

Public Administration and Constitutional Affairs Committee

Oral evidence: [The scrutiny of international treaties and other international agreements in the 21st century, HC 214](#)

Tuesday 10 January 2023

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Members present: Mr William Wragg (Chair); Ronnie Cowan; Jo Gideon; Mr David Jones; Damien Moore; Lloyd Russell-Moyle; Karin Smyth; Beth Winter.

Questions 261-322

Witnesses

[I](#): Baroness Hayter of Kentish Town, Chair, International Agreements Committee, House of Lords, and Angus Brendan MacNeil MP, Chair, International Trade Committee, House of Commons.

Written evidence from witnesses:

- [International Agreements Committee, House of Lords](#)

Examination of witnesses

Witnesses: Baroness Hayter of Kentish Town and Angus Brendan MacNeil MP.

Q261 **Chair:** Good morning, and welcome to the Public Administration and Constitutional Affairs Committee. Today, the Committee is continuing its inquiry into the scrutiny of international treaties in the 21st century. The focus of this morning's session will be on how treaties and international agreements are currently scrutinised in the UK Parliament, both by Committees in the House of Commons and in the House of Lords, and the extent to which the existing mechanisms are fit for purpose following the UK's departure from the European Union.

We are joined by Baroness Hayter of Kentish Town, Chair of the International Agreements Committee in the House of Lords, and by Angus Brendan MacNeil MP, Chair of the International Trade Committee in the House of Commons. Good morning, and happy new year to both of you. I wonder whether you might briefly introduce yourselves for the record, starting with Baroness Hayter.



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Baroness Hayter: Thank you. I am Dianne Hayter, Baroness Hayter. As you say, I chair the International Agreements Committee in the House of Lords.

Angus Brendan MacNeil: Angus Brendan MacNeil. I am SNP MP for Na h-Eileanan an Iar, and I also chair the International Trade Committee, more relevant to this morning's proceedings, Mr Chairman.

Q262 **Chair:** Thank you. Before we turn to the specifics, in general, what is your assessment of the current arrangements for parliamentary involvement in the scrutiny of the processes for international agreements? Baroness Hayter, perhaps.

Baroness Hayter: Thank you for the opportunity to come and speak. As you know, the issues you are looking at have been of close interest to my Committee.

Before I answer you specifically, let me say by way of background that all the procedures—the CRaG procedures—that we work under were designed at a time when we were in the European Union; there was no thought of us coming out. They were, to some extent, tailored to that, which automatically raises questions about whether the system is appropriate now. The scrutiny was happening through MEPs, including British MEPs. Also, even over that period, trade agreements in particular have become more sophisticated. There is more in them than perhaps there was when we were in the EU.

That is one thing by way of background. The other thing, to your question about scrutiny, is that it is wider than simply trade deals. We have in the House of Lords this week—in fact, on Thursday—a debate on two reports, actually chaired by Conservative lords and therefore not particularly party political. One is called “Government by Diktat” and the other is called “Democracy Denied”. I think, therefore, that what we are looking at in terms of scrutiny falls within the broader issue of how Parliament is able to oversee what Government are doing. Therefore, I hope that when you come to compile your report, you might see it in the broader sense of what the Government are doing.

To answer your question about how the arrangements are working at present, in addition to the two things I have mentioned, I think Parliament itself now wants more say over Government than it did 20 years ago. Certainly, I think the scrutiny has not kept up with that. The answer is, no, we as a Committee don't think that the scrutiny is sufficient, partly because the statutory basis was established at a different time, as far as Europe goes, and because of the way Parliament is working. The Government have a tendency to keep using the term “royal prerogative” as a sort of excuse for doing what they want over agreements. Actually, just because our Government use those powers in a certain way doesn't mean they can't share them, or at least have scrutiny over them. They shouldn't just keep falling back on, “Well, we can do it that way, so we will.” That is a very broad answer to your general question.



Q263 **Chair:** Thank you for that. Mr MacNeil, your reflections, please.

Angus Brendan MacNeil: I thank the Committee for their interest and for taking this further forward, because at times, particularly during the Australia trade deal's end in Parliament, we were very frustrated on the Committee, cross party. A number of us raised points of order about the promises that we had been given.

Overall, the wider reflection that we would have, in addition to all the things Baroness Hayter has said, which I agree with, is that Government treated this much as a sausage factory: get the thing in, get the thing through, get the thing done and let's not worry about what's in it. There was great speed about that. My reflection on how much engagement and involvement the average MP or Member of the House of Lords had was that it was very little. The danger with these agreements is that there are a lot of landmines—live ordnance—still in these agreements going forward. Once they are out of the sausage factory of Parliament, there are a lot of issues to be dealt with by wider society and business. That is, and has to be, a concern.

The scrutiny was insufficient, as was laid out by Baroness Hayter as regards CRaG. Even over and above CRaG, the promises we got from Secretaries of State and various people round about us were not really worth the paper or the words uttered in the final analysis, particularly in the Australia agreement. That was disappointing and led to frustration, not just for me as Chair, but unanimously, cross party in our Committee.

Regardless which part of the political spectrum you come at this from, and regardless of who is in power, there should be a procedure of how these things are looked at, understood and engaged with by Parliament. We felt that, yes, the legislative apparatus was not there to deal with it properly, but being taken seriously enough by Government was not there, either.

That was hugely disappointing, maybe more disappointing for Government Members than Opposition ones. That was the reality, and there was huge frustration across all the parties represented on the Committee. There were frustrated and annoyed points of order, at the very least. Various interventions were made in the Chamber about it, as a result of that.

Q264 **Chair:** Thank you. Baroness Hayter, you mentioned the royal prerogative and the nature by which this executive function is carried out by the UK Government under that prerogative. From your experience, is this the right place in our constitutional arrangements for this power to rest? I know that is a fundamental question of our constitution, but it is quite specific with regard to an international treaty.

Baroness Hayter: I think that some of the negotiation has to be by Government. You have to be there in the room and you have to make trade-offs. It seems to me that the process of it is a Government one. I would prefer, I guess, that it was in statute rather relying on the royal prerogative. But whether it is in statute that we give it to Government to do, or whether it is the historical powers, it seems to me that the



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important thing is that Government, even when it is using the royal prerogative, is doing it on behalf of Parliament.

Parliament is working on behalf of electors who put not me but people in your House here. Therefore, I think the accountability still needs to be to Parliament, even if the powers the Government is using are deemed to be these old ones. The "Ways and Means Act" ought to come in, but even if they are using the royal prerogative without changing the law, it should not be a substitute for being answerable to Parliament for the decisions they then take.

Q265 Chair: Thank you. Mr MacNeil, have you any thoughts on the royal prerogative?

Angus Brendan MacNeil: I think it is right, as Baroness Hayter said, that some points will be at Government negotiation, but the scrutiny and reflection on that has to be at parliamentary level, and Parliament has to be aware of what is going on. Before it has even kicked off, Parliament should have some sort of say, or at least a debate or something to inform negotiators.

