regulations are negotiated is something that concerns a lot of manufacturing firms in this country.

**Tavish Scott:** I agree. Last week, the boss of PSA said that Vauxhall will go on to short-term working, if not close, and Nissan and Jaguar Land Rover bosses have said much the same in the past week in the run-up to the Tory party conference. I did not notice the Prime Minister making any observations about the economy of the car industry, yet Greg Clark signed some kind of deal with Nissan—we do not know what it is—about a year and a half ago. Can you shed any light on that? Is there a deal for Nissan that is different from the position for other car companies?

**Professor Menon:** I have absolutely no idea what was done with Nissan. It is worth clarifying that the car manufacturers were talking about a no-deal scenario rather than a deal scenario. I think that the head of the Royal Bank of Scotland was also talking about that today on the "Today" programme. I do not think that anyone has said that they are going to close in the event that we leave the EU.

It will be interesting to see what happens in the future. When you talk to the big foreign car firms, they say, "Obviously this will make things harder and we will have to reassess," but equally they will say, "We have a lot of sunk costs in the UK. We have paid an awful lot of money for plant and we are not just going to close that down and walk away." For instance, BMW has plant and infrastructure here and I think that we are its second-biggest export market. I do not think that it will be as extreme as people walking away, given the previous investments that they have made and given the importance of this market, but it certainly will give them cause to rethink how they do things.

Perhaps the most interesting person to listen to on this is the Japanese ambassador, who has become quite a character now and who is palpably upset about what is going on and what the implications are for the Japanese.

**Tavish Scott:** But your main point is that regulation is the bit that matters.

**Professor Menon:** It is not that regulation is the bit that matters but that regulation matters as well. Obviously Honda has gone on record to say how much disruption at the ports will cost it because of its just-in-time supply chain. I am not for a moment saying that the customs arrangement do not matter, but I am saying that it is important not to forget the regulatory stuff because, for some manufacturers at least, that is also fundamental.

**The Convener:** A point that has been made to this committee is that it is increasingly difficult to separate goods from services. If you buy an engine, for example, you will have a service agreement on that engine, so you cannot separate the two. To go back to my earlier points, we seem to be accepting that the question is how we implement Chequers, when so many people at the very top of the EU have said that that division between goods and services is simply unacceptable.

**Professor Menon:** I will say several things to that. First, yes, you are absolutely right that services and goods are often bundled. I think that Rolls-Royce revealed the proportion of its exports that is made up of services—service contracts and maintenance contracts that are tied to the goods that it exports. Secondly though, there is the separation that will be allowable for Northern Ireland in the event that the backstop is implemented. It is possible to do, however messy it is. Thirdly, as I recall, about two or three weeks ago Michel Barnier came out with some figures about the potential damage that British comparative advantage would cause in the event that we were in some bits of the single market and not others. I still have not seen where those figures come from convincingly. You are right that it is difficult, but that does not mean that it is impossible, and it is on the table, in a manner—

**The Convener:** You keep going back and saying that this fudge is possible for Northern Ireland but, even if that is the case, it is absolutely impossible for the rest of the UK, as the EU would never accept it.

**Professor Menon:** It might be politically impossible, but my argument is that in principle it is not impossible, because if it is being done for Northern Ireland, it is in principle possible. I think that we then get into a political and interest-driven argument, which is absolutely fine. At the moment, the EU is saying that it will not accept it for the UK.

**The Convener:** Donald Tusk said:

“Everybody shared the view that while there are positive elements in the Chequers proposal, the suggested framework for economic co-operation will not work. Not least because it risks undermining the single market.”

**Kenneth Gibson:** At the Conservative conference this week, it was announced that migrants would have to be on £50,000 a year before they came into the UK. Obviously, that would have serious economic implications, but what are the implications for the negotiations of that announcement?

**Professor Menon:** That is for the future, remember. It is not about people who are already here; it is about people coming in in the future. The implications are that the EU will respond in kind to Brits who want to go and work in other EU member states.

**Kenneth Gibson:** Basically, it will cause a hardening of attitudes.

**Professor Menon:** Yes, it will cause a hardening of attitudes and, generally, when people are talking about immigration policy, the two sides involved respond in kind, so yes, it will become harder for British people to go to other EU member states. It is worth stressing the point that Brits living or working in other EU member states will have rights, but they will lose the right of freedom of movement, so there are interesting questions for the Brit who lives in Germany and works in Luxembourg; they will have the rights in the country they live in, but how portable those are is something that we are going to have to talk about in the future.

We do not talk enough about the situation and the status of Brits living in other EU member states, but they will perhaps be the group that is most badly and immediately affected in the event of no deal. We have legal provisions in place now—or we will have—for EU citizens who are already here, whereas in many member states nothing has been done legally to address the question of what happens to British nationals in the event of no deal, because they are all waiting for the sign-off of the withdrawal agreement. In other EU member states, British nationals will fall into a weird kind of legal limbo, because they will not be covered by the law. They will not be covered by what the law says about the EU, because they will not be EU citizens any more, yet there will be no immigration law about them, because that will not have been drafted yet.

09:45

**Claire Baker (Mid Scotland and Fife) (Lab):** I apologise for arriving late this morning.

I understand that you have already discussed the Northern Ireland issue before I arrived, but in your written evidence to the committee you say that geographical indications, intellectual property rights and the protection of personal data are other issues within the withdrawal agreement that are causing difficulty. Can you give us an update on where negotiations are with that and say whether we are likely to get a consensus on those issues?

**Professor Menon:** The honest answer is that I cannot, I am afraid. I have spent two weeks at party conferences and have not been paying much attention to what has been happening in Brussels. Geographical indications were certainly a big issue two or three weeks ago. Whether they have made any progress, I just do not know.

**Claire Baker:** It is interesting that you mention the party conferences because—this goes back slightly to the Northern Ireland issue—my observation of the Conservative conference over the past week was that there was a very firm emphasis on the union and the idea of unionism. Arlene Foster had a fairly high-profile presence at that conference. How does that impact on the difficulties that there are in reaching an agreement on Ireland? I was concerned about the message that the strong emphasis on that gave to Northern Ireland, Ireland and the EU.

**Professor Menon:** It is worth emphasising this point, actually, because I think that it is often misunderstood. The party is the Conservative and Unionist Party, and I think that, even if the current British Government were not dependent on the votes of the DUP, this would be a massive political issue for the Conservatives; it would be for parts of the Labour Party as well. I think that it was Dominic Grieve who said during the withdrawal agreement debates in July that he does not know a parliamentarian who would vote for the implementation of the backstop as it is currently drafted. There is a very strong feeling among many MPs that they cannot preside over what they see as the separation of one part of the UK from another.

There are two aspects to that. The first is the one that we are all talking about, which is checks—that is to say physical checks and the symbolic and political importance that they would have—but the other, which I think is going to be equally important, is legal jurisdiction. Mr Grieve’s point, as far as I understood it, is that what would be unacceptable for him would be the notion that part of the territory of the UK would fall under a legal system over which we have no say. It is absolutely a very serious political issue.

**Claire Baker:** Do you agree that that does not recognise the history of Northern Ireland and the conflict that there has been in Northern Ireland? The solution that came with the Good Friday

agreement was that membership of the EU allowed people in Northern Ireland to feel that they were part of Ireland and also part of the UK, so an emphasis on the idea of unionism in relation to Northern Ireland is problematic at a stage where we are trying to reach a solution that maintains the integrity of the Good Friday agreement.

