



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Constitution, Europe, External Affairs and Culture Committee

**Thursday 1 June 2023**

**Session 6**



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**Thursday 1 June 2023**

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**CONSTITUTION, EUROPE, EXTERNAL AFFAIRS AND CULTURE COMMITTEE**  
**18<sup>th</sup> Meeting 2023, Session 6**

**CONVENER**

\*Clare Adamson (Motherwell and Wishaw) (SNP)

**DEPUTY CONVENER**

\*Donald Cameron (Highlands and Islands) (Con)

**COMMITTEE MEMBERS**

\*Alasdair Allan (Na h-Eileanan an Iar) (SNP)

\*Neil Bibby (West Scotland) (Lab)

\*Maurice Golden (North East Scotland) (Con)

\*Ben Macpherson (Edinburgh Northern and Leith) (SNP)

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

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Professor Stephen Gethins (University of St Andrews)

Professor Peter Jackson (University of Glasgow)

Professor Juliet Kaarbo (University of Edinburgh)

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

Greig Walker (Scottish Government)

**CLERK TO THE COMMITTEE**

James Johnston

**LOCATION**

The Robert Burns Room (CR1)



## Scottish Parliament

### Constitution, Europe, External Affairs and Culture Committee

*Thursday 1 June 2023*

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

### Decision on Taking Business in Private

**The Convener (Clare Adamson):** Good morning, and a warm welcome to the 18th meeting in 2023 of the Constitution, Europe, External Affairs and Culture Committee.

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

**Members** *indicated agreement.*

## National Outcomes

09:00

**The Convener:** Under item 2, the committee will begin to take evidence as part of our inquiry into the Scottish Government's national outcomes and indicators relating to international policy. We are delighted to be joined this morning by Professor Stephen Gethins, professor of practice in international relations at the University of St Andrews; Professor Juliet Kaarbo, professor of foreign policy at the University of Edinburgh; and Professor Peter Jackson, chair in global security at the University of Glasgow. Thank you all for your written submissions, which were very helpful.

On that note, we will move straight to questions from the committee. I will ask the first question. Professor Kaarbo, your submission suggests an emphasis on strategic narratives, statecraft and reputation. Could you elaborate on where Scotland is now and where the Scottish Government might take us in the near future?

**Professor Juliet Kaarbo (University of Edinburgh):** Thank you for inviting us. We are also representing the Scottish Council on Global Affairs, which is a new institute in Scotland.

My point about strategic narratives was to supplement a conversation about soft power. Lots of different Governments and sub-state Governments are interested in soft power, which is just an attraction to a state's culture that presumably helps Governments to influence and to co-operate with others. However, that concept is a little bit outdated and vague. It is difficult to see how soft power translates into influence in international relations. It is also difficult for Governments to control soft power capability. Counting up capabilities, attraction and branding is fine, but Governments have only so much control over that, and it often takes a long-term evolutionary perspective in order to have big soft power. We can find lots of examples of where soft power translates into influence, but we can also find lots of examples of where it does not.

Academic research and practice by Governments have tried to supplement notions of soft power with notions of strategic narratives or communication power, which is about telling the world and your constituents—the public—who we are, what role we want to play in the world, how we want to play it and why, and where we fit in with others. It is still difficult to measure how much influence those narratives give a Government, but the advantage of them is that they can be more targeted and Governments can control how they are formed and communicated, although they are

not in control of how they are received. They can also be a bit different across different issues.

The most similar narrative that I see in Scottish external relations is the narrative of being a good global citizen and the idea that that is what Scotland is and how it relates to the world. That could be developed a bit more. It is an identity and who we are, and the communication strategy around it has been good, but we could draw on some of the work and practice in strategic narratives to give a bit more detail on what it means and how we are joining up objectives with that kind of identity.

Does that help?

**The Convener:** Yes—absolutely. Do Professor Gethins and Professor Jackson want to comment? Could one of you say a bit more about the Scottish Council on Global Affairs?

**Professor Stephen Gethins (University of St Andrews):** I will say something about the Scottish Council on Global Affairs if Peter Jackson, our executive director, does not mind. The body is a Scottish international affairs think tank that has the support of the Scottish and United Kingdom Governments and has the backing of every political party in the Scottish Parliament. At the moment, it is based at the University of Glasgow, but the University of St Andrews and the University of Edinburgh are also supporting partners. Each of the respective universities is represented at the committee today. So far, some of our work has involved looking at our security and the wider north, which has become exceptionally relevant recently, not least following the extension of Russia's war in Ukraine. We also look at other issues such as feminist foreign policy, cybersecurity and Scottish attitudes to foreign policy. My colleagues can tell me if I have missed anything, but that is the idea behind it.

We have had a lot of great support from colleagues in London-based think tanks such as the Royal United Services Institute and Chatham House, as well as from colleagues overseas. Our role is to give a Scottish perspective on international affairs. As this committee knows better than any other in the Parliament, our external affairs have a significant impact on our domestic policy and the day-to-day lives of citizens. We aim to provide that perspective. We are embedded in our three universities, but we also draw on expertise from elsewhere in Scottish academic and civic life. I hope that I have made the pitch right.

**Professor Peter Jackson (University of Glasgow):** We have two core missions. The first is to marshal the expertise that exists in Scotland in universities, the third sector and civil society and to place that at the disposal of policy stakeholders

in Edinburgh, London and beyond. Secondly, we aim to lift the debate and the levels of understanding about global affairs, as it is broadly defined, in Scotland. Both of those missions are very important to us. We have already commissioned a host of research projects on everything from Scottish attitudes to international affairs to sub-state involvement in international development. Although those are our missions, we are not necessarily a tool to be used by the Scottish Government for its practice. We are here to help, under the first rubric, however we can.

**The Convener:** Recently, the Cabinet Secretary for Constitution, External Affairs and Culture made a statement about utilising global citizens in the diaspora, which Ireland has done particularly well. Do you think that the Scottish population who lives here engages in that process? Is there more that we can do to enthuse citizens in Scotland?

**Professor Jackson:** Yes—without question. That is an important element in the Scottish Government's suite of tools for engaging in international affairs. It is tricky to measure, and it is important to engage with the right elements in the right places in order to be effective. Inevitably, as the Irish Government has found, that will be, to a certain extent, a process of trial and error. It should be understood as an investment in reputation and in the three areas that Scotland has identified as being key export areas: education, enterprise and digital—especially the first two.

**Alasdair Allan (Na h-Eileanan an Iar) (SNP):** I will pick up on the point about being a good global citizen. Professor Jackson said that the council is not necessarily a tool to be used by the Scottish Government, but we have a good reputation for bringing people from other parts of the world to academic institutions and to events such as those organised by Beyond Borders Scotland or those sponsored by the Scottish Government. What more can we do to build on that reputation by bringing people from parts of the world where there are problems and attempting to be a force for reconciliation or good? I see Professor Jackson and Professor Gethins nodding their heads.

**Professor Jackson:** I am an academic, so I know that an example of something that has been very successful is the Erasmus mundus project that we started at the University of Glasgow in 2016—such programmes exist in all three of the partner institutions and in other institutions in Scotland. We received €5 million of funding to lead that project in partnership with University College Dublin and Charles University in Prague, in the Czech Republic. In the first year, we had 40 students from 28 different countries. There are now 142 students on the programme, and they are all coming to Scotland as part of that three-way

partnership. Other partners have also been involved.

I am liable to say this because I am at a university, but I think that those kinds of things are very good for Scotland. They are the kinds of things that will only enhance our reputation—if the students come and have a good experience. Our funding is now under some pressure, so we are no longer allowed to lead that programme. I am desperately worried about that. Glasgow is no longer the hub of that programme, and I am really worried that, unless something is done to shore up what is missing from such programmes via the European Union, our reputation and our global reach will suffer.

**Professor Kaarbo:** Another example relates to what lots of sub-states do in other ways to play that role of good citizen or to engage with the international community, and that is to bring people in to understand different policies—domestic and social policies—that sub-states have enacted. Sub-states can have more control over assessing, for example, period equality policies or policies on a voting age of 16, because they are smaller areas. It is not about preaching to the rest of the world that this is the way to do things, but it is a way to show a good citizen role and to bring people in to talk about how it worked, what we learned and what the process was for forming such policies. That nicely connects the domestic with the international, which is an arbitrary division in today's world.

**Professor Gethins:** On the point that Dr Allan and the convener have raised about Scotland being a good global citizen, that goes across a wide range of areas, and I am sure that we will touch on a number of them. On the question about areas affected by conflict, in a past life, I worked in such areas, and it was interesting that Scotland had a distinctive brand, as Dr Allan mentioned. People were interested, and there was an interest in the devolution journey. That goes for other places, too; we are not unique in that regard. There is interest in places such as Northern Ireland and in places elsewhere in Europe and in the rest of the world.

A really interesting body of work is being undertaken by a number of non-governmental organisations that are based in Scotland. Dr Allan referenced Beyond Borders Scotland and some of the work that Mark Muller Stuart has done. Some of that work has involved linking in with women peace builders around the world, which is groundbreaking work, and I know that all the parties in Parliament have engaged in that area of work in one way or another since it has been undertaken. That has also gained some recognition in organisations such as the United Nations.