Let's go back to first principles. The Government does not have a trade strategy. That is hugely difficult in trying to assess what the Government is doing. If you look at what they have come out with from the Japan agreement versus the Australia agreement, it is almost a 180 turn round on the agricultural stuff. Had they had a strategy, you might be able to say, "Why have you taken this tack here and that tack there?" But they don't have a strategy.

Given that they do not have a strategy, and there is no parliamentary input, there is a feeling that these things can just take a life of their own, because Government wants to get it through the sausage factory, and wants to hold up a piece of paper saying, "Trade deals in our time." The impacts of that trade deal are not widely understood, and probably will not be understood by many in the present. It will probably be once many of the people have left their current posts that the effects of the trade deals are going to be understood.

To take one example, we dealt with an International Trade Secretary who moved on to the Foreign Office, and who then moved on to be Prime Minister, before moving on to be a former Prime Minister. That is all in the period of the Australia trade agreement. With that churn of personnel, we can see that the authorship, or ownership, of an agreement might not really matter to somebody who wants to move on through Government quickly and get things done for the reason of getting things done.

Chair: Ambition is a dangerous thing.

Angus Brendan MacNeil: Well put, Mr Chairman.

Chair: I have always adhered to that view.



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Angus Brendan MacNeil: I am looking around the room anxiously to see who could be guilty of that sin.

Q266 **Chair:** Both of you mentioned those various trade deals and, indeed, the partnership memorandums of understanding. In your opinion, Mr MacNeil, do these agreements have a significant domestic effect and implications?

Angus Brendan MacNeil: Yes. I know the Government have done an assessment—a broad assessment, I should say—of a GDP gain. The numbers have to be remembered; they are small in comparison with the context from which the trade deals have sprung up.

Also, the Government have told us that there are winners and losers. The losers, in particular, are in agriculture, forestry and fisheries in the UK. As well as having a sectoral impact, there is a regional impact, and the GDP gain is going more to services. That is probably giving bits of GDP—if you will forgive the broad brush—to people who have quite a lot of GDP as it is, and it is taking GDP away from sheep farmers in Wales, for example. I do not think that that is well understood or that the Government are particularly concerned about that. I wish that more time was taken to understand the ins and outs and what that might mean in future. Does it mean that there have to be fiscal transfers, or do we just tell Welsh hill-farming areas, “You’re an economic basket case because we have basically set the rules to undermine your centuries-old activities”? There is a huge amount of what-ifs going on.

Q267 **Chair:** Baroness Hayter, do you have any reflections on the domestic effect?

Baroness Hayter: Yes. It is very nice, being Welsh, to hear a Scot speaking on behalf of Welsh farmers. As we are broader than trade, may I mention two areas that are significant? I know that you are very familiar with one of them: the Rwanda deal, which clearly has incredibly important domestic and, indeed, human rights implications. Therefore, those agreements seem very significant.

There is another issue that the Committee may not be as familiar with or may not have thought about in this way, although you may well have done: the two documents—I am being tactful—signed with Sweden and Finland prior to their application to join NATO. Those included the phrase that the countries would support “each other in a variety of ways, which may include military means.” Our Committee found that that was quite a significant potential impact, yet I think there was an oral statement in the House, but that was all. That is potentially significant, so aside from the trade issue, we also have those other ones in our focus.

Q268 **Chair:** Putting aside any non-binding agreements or memorandums of understanding, can you give us a sense of the scale of the number of binding international agreements that you are seeing? How many agreements are you expecting to see annually?

Baroness Hayter: Of course, there are two lots of treaties, as you know well, and not all of them come through CRaG. Of the ones that are for



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CRaG, basically, from 2020 until now, there have been 75, of which the Committee—I was not Chair at the beginning—drew five to the attention of the House.

Q269 **Chair:** I was going to ask how many of those you would describe as significant. Would you say five were significant?

Baroness Hayter: The early ones were the roll-overs, and therefore in one sense there was not much to tell the House because they were basically the same agreements that we had been working with when we were in the European Union. It is really about the ones more recently. Fairly obviously, the ones that we brought to the House's attention were probably India, New Zealand, Australia and CPTPP. In other words, it is about the new ones coming in, although there are also lots of smaller ones that we looked at and assessed that they were relevant but did not need to be brought to the attention of the House.

Q270 **Chair:** Thank you. Mr MacNeil, anything to add?

Angus Brendan MacNeil: Of the ones that we had—the roll-overs with additions or subtractions—it was really the Japan roll-over, where the UK was not quite getting the quotas that the European Union was getting. One way of looking at it was that we were part of the quota of exports to Japan, but now one significant change with the roll-over is that the European Union still maintains the quotas and if there is anything left at the end of it, the UK could have some of those quotas if the Europeans have not used them up. It is like waiting at the end of the table for the crumbs after the Europeans have dined.

Another area was that digital and data had improved a little bit in the Japan trade agreement. It was claimed by the Government that there was a 0.07% GDP gain to that deal; however, that would have been if there was no deal, but we had already been existing with a 0.07% GDP gain under the European Union deal, so the net effect was actually zero, despite what some of the press releases were claiming.

The significant ones were with New Zealand and Australia. At the moment, there are negotiations with Canada, the Gulf Cooperation Council, India, CPTPP, Israel and Mexico, and although there is also the United States, that has been in abeyance for a couple of years. The point about that is that we have no real control over what is coming down the tracks to us. What we would like some control over is the way the Government interact with the Committee so that there is some sort of given as to the process.

We look back to the frustrations that we shared—Mr Russell-Moyle on your Committee is also on my Committee—around the Australia agreement. The Australia agreement is still not ratified—or not in effect—because they have to get the Bill through Parliament. Quite why there was this unseemly rush to get to some stage seems quite puzzling at the moment. Was there a press release waiting? It is the only thing we can think of. What was the rush to get something done that actually was not ultimately done, and that has been done without full understanding? Was it just to



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sort of move something on and get it through this sausage factory? That is what it feels like, ultimately.

Q271 Mr Jones: Mr MacNeil, your Committee has said that the current statutory arrangements for scrutiny under section 2 of CRaG are inadequate. In fact, you just said—I think this was how you put it—that in the context of the Australia FTA the legislative apparatus was not there. Could you expand on that? Why are the current statutory arrangements so inadequate?

Angus Brendan MacNeil: If we take it from the very beginning, the Government conceive that they are off to do a trade deal with a number of countries that I have just mentioned, and Parliament has had zero input into that. The Government will then negotiate; Parliament has had zero input into that. Sometimes in our Committee we will get briefings, but the Department are on transmit—they are not on receive from the Committee; they are on transmit.

Then, when it is over and done with, as we saw with Australia and New Zealand, the Government tendency was to lay something down in front of Parliament and say, "This is what we have," and there are 21 days to stop it—or not to stop it, but at least to postpone it for another 21 days. If there is a huge issue that Parliament is united about, it is on paper very difficult to do anything about it.