**Professor Menon:** Absolutely. Here I would recommend the work of Katy Hayward at Queen's University in Belfast, who understands that border like no one else, I think. The paradox here is that, since the Good Friday agreement, essentially in the case of both Northern Ireland and, to a degree Scotland, what we have done is work to make borders more ambiguous, so that there can be national identities, but the borders between countries are fuzzy and people can move quite freely. Brexit was a reassertion of a rather old-fashioned notion of borders—"There is the border. We control it. It is clear." Trying to reconcile those two, particularly in the case of Northern Ireland, is proving massively difficult, as it was always going to be.

**Stuart McMillan:** I have a question about the comments that Jeremy Hunt made at the recent Conservative Party conference regarding the EU and a Soviet prison camp. He has since backtracked on those comments, but nonetheless, he made them on the conference floor. Do you think that that type of thing will help the negotiations? How do you think it will affect relationships, bearing in mind that we are still in a situation where no deal has been agreed?

**Professor Menon:** We should not fall into the trap of thinking that that is in any way new. One EU ambassador told me at the conference that they were "disappointed but not surprised", which kind of sums it up. Our European partners are aware of the way that our politicians act, particularly at party conferences. It is not particularly helpful; in fact, it is particularly unhelpful in the sense that, in so far as they will alienate some people more than others, they will alienate the EU member states on which we might otherwise have relied the most for support—the countries of central and eastern Europe. Saying something that will offend the Baltic states strikes me as bad foreign policy, but it is just the tenor of language that we have at party conferences. Party conferences are a different thing, where politicians are talking to a different audience. The papers are full of reports that Conservatives act as if no one can hear them outside the room. I do not think that that is the case; it is just that they go to conference with the party faithful once a year—and bear in mind that the party is very badly divided—and they all go for the lowest common denominator.

**Stuart McMillan:** At some point after 29 March, when the economy turns and starts to suffer and

costs start going up and it potentially gets harder to obtain food within the UK—the UK Government has appointed a new minister responsible for that—how easy do you think it would be for the UK to change its mind and rejoin the EU? The UK economy will be in a pretty bad way in the near future.

**Professor Menon:** We probably need to dig a little more into what will happen to the British economy. There seems little doubt that Brexit is already having an impact on the British economy. John Springford at the Centre for European Reform is doing a monthly estimate of what Brexit has cost the UK economy to date. If I remember rightly, his latest estimate came out last weekend. There is an impact. However, there is a danger—I see this from remain campaigners—of exaggerating or overdramatising what that impact will be.

Leaving the single market and the customs union will impact on the British economy, but it will not do so straight away. There will be other impacts. For example, we are almost certainly seeing a big slowdown in investment at the moment because common sense dictates that companies are waiting to see what happens before they invest. To all intents and purposes, we will not leave the single market and the customs union until after transition, and that is when those effects will start to hit—depending on whatever trade deal we might get.

The estimates suggest that that will lead to about a 5 per cent hit to the British economy. It is worth being specific about what is meant by that: it refers to the economy being 5 per cent smaller than it would otherwise have been over a period of years, not to the economy shrinking by 5 per cent on exit day. The point that I am trying to make is that although the economic impacts of Brexit are real, they will be far more subtle than a lot of people are making them out to be. They will be far more subtle, far harder to discern, particularly if employment levels stay relatively high, and far more difficult to pin on the single issue of Brexit, because it is happening over a period of years.

We should not necessarily assume that all of a sudden everyone will turn around and say, "Oh my God, the economy is doing worse. It is because we have left." Essentially, the way that you will know that our economy is feeling the impact of leaving the EU is if you pick up the *FT*, look at a graph of growth across Europe and see that ours is lower than everywhere else in the eurozone. However, most people will not do that. The first cautionary note, if you like, is that the impact will be relatively subtle.

As to the meat of your question, if we want to rejoin, we can apply to rejoin, but we would have to apply to rejoin like everyone else. There are

some things worth bearing in mind. First, what would be the political context in the UK that would allow that? In so far as the impacts that we are talking about are visible, it is perfectly conceivable that a majority, or a large proportion, of the British people, rather than thinking, “Oh my God, that was a mistake and we should rejoin,” will think, “We were absolutely right to leave, because the reason why our economy is not doing very well is that they punished us on purpose.” In the short to medium term, we might see a hardening of anti-EU attitudes in this country if the economy does not do very well.

Even assuming that a Government decided that it was right to attempt to rejoin, it would then face the problem that Britain would not get the special opt-outs that it enjoys as a member now. I am talking about the budget rebate and potentially, but not necessarily, Schengen and the eurozone. We would almost certainly have to apply to rejoin on terms that are far less favourable and far more politically contentious than the terms of our current membership.

**Annabelle Ewing:** I have listened to the debate this morning. There are so many unknowns at this stage, but surely one known is that Chequers is dead—the EU has said that. What is proposed is incompatible with the rules of the club. Just as you cannot be half pregnant, you are either in the club or you are not in the club.

If that is correct, what is the UK Government’s plan B? Do you think that it has a plan B, C, D or E? If, in the next few weeks, the EU keeps saying that Chequers is unworkable, what will the UK do? Will it put its hands over its ears? I do not know. You have just come from the horse’s mouth in Birmingham. What is the feeling about a plan B?

**Professor Menon:** As a general rule, the only thing that I get from party conferences is not knowledge but flu. The Government has said that it will come up with a new set of proposals on the Irish border. Unfortunately, it looks like those proposals might not be ready for the October meeting of the European Council—although we do not know yet. An element of plan B will be those new proposals on the Irish border.

Chequers was never an outcome—it was an opening gambit and it was a political signal. It was quite a powerful political signal in some ways, was it not? It was a political signal that said that the Prime Minister is willing to try to compromise to the point of causing political problems for herself by making ministers resign. It was also, if nothing else, a very powerful statement of the fact that the British Government cannot be accused of not taking the Irish border issue seriously, because it was written with very little else in mind—it is a plan to prevent a border on the island of Ireland.

Like everything in political negotiations, it was partly about signalling. It was about signalling to the Irish and to the EU that the British Government would do everything it could to avoid a border. No one in the British Government expected that the EU would just tick off the Chequers proposal and say, “Fine.” They expected there to be a negotiation whereby the Government said to the EU, “Okay, come back with the specific gripes you have and we will negotiate.” That is what is going on.

The fundamental thing that we have not talked about—which I hope that we do not talk about because I am no expert on it—is the Government’s customs plans. I think that the EU is simply saying, “Look, you are either in the customs union or you are not in the customs union. The sorts of fancy dan arrangements that you are suggesting at the moment just will not fly.” That is partly for the reason that you gave before—it is a question of legal authority. The EU’s position is that you cannot have your tariffs and your border policed by something that is outside your legal jurisdiction, and I do not see that changing.

**The Convener:** I will not ask you about detailed arrangements for the customs plan, but I was struck by what you said about the scenario of a free-trade agreement—if the Brexiteers win out. At the very end of the paper that you submitted to us, you said:

“Modelling work by The UK in a Changing Europe shows that livestock farmers in particular would be badly hit”

by the scenario of zero tariffs that would accompany a free-trade deal. You said that the modelling also demonstrated that Scotland would be worst affected in the scenario of unilateral tariff removal, particularly if direct payments were moved as well. You singled out beef farmers in Scotland as being particularly vulnerable. Can you tell us any more about that, as it is of great interest? I represent an area of Scotland that has 28 per cent of the beef herd, so the issue will be of great concern to people in my constituency.