There are other things such as Caucasus links. It is now more than 20 years since the speakers of the Parliaments of Georgia, Armenia and Azerbaijan met in Moray at a whisky distillery, which went down well.

Peace building is a big industry around the world. There is no one-size-fits-all model and you are never going to solve one conflict. However, by having a distinctive role, we can make progress. My colleague Dr Shrishti Rana, who is an expert on the Nepali peace process, is undertaking some work in that regard. That work is on-going, but we would be happy to share it with the committee in due course. It is looking at smaller state and sub-state actors that have had an impact on conflicts. Again, no one size fits all, but some fascinating work is being done around the world, including in Scotland, in what is a very tricky but worthwhile area of work for a country that considers itself to be a good global citizen.

09:15

**Donald Cameron (Highlands and Islands) (Con):** Welcome, panel. I am delighted to see you all. I add my words of support to the Scottish Council on Global Affairs, which—I am glad to see—goes from strength to strength.

The idea of a good global citizen is quite subjective. We can all think of some basic norms that a good global citizen should adhere to, but I wonder how we define that. There will be some instances when there might be dispute about what is good conduct globally. What are your reflections on that?

**Professor Kaarbo:** You are right; it is subjective. “Good global citizen” is a vague term. One way to think about it is by thinking about what a bad global citizen is. We could think of a bad global citizen as being someone who tries to be very isolated and who has an isolationist view. That means they are not interested in the rest of the world and are not out there networking and seeing that their lives and interests are interconnected with those of others. They could also do other bad things, such as break international laws, not respect international organisations, not listen to others or not cooperate with and engage in multilateral forums.

There is a very broad band, and how different states and sub-states take different paths to it is interesting. For example, it is okay to say that we can be a good global citizen by playing a strong role in conflict resolution or by maximising international overseas development assistance. There are all kinds of paths to being a good global citizen, and there is no single standard that has to be met. We just have to avoid the bad.

**Professor Gethins:** If the deputy convener does not mind, I will refer to the fact that Jack McConnell, the former First Minister, has been doing some very good work on conflict in the Philippines, using his experience.

Professor Kaarbo is right that it is very difficult to measure whether we are a good global citizen. I know that part of the committee's job is to scrutinise the work of the Scottish Government, but it is very difficult to do so in that area.

I think that there is a two-way process in being a good global citizen. Let me take the enormous issue of climate change. In order to be a good global citizen, most states around the world would see themselves as actors in climate change. They are actors not just because of the impact that climate change has on their citizens, but because of the impact that our actions have on the rest of the world.

Being a good global citizen is quite important in how we sell ourselves internationally, but it is also important to how we sell ourselves domestically, because the Scottish Parliament, the United Kingdom Parliament and local authorities ask their citizens to make sacrifices, change culture and change the way we live our lives. Although communicating the idea of good global citizenship is important for the international audience, it is probably more important to do so for the domestic audience. Climate change strikes me as the most immediate and pressing example.

**Professor Jackson:** Climate change is the example that I was going to use.

Human rights are also problematic in some ways. They are not entirely objective, because there is the United Nations charter and a suite of other UN programmes that can be adhered to. It can also create problems at times when countries—China, in particular—are pressed on their international posture and human rights record.

To go back to what my colleague Professor Kaarbo said about narratives, I note that there is also always a need to think about where Scotland could particularly reinforce United Kingdom policy and where, given Scotland's status as a devolved nation, it can set out a slightly more distinct position. That is a tricky narrative that the Scottish Government needs to navigate constantly, but human rights is certainly one of the areas where it could be done. Being seen to support the concept of human rights in specific areas where human rights violations are obvious and glaring—the situation in Ukraine is a good example—will be part of the wider strategic narrative that will reinforce and amplify UK policy, while allowing the Scottish Government to make its own contribution.

I hope that that is not too vague, but that is certainly what I think.

**Donald Cameron:** Thank you. That was very skilfully put, if I may say so.

Professor Gethins mentioned measuring international work. The committee has grappled a lot with the metrics and how we measure. As has been said, it is Scottish Government work—money is being spent on it and we are entitled to try to measure the efficacy of, for example, the international office network. I am interested to know how the witnesses think we could do that best. We have mentioned the diaspora—I know that that is an area of interest for Professor Gethins—but how do we measure it properly?

**Professor Gethins:** You are absolutely right. I will try to answer the question but, first of all, I point out that it is difficult and the issue is not exclusive to Scotland. As Professor Kaarbo pointed out, countries around the world that invest in their international profiles want to see some return, and committees like this one around the world want to scrutinise whether money is being well spent.

There are a number of areas to consider; the diaspora is a good example, which the convener raised earlier. It was good to see the next step in Scotland's journey of engaging with the diaspora, which will always be tricky. The Scottish Government has estimated that there is a diaspora of about 40 million so, given the limited resource that the Government has, engaging with the diaspora will always be reasonably light touch. The Irish Government has always been clear in saying that its approach, even with its big embassy network, will always be quite light touch as well, given the size of the Irish diaspora.

The measurements that are used in, for example, "Anholt-Ipsos Nation Brands Index" give an idea of something by which to measure the work. You should not rely on it exclusively, because there are lots of other circumstances to be taken into account but, fundamentally, you are considering whether the work delivers jobs and investments for your constituents—the people at home. Something in which all the panel have a particular interest—given that we are all employed at universities—is whether the work results in students being able to come to Scotland to live, learn and contribute to society and what happens when they leave. Areas such as trade and investment are your policy priorities, as well as—to refer back to climate change and human rights—whether you are able to influence what goes on beyond your borders. Are you meeting the objectives?

The priority areas are important. I refer to trade and investment—Professor Jackson highlighted

some of that—climate change and working with places that are affected by conflict, which the First Minister has flagged.

However, I sometimes think that the trickier part is the flipside: what should you do not so much of? If there are priorities they are measured, but some pretty hard decisions are needed because you cannot do everything. The UK Government has to grapple with that. Most Governments have to grapple with what they do not do and what impact that has at home, as well.

I know that that is not terribly helpful. However, some measurements will give you an idea of whether investment in international affairs is money well spent by the taxpayer.

**Professor Jackson:** I will just add that the Scottish Council on Global Affairs might find a way to contribute to the enterprise of both supporting policy and trying to find measurements. For example, we could commission a report to map out international networks of engagement in the three key sectors that we are talking about: business and industry; the third sector, which covers everything from churches and religious organisations to think tanks such as ourselves; and education. If that were to be followed up by a subsequent report, that would provide a picture that would allow before-and-after measurement, which would act as a guide to support the efforts.

Examination of the situation in relation to business and industry would be a big job and would be quite difficult to do, but the other two sectors could be handled quite easily. We could put that before our management team to see whether we might put out a specific call for something like that.

**Professor Kaarbo:** I agree with my colleagues that measurement of international relations and international outcomes is difficult. The outcomes, in particular, are difficult to measure because what happens in the international sphere is not under only your control; it depends on how others receive what you are doing and whether they support you and co-operate with you. It is even more tricky to measure than some national outcomes.

There is an obligation to assess, but assessment is different from measurement. Criteria are needed for understanding of how what the Scottish Government is doing in external relations supports its goals and priorities. That can be done in a way that is more to do with assessment criteria than it is to do with hard numbers.

I was I was going to make the point that Professor Jackson made about networks. Networking is an important international outcome—it is mentioned in the documents that

have been provided—but there is not an existing indicator in relation to it. There are methods for understanding networks. Network analysis that can look at the density of the network, who is talking to whom, who is influencing whom, how that changes over time and what the shape of the network is. At the end of the day, however, what does that tell you? You still have to assess whether, despite whatever change or growth you have observed, the network meets your goals, because that is what you need to look at.

**Ben Macpherson (Edinburgh Northern and Leith) (SNP):** I want to follow up on some of the themes that colleagues have already touched on. Of course, as has already been said, Scotland's international engagement is about profile, narrative and reputation. For me, that boils down to interest, affection and respect for Scotland. I think that we are already in quite a strong position with regard to those elements, and that the work of the Scottish Government has added to that. That is important because of practical matters around trade, humanitarian assistance—Scotland has a small international development programme, but has a high impact—partnership and working with others elsewhere to try to positively affect United Kingdom policy.

However, as well as looking at what is happening outside Scotland, we need to think about how what is done affects what is happening within Scotland. If we are not doing the international work and continuing to develop that profile, the narratives and our reputation and the concept of internationalism might diminish at home. What are your reflections on the importance of Government leadership, not only in terms of national global citizenship but in terms of how it positively influences good global citizenship among the population in Scotland?

**Professor Kaarbo:** We cannot divorce the two; they are very connected in the context of Government outreach—as they should be. All state actors on the international stage are doing what they do in international relations in part because the international affects almost everything that they do at home. The two areas should not be separated arbitrarily. For a nation such as Scotland, its devolved competencies, such as education, are very much affected by what is going on internationally. The two have to be joined up.