I remember when, under the previous guise of the Committee, we were talking about the structures that would be required, and one of the Labour members was chiding the Conservative members and saying, "Just imagine a system where Jeremy Corbyn has taken power and one of the trade union barons is President of the Board of Trade and they are doing something on an agreement that you do not particularly like. What sort of scrutiny arrangements do you want?" That was a way of sort of waking people up and saying, "Forget who the actors are; let's think of how we want to make sure that we are not doing something that is ultimately damaging to society to feed the political vanities that are there in those seats and occupying those posts at the time."

I do not think anybody was happy with CRaG. We never had a proper, substantive debate on any of these agreements, before, middle or end. Actually, during the scrutiny of the Korea roll-over, the International Trade Committee staff found out more from putting what the Koreans had published through Google Translate than from what we could get from the UK Government. That is deeply unsatisfactory for anybody involved or interested in this. It is also useful for us as a Committee that wider society is aware, so that people can flag up any issues, angles or implications that, while we are reading something, we may not have thought of. If there is not enough interaction, first on a parliamentary level and then on a societal level, there will be more of the landmines that I referred to—unexploded ordnance, if you like—left in these things for years to come, so that when we've all moved on, other people will be ruining the day that such agreements were made.

Q272 Mr Jones: Thank you. Baroness Hayter, your Committee has gone to



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some lengths to establish arrangements to carry out effective scrutiny under the current arrangements, but is the legislation sufficient in your view to guarantee that Parliament can effectively scrutinise and influence international agreements?

Baroness Hayter: No; the answer is no on the wording of the legislation. The agreement, which you mentioned, that we have come to with the Government is that they will be rather different about the 21 days. The idea that a major agreement could be laid and we could be given 21 sitting days is fanciful. In fact, the 21 days seems to go back to 1924, or possibly earlier, when neither this House nor ours had the idea of having Committees of inquiry and hearing witnesses to interrogate an agreement, so the agreement that we have had on trade—this is with the former Minister—was that much more reasonable time would be given and we would see it in advance. In fact, for Australia and New Zealand, we had it some months before it was laid. That gave us time, but that was, if you like, a gesture. That sounds a bit weedy: it was an agreement, a commitment by the Government, to do that rather than legislation.

The other legislative shortcoming, of course, is that, as has been said, a treaty can be delayed, but it can be neither amended nor voted down. All you can do in this House is decide not to ratify, but in the earlier stages, it would be useful in the case of CPTPP to have a debate first about whether we should even go there. My Committee happens to be in favour of it, but it might be useful if Parliament decided that first and then we discussed the negotiating objectives, rather than have a “Take it or leave it” at the end.

So I think that the legislation—the 21 days—does not work, and the idea that the only grip at all is at the very end does not match what I think today's parliamentarians want.

Q273 Mr Jones: Do you think that requiring all treaties to be actively approved by Parliament prior to ratification might help to ensure a better level of scrutiny? At the moment, it appears to be the case that the Government give the level of scrutiny that they want to give.

Baroness Hayter: Whether for all of them, I don't know. I think one has to be slightly careful about seeing the wood for the trees. I don't know how you engineer votes and debates in your House, but if every single agreement had to be voted on—as I say, we would want more than treaties; we think there are other agreements—it could take up an awful lot of time.

Also if the Committees looking at them, either for Trade or for other Departments, had to do that for every single agreement, they might find that they did not have time to do the significant ones. My own view therefore—it may be that you will come to this—is that we need, maybe with our Committees and even yours, to think about the criteria for when something meets the threshold for proper scrutiny.

Q274 Mr Jones: What do you think that threshold should be?



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Baroness Hayter: We have looked at some possible criteria, which could be whether it was politically or economically important, whether there were material obligations, either on citizens or on residents, whether there were human rights implications, and whether it would give rise to significant expenditure.

Q275 **Mr Jones:** Wouldn't that apply to an awful lot of treaties nevertheless?

Baroness Hayter: There is an awful lot it would not apply to. There are a lot of other treaties. We would need criteria, but we would probably also need an agreement to sit around and look at them. I am sorry; I am very conscious that the Clerk is behind me, and I am about to throw some work at the Clerks. They should do a pre-scrutiny, as we did at the time of the European Union (Withdrawal) Bill. We set up special committees to do the scrutiny on the stuff that was coming over, and I'm afraid most of the work fell to Clerks; they flagged up which ones really needed attention. We have to be careful not to lose the wood for the trees.

Q276 **Mr Jones:** Could we return to CRaG, Mr MacNeil? We have already discussed the 21-day period in which a treaty is laid before Parliament before ratification. I think I know what you are going to say, but do you consider that 21-day period to be adequate for scrutiny to take place in the case of all international treaties?

Angus Brendan MacNeil: It is far from adequate. For Australia, the time that we as a Committee had before CRaG was laid was a maximum of two weeks to prepare anything to inform other Members. The Secretary of State didn't turn up to see us until some time during CRaG, or towards the end of CRaG, despite numerous shouts in the Chamber, so the answer is no, it's not.

CRaG was only introduced because Jack Straw was a bit worried, or dizzy at the height of power he was given. It comes from the 1924 Ponsonby rule, I understand, and he tried to put that on some sort of statutory footing. It was a mild improvement on what was there before. Just in case the Secretary of State is losing his mind and could let anything through, there is at least a minor check put in there. At the moment, we need a bigger check.

The Government shouldn't worry about this because they carry a majority, so unless they have really messed up, the trade deal should get through. It is not something they should worry about as a Government. There will always be concerns. There might be changes, and knowing that this is coming forward might even lead to different agreements in the negotiation, because you can use it as a lever during negotiations. To answer your point directly, no, this is not adequate at the moment, and it has risks and dangers going forward.

Q277 **Mr Jones:** Is it possible for you to say what sort of period would be adequate, or would it depend on the sort of treaty you are considering?

Angus Brendan MacNeil: Yes, I think it would depend on the sort of treaty you are considering, the changes to GDP that the treaty is being



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touted to bring, and where those changes might be if it is rebalancing GDP and economic activity within the UK. One of the things we can see from the Australia trade deal is that, despite the rush to get CRaG and everything through, things are drifting on. The legislation is still not there, and it probably won't be there for another few months. Why there was this rush to get it through that part of the sausage factory is inexplicable, really, given the timings that we are now dealing with, as the Trade (Australia and New Zealand) Bill lumbers on through Parliament in its own slow, merry way. We need longer, and we need people to be engaged—not just in Parliament but outside Parliament too. If there are issues in these trade deals that particular sectors are concerned about, they will give you a short what-for.

All the way through the negotiations, I asked the negotiators about food security. The reason was that it was during the lockdown, and where I live in the Outer Hebrides, a lifeboat came ashore during world war two from a torpedoed ship that was carrying supplies across the Atlantic, so you can see that, in a once in 70 or 80-year event, you might have food security pinch points. Their answer when I asked about food security was that it was not talked about all.