**Professor Menon:** I can certainly point the clerk in the direction of that research and the people who do it at the University of Newcastle. I am many things, but I am not a macroeconomist, so I would rather that those researchers spoke for themselves.

This is one area where the Tory party conference was absolutely fascinating, because it seems to me that there is an ideological fight going on within the Conservative Party and agriculture is one of the key things at stake. Some people in the Conservative Party are saying that Brexit is an opportunity to remove subsidies, cut tariffs and have cheap food. There are others in the party—I am talking about the parliamentary

party—whose response to that would be, to paraphrase, “Are you mad? I live in a rural constituency. We will never win it again”.

I was at a fringe event about agriculture at the Tory party conference, which was fascinating because person after person in the audience put their hand up and said, “Look, I voted Brexit. I am a Brexiter, but”. The “buts” were, in no particular order: “We want to maintain a steady flow of seasonal labour or our business model will become unsustainable”; “We want a continuation of subsidies or our business model will become unsustainable”; “We need to maintain tariffs or our business model will become unsustainable”; and, “We need to keep EU regulations and therefore access to the EU market or our business model will become unsustainable.” There is a big debate to be had about agriculture.

**The Convener:** So we need to ditch Brexit or our business model will be unsustainable.

**Professor Menon:** That is not what they were saying, but of course the paradox in the farming sector is that the National Farmers Union advised people to vote remain but the evidence suggests that the majority of farmers voted to leave.

**The Convener:** Thank you very much for that. It was very interesting. We will have a short suspension to allow for the changeover of witnesses.

10:00

*Meeting suspended.*

10:05

*On resuming—*

## Transient Visitor Levy

**The Convener:** Agenda item 2 is an evidence session on the proposed transient visitor levy. This is the committee’s second evidence session on that issue following that with local authority representatives on 13 September.

Our witnesses today are Fiona Campbell, who is chief executive of the Association of Scotland’s Self-Caterers; Marc Crothall, who is chief executive of the Scottish Tourism Alliance; Peter Irvine MBE, who is an author and the founder of Unique Events; and William Macleod, who is executive director, Scotland of UKHospitality. I welcome them and thank them for coming to give evidence to us.

It has been indicated that no one wants to make an opening statement.

What are the witnesses’ views on the First Minister’s announcement this week on a consultation on the transient visitor levy? What research has been done by those on the panel who are representing the industry on the impact of any transient visitor levy, should it be implemented?

**William Macleod (UKHospitality):** Good morning. On behalf of all of us, I thank the committee for the opportunity to give evidence.

I think that I can speak for the three of us here from the industry side in saying that we very much welcome the First Minister’s announcement. We will wait to see the detail of what emerges from it, but I think that it responded to a request that we made to the Cabinet Secretary for Culture, Tourism and External Affairs that the Scottish Government begin to take control of the debate about the introduction of a tourist tax or transient visitor levy, which has been running for quite some time. We thought that, to a certain extent—my colleagues can speak for themselves about this—there was an assumption from the Convention of Scottish Local Authorities and the local authority side that the principle of a tourist tax or TVL coming into place and the principle that it would be devolved and localised had been established. If that is the case, that has passed me by.

We think that a whole range of issues need to be discussed and debated before we reach the issue of the principle of a tax coming in. I hope that the reasons for UKHospitality’s opposition are clearly set out in the paper that we submitted. I think that we are some way away from that as yet. We need to look at what existing research there is and what new research might need to be commissioned. I do not think that there has been



any real assessment of why we need a tourist tax or TVL. We need to establish that first of all and, if there is a need for it, we need to establish what the options are. No real assessment has been made of the impacts on consumers or businesses.

On the convener's second question, UKHospitality has done quite a bit of research that has looked at existing studies. We have looked at tourist taxes and VAT rates in Europe, which are dealt with in our submission. More recently, we took a punt and started to look at what the economic impact of a TVL or tourist tax might be at the Scotland level, as nobody else had done that. We looked at the accommodation industry turnover in Scotland, average room rates, the percentage increase in accommodation spend that there might be from a new tax, and applying academic research that looks at tourism price sensitivities. Our view is that, if a £2 per room per night tourist tax is applied throughout Scotland, that could result in reduced turnover of £100 million for the accommodation industry and £75 million of reduced spend in other parts of the tourism economy. Therefore, our preliminary figure is reduced spend of £175 million.

**The Convener:** I understand that that work is under way.

**William Macleod:** We have concluded the preliminary work.

**The Convener:** When will you publish the full—

**William Macleod:** We have published that. The media covered it last weekend, and I am sharing that information with anybody who is interested in hearing it.

**The Convener:** Will you be doing more?

**William Macleod:** Not at the moment. We are waiting to see what the Government's position is and how it intends to proceed with the consultation that the First Minister announced on Tuesday.

**Marc Crothall (Scottish Tourism Alliance):** I echo what Willie Macleod said. The announcement was made at our national conference on Monday, and we welcomed it, as the ask from our member council was for exactly that.

I stress that the Scottish Tourism Alliance has around 75 per cent of the total industry under its membership umbrella, and our member council includes a broad range of trade bodies, which are not just accommodation providers. The member council convened following the hotting up of the conversation in and around Edinburgh and in response to the COSLA paper in particular. The members of the STA include the Scottish Tourist Guides Association, the Confederation of Passenger Transport, Green Tourism, the Scottish country sports tourism group, the licensed trade,

obviously, Sail Scotland, a couple of destinations and the visitor attraction sector. Those bodies were unanimous in the view that what has been proposed should not just be rushed through without significant consideration and research on the impact of the application of a levy. It is clear that that would be felt in the wider economy. There would be less money to be spent in some of the smaller attractions on the high street, and the knock-on effect would be considerable.

To pick up on what has been said, many people are maybe presuming something. We have enjoyed a significant rise in international visitors as a result of the exchange rate, and our tourism numbers in 2017 were very well received by everybody, but there has been a marked decline, and there is evidence that suggests that the domestic market—60 per cent of Scotland's tourism market is domestic—is slipping away and that that particular audience's ability to spend is declining. I think that everybody in this room, if they are like me—I am sure that they are—is feeling the squeeze on their household expenditure.

The reported statistics that show the 2017-18 change are very healthy but, if we look back at the visitor spend and the behaviours of the domestic market, which is our core market, we see that there has been a 13.6 per cent decline from 2016. As we enter into the uncharted waters of Brexit in front of us and a lot of uncertainty, the risk of getting to a tipping point when a tax is collected from that particular audience could send many businesses over the cliff. Without analysis and in-depth economic modelling, it would be very foolish to rush into taking the levy forward. As Willie Macleod said, certain authorities are far further down the track in assuming that it could be applied.

In gathering other bits of evidence, we have gathered information on the reality of costs to business, which was reported in *The Herald on Sunday* two weeks ago. The perception is that all the industry is doing well because numbers are strong. However, the information on all the hotels and large and small groups across different parts of Scotland shows an erosion of margin and profit, so their ability to reinvest not only in their asset to stay competitive but in their people is marginalised. If a further tax is added, albeit that it has been referred to as a visitor tax, there will be a cost to business. That would be yet another cost to be borne that could tip people over the edge.