That could be part of the narrative. An advantage of narratives is that you can think about what you are saying about what Scotland has to contribute but, importantly, you can also communicate to your own citizens why that is important and how it affects their daily lives. It is not a very difficult case to make any more.

09:30

**Professor Jackson:** I want to highlight two things. First, the connection between the local or national and the international is really helpful in concrete cases such as climate change, where the population of Scotland can feel that they are—not to put too fine a point on it—involved in a global effort to try to save the planet. That might have positive effects on engagement and can be transferred internationally to matters such as human rights or the war in Ukraine, which, in a positive way, has mobilised support in Scotland and across the west.

Secondly, because I am an historian—this is *déformation professionnelle*—I think that Scotland has a long history of being at the centre of and engaging in internationalist causes, particularly in relation to peace. However, there is not a lot of work going on in Scottish universities on that history. I am not an historian of Scotland—I am an historian of international relations, especially in Europe—but I have always tried to make the case, although without success, that we need more work on local movements and their contribution to internationalist causes. That is probably not of central interest to the committee. I am sorry for bringing it up—it is more of a bugbear of mine from years gone by.

**Professor Gethins:** Professor Jackson has made a good point about the long history. A couple of weeks ago I was in Veere in the Netherlands, where there is the Scots house and the title “honorary conservator of the Scottish privileges”. There is a huge amount of interest locally among the Dutch people there. That relationship goes back to the 15th century, and possibly earlier.

Professor Jackson is right that there is a long history, so maybe we need to think about drilling into that history a little more. I am not a historian, but I hope that Professor Jackson will not mind me saying that we study history to inform us of the present, too. If we think about some of the current priorities, I suspect that the biggest issue that many of your constituents will have raised recently is the cost of living crisis. The cost of living crisis is driven in part by our relationship with the European Union and in part by the impact of Russia’s war in Ukraine. Whether we like it or not, we are deeply impacted by the world around us and by events that are often beyond our control. That is the same everywhere.

There are legitimate questions about prioritisation, which is something on which to scrutinise the Scottish Government. We should look at the Scottish Government’s goals on engagement with the European Union and ask whether the resources match them. We should also look at some of the other goals, such as on

the climate, and ask whether the resources match them. I am not expressing an opinion either way, but I think that those are legitimate questions to ask.

On the way here, I refreshed my knowledge by having another quick look at the Flemish Government’s international affairs department, its missions and its goals in relation to education and climate. I was also looking at its missions for international organisations in places such as Geneva, New York and Paris. For obvious reasons, it even has an international mission in Brussels, although Brussels is the capital of Flanders.

There are questions about how resources are prioritised and whether they match domestic priorities. That goes back to the fundamental question whether taxpayers are getting value for money, which is difficult to address. Some of that is about domestic priorities and some of it is about being a good global citizen. That is where political leadership is not inconsequential. Prioritising is difficult, because there will always be things that a Government cannot do.

**Neil Bibby (West Scotland) (Lab):** I, too, welcome the establishment of the Scottish Council on Global Affairs. The committee has heard that the Scottish and UK Governments share many priorities for international working and diplomacy. Does the panel agree with that? Professor Kaarbo said in her submission that a measure of the Scottish Government’s international policy is its influence on UK foreign policy. That is a positive, but how do we measure it, particularly if many priorities are shared to begin with?

**Professor Kaarbo:** My point is that, although Scotland has relations with the world, its own outreach and its own external relations role, it is a constituent part of UK foreign policy, which comprises Scottish foreign policy, English foreign policy and the foreign policy of all the constituent nations. The Scottish Government tries to influence UK foreign policy, especially when it affects domestic policy and life in Scotland. My general point is that that should be considered as part of measuring Scottish external relations work.

What is done is often out of the Scottish Government’s control—it depends on the UK Government’s reception of attempts, which may be rebuffed, successful or joined up with. We can look at the channels for influence, what the Scottish Government has tried, what works and does not work, and how that can be expanded. The Scottish Government has formed coalitions with the Welsh Government and others—what is the extent of that? As I said, that is about not so much measurement as assessment of what the Scottish Government is doing to influence UK

foreign policy, which influences Scotland. Is that helpful?

**Neil Bibby:** Yes—thank you.

**Professor Gethins:** Professor Kaarbo is right that UK and Scottish priorities overlap significantly. The Scottish Government tries to influence that, and that is not unique to the current Scottish Government. Back in 1992, the then Secretary of State for Scotland, Ian Lang, opened an office in Brussels with the express purpose of influencing European Union policy and wider UK policy. That approach has been pursued in the devolved era and is entirely legitimate, because you have a set of priorities. The nature of devolution means that priorities diverge at times; a bit more action might be wanted on climate change and more proximity to EU rules might be wanted. That will always be a feature for any devolved Administration.

Scotland and the UK have so much overlap. Given the legitimate political discourse, which I was part of in the past, we forget that there is a lot of commonality in foreign policy. More widely, that is true in other western European countries and is why multilateralism is important. When I wrote a book on Scotland's place in the world, I spoke to a Danish former Cabinet minister whose take was that Denmark is a member of every international organisation that it can join in order to engage with and influence other countries because, for example, Germany's domestic and foreign policy necessarily has a significant impact on Denmark's policy.

There are huge areas of overlap and common cause between Scotland and the UK, although the nature of things is that we tend to see the areas of disagreement, which is perfectly legitimate. On big areas such as climate change, which is the biggest to an extent, and on development of the economy and the situation with the war in Ukraine, we see overlaps.

I have always found quite interesting—I would be happy to provide the committee with a note on this from Lord Howell of Guildford, a former Foreign and Commonwealth Office official—how that is taken to the next level and the ways in which the UK Foreign, Commonwealth and Development Office can sometimes use that diversity in the UK to further its foreign policy aims. That might be through engagement with the diaspora, but it might also be through making allowances for different parts of the UK to have different relationships with the rest of the world. The world is a big place, so we want to use everything that is at our disposal to reach those different parts.

On international development, as Jack McConnell said, there is plenty of work to go around in that area.

**Professor Jackson:** I do not have anything useful to add to what my colleague has just said, other than to say that our direct experience of the Scottish Government's representation in Ottawa was a great illustration of how there is a confluence of interests and a close working relationship. From the outside looking in, it seemed as though there was a great deal of co-operation and respect between the Scottish representatives at the high commission in Ottawa and the high commissioner and her team. That is a great example of how Scotland can support representation that is a force multiplier across the board for UK and Scottish interests.

**Alasdair Allan:** Professor Gethins, you mentioned Flanders and Denmark as examples of places that want to and do engage in multilateral diplomacy and with as many multilateral institutions as they can. Scotland is doing that to some extent with the EU in Brussels, but are there other multilateral institutions that we should or could have opportunities to be involved in in the future? That question is open to any of the witnesses.

**Professor Gethins:** We are here with our head of operations, John Edward, who was also recently appointed. I am probably creating more work for him and other colleagues, but there is a bit of work to be done on looking at how other sub-state actors interact in international affairs.

I have had a bit of a look at that in my own research and the Danes are really interesting. In Denmark's model, the Faroe Islands and Greenland are part of Denmark, but they have significant foreign policy tools at their disposal, such as the treaty of Nuuk between Denmark, Greenland and the United States because of the US military base in Greenland. The Faroe Islands has always sat outside the European Union.

The Åland islands have a distinct relationship with Sweden and Finland, and they negotiated their own way into the European Union. In places such as Belgium, Denmark and elsewhere, there is parity of esteem in diplomatic representation. That can be helpful with engagement, but, as Professor Jackson said, in areas such as Ottawa, there are Scottish Government officials such as John Devine who are doing a fantastic job of working closely with colleagues in the high commission.

We also see in Germany that states—Länders—can be parties to international agreements. The Lake Constance treaty is an example of that. Given its history, Bavaria also has a particular relationship with the Czech Republic.

There are examples elsewhere in the world. Although we consistently say that it is difficult to measure, there is always a role to be played.

Other countries will look at Scotland and see the things that we do well, but we should always look at other countries to see how they do things and whether lessons can be learned. That goes in both directions and there are some really interesting engagements between the sub-state level and the state level, but in places such as Belgium, Denmark and Germany, they are set out distinctly to try to minimise areas of disagreement.

**Professor Kaarbo:** You stole my Faroe Islands example. [Laughter.] The Faroe Islands is engaged with a lot of international institutions and it has entered its own trade agreements with a lot of other states or international organisations. Many sub-states are present at Davos, for example, or are members of international organisations.

09:45

I cannot answer your question directly of whether I have a list of where Scotland should be involved that it is not currently—I would have to do the work on that—but the main point is that the more the better, in some ways. International organisations are really good for small states and sub-states, because they multiply those communication channels. They are cheaper than having embassies or international offices in every country. They provide that conversation and that forum for co-operation. Therefore, just as the Danes said to Professor Gethins, the more the better. It is usually fairly economical to join those international organisations, and there is no reason why Scotland should not be involved, just as other sub-states are. Different constitutional contexts allow for different levels and types of agreements, as do different international organisations.