Since the Ukraine war, food security has been on everybody's radar all of a sudden; we have realised the amount of grain that is produced in Ukraine. The point is that things change quite quickly. If we take the period of the existence of states and whatever, world war two, when there were severe food security issues, is not that long ago. There have been food security concerns this year too with the Ukrainian war. At that particular snapshot in time, those events were far enough away in human memory for us not to be concerned about food security issues in 2020-21. Next time I am talking to the negotiators in a private briefing, they might have a different view, but having Parliament and other people involved to bring a different perspective to narrow group-think is useful, and particularly helpful given the changes and shocks—the black swan events, if you like—that can come across.

Q278 Mr Jones: Thank you. Baroness Hayter, you had an exchange of correspondence with Lord Grimstone in which a shared understanding of scrutiny arrangements for FTAs was set out. To what extent would you say that those arrangements have been adhered to by the Government?

Baroness Hayter: So far, absolutely, they have made the negotiators available to us, either in private or in public, to be able to discuss the agreement. They have given us time and advance copies of things before they were laid, and we have managed to have meetings when we wanted. We find it easier, I am afraid, to get a debate in our House than in yours. Our usual channels are a little more sympathetic, shall we say? On the trade deals, we have had a debate each time we wanted one; on Rwanda, however, we have not. The exchange of correspondence you mentioned was of course only with the Department for International Trade, and not with the other Departments. On Rwanda, our issue was not the right or wrong of the deal but whether it should be done by way of an MoU, not



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coming to Parliament. They have not given us a debate, but that was never in the exchange of letters.

Q279 Mr Jones: Those arrangements of course apply to your Committee, Mr MacNeil. Are you satisfied that those arrangements are being adhered to?

Angus Brendan MacNeil: When looking into this before this morning's sitting, we found that it was valuable to have those commitments, but unfortunately the Government do not always meet the spirit of the commitments. For example, they said that they would consider a request for a timely debate on the UK-Australia agreement, which we have mentioned, but they rejected the Committee's many requests to see the Secretary of State before CRaG and to have the debate. The Committee tried to have a debate before CRaG, but it did not happen.

The Government also stated that they would give regular updates throughout the negotiation period, but the Committee found that in practice the negotiating partners were sometimes more useful, as I mentioned on South Korea with Google Translate, than the Government were. Within DIT, there are moments when they feel that they should do it in a certain way—best practice—but then, if I am being charitable, they either get harassed or they feel some other pressure on them and they just forget about their commitments. That is me being charitable.

Q280 Mr Jones: Presumably you remind them of those commitments.

Angus Brendan MacNeil: Pretty much, yes. The postal service is very busy going backwards and forwards.

Q281 Ronnie Cowan: When we were discussing the 21 days during CRaG, you said we need people to be engaged—21 days, 42 days or 21 months make no difference whatever unless people are engaged in the conversation. It seems longer ago, but this Committee visited Norway last November I think and, when we spoke to people there—trade union reps, business representatives and politicians—three words kept cropping up. Norway is outside the EU, as we are, but it does it through the EEA and EFTA. People kept referring to trust, respect and co-operation. Does the UK Government simply have a trust issue?

Angus Brendan MacNeil: They seem to have a trust issue with themselves: they will give commitments and then they do not trust themselves to follow them through. As for respect, they certainly did not respect their own word, which was given to the Committee. That is not just my view; it is the view of the Committee across parties. There is annoyance within the Committee. I think absolutely everyone in Committee was of one mind in their general fury with the lack of respect that the Government had for their own operation. What was the final word from Norway?

Ronnie Cowan: Co-operation.

Angus Brendan MacNeil: Co-operation. We want to see more of that. Let us end that on a positive note. The importance of this Committee cannot be underestimated. As was said at the beginning, we are grateful



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that your Committee is looking at this because, if we want to take a spirit of co-operation further, I think they are going to have to be taken to the point of kicking and screaming a bit more, until we get co-operation. That is disappointing because, as I said, they should be confident in their trade deals and they should be quite open in their trade deals. If they are good trade deals, they will sail through Parliament.

Baroness Hayter: I think the words are good. We have worked very hard to try to get the co-operation and, on trade, we have built on it quite well in our House. A lot of it is personal. We were, if you like, blessed by a trade Minister who had—shall we say?—very good connections with No. 10. That helps quite a lot because sometimes in our House, we may have quite a junior Minister without much pull, if you like. We were very lucky to have that. We moved forward a lot. He is no longer a trade Minister, but he has now joined my Committee. I think the new trade Minister will be very responsive to our requests.

Angus Brendan MacNeil: I will just say that it is really useful to have a good Minister and good personal connections, but we are trying to build structures. It is lucky happenstance to have someone in place—I think Lord Grimstone was also considered in the Commons' International Trade Committee to be a lead Minister among all the Ministers in both the Commons and the Lords—but we need more than just a good person. We need structures in place to make sure the right things are happening.

Q282 **Lloyd Russell-Moyle:** Angus, you mentioned that sometimes we would find out more information by reading translations from other countries. This is partly an effect of other countries involving their Parliaments in civil society more and releasing that information. This Government have often said it is difficult to do that because it would restrict their hand. Is it actually the opposite way round—that it could actually enhance the hand of the Government? Look at the Australia deal. Australian NGOs, trade unions and businesses were much more involved in the construction of the deal on the Australian side than their UK equivalents, and they have a much better deal. When I was a trade union negotiator, it was always better to be able to go into negotiations and say, "My members are fuming. They are about to walk out. Negotiate with me and I might be able to placate them", than to go and not have the backing of a membership that I could leverage. Does the Government lose a trick here, or is the Government's line correct—that, if they told us these things, it would bind them too much?

Angus Brendan MacNeil: You might be talking yourself into a career as a trade negotiator at some point. I think you are absolutely right. There is a sort of culture—I think the best word actually is "culture"—of secrecy and holding information for the purpose of holding information. That is kind of counterproductive to the formulation of your negotiating objectives and also, at the end of the day, you want everyone to know about this agreement so that they can use it. I think the current Secretary of State is the one who described trade agreements as a "motorway", but you cannot then guarantee that you can use the motorway afterwards. If you have negotiated an agreement in secret, not telling people very much about it,



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and then suddenly, at the end, you expect them to use this thing that has just sort of landed on them from nowhere, you should not be surprised that people take a long time to orientate themselves to any of the advantages that might be in the agreement.

I think that, first, you want to involve people, so that the agreement is something that they want, something they can envisage using, and when you get through it, it is something they actually do use and want. Yes, you are absolutely right; the reason why we are finding out more is that there is less of a culture of "Oh, we have got a secret and we are keeping it and we are not telling you." Ultimately, the end of the process is about telling everyone. Everyone should know about it and everyone should be able to use it. It is counterproductive to the ultimate ends of the process to hold the information, and I do not know why so much information is held. Then it is a sort of "take it or leave it" situation in the end, which will always leave some people dissatisfied. It is counterproductive.