10:15

**The Convener:** Ms Campbell, do you want to add anything?

**Fiona Campbell (Association of Scotland's Self-Caterers):** Absolutely. The ASSC represents more than 650 businesses running approximately 7,000 properties in Scotland, and our sector alone brings £723 million to the Scottish economy. We absolutely welcome the First Minister's determination to have an industry-wide consultation, because it is essential that any such policy decision is underpinned by data and that there is an absolutely robust economic impact assessment of a tourist levy both on our sector and on the other sectors that support us.

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

Mr Irvine, you are in quite a unique position—if you will pardon the pun. Not only have you run a very successful business but, as an author, you have an overview of the situation. What is your view?

**Peter Irvine MBE:** I certainly welcome the consultation, because there are voices that are not being heard. I do not have any statistics or surveys at my fingertips, but I do have quite a lot of personal experience. As you have said, I am the author of a guidebook to Scotland that is updated every three years. In fact, I have just completed that process, which, of course, takes many months. I probably visit more hotels and accommodation providers than anybody else; I stay in people's accommodation, I talk to them and I see what is going on, so my views on the matter come from personal experience.

I have been having this debate certainly in my own head and with my colleagues as a member for many years of the board of Festivals Edinburgh. I was also the founder and director of Edinburgh's hogmanay celebrations and, for 25 years, ran a private business that made them happen. As those years went by, I began to say, "I wish the accommodation sector was putting something into this." I felt that quite strongly, because I knew that, in the beginning, the hotels were empty and the guest houses closed. We discovered that, for those few days at the end of December, the rack rates for accommodation were higher than any other city in Europe.

Of course, that festival was funded by the City of Edinburgh Council, and we had to use whatever it was putting in to create this amazing magnet for international visitors from more than 80 countries. However, it was yours truly who had to pick up the tab if things did not go well. The only other source of income was ticket sales, and we could lose a fortune if there was a rainy night, a cancellation or whatever. As the years went by, the costs of programming went up and up with having to meet health and safety regulations et cetera, and the council were increasingly loth to put more money in. In fact, it could not do so.

That situation has changed. I stopped doing hogmanay just over a year ago, and the company that runs it now has a different business model. It has many bars in the city centre and, as far as I am aware, it does not pay any rates or whatever. It is a very lucrative business, which means that the City of Edinburgh Council can decrease the amount that it puts in.

Nevertheless, the principle still pertains. I might be wrong, but as I understand it, this particular argument and debate stem from the City of Edinburgh Council's wish to introduce a levy. We might well talk a bit more about this, but from what I have seen from travelling around the world as well as around Scotland, I would argue that Edinburgh is not just a different case—it is an exceptional, extraordinary case. Those of us who live in the city are aware that, in the past few years, an extraordinary tide of tourism has landed on our shores. There are more tourist buses, more open-top buses, more people in the Royal Mile—in fact, more people everywhere—more Airbnb properties and so on, and a holistic approach needs to be taken to all that. What we are discussing is just part of that, but I also suggest that we include in the debate that we are having more generally, not around this table, other parts of Scotland as well as Edinburgh—for example, the Highlands, particularly Skye—that are famously full.

**The Convener:** Thank you very much. That was very interesting.

I move to questions from committee members. As we are quite pushed for time, I say to the four members of what is quite a large panel that they should not feel that they must all answer every question. If you simply agree with what the other panellists have said, please say so.

**Claire Baker:** First of all, I should say that I have already met Fiona Campbell to discuss this issue as well as a number of other issues concerning her sector.

In light of the evidence that we took from COSLA and local authorities a couple of weeks ago, I wonder whether the panel recognises the pressures that were identified by Edinburgh and the case made by Aberdeen City Council and Highland Council. Mr Irvine has already explained how he feels that Edinburgh is under pressure, but do the other panel members recognise those particular issues, including the council's ability to clean the streets, to address the state of the roads and to deliver the general services that need to be delivered as we see an influx of visitors into a particular area and the strain that it puts on already tight local authority budgets?

**William Macleod:** It is impossible for those in tourism not to be aware of and recognise that

certain parts of the country—the more popular areas—come under pressure from time to time. However, we have to think a little bit more about cause and effect and strip the visitor market down into its different components. If a visitor levy or tourist tax becomes a reality, it will apply to people staying in commercial accommodation; however, those staying visitors contribute most to the destination's economy. It is a matter of fact that they spend more, and I think that we have to look at other sectors of the market.

I think that I am correct in saying that Edinburgh has 5 million staying visitors a year, which probably equates to 15 or 16 million visitor nights; however, the city also attracts 18.5 million day visitors. You have to look at where the pressures are coming from. Staying visitors enable not only the accommodation businesses that we represent but the other businesses that they spend money in to pay their non-domestic rates and remit VAT to the Exchequer. We have to put this into perspective and think about the amount of money that our visitors already pay in taxes through VAT. Their expenditure enables businesses to pay business rates, and businesses in turn expect a certain amount of infrastructure to be provided in return for their contribution.

**Marc Crothall:** I agree whole-heartedly with Willie Macleod. All of this comes back to the changing behaviour of tourists, particularly the domestic market. The number of day trips has increased significantly, and that increase has possibly been driven by people not being able to afford to stay in accommodation any more. As a result, we are seeing a bigger volume of visitors coming into destinations at peak times.

Picking up on Pete Irvine's comment about Skye, I can say—as the person in the hot seat as chair of the future tourism strategy group looking at the strategy beyond 2020—that STA has been very involved in leading and shaping work on looking at barriers to growth. Arguably, a lot of that is about ensuring that people can move to different parts of the country, that the load is spread and that we invest in infrastructure to allow them to do that. However, success breeds success. Understandably, where there are hugely successful and growing festivals, people will want to come and visit them, but the revenue streams that are now being derived from festivals are growing, too. How do you compensate or penalise individuals who might visit the city at festival time but do not come for the festival itself or who visit the city at a different time of year for a completely different purpose?

Like Pete Irvine, I get around the country a fair bit. I was at a meeting up in Inverness, and I found that a number of people had misperceptions about the impacts, the costs and the contributions that

society makes, particularly the UK residents who, as I have said, represent 60 per cent of our market. Someone said, "What's £3 per person? It's less than a pint of beer." For a family of five staying for a week in a small bed and breakfast—or even a Premier Inn—in Inverness, that is an extra £105 on to their bill. First of all, would they be able to afford to do that? More important, those people want to go to Inverness, spend that money in the community and the small businesses that are actually there, take their children to the attractions and so on.

As for the pressure on destinations, it is absolutely the case that the destinations are growing; indeed, tourism globally is growing. I have just come back from a conference in China. The same issues were raised and the same discussions were had—indeed, they are facing the same situation in Australia—but on every one of the panels that I sat on, every single person's view was that tourism tax was not the way to go. We should be finding alternative solutions and sources to fund a better-quality experience, not taxing visitors even more. The world is a small place, and Scotland is a very small place. We need to be competitive.

**Claire Baker:** The principle that is proposed is that a local authority could set its own rates. Last week, we heard from local authorities that they would seek to do that in a way that would not damage their local businesses. The figures that Marc Crothall has suggested are not on the table from any local authority. I think that the City of Edinburgh Council is suggesting £2 a night per room. It cost me £2.70 to buy a takeaway coffee this morning.