**Professor Jackson:** I have nothing useful to add.

**The Convener:** It is worth pointing out that, as convener, I was with the Presiding Officer at the Nordic Council this year, and the committee has tried to engage—to look north as well as to Europe—post-Brexit.

**Maurice Golden (North East Scotland) (Con):** I am interested to explore how we scrutinise. I will follow on from some of Donald Cameron's points. The Cabinet Secretary for the Constitution, External Affairs and Culture has said that

"the Global Affairs Framework recognises the interlinkages between our domestic and international work and is rooted in the National Performance Framework."

However, the Scottish Parliament information centre has said that

"the lack of targets within the framework and the absence of a clear link with the country engagement strategies means scrutiny is challenging."

What are the witnesses' thoughts on how the Scottish Government's international work is rooted in the national performance framework?

**Professor Jackson:** That is very difficult because, apart from the difficulty of imposing measurements or indicators, which is the language that is used in some of the documentation that we have been sent, there are other constraints, including structural constraints. We have generally been quite positive about things so far, but there are structural constraints that need to be acknowledged to get a realistic idea of where Scotland is. It is not so much the constitutional arrangements, which is what they are; for me, in some ways, the discourse, in Scotland especially, is really unhelpful.

I am Canadian. Québec, Ontario and British Columbia are the three provinces with the largest amount of international engagement in Canada for obvious, although different, reasons in each case. That discourse would just not be considered to be a problem inside any of those provinces—or outside. However, in Scotland, we see it all the time. When there is an initiative from the Scottish Government, there are voices raised saying, "This threatens to go beyond constitutional limits" et cetera, et cetera.

Somehow, the internal discourse in Scotland, and probably partly in the rest of the UK, needs to change. That is a tricky issue, because there are always voices raised on both sides of the argument that have very little to do with the business at hand, if you see what I mean—the business of promoting Scotland, its economy and what it has to offer in terms of education, culture and so on—and very little to do with particular constitutional arrangements. They are things that you would just think that a region would do. I hope that I am making sense.

**Maurice Golden:** That is really helpful. This place is a polarised world where every policy decision is viewed through a binary optic, which is deeply disappointing and it is getting worse, unfortunately. Within that context, your comments are useful.

**Professor Jackson:** I am an optimist. I hope that it will get better.

**Maurice Golden:** So do I.

**Professor Jackson:** I think it will get better, but it is hard for us to see that at the moment.

**Professor Kaarbo:** There is one way of answering your question without those specifics that I cannot deliver. As I said in the evidence that I submitted, when I looked at the national outcomes, what stood out to me was the separate international outcome. That is appropriate. The international aspect is different and we should

think about the international outcomes that the Scottish Government is or is not delivering.

That said, you should also think about the connections. You cannot think about education without also thinking about international. You cannot think about the economy without also thinking about international. I therefore suggest to the committee that it would be helpful to get some indicators that go across those national outcomes that look at the connections that are happening between what you are looking at when you look at international and what you are looking at in the other national outcomes.

**Maurice Golden:** Professor Gethins, you might have an interesting perspective.

**Professor Gethins:** I do not disagree entirely with my colleagues. To go back to a previous point, Scotland is not alone here. In Brussels, something like 300 sub-state actors are engaged in trying to influence the EU, all the way from small regions that have one person working full time to the German Länder, which put in significant resources. However, 300 is not inconsequential.

Professor Kaarbo is right about looking at the links. I would draw that back even further. My question to the Scottish Government is: what are those offices for? We invest in an office in Brussels and that is the right thing to do, but what is it fundamentally seeking to achieve? Is it to boost trade and investment? Is it for soft power? Is it to boost our educational and cultural links?

We can find measurements based on the Government's objectives. It is hard, but that should not prevent us from assessing whether that is money well spent and whether it is, roughly speaking, meeting the Government's objectives in a given area, and I know that that is a job that the committee will do.

Again, that is not exclusive to Scotland. It happens across the UK, Europe and the wider world. Professor Jackson was right to highlight how it works in Canada with his interesting illustration. For example, the Canadian provinces were engaged in the negotiation of the huge trade deal between Canada and the EU. They played an important part in that because it has a significant impact on their responsibilities.

The Scottish Government is setting out a clear strategy for what it seeks to achieve and it needs almost to work back from that to see whether it is achieving its objectives.

**The Convener:** A number of members have supplementary questions, I hope. I am conscious that Mr Ruskell has not come in yet. Do you want to come in now, Mark, or are you asking about a different topic?

**Mark Ruskell (Mid Scotland and Fife) (Green):** It is on a different topic.

**The Convener:** Okay. Can I have succinct questions please because we are tight for time this morning? Mr Bibby will be followed by Mr Macpherson.

**Neil Bibby:** We have talked about the difficulty in measuring areas of success, but I am wondering whether we are failing to measure the basics. For example, last week, I was at an event celebrating the establishment of a new flight from Edinburgh airport to the United States. We talk about being a better connected country and there are some basic measurements to be made about physically connecting Scotland to the rest of the world. Are we failing to measure the basics?

**Professor Gethins:** That is an interesting point, and my colleagues will have views on it. I am not sure, but I think that you are doing as well as you can. It will always be difficult, because there are so many areas that are outwith the control of the Scottish Government. In fairness, many areas of foreign policy are also outwith the control of the UK Government.

On some areas, we will look at the manifesto on which the Scottish Government was elected and ask whether it is achieving the commitments that it promised. It might be about stripping it back to basics to find out whether it is achieving those commitments, with the understanding that there are certain things that it cannot do and by looking at whether limited resources are prioritised correctly.

To be fair, I agree with my colleague that this will always be hard, but that should not stop us from assessing whether what is being done is aimed appropriately at the objective of the Government to further Scotland's role as a good global citizen and is in interest of taxpayers.

**Ben Macpherson:** Professor Jackson talked about the mutual benefit to the UK Government of having other entities—including the Scottish Government—engaging in international affairs. Do you want to expand on that, Professor Jackson? That means including not only the Scottish Government but the Welsh Government, the British Council and the Convention of Scottish Local Authorities. Do you want to say any more about how that benefits the UK Government and is a mutual positive rather than anything else?

**Professor Jackson:** There are obvious economic benefits, because what is good for Scotland's local economy, for example, tends to be good for the UK balance of payments and the Treasury—more taxes will come in, and so on. The more cultural exchanges and the more tourists, the better. For example, an extra flight from the US to Edinburgh will almost certainly

bring in a few more tourists, and there are economic benefits to that.

It is also a value judgment. Presenting the UK to the rest of the world as a diverse, modern, connected society and a place that tolerates a plurality of voices is a real positive, and it is a way in which the union can project itself to the world as being a little more united than it does at the moment. Those are all good things, because they support Scotland's economic interests and benefit the rest of the UK at the same time.

We are employees of universities, which have a crucial and almost entirely beneficial role to play. One of the ways in which the university community is beginning to contribute to conversations is by addressing, squarely and honestly—which not all institutions around the world do—the dark side of Scotland's internationalist past, its role in the promotion of slavery and its profit from slave economies in the West Indies and the southern United States. In doing so, we are forging relationships with those in the West Indies. That is where there is a confluence between UK interests and Scottish interests. Both places will benefit from projecting the UK as a pluralist, modern, tolerant society that is both sensitive to its past and a promoter of the good global citizen values that we spoke about earlier. I guess that, in a way, I am stating the obvious, but it is important.

**Donald Cameron:** Do you think that our international offices are in the right places? Is there anywhere in the world we should be but are not, or is there anywhere we should not be but are? Resources are limited and we understand that we cannot be everywhere but, given that witnesses are from the Scottish Council on Global Affairs, do they have a view?

**Professor Gethins:** It is difficult. It was good to see the opening of offices that cover the Nordic and Baltic states, given the historic links and also trade, education and other links.

It was interesting to look at some other examples of countries, such as Flanders, with offices at international organisations. The problem is that resources will always be limited. I think that the office in Brussels is significant; it has a good team with a fantastic bunch of officials. However, if the Scottish Government's aim is to deepen engagement with the European Union, there will always be a question, which I am probably not well placed to answer, about whether there is enough resource there. Those are all legitimate questions when you have very limited resources. The Scottish Government does well with its limited resources to reach those places. Its focus on Europe and North America is an understandable one.

**Professor Kaarbo:** It is understandable. A presence in the global south would be good, as well as looking at places where the presence can be more than just an office in a country—the offices should reach out to other countries in the region so that their presence can be maximised for the cost.

**The Convener:** I will turn briefly to the discourse on international offices and missions and will direct my question to Professor Jackson. We prepared a consensual report on the reach of international offices that was very positive. In its submission, the British Council said that it would welcome more offices being opened around the world. The political discourse in the chamber is very difficult—there have been questions about the costs of offices and whether they are a waste of money, and there have been suggestions that they are pretend embassies. Mr Cleverly has intervened by writing to Mr Robertson, and Mr Robertson has asked him to withdraw any indication that those offices are being misused or that the Scottish Government should be curtailed in its use of them. You mentioned that that would almost be unheard of in Canada. Are there other examples of sub-state Governments being at odds with their national Government? Is that not unusual?