Baroness Hayter: I think the culture of secrecy is important. We also have the benefit on our Committee of Lord Kerr, who, of course, was a great trade negotiator. He says, "Look, this is complete nonsense." When he was negotiating with America, the Americans would simply say, "Can't get it through Congress—really sorry," and it was obvious.

I have another example: when I was very much involved with the withdrawal deal, we knew what the European Parliament would not accept, and it influenced our Government. There were three things, weren't there? Citizenship, Northern Ireland, and a third one that I have forgotten. It was absolutely clear what the European Parliament would not accept; they were loud and clear about it. That must have influenced the negotiations.

Angus Brendan MacNeil: A practical effect of that is that you arrive at the negotiations with an extra club in your bag. Lord Kerr described people saying, "You can't get that through Congress," or "You can't get that through Parliament." Once you have lost those options, you are moving forward. The agreement then takes shape. You come to Parliament and say, "This has been formed; take it or leave it." If you bring it to Parliament at an earlier stage, people say, "This shouldn't be coming to Parliament for us to make a difficult political decision on." Various other factors then have to be taken into account, and Whips say to MPs and Lords, "You have to pass this." Had the situation we describe existed at the beginning of the negotiation, you would not have that difficult political decision to make. It actually helps you, in that it gets rid of difficult political decisions for many Members.

Q283 **Damien Moore:** Good morning, both of you. When the Committee questioned Lord Foster about why CRaG was disapplied by the legislation implementing both the withdrawal agreement and the trade and co-operation agreement, he said that CRaG was unnecessary because the primary legislation provided sufficient opportunity for debate and votes on the content of the treaties. Do you agree with that assessment?



Baroness Hayter: Speaking only for myself—we have not discussed this on the Committee—the answer is yes. When I was dealing with this, we thought, all the way through, that we would have both, but the reality was that this was the political need. On 30 December, I think, we put the withdrawal deal through. Its shortcomings were about the political decision to follow the wrong timetable, but there you are. I do not think that CRaG would have added to anything that we did at the time, but I am speaking only for myself on that. The issue with putting it through at that pace was political, rather than about what the legislative base for it was.

Angus Brendan MacNeil: On the haste with which the European co-operation agreement came about, a number of Members voted for that and said, “This is a great deal,” but after a few months were saying, “We need to renegotiate.” I think the Prime Minister and Lord Frost himself said, “We were hoodwinked on the Northern Ireland protocol.” It is a practical example of what happens when you rush to do something. I have been talking about landmines in trade deals that will affect certain business sectors in years to come, but this was one of the fastest-acting landmines that you could envisage. It came back on politicians within months.

Q284 **Damien Moore:** Are there circumstances where you think a full CRaG process would not be needed?

Angus Brendan MacNeil: I think that we will move beyond CRaG. I do not think that CRaG is the answer to anything at all. We have to design something with which people on all sides are comfortable—something that people can game, including when they imagine themselves in Opposition. The nature of politics is that there is a lot of musical chairs over a decade and a half, or a decade—or, in some Governments, over months, but let us leave that to one side. We want to design a system in which you are comfortable, in all the chairs that you might occupy, that you are arriving at the best situation for your constituents—for people in business, or others in society who have to deal with the decision after it has been through the sausage factory of Parliament.

Baroness Hayter: The ones that do not go through CRaG, of course, are the ones that are implemented on signature, which we do not see at all. They are published as Command Papers, but not scrutinised.

Q285 **Damien Moore:** More generally, you have both said that implementing legislation is a poor substitute for debate and a vote on a treaty. Do you agree with that assessment? What are your specific concerns on that?

Baroness Hayter: It certainly is not a substitute, or it is a very poor substitute, but many treaties do not need legislation. In fact, the one we were doing in our House yesterday was on New Zealand and Australia procurement. Since I have been in the Chair, that is the first one that needed legislation. For many treaties, the law is already there. Even the one that we were doing on New Zealand and Australia is a very small part—it is an important part of procurement, but it is only one part of the



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overall agreement. It is an adjunct, but it is certainly not a substitute for a proper debate and voting.

Angus Brendan MacNeil: Baroness Hayter is right. For some treaties, it might be that they need renegotiation of a maritime boundary. I remember one between the UK area, or the north Scottish area, and the Faroe Islands. There might be a more interesting one there if you were to, say, have a negotiation that was to change and swap maritime boundaries between the northern part of Irish territorial waters and the southern part of Irish territorial waters and what that might mean constitutionally going forward for Scotland, England, Wales and whatever. Sometimes, agreements on the same issue might have different implications. This is where our own intelligence and savvy comes in to make assessments.

The one in the Faroe Islands was a genuine tidy-up. If there were some sort of change as I am talking about over in Ireland, it might have greater significance. There is a judgment made, and I think we kind of know. The good guide when it comes to the trade area is the GDP changes. That is one where we have to be aware. Incidentally, on the Australia agreement, we were told there were winners and losers, so we wrote to the Australians asking them to identify some losers for us, and they couldn't. There was a feeling that they saw the UK coming, which is unfortunate.

Q286 Damien Moore: Because of the limited involvement prior to the ratification of treaties that Parliament has, there are six stages: the setting of the negotiation objectives; negotiation; signature; ratification; implementation; and then the post-ratification. What involvement do you think Parliament should have in each of those stages?

Baroness Hayter: On actual signature, probably less—for myself, as has already been said, I think it is at the earlier stages. The setting of the negotiation objectives is a really key one and then a formal role at the end. Parliament should clearly be involved and in discussion during the negotiations as well.

Angus Brendan MacNeil: If you set Government off on the right trajectory—a broadly agreed trajectory—it should land in a place where most people are quite happy with it. When Government decides to do this on its own in a very small group-think scenario, who knows where it will land? The difficulty, particularly for Government Members, is the pressure that comes from the Government and Whips: “Either back us or sack us”. It is ultimately for MPs and for Members of the House of Lords as well. These are only one-week pressures, but the problem with these agreements—we mentioned the European co-operation agreement—is that the implications come later, and usually an awful lot later. So I think Government has nothing to lose by involving Parliament in the beginning, setting off from the right place and having the extra advantages that Baroness Hayter mentioned when Lord Kerr said, “Sorry, mate, I can’t get that through our place, so let’s not go there.” That helps put the thing in the right target zone.

Q287 Damien Moore: I understand that at the start there could be a process



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whereby Parliament would be involved, and obviously at the end. But how do you think that would practically be done in the middle of a negotiation?