The issues around affordability need to be looked at more closely. I imagine that one thing that is driving tourism from overseas is the weakness of the pound. At the moment, visitors who come to Scotland benefit from a weak currency, which is encouraging visitors. You have said that there is a lack of evidence on the impact. Some of the evidence that we heard last week and some of the written submissions suggest that the difference might be 1.5 per cent around the margins. Have the panel members considered any of the positive impacts on their businesses if a levy was introduced? Is there anything positive in it at all?

**Peter Irvine:** As I understand it, with any levy, it can be decided how it is levied and who pays it. From what we see in the documents, it is clear that cities would set their schemes so that children and long-stay visitors would not pay. Charging long-stay visitors would be disastrous in Edinburgh, because the honey pot of August would be seriously affected if all the performers and tech people who come to the city could not be

put up in hotels or other accommodation. Any stay over 10 days would have to be exempt, and children would be exempt. There would be other exemptions, such as for self-catering, perhaps. Surely it is possible to work a system whereby all those considerations are taken into account but there is still a revenue, particularly in Edinburgh. I agree that south-west Scotland and other such places where hotels are really cheap at the moment probably could not sustain any increases, but I suggest that Edinburgh should seriously look at it.

There is a whole other story about what happens to the revenues and who gets them. The money should improve not just the visitor experience but what it is like to live with an influx of tourists. It is often remarked to me that we should now think of Skye as we think of Venice and of Edinburgh as we think of Barcelona. They are places with extraordinary history and landscape—a small rural place, in the case of Skye—that we have to protect.

**Alexander Stewart:** We have heard that the Federation of Small Businesses, Scottish Chambers of Commerce, the Scottish Tourism Alliance and the licensed trade believe that a levy is bad for business. What involvement was there with the Scottish Government prior to the First Minister making her announcement on Monday? The Government had quite a strong stance, but there now seems to be a softening of that stance, given that it is having the consultation. Is that the case?

10:30

**Marc Crothall:** As I said, when the statement was produced by COSLA, we convened as a member council and we made our position known. For the reasons that Willie Macleod outlined, rather than bury our head in the sand and say no, we invited the Government to lead on the process. It is not a local issue; it is a national issue and a global issue. It is a conversation that is being had everywhere.

We have been very appreciative of the stance that the Government has taken until now. I think that that stance is absolutely correct—it is not the time to consider imposing such a levy anywhere, without full consultation and engagement of the industry in the conversation. We have had no direct communication or consultation with, for example, the City of Edinburgh Council. It has never approached the Scottish Tourism Alliance, and the COSLA engagement at the early stages was virtually nothing.

We met the tourism secretary and the finance secretary towards the end of June, after we published our response, and we had another

meeting with them in September, at which we again requested and recommended that the Government take the lead on a consultation or conversation, with information that is transparent and clear for all to see and understand. That discussion should consider not just the option of a TVL; it should explore other options. Clearly, as our conference had nearly 400 representatives of the industry present, it was an appropriate moment for the First Minister to make that announcement, which we welcomed.

**Alexander Stewart:** As I said, her announcement has been perceived as a softening in her stance. Do you believe that that is the case? You have your reports and statistics, and the councils in Edinburgh, Aberdeen and the Highlands came back strongly with their views. Do you think that, by having the consultation, they are going to win the argument?

**Marc Crothall:** I would like to think that it is not a softening. On other issues on which we have brought forward evidence to the Government and presented it in an articulate way and on a factual basis, it has been listened to and considered. I very much hope that the Government's commitment to taking the lead in the process means that it is not a done deal in any way, shape or form and that all the evidence and research will be looked at in a responsible way, with the aim of protecting one of Scotland's biggest economic drivers. We employ 220,000-odd people and the food and drink sector is affected. There is an enormous supply chain that sits behind us, and there is a risk to those businesses from a decline in visitor numbers. For some, £2 may not be a lot, but we need to consider the effect when it is multiplied and look beyond the current exchange rates. It must not be a hasty decision; the issue must be looked at in full detail.

**Alexander Stewart:** The impact needs to be measured and examined. We will definitely do that, but it is imperative that we get all sides of the story. Other countries and cities around Europe and in other parts of the world have found the approach to be quite successful.

**Marc Crothall:** That is in a very different tax environment.

**Alexander Stewart:** Yes—the point that it is not a like for like comparison needs to be brought into the process.

**Marc Crothall:** Exactly. I would just go back to the—

**The Convener:** We have to move on, as a number of members want to ask questions. We will move on to Mr Gibson.

**Kenneth Gibson:** I am struck by some of the evidence that has been presented. For example,

the ASSC and UK Hospitality both stated that the World Economic Forum ranked the UK as 135th out of 136 on tourism price competitiveness. Furthermore, we are told that the UK has the second highest VAT rate in Europe, at 20 per cent, and is one of the few EU countries that does not have a reduced rate of VAT for tourism services. It is an iron rule of economics—my degree is in economics—that, when prices go up, sales go down. You also talk about researchers from the University of Nottingham finding that a 1 per cent increase in costs results in a reduction in visitors to the UK, Italy and Spain of 2.2 per cent, 1.75 per cent and 1.8 per cent respectively.

Councillor McVey told the committee that some elements of the tourism sector are in fact in favour of the tax, and he quoted Airbnb. He said:

“Although some industry bodies are keen to play up a consensus, that does not exist. There is not a consensus in the industry. There are industry voices—the split might be one in four, 50:50, or two thirds and one third—that understand the impact that the levy could make in supporting the sector and industry voices that understand the long-term concern that the levy is needed if we are to sustain the level of success.”—[*Official Report, Culture, Tourism, Europe and External Affairs Committee*, 13 September 2018; c 26.]

Will you comment on that?

I realise that we are short of time, but I have a specific question for Mr Irvine. Is your view of how we tackle the issue of excessive numbers of visitors to Edinburgh and Skye that we should have a pricing policy that would reduce access to Edinburgh and Skye for overnight visitors who are perhaps not so well-heeled as others?

**Peter Irvine:** I am sure that you are aware that, nowadays, you cannot phone up a hotel and say, “How much is a room in May?” because the price is different every night. The pricing is all dynamic. Some of the prices for rooms in hotels are exceedingly high, particularly in Edinburgh and Skye but also around the north coast 500, which has been enormously successful, but there is a very small amount of accommodation available. Prices are so high that I expect that Scottish people cannot staycation easily on Skye at all. I know lots of people who do not go to Skye any more because they cannot afford it and they do not want to take a camper van, or they do not have one because that has its own negative impact.

The idea is to charge £2 a head, with lots of exceptions and with the revenue well spent. I do not really buy the idea that, if we put prices up by 1 per cent, income goes down by 2 per cent or whatever. We need only look at how many new hotels are being built in Edinburgh—it seems to be one a month. In the main, those are big international players, with rooms costing £200, £300 or £400 a night. Yesterday, I looked at what

hotels cost in October. There was always an argument that tourism was seasonal in Skye, but the season has now extended, whereas in large parts of Scotland, including Glasgow, there is not the same demand and rooms are not really expensive—dynamic pricing is a much more moderated affair.

I say once again that Edinburgh is a real exception and I cannot see that the charge would affect it. Actually, if it put off people, they might go outside Edinburgh to stay, which would have a positive effect on its hinterland and Perthshire, for example. All the indications are that the tap will not go off or be turned down—tourism in Edinburgh will increase.