**Professor Jackson:** Canada's history is not entirely positive, nor is it free of controversy and confrontation. It is quite stunning to me how quickly the discourse on Québec changed in Canada. Another example would be the Russian Federation, but I am not sure that that can be usefully studied as an example. India might be one example, as there are areas that have different economic ecosystems, so we could think about that. There are relatively few examples.

In general, my view is that Canada—partly this is because I am Canadian and I am familiar with it—provides a few obvious examples of the way in which different regions can be positively supported by the national Government, in a way that I think is happening in Scotland.

To me, Africa is a continent that should probably be on the Scottish Government's radar more than it is. That would be my answer, which is to echo what my colleague Professor Kaarbo has said. I hope that that is sufficient.

**Mark Ruskell:** I have a couple of wrap-up questions. I was particularly interested in Professor Jackson's comments about Scotland's colonial history. Is it important that, in the way we project ourselves as a good global citizen, we are more aware of what that colonial history has involved. How do we use that to seek reparation and put into place meaningful opportunities to move those injustices forward?

**Professor Jackson:** At the University of Glasgow, I was tangentially involved in the formulation of policy. A PhD history student first began to uncover the extent to which the university's initial wealth depended on bequests or investments in economic interests that were directly involved in the slave trade and the plantation economy. The university faced a choice: it could either lean into the issue and try to address it squarely and honestly or try to ignore it. In that case, the decision was that the problem needed to be addressed squarely. That decision was the origin of the very positive relationship that is emerging between Glasgow and the West Indies and which will probably, in the end, benefit the university.

If you take that example and think about Scottish society as a whole, you will see other examples of Scotland being a pillar of empire. I am of the view that the union was one of participation in empire; it was, as a colleague of mine, Allan MacInnes, has very persuasively argued, a major impetus, and acknowledging that publicly can only help. However, that raises the question of reparation—after all, this was all over the world; the British empire was a global enterprise—but the first step would be recognition. I speak as an historian of Europe who did not work on empire and who has only in the past decade or so really overcome his initial reluctance to take on board the extent to which you cannot study European international relations without studying European imperial and colonial policies.

**Mark Ruskell:** The reparation aspect brings me to the issue of climate justice. There have been quite a few comments this morning about climate change being a strategic priority, but I wonder whether I can get your reflection on the conference of the parties—or COP—processes and the role of sub-state actors either within COP or at least at the side of it. Was the Scottish Government's involvement in the 26th United Nations climate change conference of the parties—COP26—effective? Do you see other forums in which sub-state actors are coming together in ways that might present opportunities to develop new initiatives and to lead change that can feed into the COP process?

**Professor Kaarbo:** I do. Climate change is a good example of where the action is happening in such multilateral forums. Compared with lots of other policy areas in international relations, the environmental area naturally includes more than just the states themselves—it includes sub-states, non-governmental organisations and so on—and there are lots of opportunities for Scotland to be involved, to try to be the lead and to form coalitions with like-minded states. I think that the COP in Glasgow was a good example of how small states and sub-states can be seen as more

neutral—and very successful—leaders in these kinds of negotiations.

**Professor Gethins:** I think that the COP and climate justice provide a really good illustration here. If we look at some examples of Scotland's leadership on this matter, we will see that the loss and damage fund, for instance, was followed up by Wallonia. It was the second country to introduce such a fund, and it is interesting that it was two sub-state actors that took a lead on the issue.

Some co-operation could probably be deepened at local authority level. We just need to look at some of the global cities around the world that are taking action; after all, a lot of the action that we need to take to meet the climate emergency will often be taken not at state level but at a very local level in terms of transport, heating systems and a range of other areas that I know that you are well aware of. In that respect, I can give you an interesting illustration from the United States. During the Trump presidency, we saw a lot of divergence from states that felt that they needed to take action and were signing up to agreements. As a result, there was US state engagement at COP26 in Glasgow.

However, that was not a new thing. I can remember COP15 in Copenhagen, for which the Scottish Government did a lot of work, especially with the passing of the Climate Change (Scotland) Act 2009 and its target of a 42 per cent reduction in emissions by 2020. However, it was not alone in those forums. I am not sure that you can be effective in taking forward climate change or tackling climate change without full engagement at sub-state level, because it is the sub-states that will need to implement many of the decisions that are made.

I know that committee members will have attended the COP in Glasgow, so you will have seen that there were delegations at every level from all around the world, as well as from civil society and other areas. However, that sub-state level of engagement on the climate issue provides a really good illustration, and it is something that we see throughout the world.

**Mark Ruskell:** My last question is about feminist foreign policy, which is something that we have not yet discussed this morning. Have you seen any particular leadership or initiatives globally that, again, sub-state actors can be involved with?

**Professor Kaarbo:** Many states and some cities have been involved in those discussions. Feminist foreign policy covers a wide range of issues, including climate justice, tackling global inequalities and poverty around the world and so on, so I think that it fits nicely into the good citizen

category, as big as that is. There are many examples of states adopting such a foreign policy, with a proliferation adopting feminist foreign policy objectives. They can label them as feminist foreign policy, but they are just a recognition of a very human rights, pro-value, pro-equality, somewhat anti-military-only way of looking at the world.

**Professor Jackson:** I think that that is absolutely right. Perhaps I can give you an example. I am part of a project on the history of Franco-British relations since 1815, and in late April we had our big closing event at the British embassy in Paris. When someone from the UK desk at the Quai d'Orsay asked to meet me for coffee the next day, I thought that they wanted to talk about our exciting research, but they actually wanted to talk about ways of engaging with Scottish support for feminist foreign policy. They asked, "Will that evaporate with the change of First Minister?" It was an interesting example of how Scotland's commitment to this has registered in Europe.

**The Convener:** Unfortunately, that brings us to the end of the time that we have available this morning, as we have another agenda item to deal with. I thank Professor Gethins, Professor Kaarbo and Professor Jackson for their attendance this morning.

I briefly suspend the meeting to allow witnesses to onboard for the next session.

10:12

*Meeting suspended.*

10:20

*On resuming—*

## **Retained EU Law (Revocation and Reform) Bill**

**The Convener:** Our third agenda item is an evidence session on the supplementary legislative consent memorandum on the Retained EU Law (Revocation and Reform) Bill. We are joined remotely by Angus Robertson, Cabinet Secretary for the Constitution, External Affairs and Culture, and, from the Scottish Government, Elliot Robertson, head of the EU secretariat; Chris Nicholson, solicitor and head of the constitutional reform and external affairs branch; and Greig Walker, retained EU law management programme lead. I invite the cabinet secretary to make a brief opening statement.

**The Cabinet Secretary for Constitution, External Affairs and Culture (Angus Robertson):** With a bit of luck, you will be able to hear me. Are people nodding? I see that the convener is giving me the thumbs up.

Thank you for the opportunity to speak to the committee. I am sorry that I am not able to join you in person—I am in Brussels promoting major events in Scotland, including the world championships that are taking place later this year.

This morning's evidence session is an opportunity to update the committee on our response to the UK Government's Retained EU Law (Revocation and Reform) Bill. You will know that the UK Government has finally seen sense and has scrapped its plans to automatically remove thousands of EU laws from the UK statute book by the end of this year. However, let us be clear that the fundamentals of the bill have not changed. I draw the committee's attention to three particular issues.

First, the bill continues to put at risk vital protections that have been enjoyed by the people of Scotland for almost 50 years. Although the automatic sunset has gone, the UK Government is still planning to scrap almost 600 pieces of retained EU law by the end of December, while the rest of the laws remain in the scope of the UK Government's reform and deregulation agenda. My officials received a list of those 600 laws only three weeks ago. At least nine of them are a cause of real concern. I have no confidence—zero confidence—that the UK Government will agree to their removal from the bill before it is given royal assent, which can only be a few weeks away. Officials are considering how best to provide information on the list to the Parliament.

Secondly, UK ministers remain empowered to act in devolved areas, without—[*Inaudible.*]

Thirdly, the amendments to the bill clearly triggered the legislative consent requirement on Friday 19 May. I received a letter from minister Ghani asking for that consent. However, by Monday 22 May—that is, one working day later—the UK Government had decided to proceed without it.

My officials continue to assess the long-term policy implications of the bill. I reassure you, convener, and your committee colleagues that I want to maintain an open dialogue with the committee as we make progress on that. I am happy to take questions.

**The Convener:** Thank you, cabinet secretary.

The UK Government has stated that

“The UK Government and the devolved Governments agree that where common frameworks are operating they are the right mechanism for discussing REUL reform in the areas they cover”

and that when

“using the powers in the Bill, we will use common frameworks to engage with the devolved Governments on decision-making across the UK.”—[*Official Report, House of Lords*, 8 March 2023; c 813.]

Do you agree with that statement, cabinet secretary?

**Angus Robertson:** Common frameworks are a work in progress. A recent example of that is the deposit return scheme, where mechanisms have clearly not been working, which has led to a situation that acts against the devolved decision-making powers of the Scottish Parliament and means that we do not have the most constructive working relationship.