Angus Brendan MacNeil: The UK Government and the UK Parliament and Committees can learn from the opposite side. If the opposite side is releasing more information than you and their Parliament and their society know more than you—this was ultimately, let's remember, the beginning of taking back control—and if the other side has more control and more knowledge than the UK side, at that moment, you can at least up your game to that point. Ultimately, remember that you want these agreements to be known about and to be used. By involving people early on who have hopes and expectations of the agreement, it orientates business to say, "This export market might indeed be something when this trade agreement comes into play." You might then have early adoption of it, or have it formed in a way that business actually wants. I do not think that happens, and that is disappointing.

I know the Government will say, "We are showing our hand," but to be honest, there are no secrets here. Everybody knows very quickly what every other side wants. Everybody knows what the other side's offensive interests and defensive interests are. There are no real secrets, despite what the Government say. You are not going to pull a card from under the table and blindside the opposition. If you are Australian, for instance, you might know that your opponent is so desperate to get towards the CPTPP that you can get a few over on them. The awareness within the opponent's Parliament is such that they have not engaged Members enough—some things that are puzzling are not actually puzzling when you put in the next stage of CPTPP.

As the Prime Minister was saying when he was at hustings, it was quite a quick and rushed agreement—he probably had stronger words on it. We should not be in that situation at all. If the awareness was more plural, we would not get ourselves into that situation because Parliament, society and the media would be aware. When trade-offs are then made, rather than having media commentators boosting, championing and being cheerleaders for whatever has gone on, there would actually be a greater awareness. People might say, "Hang on, this is not like a football team where we cheer for our own side; this has granular implications and changes for people—for our readers and for voters."

Baroness Hayter: I would only add that I think this Parliament has a very robust and good reputation for keeping secrets. Therefore, I see no reason why negotiators could not have private sessions with us. In fact, we have done some; they have been useful and things do not leak. Your Committee is the same as everybody else's; it is interesting in our Parliament that it is possible to do that. We do not know what the real obstacles are. What have the negotiators pre-warned that we are going to lose out on, where there is going to have to be a trade-off? Knowing that, and having that debate earlier on, seems to me to be good for the negotiators and good for Parliament. As I said, we are very good at keeping secrets.



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Angus Brendan MacNeil: I agree that when negotiators have come to Committee, nothing has leaked that I am aware of. As I said at the beginning, I wish that negotiators would come to us not on transmit but on receive. I wish it was not just our Committee that was able to give them that sort of information, but that they were getting it more widely from Parliament. It would be a useful change if that were to happen as well.

Q288 **Damien Moore:** So a change in the culture.

Angus Brendan MacNeil: Yes.

Q289 **Lloyd Russell-Moyle:** That is very interesting. On the changing of culture, I think about the very co-operative relationship we had with the Department when I sat on the International Development Committee. It was a new Department that had no history, but it was set up to be about co-operation, collaboration and working with people, and that was how it approached Parliament. The Department for International Trade has taken a very different approach. It is a new Department that has been set up in a very different mould with a very different set of directions. Rather than just being about CRaG and what is laid down—which is important and when things are not procured, you often have to lay them down in letters—is some of this actually about cultures? Has a culture developed that is adversarial and where information is not shared at early stages? With the DFID example, every month, we had a confidential briefing with the Secretary of State behind closed doors about every single issue that the Department was dealing with—some of them very sensitive. We never talked about them, but we aided and assisted. However, that culture is impossible in DIT. Is it a culture thing rather than a rules thing?

Angus Brendan MacNeil: I think it is probably a culture thing. If we take a step back and see where DIT started from, DIT came out of Prime Minister May's reorganisation of Government, and in came Liam Fox at the time—I forget his constituency—as DIT Minister. Things would be done at a minute past midnight. I am not blaming anybody personally for this, but I think there was a great accelerated feeling within DIT, with the difficulty that when you've got to get things done and get them done quickly, and there's a lot of stuff, if you start engaging, it slows it down. I think that within DIT, there is a feeling that if they engage with people, it will slow down the ultimate destination of what they want to achieve and want to achieve quickly, which are trade agreements with X, Y and Z.

There was an illustration I had with a Minister, who will remain nameless. Prime Minister Boris Johnson was wanting him to be on the plane—"Get on the plane!" He could imitate him very well, the boosterism and all this sort of stuff: "What are you doing here? You should be on a plane. You should be getting trade deals done." That is what Boris said to him in a social setting, and he was going on about this trade agreement that he was working on, and how important it was to get this done and whatever. I remember saying to the Minister, "What is the GDP gain from this?" and he didn't know. It really struck me that on the fundamental parts of a trade negotiation—knowing why you are doing this and what the potential



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gain is—he was unaware of it. It just struck me that this is the real accelerator effect going on. It is not just that they are not engaging with outside; they are not engaging with themselves as thoroughly as they should be.

Q290 Lloyd Russell-Moyle: As we heard with George Eustice's criticism.

Angus Brendan MacNeil: Absolutely—I think I've got somewhat more criticisms than George Eustice, but that is absolutely right. We criticise them for not engaging with us, but unless you are chewing these things over internally yourself and chewing them over internally personally, you are going to have this sort of tunnel vision that they've got—"trade deals in our time"—and not be aware of the broader context of what they are doing.

This is why we have to get structures right, because if you are a Minister and you are getting a Prime Minister who is telling you, "Get things done!", and you are feeling the pressure—"My advancement here is just to get things done"—you will get things done come hell or high water, regardless of the implications to whoever in your society. There is going to be a pressure on that Minister: "If I get things done, if I please the Prime Minister, if I've got the piece of paper, I might advance my career." Has that happened within DIT in the past? I will leave that question hanging.

Baroness Hayter: I would only add that I think the culture of secrecy—we used those words early on—is long-standing, and it is not just in this Department. Our civil service and Government—never blame civil servants; the Government decide—have always been much more secretive than others. When we meet our opposite numbers from other Parliaments, they are surprised that we do not have more. As I said right at the beginning, the culture has not moved as far as people's expectations.

Q291 Lloyd Russell-Moyle: What level of information would be needed to shift the culture and to fulfil the needs of your Committee?

Baroness Hayter: It will depend to some extent on whether it is a trade deal or any other, but there are things that Government keep secret for no good reason. In a sense, why not be open about what you are doing? We see things—for example, on prisoner exchange or something—only at the point that all the negotiation has happened. The other side knows exactly what is being negotiated, so why not share that earlier?

I am sorry, but I will just make a political point, rather than one from the Committee. As I said at the beginning about those other things that are happening at the moment—the amount of statutory instrument use, and Ministers doing things and not sharing them with Parliament, which we are going to see with the repeal of European law Bill as well—I wonder whether some of this is a subset of a reluctance to engage with Parliament across the piece. I have no evidence on that, but we therefore have a history, if you like, of secrecy in our Government, added to a certain trend towards overuse of ministerial fiat.



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Angus Brendan MacNeil: I mentioned earlier about people having certain roles and chairs. It was interesting that when the current Prime Minister was neither Prime Minister nor Chancellor of the Exchequer and not bound by any collective responsibility, the cat came out of the bag, if you like, in a hustings in Exeter. He said that the Australia and New Zealand deals were “one-sided” and that the UK “shouldn’t be rushing to sign trade deals as quickly as possible”, adding that it is not rocket science that farming communities are an incredibly important part of our country. Things do emerge about what people actually think about the process.