I have fought with the council over many years, but Edinburgh is building a new concert hall and it is building a new film festival venue for the Centre for the Moving Image. That is still years off, but there should be one and there will be one. The council is building a world-class amphitheatre in Princes Street gardens and investing in Leith theatre, which would transform Leith in many ways and certainly culturally. Those things are paid for by the council and by taxpayers who live here. They would increase Edinburgh’s tourism and cultural offering. We are a cultural city, which is in the main why people come—it is because of the atmosphere and the history.

**Fiona Campbell:** I cannot speak on behalf of Airbnb, but I do not believe that it has issued any kind of statement supporting a TVL or tourist tax. However, I understand that it can support that technologically—it does so in any number of other destinations, so it is fairly simple for it administratively to flick the switch and allow a TVL to be added to its income and administration. However, that is not the case for the majority of short-term rental or self-catering properties in Scotland. There is a huge piece that needs to be looked at in terms of administration of such a tax.

**William Macleod:** Can I just add an issue really in relation to Pete Irvine’s comments on hotel rates? It is important to look at the hotel industry over the piece. Yes, I agree entirely about dynamic pricing, but one of the important performance metrics in the hotel industry is the average daily rate achieved and, over the piece, the average daily rate achieved in hotels in Scotland is somewhere in the region of £70, £75 or £78 per day. Yes, we see extremes of pricing: we see high rates at peak times and lower rates at off-peak times. That is simple economics—supply and demand. It is exactly the same if you go to buy a holiday or an airline ticket—supply and demand rules.

However, we have to look at things like the overall tax burden borne by our visitors. To respond a little bit to Mr Stewart’s question, this is

not the first Scottish Government that we have made the case to about a tourist tax; the issue goes way back to about 2007 or 2008. When I first came into the job that I am in now, in 2011, the first meeting that I went into with the then City of Edinburgh Council was to discuss a tourist tax. We have consistently made the point that we believe that such a tax is an uncompetitive approach, given our rate of VAT compared with the rate of VAT of our competitors.

The paper from COSLA eloquently makes the case that the cities and countries that have looked at having a tourist tax in place are those with a much reduced rate of VAT compared with ours. People are building hotels in Edinburgh in historic buildings and bringing life back to the city centre, but it is not cheap to build a hotel in a location such as this; investors have to get a return and hotels are not cheap to run. One of the single-highest overheads that we have is non-domestic rates, which run at 5, 6 or 7 per cent of turnover. To suggest that it is only local taxpayers who pay for the infrastructure is wrong. What is happening to the money that is collected from non-domestic ratepayers? Where is it going? Where are those businesses getting the return on their investment? If we had any other successful industry in Scotland, like the very successful tourism industry that we have, would we seriously suggest that in addition to, in this case, air passenger duty and VAT, we should start taxing its customers? I venture to suggest that we would not.

**Ross Greer:** There are three layers to this debate and often they get a little bit blurred. There is the argument on the principle of councils having such a power that they can exercise. Then there is the debate about whether they should exercise it and how they would do that. Thirdly, there is the one about what they would spend the revenue that comes from it on.

Pete Irvine very eloquently made the point around the unique situation that different areas of the country are in. Given the unique state of local economies and the fact that councils are local elected bodies who know far more about what is in the best interests of their area than we do as a national Parliament, should not this power be one that they have the option of using? Then the debate could take place in 32 local contexts and the sector and the community in that area and their elected representatives could decide what is best for them.

**Fiona Campbell:** Certainly the matter should be discussed in local areas as well as at a national level, but it has to be made absolutely clear that local authorities must ensure that there is an economic impact assessment that is robust, independent and data driven, otherwise it could go horribly wrong. Despite the City of Edinburgh's

suggestion that it is consulting the industry, I do not believe that it has done so at the required level. I invited myself to a meeting that I was not invited to and it was not a consultation; it presented a fait accompli—what it intended to do. There was another meeting to discuss the administration of a tourist tax and, again, basically it had made up its mind.

Unless there is really robust consultation at a national level, we might make horrible decisions at a local level.

**Ross Greer:** That is useful, but what you are saying is not that there is an objection in principle to councils having this as a potential tool at their disposal, but that the process needs to be robust, evidence led and consultative.

**Fiona Campbell:** Absolutely. If the evidence is that it is a good idea, then we have no objection to it, but I think that, in the current tax environment, it really has to be looked at very closely.

**William Macleod:** I think that we have to be careful that we do not end up with 32 different solutions to a problem, as that would be an administrative nightmare for businesses that operate in different parts of Scotland. Fiona Campbell has already alluded to the cost that would be borne by businesses in setting up systems, training staff, remitting an additional tax to a different source and then, of course, auditing the cost of it all. Introducing something like this will not come without a direct cash cost on businesses as well as, potentially, an economic cost to the country.

10:45

**Marc Crothall:** It comes back to the £3 figure that was quoted by a councillor in Inverness. The understanding of the reality and the basic ground rules—the facts and the information that is out there—is not there at local level. The survey that was conducted over the summer suggests that visitors have been surveyed, but those people were in Edinburgh, coming to the festival, so of course they are probably going to say yes, they would come here and that they had a great experience. How do we look at the wider picture though? This is a national issue; it is not just Edinburgh that wants to consider this. Once it starts in one authority, other authorities will be looking to do or explore similar things, hence why our members' council has recommended that it becomes a national conversation in the first instance, led by Government, so that there is a level playing field and it is inclusive. That is not to say that the local authorities should be pushed to one side, but everybody needs to be around the table together, reading, interpreting and

understanding the same information to inform the outcomes.

**Ross Greer:** Earlier, Willie Macleod, I think, made the point that tourists contribute to local government funding by contributing to businesses that in turn pay non-domestic rates. It might go through a couple of steps, but does that indirect contribution make it back to the council, and does it cover the cost of local services? None of us disagrees on the massive benefit that tourism has for local economies; what we are talking about is the impact on local services and service providers. Does that indirect contribution from tourists cover the cost of the increased need for refuse collection in the centre in Edinburgh in August, for example?

**William Macleod:** Customers contribute to the viability of the business. The business pays rates for a certain amount of service. The business also pays to have its refuse taken away, so the direct contribution from the customer enables the business to pay an independent contractor to come and take away business refuse.

**Ross Greer:** We are talking about the whole tourist experience. It is true that a tourist will use something and produce waste, or litter, for the business, but when they are out on the street in Edinburgh, they will use a public bin like everyone else, so there is increased demand on that service. The City of Edinburgh Council has already talked about the considerable increased cost to them, literally, of refuse collection during the festival period.

**William Macleod:** But that comes back to stripping away the layers of the different elements of the tourism market. You have staying visitors, you have day visitors, you have people staying with friends and relatives. Yes, indeed, everybody makes a demand on local services, but introducing a TVL or a tourist tax is putting a discriminatory tax on anyone who uses commercial accommodation. Where is the rest of the contribution coming from, from those who are not enabling businesses to meet their contribution to the cost of local services? We have to look at cause and effect here.

**Ross Greer:** Absolutely. I have one specific follow-up point to make. Airbnb has already been mentioned, and there is that quite substantial, unregulated part of the market. In fact, you have made robust arguments about it in the past. Is the model of a tourism tax or a transient visitor levy not an opportunity to ensure that those who use Airbnb and their hosts make a financial contribution that at the moment they are not making because they are in that unregulated part of the market?

**William Macleod:** We have not looked at the options and we are jumping ahead, assuming that

there is a problem that needs to be addressed. To my mind, that is yet to be proven. However, if the principle is that, yes, there is an issue that we have to resolve and we need to raise more money, or redirect existing money, to do so, we need to examine the options—there has been no examination of the options.