Theoretically, there is nothing standing in the way of having a constructive working relationship and using the common frameworks. However—and not to exercise the committee on an issue in which it is well versed—since the introduction of the common frameworks, we have seen the passage of the United Kingdom Internal Market Act 2020, which sometimes acts in parallel with and sometimes overrides the common frameworks in areas in which those frameworks are the only mechanism through which we might be able to progress issues. In those cases, the frameworks are trumped by the UK Government being able to make a decision and suggest that something is in the interests—as the UK Government sees it—of the UK single market. I will give the committee an example of that. You can easily imagine—[*Interruption.*]

**The Convener:** The screen has frozen, so we will suspend the meeting briefly.

10:26

*Meeting suspended.*

10:29

*On resuming—*

**The Convener:** Apologies for the delay, which was due to technical issues. I believe that the cabinet secretary will now appear in audio-only format. Cabinet secretary, we missed most of the answer to the previous question. Did you want to say anything more?

**Angus Robertson:** Convener, forgive me if I am repeating anything that you have already heard, I do not know the point at which I was cut off.

I was reflecting on the fact that not only do common frameworks play a role in intergovernmental relations in the UK but there is also the United Kingdom Internal Market Act 2020, which was legislated subsequently and is, in many respects, trumping the common frameworks approach to things.

I was also reflecting on the fact that, before the 2020 act, I could easily have imagined a Scottish Government proposal about the introduction of minimum unit pricing for alcohol, for example, making its way through the common frameworks process. However, the UK Government would now be far more likely to invoke the 2020 act in such situations, as it is effectively doing in relation to the proposals for a deposit return scheme—by including glass and using that to block progress.

One cannot look at common frameworks in isolation from how the 2020 act can work and how the UK Government chooses to use it to block policy proposals in devolved areas.

**The Convener:** I remember taking evidence, early doors, on the possibility of raising the minimum unit price in line with inflation and there being concern that, although it was before Brexit legislation, the internal market act might open it up to legal challenge. Do you have any thoughts on that?

**Angus Robertson:** I think that I am correct in saying that I will be giving evidence to the committee on 29 June on the operation of devolution post-Brexit, and we will discuss at some length at that meeting issues such as intergovernmental relations, the codification of expected norms of behaviour between Governments, the sovereignty of Westminster, the Sewel convention, delegated powers for UK ministers to legislate in devolved competence and, indeed, the UK internal market. However, it is fair to say that this is an evolving and moving situation.

I have to say, as somebody who thought that the devolution settlement was exactly that—settled—it clearly is not, and a variety of mechanisms are being used to row back on devolution.

**Alasdair Allan:** You have kind of touched on the answer to my question, which is about the REUL bill. Obviously, we have seen a ping-pong of amendments going back and forth between the two houses of the UK Parliament. Did the UK Government consult the Scottish Government at any point about the content of those amendments and their likely effect on your planning around the laws that you have mentioned?

**Angus Robertson:** The best co-operation that we have had was with members of the House of Lords who are concerned about the UK Government's proposals, because—as is often the case with ping-pong scenarios—proposals are made at quite short notice and the ability to influence how they are debated and voted on in the House of Lords is often quite an immediate issue.

I certainly never got the impression that the UK Government had the interests of devolved Administrations as a high priority in the process. If it had, it would not have proposed the legislation as it was drafted. It also intended to carry on regardless of legislative consent being withheld on the unamended bill.

The UK Government has gone on to make its concessions in relation to what is known as the cliff edge—the throwing all the babies out with the bath water approach—which was what it intended to do in the first place, and it turned the process on its head by listing pieces of legislation that it wishes to see fall off the statute book. That was a late change, and we were not consulted on it. I am sure that the UK Government would probably say that the Scottish Government's views and opposition to its original approach had already been articulated. I have seen correspondence that says that the UK Government has partly acted on the concerns of the Scottish Government and the Welsh Government in relation to the REUL bill.

On how the UK Government moved on to the next step of the process, we were informed on a Friday about the changes in relation to seeking legislative consent. Then, on the Monday, the UK Government confirmed from the dispatch box in the House of Lords that it would carry on regardless. That drives a coach and horses through how the Sewel convention is supposed to work. How on earth is the Scottish Parliament, whether it be committees or plenary, or the Scottish Government supposed to have time to consider a proposal about legislative consent from the UK Government over a weekend when no

notice was given that it would carry on regardless on the Monday?

None of that speaks to devolved custom or practice operating in any meaningful and respectful sense. On the one hand, it is an improvement that the REUL bill will not sunset a great amount of legislation in the way that was originally planned, but, on the other hand, we know that the UK Government still plans to take more than 500 pieces of legislation off the statute book by the end of this year.

Scottish Government experts have been able to identify nine pieces of legislation that still have an impact in Scotland, but there is little prospect of us having the ability to have those pieces of legislation taken out of the updated REUL bill.

**Donald Cameron:** Drilling down to the nuts and bolts of the issue, there are nine instruments that the Scottish Government considers contain at least some devolved provisions that are applicable in Scotland and that it is not satisfied are obsolete. What steps is the Scottish Government taking at official and ministerial level—I note that a number of your officials are with you—to secure those instruments and remove them from the schedule?

**Angus Robertson:** You can see on the screen that I am joined by Chris Nicholson, Greig Walker and Elliot Robertson. They are colleagues of mine and they advise on these issues. I will make some general observations about your question, Mr Cameron, and then ask whether any of my colleagues want to add their comments.

The list of nine laws that include devolved competence that we believe might still be operable in some way are areas for which further consideration is needed. Some might be of more import and some less, but the fact that they have an impact on areas of devolved responsibility and are currently operating is beyond doubt.

We have raised concerns with the UK Government about those laws, which include energy efficiency regulations, port services regulations and other things, but it is our understanding that the schedule will not be amended prior to royal consent, which is anticipated in June.

Part of the challenge that we face is that the UK is extremely keen to pass the bill extremely quickly, notwithstanding its major change in approach, so our ability to play a significant role in the process is much diminished. We remain in close contact with the UK Government on the issue, but it is fair to say that there is no expectation of the schedule being amended prior to royal assent.

Would any of my colleagues on the call wish to add any observations with regard to the list of nine

items and our ability to influence the process in that respect at Westminster?

**The Convener:** Elliot Robertson has indicated that he wants to come in. *[Interruption.]* Elliot Robertson? *[Interruption.]* We are not getting any sound. *[Interruption.]* Does any other official want to come in? I am sorry, but the sound was dreadful.

**Greig Walker (Scottish Government):** There is a delegated power—a preservation power—in the bill as amended that allows relevant ministers to preserve an instrument essentially by excluding it from the schedule. It is a concurrent power, which means that, in principle, there could be a Scottish statutory instrument that would deal wholly or partly with the nine special cases. The LCM makes it clear that analysis is on-going and that there are stakeholder positions to consider, but we do not have a response yet from the UK Government.

Because it is a concurrent power, it might be possible for a UK statutory instrument to deliver an acceptable result with regard to devolved competences. That instrument could be consented to, and the consent decision could then be scrutinised by the Scottish Parliament.

It is a very new schedule, and all these possibilities are on the table. However, given that nothing in the schedule is wholly Scotland-only devolved, that SI power might well be something that we need to think about, and discussions are under way with the parliamentary authorities about how the various types of SIs under this bill might best be handled.

**Donald Cameron:** Just to be clear, then, are you saying that there is a power for Scottish ministers to restate the nine instruments, if necessary, notwithstanding issues of royal assent?

**Greig Walker:** It is fair to acknowledge that there is a form of preservation power that is analogous to the preservation power under the original bill, in which we were dealing with a general sunset clause, but it is not immediately clear that it will be a complete solution to the issues. We need to continue that analysis, and the Parliament will be kept updated.

**Donald Cameron:** I note that, in the letter dated 31 May that the cabinet secretary has just sent the committee, it is suggested that although the bill itself might not be able to be amended in time, there is the possibility of agreement, outside of amending the bill, whereby a similar result could be achieved and the nine instruments on which there is doubt could be agreed. Is that correct, cabinet secretary?

**Angus Robertson:** I am not sure whether I have the microphone, but I will carry on as if I do.

I think that these areas are being explored by officials in the Scottish Government and at Westminster. Following on from what my colleagues have already said, I think that there are other related issues with regard to the extent to which measures are fully devolved or on which there is a degree of shared competence. I do not think that it will come as a surprise to committee members to learn that this was always a consideration that gave us concern.

It is not as simple as saying that the Scottish Government would wish something to remain on the statute book in Scotland, whereas the UK Government might wish it no longer to be on the statute books that would apply to England and Wales; it is about whether there is a duty on both Governments to try to deal with issues where there are currently shared competences that are a contributing factor to the complication of the situation in which we find ourselves.

I suppose that that is a reflection of the circumstance being fast moving, because we do not have clarity on all of that. It leads to the subsidiary but no less important point about what the role of the Scottish Parliament, in committee or plenary, is in relation to having an understanding of the process and being able to play a part in scrutinising it.