My problem with some of this is that we cannot have personal and professional views on this, because ultimately the outcome of what is happening is the same regardless of what your job is or where you are. These processes are bigger than Rishi Sunak being Prime Minister or Chancellor of the Exchequer or a contender for the leadership. The deal is the deal or the agreement is the agreement. At the end of the day it is going to affect people in farming if you have negotiated a one-sided deal or one that is, in the words of George Eustice, “not actually a very good deal for the UK”. This is why we are here this morning. We have got to a stage where the architecture around all this is leading to people who held Government positions saying that they feel the UK has entered into agreements that are less than satisfactory. That is something that has to concern all of us, both about agreements we have done and agreements going forward. Part of this—this is where your Committee is important—is making sure we design an apparatus around this in which we have fail-safes in and around these agreements, so that we are not seeing people leaving a role and saying, “Ah, now I can speak freely and tell you the truth.”

Q292 Lloyd Russell-Moyle: Other countries have embedded in their negotiating teams observers from civil society, trade unions and even parliamentarians. They are not negotiators but observers who can observe the process and get the information to the respective people they are representing. Is there a role for something like that in our system, where we can see the blow-by-blow accounts, or do we just need the Government to give us updates at more punctual junctures? Can those junctures be codified?

Baroness Hayter: I’m going to speak for myself, if I may. The problem with embedding is that negotiations are going on day by day. They are absolutely full on. We have details of 30 meetings taking place and stuff like that. The people who would be following this are business. They have the time, expertise and interest. I am not in any way undermining their interest, but the consumers groups, trade union groups, civil society or the environmental groups will never be as well organised.

Q293 Lloyd Russell-Moyle: The EU pay them so that they are more equally organised.

Baroness Hayter: They are more equally organised, but having worked in the European Parliament, believe me it is a long way away. That is particularly the case for consumers, because there isn’t a consumer voice.



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Therefore, in some senses a formal period every now and then, when those organised groups can get together and put it forward, might actually be fairer than allowing this slight privilege, as there are the trade advisory groups at the moment where a lot of this business is involved, and I don't want to undermine that. I do think that business, when it is going to be really affected by a trade deal, must be involved. But I am very worried that those who may not appear to be as directly involved but will feel the outcome of it may not get much say.

Q294 Lloyd Russell-Moyle: What is your view of the TAC and its reports and explanatory memorandums? Does that help enlighten us on the process?

Baroness Hayter: They are rather specific and in my view do not look at the consumer interest nearly enough. I'm sorry, I come from a consumer movement. They always seem to be the ones that get forgotten about.

Q295 Lloyd Russell-Moyle: No, I agree with you. The Committee knows that I am constantly asking for a consumer section at the end of our inquiries.

Baroness Hayter: This is across the piece, whether it is financial services or anything else. One of the IAs, I think—I can't remember—sort of said, "Well, consumers could benefit from this because they will get cheap food." That may well be right, but whether they will have the choice and whether their privacy and data will be protected and such does not always get written into it. We want to make sure that everyone who is impacted has adequate say. Therefore, it may need to be somewhat more formulaic than having some people around the table too much of the time. That is a private view; we have not discussed it in the Committee.

Angus Brendan MacNeil: If I can answer your point, first there is the aside that, if you are not a trade negotiator in any future guise, given the relentless nature, you might be a consumer champion or a consumer tsar of some sort. But, to your more substantial point about embedding and using others, well, we should maybe look at what more experienced countries do. I have heard a phrase, "in the next room"—industry bodies, unions, NGOs—and I do take on board what Baroness Hayter has said, that there will be probably different weight and heft given to various groups.

Also, within industry, anybody who perceives themselves to be a loser will be up for the fight an awful lot more than anybody who perceives themselves to be a winner, because people are always a lot more motivated by a loss than a gain. But, I think that there is room for engagement, so I will probably add a discordant note here on the witness panel. If you do have people there who are going to be shaping and then using the agreement afterwards, and informing negotiators, that is something that I feel has certainly got to be chewed over and discussed—"Is that an approach you really want to have?"—in strength, so that your negotiators have an almost symbiotic relationship with your country's trade posture. I think that goes back to a point made really early on, and a point that the Committee, as you know, often says; "What is the UK's



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trade posture to be? What are the trade objectives? What is the trade strategy?" We do not have a trade strategy.

Q296 Lloyd Russell-Moyle: This is a bit of a Donald Rumsfeld "unknown unknowns" question, but is there information that you are not receiving? I guess, that could be information that you latterly find out that you have not received but you feel that, "Actually, the Government could have, and should have, given that to us at an earlier stage."

Baroness Hayter: I am more afraid that the Government did not know the impacts—

Lloyd Russell-Moyle: It is not a known unknown; they unknow it as well.

Baroness Hayter: That is really what worries me.

Angus Brendan MacNeil: I am thinking that perhaps, in DIT, it might have been an unknown unknown, but, within DEFRA, it was a known unknown. DEFRA knew that DIT didn't know it, and I think that the words of George Eustice with the Australia deal was that it was not actually a very good deal for the UK, and the truth of the matter is that the UK gave away far too much for far too little in return.

DEFRA clearly knew, and felt like, there was something going on that was amiss, so it was a known unknown. Quite what the details were probably was not known to them at that point—that would be the unknown part—but they knew that things were going awry. They knew that the Australians were far too happy with what was coming in, and, if you speak to a number of people who look at trade agreements, I don't think—people will feel that there has been no agricultural giveaway in a trade agreement like that between Australia and the UK. That then will inform future trade agreements and it imperils food security and industry.

It goes to that other point, which we have raised frequently; Australia said it would not use the market, but if it will not use the market, why did it really need to have that negotiated? But, let's leave that to one side. If Australia and New Zealand have an agreement with, say, China, and fall out with China—say this happens in 15 years' time, when the quotas have gone, and when we are all wherever we are—they can then move their exports of meat to the UK industry at a cheaper price and can decimate whatever in the UK, and do that for—

Q297 Lloyd Russell-Moyle: Is it that the information around that should have been given to us in advance of the treaty being agreed, so that there could have been a debate about it, or are we saying that that was a bit of a bad negotiation?

Angus Brendan MacNeil: Well, one informs the other, really. When you understand the scenario that, after Australia and New Zealand have moved into this market, decimated whatever production is here, then fallen in love again with China and moved, you cannot switch these things back on. Or, if there is any sort of issue about getting food from the other side of the globe—navigational potential issues, let's say, could arise—you



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cannot turn on that production again, and then you have food security issues. So, you have the economic damage and the food security issues going forward, but if you do not consider it and inform yourself at a debate at the time, it is very difficult to say, "Well, why would you want to do this?" You actually need practical examples as a kind of iterative process—practical examples that are informing the sort of structure that you need around this.