I could come up with several different options. We could look at hypothecation of business rates or the fact that, from the beginning of the next financial year, the Scottish Government will get 50 per cent of the VAT raised in Scotland. According to the figures that I have in front of me, the accommodation sector alone—not the entire tourism sector—contributes £465 million a year in VAT. Surely some of that money can find its way back into supporting local services.

We have to take a fresh look at how we do this. Over on one side, there is a conversation about potentially reducing or abolishing air passenger duty. Are we really talking about potentially abolishing one tourist tax, which raises in excess of £200 million for the Scottish Government, and replacing it with another tax, which would need a whole new administrative infrastructure in order for it to be introduced and collected? That is why we want a national conversation, some research and an examination of the options. We might not win at the end of the day but—this is in response, again, to Mr Stewart—I do not think that we have seen a softening of the Government stance. Maybe I am naive—I am maybe too old to be naive, I do not know—but I believe what I am told. I think that we have the opportunity here to have an open debate about an issue that is becoming increasingly intractable, instead of conducting it through the pages of the *Edinburgh Evening News*.

**Annabelle Ewing:** I will pick up a couple of the points discussed thus far. I was struck by the example that Marc Crothall gave about the family in Inverness and what it would all cost; and I was struck by what Peter Irvine said, which was, “Actually, hang on a second, because in many cities and countries that have a tourist tax, there are exemptions for children with different age thresholds.” I have just had a look online and in Spain it seems to be 16, in France it seems to be 18 and in Austria it seems to be 15—to name just three. Picking up on what Willie Macleod said, I think that it is important that we get down to a factual debate here and talk about this as it is, because if this were to come to pass, presumably—like those other countries have done—we would have the option to configure a tourist tax in a way that is deemed appropriate by all concerned.

I want to get back to the fundamentals. As I said in the last evidence session that we had on this subject, about three weeks ago, a lot of

assumptions are being made about consumer behaviour here. That is why I would like to see more detailed, up-to-date analysis of the experience of some of the cities and countries that have introduced a tax. Presumably the introduction of such a tax in some of these places was controversial at the time. They have had a lead-in time to examine the impact, if any, on the numbers—which, I understand, is your concern and should be the concern of everyone who wants to see a thriving tourism sector in Scotland. For example, in his letter to the committee of October 2018, Adam McVey at the City of Edinburgh Council says that if you compare the VAT rate in Edinburgh—and fair enough, sadly, we are subject to one of the highest rates of VAT in the whole of the EU, thanks to the UK Government—with a combination of the reduced VAT rate and the TVL in some of those cities, Edinburgh remains competitive.

It is really important that we have a factual analysis to show what is actually happening in other places that have such a tax. It is the norm for individual tourists from Scotland who go elsewhere in Europe or further afield and, in particular, for other Europeans who come to Scotland or travel elsewhere in Europe. Times have moved on. It is what many countries have done.

It is really important to have a debate rooted in the facts—in 2018—and that takes into account the international experience.

I would welcome just a few initial thoughts on that and on what the plans are. I asked the same of City of Edinburgh Council: what are the plans for ensuring that that research is there and can inform the debate?

**Marc Crothall:** We have to be very wary, because the indicators that are coming through from the industry at the moment around consumer behaviour show that 60 per cent of our core market are changing their spending patterns considerably because they are having to manage cost. They are moving much more into camping and the camper van market; they are bringing their own food and drink into hotels; and they are cutting their holiday time short. There is already a squeeze and it is only going to get tighter. We all watch the news and we all feel it—everybody's budgets are being stretched that bit further. Yes, we are used to paying levies when we go further afield, but the tax regime is very different as well, so we must not compare apples and pears—we have to be quite careful about that.

We need a longer-term view. Where is the tipping point for a family in choosing to go away and to stay and spend? We have that spike in day-visit experiences, which brings us back to the pressures on some destinations that have an increased volume of people coming in who would

maybe not normally be there, because they are not holidaying elsewhere or spending a longer time. A number of factors have to be explored and seriously considered; we cannot jump straight in.

The results from the interviews of 600 people in the summer are not a true reflection; there are wider considerations that we need to take into account before we reach a decision of this magnitude. Scotland cannot afford to be seen as being uncompetitive. Equally, the use of the word “tax” and the way in which this plays out in the media, when we want to keep the door open and welcome people, are not doing us any favours.

**William Macleod:** I am not quite sure what arithmetic Mr McVey uses in his letter to suggest that the combination of tourist tax and VAT in other countries would exceed our current VAT rate of 20 per cent. I think that you have to be very careful in applying that arithmetic. Last night, I did a very quick perusal of the analysis of tourist taxes and comparative VAT rates—COSLA probably has a more up-to-date version in the paper that members have. Looking at the figures, I could not readily see how a combination of tourist tax, or TVL, and the much reduced rate of VAT in the comparator countries could begin to exceed our 20 per cent rate of VAT. Certainly, if I take the United States as an example, where in fact hotels are not obliged, like we are, to show their rates inclusive of VAT and all other charges—when you go to the States, a whole range of taxes is added on to the hotel rate—the highest rate of combined tax that I have seen, which was in a report done by HVS Global Hospitality Services into taxation in the lodging industry, came in at 18.75 per cent, which is still a smidgeon below our 20 per cent VAT.

We have to be very careful when we are making these comparisons. The blunt comparison is that we are not competitive in VAT terms; most other countries that have a tourist tax have a reduced rate of VAT. We need to take a much more holistic view of how we are taxing our visitors and our tourism businesses. I do not have all the figures—it is very difficult to get them—but in many European countries the property tax, or the equivalent of our non-domestic rates, on hospitality businesses is much lower than the non-domestic rates that our sector pays here.

**Annabelle Ewing:** I hear what you say and I hope that this industry consultation indeed gives the opportunity for these issues to be fleshed out and to get hard facts, because that will allow all of us to have the best debate possible on this very important issue. I hope that your organisations reflect on that, because they can make a really helpful contribution to the debate to ensure that we can take decisions based on the best evidence available.



**The Convener:** That was not a question, so I shall move swiftly on to Stuart McMillan.

**Stuart McMillan:** For the record, I also met Fiona Campbell during the summer, as I chair the cross-party group on recreational boating and marine tourism, so I meet Marc Crothall and Willie Macleod regularly as well.

On the issue of taxation, has anyone on the panel undertaken any activity regarding the wider basket of taxation, including corporation tax, to actually help inform this debate?

**William Macleod:** As I alluded to earlier and in our submission, we took a top-line look at the contribution, through various taxes, of the accommodation industry in Scotland and I think, if I remember correctly, that it showed as £719 million. I appreciate that some of that finds its way to Westminster, but one can only assume that some of it also finds its way back here in the block grant. That was the figure for the tax take, taken from published sources. It excludes things like contributions by tourism businesses to business improvement districts and it probably excludes a very significant indirect contribution from our customers through the excise duty on the road fuel that they use when they are here and on the alcoholic drinks that they buy from our businesses. That tax is collected indirectly.

11:00

**Stuart McMillan:** The STA has campaigned for quite some time on the issue of VAT, in particular the high level of VAT. Clearly that is set at a UK level. Has STA had any indication from the UK Government that the VAT level will be reduced or amended?