10:45

**Mark Ruskell:** Looking again at the annex listing laws that the Scottish Government considers are not obsolete, and the wider list of laws on which it appears that you are in agreement with the Westminster Government that they are now obsolete, I can see that the vast majority are in environment policy so I am interested to know whether the Scottish Government has sought advice from Environmental Standards Scotland, given that ESS was established under the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021 and has a key role in advising the Government on alignment with the EU.

**Angus Robertson:** I will have to defer to colleagues about specific outside organisations but I make the general observation that, at the heart of the question is a reflection on the difficulty of trying to deal with hundreds and thousands of pieces of retained EU law and work out which are still operable, which apply and which require to be incorporated into what is being described as assimilated law and to do so in such a way as to get maximum external expertise as part of the process. That is one of the areas that, for anybody who cares about having the best legislative

standards that we can have, is deeply problematic because, as I have said a couple of times this morning, we are dealing with a fast-moving situation.

Until recently, we were dealing with a situation in which the major concern—not the only one, but the major one—was that, among the thousands of pieces of legislation that might fall off the statute book, there might be additional laws that one had not even identified as being relevant and retained but would fall off the statute book because they were overlooked. Now, because of the change in the UK Government's approach, we have a list of 500-plus pieces of legislation to be added to the schedule.

The question of due diligence on all those measures is good. Whether one can say with absolute certainty that all the laws beyond the nine that we have identified as potential matters of concern have a clean bill of health is definitely a question. I have been keen to ensure that we are as confident as we can be that we are not losing the high standards that European Union membership and legislation guaranteed for us before Brexit because, as the committee knows, it is the Scottish Government's policy to remain as closely aligned as possible to the high European standards that exist.

We are seeing a pivot in the UK Government's approach to dealing with retained EU law and are having to use our resources as quickly as we can, given the timescales that the UK Government has now imposed on us in its legislative programme. That will evolve if we are to assume that the bill is passed. However, that raises as many questions as you have been asking until now.

However, on whether specific external organisations have been part of the sift process, if one wants to call it that, I defer to colleagues.

**The Convener:** Greig Walker has indicated that he wants to come in, cabinet secretary. Are you content for him to do so?

**Angus Robertson:** I am indeed.

**Greig Walker:** Mark Ruskell is right to highlight that the volume of instruments on that list impacts particularly on our directorate general net zero, involving agriculture, rural environment, environment and forestry, Marine Scotland, Transport Scotland and Food Standards Scotland. The directorates that have been working on REUL, and on that list, will, naturally, be working with internal resources and liaising with stakeholders.

I have no knowledge about whether Environmental Standards Scotland specifically has been formally consulted or about whether that might be in hand, because we have an on-going programme of work to look to. However, if it would

be helpful, we could write back on that and the clerks could follow that up with us.

**Mark Ruskell:** That would be very useful, given that ESS was established as a statutory independent adviser probably for these types of situation. I would have expected the Government to liaise with ESS on this.

I turn to the cabinet secretary's very useful letter that was sent to the committee last night. Is there clarity over what the process is for laws that involve responsibilities that are shared between the Scottish and UK Parliaments? What is your understanding of that process? Does it have to be absorbed within the processes that are in the common frameworks, depending on what the policy area is, then come down to discussions between individual portfolio ministers, between Governments and across the UK? Do you have clarity yet as to what that process for negotiation is? Is it between you and your counterpart? Is it between portfolio ministers? Where does that conversation now take place? There does not seem to be a codified route for resolving areas in which there is disagreement but shared responsibilities—and therefore, potentially, there is a mismatch between approaches that could be taken in either the Scottish Parliament or the UK Parliament.

**Angus Robertson:** That is a very good question and we have to get the best possible answer to how we work our way through what is a new situation. I think that committee members understand that we are now dealing with a fundamentally different approach to retained EU law than we were dealing with even a few short weeks ago. It would be fair to say that we are going to have to satisfy ourselves that the processes meet the new circumstances that we find ourselves in. I would most certainly be happy to update the committee on how we propose to do that.

As you will have noticed from Greig Walker's title of retained EU law management programme lead, an area of the Scottish Government is looking at that area in great detail across the piece. It is correct to say that some areas of ministerial responsibility have a much bigger focus on the issue, just because the corpus of European Union law is much more extensive in the areas of the environment, agriculture, fisheries and so on than in some other policy areas. How we will take this through the various directorates of the Scottish Government is definitely something that we will have to be focused on as we get greater clarity.

It goes without stressing at great length that we are talking about legislation that has been fundamentally changed during its course through the parliamentary process at Westminster and has

not yet been finalised. We are absolutely aware that we are going to have to react to that legislation in its final form. It is going to be a serious administrative challenge. We are going to have to build in appropriate mechanisms for the reasons that Mark Ruskell has outlined, to make sure that there is co-ordination between Government ministers. As I have said during this evidence session, the important role of the Parliament is then in understanding the process.

We are, of course, not talking about the introduction of new legislation in the sense of novel legal requirements. We are talking about the maintenance of existing European Union law, but Mark Ruskell is absolutely right to point to the mechanism by which we can ensure that Government goes through what will be a new process to ensure that we retain the laws and safeguards that we wish because we want to remain aligned and, as a consequence, how we are best able to integrate that process into the wider parliamentary programme and, in particular, the committee's role in scrutinising my work and that of colleagues in this policy area.

**Mark Ruskell:** At the risk of complicating the matter even further, how does that relate to the United Kingdom Internal Market Act 2020? Looking at the schedule of laws that you might wish to retain, I can see that some relate to genetically modified crops and foodstuffs. Would there have to be a process of assessing whether the retention of the law in one part of the UK was compliant with the 2020 act? Would that be done between relevant portfolio ministers? It would be useful to get some kind of insight or prediction about how that might play out.

**Angus Robertson:** That relates to how the question of how the Scottish Government can manage the alignment process with retained EU law that we wish to see maintained on the Scottish statute books when a United Kingdom Government might not be minded to look sympathetically at Scotland remaining aligned with higher European standards in any given policy area. I have to say that, given the current approach of the UK Government, I would be very concerned that it will look to involve itself in decision making in policy areas that are devolved using the United Kingdom Internal Market Act 2020 as a mechanism to, in effect, disregard the priorities of the Scottish Government and Scottish Parliament.

There are two elements to Mark Ruskell's question. First, what does the Scottish Government need to do to ensure that it remains aligned with European Union legislation after the passage of the bill and the new approach in it? As I reflected in my previous answer, we are currently working through that. Secondly, what is my

assessment of how the United Kingdom Government will act in relation to our preferred policy priority, which is to remain aligned with European Union standards where the UK Government's avowed position in many respects is to become non-aligned with them? It wishes to diverge from European Union standards and, as we have seen in other policy areas, would be unhappy for Scotland to do—*[Inaudible.]*

**The Convener:** We have lost audio again. I will suspend briefly.

10:58

*Meeting suspended.*

11:00

*On resuming—*

**The Convener:** Welcome back to the committee again, cabinet secretary. We lost you briefly. Do you want to continue with your answer to Mr Ruskell's question?

**Angus Robertson:** I am delighted to rejoin the committee for the third time. Forgive me, I am not sure at what point I dropped off. I will just give a short reprise of what I was saying to Mark Ruskell's question.

My first reflection was that we are very actively considering how we will progress within Government the best understanding of what measures need to be taken to remain aligned with European Union legislation.

The second part of Mr Ruskell's question was on the risk of the UK Government using the UK Internal Market Act 2020 to block the aspirations of the Scottish Government and Parliament to remain aligned with European Union legislation. He asked whether that was a significant fear that I share, to which the answer was yes, it absolutely is, because, if we look at the UK Government's recent approach on a range of issues, from the Gender Recognition Reform (Scotland) Bill to the deposit return scheme, we can see that it is prepared to consider a range of ways in which it can frustrate, block, delay and undermine progress in devolved areas of responsibility.

As the committee will be aware, a significant proportion of retained EU law does not fall neatly into a basket of devolved and reserved areas, so if those are pieces of legislation for which there is shared responsibility in a UK legislative setting, the question is whether I am confident that the UK Government would act in best faith so that Scotland could remain aligned with European Union standards while the UK sought to diverge from them. I have to say that I have grave concerns that the UK Government plans to

develop and continue its interventionist approach in devolved areas. That will make it more difficult for us to retain the higher standard of European Union legislation and safeguards that we intend to pursue. However, pursue it we will.

**Neil Bibby:** Good morning, cabinet secretary. One amendment to the REUL bill passed by the House of Lords and subsequently approved by MPs places a reporting duty on UK ministers to update the UK Parliament every six months on the progress of revoking or reforming EU law.

In your letter dated yesterday, you say that you would be

“happy to consider what reporting may be appropriate by the Scottish Government”

as a result of that, although you state that the approach would be to do so annually by way of the Scottish Government’s EU alignment reporting, as opposed to biannually, like the duty imposed on UK ministers. Will you explain why and are you open to reporting more frequently?

**Angus Robertson:** First, welcome to the committee, Mr Bibby. You might not be aware but, in previous evidence sessions, I have said to the committee—and I am happy to say again today—that I am open to ensuring that we have the best reporting requirements that are commensurate with proposals that the Government is dealing with. Having sat for 10 years on the European Scrutiny Committee, I understand the importance of the work and want your committee to be able to fulfil its obligations.

What is important from my point of view is that we are in the process of updating our approach of reporting to the committee in relation to European Union alignment. The two things—retained EU law and European Union alignment—are areas in which we can integrate the process.

As has been the case until now, I am still perfectly content for committee officials and Scottish Government officials to work together on how we can do that best, because I totally appreciate the needs, interests, concerns and expectations of committee members, and I understand that they want to have the most up-to-date information that they can about such issues.

This is a work in progress, and I am perfectly content to have suggestions from Mr Bibby, any other committee member or the committee as a whole about how we can best update you.

**Neil Bibby:** I thank the cabinet secretary for that answer, and for welcoming me to the committee.

It is regrettable that the UK Government has constructed such a tight timescale for scrutiny of the amendments; I share the cabinet secretary’s frustration about that. I appreciate that the tight

timescales are the UK Government’s doing and that the situation is evolving. It was mentioned earlier that analysis of the schedule is on-going, and there has been a commitment that Parliament will be updated on that work. I want to press to find out whether there is a timescale for updating Parliament on the work on the schedule.

Also, the cabinet secretary mentioned his fear about the UK Government being prepared to reach a different conclusion on what should be done with particular laws in those areas. Out of the nine laws that you referred to as having been identified in the schedule, can you provide an example of one where you think a problem will arise, or is your concern more general because of the past conduct of the UK Government, which you alluded to earlier?

**Angus Robertson:** There are two parts to Mr Bibby’s question. First, I make the general point that, whether it is tremendously welcome or not, I am an extremely regular attender of this committee. I give evidence to the convener and other members and, regardless of what the formal evidence session is about, there is an opportunity to ask me questions about any issue—that is a given and is on-going. That can be done in committee meetings or at portfolio question time, so I would not worry about the ability to raise issues with me.

However, I take the point about having the best formalised structure to update members in a fast-moving situation. I am very alive to that, because of my governmental responsibility and because I think about how the committee can perform its responsibilities. If there are developments between evidence sessions or programmed reporting on the Scottish Government’s approach to EU alignment or retained EU law, I am perfectly content to update the committee on that—as I did in my letter yesterday—to give context that can perhaps influence and inform members’ questions and allow them to be informed of the latest state of play.

I am sure that it has not escaped members’ notice that we are literally dealing with a situation that changes from week to week. If we can do more to keep the committee updated on progress, I am perfectly content that we write to the committee to do that.

I put on record my appreciation to members of the House of Lords, who have been working with the Scottish Government and the Welsh Government and with whom we have an extremely close working relationship, on this and other issues. On this issue in particular we have an extremely close working relationship with them. We share each other’s concerns, and a number of members of the House of Lords—those from Scotland and from Wales, in particular—have

been very active in raising the concerns of both Governments, for which I am grateful. In answer to Mr Bibby's point about whether there is more that we can do to keep the committee updated, that is a very live and on-going issue for me, and I will continue to do my best to keep the committee informed and answer its questions.

On the question of the nine items in the schedule that relate to devolved subjects and whether we are concerned about a clause or sub-clause of those nine items, as opposed to whether we have a general concern that they have devolved impacts, I think that I am right in saying that it is a general concern at this stage, because one really needs to work through all the pieces of legislation and specific provisions.

We have passed the stage of asking whether there is a devolved impact—there is. The question is whether we can gain, through looking at particular scenarios, knowledge of what would happen were the provisions to fall off the statute book. Civil service colleagues are trying to work through that to understand what mitigation might be required. I am happy to update the committee when we get to the stage of understanding that, so that members are aware of that concern, too.

**Neil Bibby:** Thank you.

**Ben Macpherson:** Good morning, cabinet secretary. In answer to Mr Bibby, you spoke about engagement with members of the House of Lords. Will you give an indication of how much engagement you received from Lord Callanan in advance of the statement that he made to the House of Lords, and whether he has offered time to engage with you as a Scottish minister to hear the Scottish Government's concerns? What has the UK Government done proactively to propose intergovernmental engagement on these important matters, particularly considering the fact that Lord Callanan is well acquainted with the Scottish Government's opposition to Brexit and concerns about issues relating to it?

**Angus Robertson:** There is no comparison with the constructive working relationship that I and the Welsh Counsel General and Minister for the Constitution, Mick Antoniw, have with a number of members of the House of Lords. From memory, we have had perhaps three meetings on the issues during the progress of the bill through Westminster. I have not had a single meeting with the UK minister in the House of Lords.

I am not sure whether committee members are aware of the sarcastic quip from the dispatch box about the likely reaction of the Scottish Government. I paraphrase, but it was something along the lines of, "Well, you would expect that wouldn't you?" It was certainly not informed by any communication with me. We have not met to

discuss any of the issues. As with many other matters on which the UK Government is proceeding with legislation or policy that relates directly to devolved competence, unfortunately, there is a gulf between the rhetoric and the reality when it comes to co-operation and close working relations, which are illusory.

**Ben Macpherson:** That is disappointing but, sadly, not surprising. Are you saying that there has been no meaningful engagement, or only tokenistic engagement, from UK ministers on the matter?

**Angus Robertson:** In correspondence, the UK Government has suggested that it has changed its approach to retained EU law from the hard cliff edge for all legislation to a more limited schedule of legislation that is to be taken off the statute book in part because of the opposition of the devolved Administrations to the original approach. The suggestion is that there has been magnanimous reflection on our persuasive interventions and that that has, in part, led to a change in UK policy. I suspect that the impending defeat in the House of Lords was much more important to the UK Government's consideration of the matter than listening to the arguments put by the Scottish Government or Welsh Government on the issue.

I deal with the UK Government regularly, and my general impression is that the involvement of the Scottish and Welsh Governments is tokenistic and a box-ticking exercise to say that one has "consulted". However, I see very little evidence of the UK Government acting on the concerns that are raised and its U-turn on the sunset provisions in the REUL bill was almost entirely down to the arithmetic in the House of Lords, which would have seen the Government lose votes on amendments that were supported by members of the House of Lords with whom we have been co-operating.

11:15

**Ben Macpherson:** It is helpful to get your reflections on the sad lack of intergovernmental engagement.

On the nine items in the schedule, I appreciate the points that you made in answer to Mr Bibby that the Scottish Government has more general concerns at this stage and that it is still exploring the detail so, if you want to come back to my question later, I will fully understand. Statutory instrument 2019/575 and regulation 2017/352 relate to port services. Are considerations around green freeports at all related to those instruments?

**Angus Robertson:** I will have to write to the committee on the specifics of the analysis of the nine measures. It would, however, be correct to

say that the Scottish Government's response to the schedule of legislative measures that are to be sunsetted as part of the UK Government's reformed approach to the REUL bill has been made more on the basis of whether something pertains to a devolved area of competence rather than whether it impacts on any specific policy consideration. It is about understanding whether the legislation is in a devolved area of import and whether it is relevant to that.

Ergo, the devolved Government should explain to the UK Government that the sunsetting of legislation in that way should not go ahead until there is proper governmental and, no doubt, parliamentary understanding of the impact. I think that that goes to the nub of Mr Macpherson's question—obviously, I welcome him to the committee, as I did Mr Bibby.

Having said that, I am keen to ensure that the committee is updated, so I undertake to update you on our best understanding of the nine specific measures as they might pertain to any specific on-going policy, or policy development, on green freeports, which Mr Macpherson asked about.

**Ben Macpherson:** Thank you.

**The Convener:** I have a quick final question, cabinet secretary. The committee undertook significant work on the original REUL bill, and one of our major concerns was about its impact on other organisations, such as animal welfare organisations, that are trying to navigate their way through it. We were also concerned about Scottish Parliament subject committees, which will also be interested in what is happening and want to engage with the process. Although I note that you said that the removal of the sunset clause is a move in the right direction, do the timescales and the approach alleviate any of the pressures on business and third sector organisations, and do they affect the ability of the Scottish Parliament to engage in the scrutiny process?

**Angus Robertson:** That is a very good question to end on, as a takeaway for me and my colleagues. Given the new circumstances in which we find ourselves with the UK Government's new approach to the legislation and its intentions in dealing with retained EU law, we are in a different environment regarding how we might be able to integrate the needs, interests, concerns and expectations of third sector and other organisations with a particular policy locus. Obviously, and in parallel, that also applies to parliamentary colleagues and specific committees.

As the cabinet secretary with responsibility in the area, I definitely want to be satisfied that, however we move forward after the passage of this legislation, we can do so in a way that integrates the expertise and understanding of

organisations that have an interest in particular policy areas—Mark Ruskell mentioned one of those earlier. We want to ensure that Scotland remains aligned with the legislation, values and better standards of the European Union, to which the Scottish Government and the majority of members of the Scottish Parliament still remain committed.

**The Convener:** I thank the cabinet secretary and his officials for attending. We now move into private session.

11:21

*Meeting continued in private until 11:31.*

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

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