**Marc Crothall:** The cut tourism VAT campaign is being led by UK Hospitality, and the STA is an absolute supporter of that. We are aware that conversations have been on-going across the devolved states with the respective cabinet secretaries. At the moment, there is the issue in Northern Ireland, where there is a challenge around tourism VAT that is being considered. Depending on the outcome of that challenge, that could open up a challenge for VAT to be reduced in Scotland as well. However, there has been a varied mixture of support within Westminster. I think at one point we had about 135 MPs in favour of a lowering of VAT, but with all the changes that are happening and continue to happen, that argument probably is not as robust as it could be.

As we have said before, the VAT reduction for our sector is arguably the game-changer for us. In the Republic of Ireland, the Government took the decision to reduce VAT from 13 per cent to 9 per cent and removed air passenger duty, and the growth in the receipts through tourism growth and

employment has been significant. I think that that is a good case study to follow. The conversation around a lowering of VAT then becomes a very different conversation around a tourism levy, and one would say that that is where we would like to get to. We would rather have more people focusing on getting a VAT reduction and considering that as the primary opportunity rather than looking at the option of a tourist tax on top of what is already the second-highest level of VAT in Europe.

**William Macleod:** There is a very sound economic argument, using the Treasury's own model, which supports the economic case for reducing tourism VAT. I would happily share a fact sheet with the committee on that.

**Stuart McMillan:** That would be very helpful.

Just one final question, because I am conscious of time. If, at the end of this national conversation, a decision was taken to implement any type of TVL, would you want it to be implemented on a national basis or on a local or regional perspective across the 32 local authorities?

**William Macleod:** Based on the comment that I made earlier about not wanting to have 32 different systems in place, our preference would be for it to be national. If such a tax were present—I appreciate that it is a hypothetical question, so I will give you a hypothetical answer—we would prefer to see it at national level with clear rules about how it would be administered so that it was common throughout the country.

**Peter Irvine:** I think that, if it was around the country, that would certainly very much diminish the Edinburgh view. Personally, I do not think that the proposal would be at all welcome around most of the country. Again, I reiterate that Edinburgh is a very particular and exceptional situation.

Tourism is increasingly experiential—people come to Edinburgh because of the experience. However, we must also take into account the experience of the people who live here. There is a balance that has to be struck. The discussion may be conducted within the pages of the *Evening News* at the moment, but it should obviously be a much wider discussion. It is difficult for people who live here to know what it is really like being a tourist here or what it is going to be like in the future. However, the future looks pretty good, particularly for Edinburgh. Edinburgh is the gateway to Scotland and, through increasing flights and increasing the amount of cultural experiences, which I talked about a moment ago, more and more people will come here. Hotels will be fuller, the season will be longer. That should really be considered. It is very much part of the VAT picture.

I always think of Edinburgh as being a bit like Dublin. It is always expensive to stay in a hotel in Dublin—perhaps it does not have enough hotels—but people go to Dublin for the experience, too. I cannot remember what the VAT regime there is. Edinburgh has to consider itself in an international context, alongside places such as Barcelona, Venice, Rome and other places where there are increasing numbers of tourists coming into the city centres and, particularly, the old town parts of those city centres.

If there is a fair way that is worked out so that the money that is gathered from tourism can be apportioned to benefit the experience of tourists and locals—I am talking specifically about this city, because I do not know about Aberdeen, to be honest, or even Glasgow—I think that there should be a proper consultation on that with everyone.

**Tavish Scott:** I can assure Mr Irvine that the issue has been mentioned in *The Shetland Times* as well, and it is not in favour of it. I take Willie Macleod's point, but I actually think that, if the tax were administered at a local level, quite a lot of areas in Scotland just would not impose it.

Mr Irvine made an earlier remark about what the money would be spent on, and I think that that is quite important. I have a question for the three panellists who are not persuaded of the merits of a tourist tax. Is it your concern that the money that was raised by that would just disappear into the general local government pot and be spent on schools and so on and it would not be spent on services that are directly attributable to the tourism product, whether in Edinburgh or anywhere else?

You have to remember there is a Scottish budget announcement coming up on 12 December—

**William Macleod:** I am acutely aware of that, yes.

**Tavish Scott:** You are not naive, Mr Macleod.

If such a levy were imposed in Edinburgh, for example, would it not be better to have criteria set that said that the money that it raised needed to be spent on the tourism product in Edinburgh?

**William Macleod:** I think that, if there was such a tax, then, yes, it should be ring fenced for tourism with considerable input from the industry about how that was spent.

If I may, just responding to Pete Irvine, the VAT rate on a hotel room in Dublin is 9 per cent and in Dublin there is no tourist tax.

**Peter Irvine:** Yet the rooms are still incredibly expensive, because of the demand.

**William Macleod:** Yes, because running hotels is quite expensive.

**Marc Crothall:** Absolutely categorically there would need to be some very strong guidelines that that money is protected and can be used only for tourism promotion and making sure that the quality of the tourism experience is enhanced. Earlier, Willie Macleod referred to the contributions that the industry already makes in other ways to BIDs as well. You cannot underestimate the amount of money that businesses actually invest in marketing Scotland, whether it be their own destination or their own premises. They contribute considerably to some of the local marketing activity at destination level as well. Clearly, every business would want to make themselves the best that they can be, so when you read a headline such as the one that I saw a few weeks ago when the teachers' union met in Dundee, which said something like, "Great—Edinburgh tourist tax will pick up the shortfall of the teaching budget in Edinburgh". That sets off alarm bells in the industry, as you would imagine.

**The Convener:** I would just like to finish up. Earlier, we talked about how the impact on infrastructure was not just caused by overnight visitors but by day visitors as well. At a previous meeting, we talked about ocean liner passengers coming into ports such as Inverclyde, which Mr McMillan represents, and we had quite a long discussion about the camper van issue in the Highlands and the amount of pressure that puts on the roads, toilets and so on. Are you aware of any international examples of tourist taxes that successfully capture all visitors—that is, day visitors and overnight visitors?

**William Macleod:** I am not personally aware of any, unless it was some form of property-based tax that applied to every business that in some way benefited from the visitor economy, which would probably spread the load much more equitably.

**Marc Crothall:** I am not aware of any such examples, but I would just like to draw your attention to an issue that is really important with regard to future research. At the conference on Monday, there was a presentation by Euromonitor on the future trends and travel trends of tourism. It is experiential now and increasingly more so, as Pete Irvine alluded to, hence the Airbnb culture that has been adopted. The camper van market is one that people would like to increase, so I think that we must not look to penalise what is a changing behaviour of travellers. Cities will become the destinations of the future. There is a lot of really good intelligence out there, and we have to be looking further ahead in this conversation rather than just having a knee-jerk reaction and implementing what is considered to be a short-term solution. As we are very unclear about what might happen in the next wee while, we should not be putting any barriers in the way of

a very successful industry that contributes a huge amount of value to the economy and in other ways.

**Peter Irvine:** The Airbnb market is a serious concern in this city. I am not entirely sure about this, but I do not think that most Airbnb revenues have any VAT added to them, so they are not paying any VAT already. If Airbnb were minded—it could certainly more easily administer this than some organisations—it could take action in that regard, and that would make a substantial contribution. Airbnb is something that seriously affects people who live here.

**The Convener:** I thank all our witnesses for giving evidence today. We will go into private session.

11:12

*Meeting continued in private until 11:24.*



This is the final edition of the *Official Report* of this meeting. It is part of the Scottish Parliament *Official Report* archive and has been sent for legal deposit.

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