Q298 Lloyd Russell-Moyle: What if that information was provided to the two Committees in a confidential form? Baroness Hayter, you mentioned confidentiality and there not usually being many leaks; that is quite a positive way of engaging. Bearing in mind that none of the Committees is a particular expert on the details and minutiae of sheep, or whatever, would that have been useful information to have given to us confidentially, or to have given to parliamentarians confidentially? We would not have been able to go to the wider world and say, "Can you help us look over this information and pick out the bits that are problematic?"

Baroness Hayter: Your earlier question was: was it about information, or was it about whether it was a good or bad deal? I think that is the key. It may be that it was a good deal. As has just been said, the ones you hear from are undoubtedly the Welsh sheep farmers; coming from Ystradgynlais, I have a lot of sympathy for them, as you can imagine. But we did not hear from the financial sector, which is really interested in what it will be able to do on some of these agreements, on the procurement agreement and on the mutual recognition of qualifications. It may have been that we heard all that and said, "It was a fair trade-off—sorry, Welsh farmers, but it will benefit the financial sector." I do not know that we would have come to that view, but if those are the trade-offs that a Government are making, we ought to be able to discuss them at a time when we really understand them.

Q299 Lloyd Russell-Moyle: Can those discussions happen in a confidential frame, where the Government say to us, "We are going to make this trade-off; what is your view about it?" Or do those discussions have to happen in public? Would the Committee sometimes prefer that to be in public, because it would put the Committee in a difficult position if it knew confidential information?

Baroness Hayter: We are not worried about things having to be in public; they will come out anyway. In a sense, it is what Angus said about being not just in transmit but in receive. We may say, "I do not think you will suffer," or "If Welsh hill farmers are going to be particularly affected, what is your mitigation? Are you going to do something about taking less lamb from the European Union?" Actually, some of it is seasonal. Of course, the TAC says that we are overly worried about this. It has looked at it, and we have to respect that it is quite expert, and was not as worried as the farming unions that we heard from. It may be that it was a trade-off worth making, but you can have that only if you have the information, and we did not.

Q300 Lloyd Russell-Moyle: Stepping back from sheep farmers, who are

important—

Angus Brendan MacNeil: Sheep crofters, as well.

Lloyd Russell-Moyle: And sheep crofters. We have all seen those beautiful lambs being born while we are on our negotiating calls with the New Zealand trade body. Do you think that having debates in both Houses, and even votes on the negotiating mandate and key issues, which I think happens in some other places, would help or hinder the UK Government in receiving a favourable international agreement? Would getting our backing strengthen their arm in the end, or does it weaken it, by restricting them?

Angus Brendan MacNeil: I think it strengthens. On the earlier point, Select Committees are designed to be public, so it helps us all to be in public. Ultimately, we want most of this in public, because it will be public anyway. If we hoodwink Welsh farmers or Hebridean crofters, for instance, that will eventually be found out when the price of lamb falls or when the damage is done. It ain't going to be secret forever. Some in the farming, fishery and forestry sector, which we mentioned, are going to lose. They might not be aware of it yet, but they will when it happens.

Your second question was whether we should have these things more publicly or keep them private. Have it in public. There is nothing to be lost by having this stuff as public as we possibly can. It helps the negotiators get to the right place, and it helps us all not be worried. It helps us not to have the most senior politician in the land, when he is in between Government jobs, saying it is a "one-sided" deal that we are "rushing to sign...as quickly as possible."

Q301 Lloyd Russell-Moyle: If Parliament is required to vote on a negotiating mandate, how do you determine what treaties you have that vote on or not? Is that the same determination? Baroness Hayter, you were talking about your tests. Would those tests also be gone through at the beginning, or do you think there needs to be a negotiating mandate trigger for every international treaty? Of course, some start as MoUs and, through the negotiation, end up turning into more of a treaty basis or vice versa.

Baroness Hayter: Yes, and whether it is an MoU or a treaty, it seems to me that it ought to come through scrutiny anyway. It is helpful to be honest and open about this. It may mean that the negotiating objectives that are going to be voted on are less than one side of a piece of paper, because that is all the Government could agree to put to a vote in your House. The vote will be in your House rather than ours because we are not elected. You have to be slightly careful that you are not asking for something that actually makes the negotiating mandate so general, such as "We will try to get lots of good trade that will help all the regions of the country", which has no down effect, so you have to be slightly careful.

Q302 Lloyd Russell-Moyle: Would it be amendable, for example?



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Baroness Hayter: Your House will have to look at those issues about it being amendable. Sorry to go to the European Union, but we had an amendment that went through our House that the negotiation objectives for the TCA should be agreed by your House. Unfortunately, the Government did not accept that, and therefore we were not tested as to how specific the negotiating mandate could be. This is something we clearly need to work on, because we do not want to end up with you recommending something that actually ends up being so formulaic that it does not actually achieve what we want.

Q303 Lloyd Russell-Moyle: You said earlier that you agreed with Lord Frost's analysis that because the EU deal was politically agreed and the frameworks were agreed beforehand, it did not need to go through CRaG. Is there a danger that if you agree detailed negotiating beforehand, the Government come and say, "Well, you have already given us this agreement. We now don't need to go through CRaG properly"?

Baroness Hayter: I do not think that is a problem. I think the TCA was a one-off.

Angus Brendan MacNeil: I think we should ask ourselves a number of questions. Who are we doing this for? Ultimately, we are doing it for the economy and for people. Therefore, should the people know what is being done in their name? Should people have an input? If we get it to a yes and a no in their input, where do we get that input? We get their input through Parliament and therefore Parliament has to have some sort of involvement, knowledge and say in what is happening.

Another aspect we have not touched on is the devolved aspect. If the UK is a Union and you are negotiating a trade deal that, let's say, will disproportionately benefit Northern Ireland, should everybody else say, "Well, we are not prepared to make these sacrifices for Northern Ireland"? Or, if it is a trade deal for the service sector that will benefit the south-east of England to the detriment of Wales, Scotland and Northern Ireland, should they have a say? The reality is that the trade deal that Norway would arrive at would be different from the trade deal that Denmark would arrive at, but the difference they have is that Denmark does not impose on Norway, if you like, outside of the European Union context.

Lloyd Russell-Moyle: We will have a discussion, I am sure, about devolution and an ongoing discussion about independence, but I don't want to hold us up.

Chair: Being conscious of time this morning and welcoming her to her first Committee session, we go to Jo Gideon.

Q304 Jo Gideon: Thank you; I will try to speed things up. What consultation has there been leading up to negotiations for international agreements? For example, were you consulted on a draft of the Gulf Cooperation Council FTA strategic approach document?

Baroness Hayter: No.

Angus Brendan MacNeil: No.

Jo Gideon: That was very quick. I will ask my supplementary questions.

Angus Brendan MacNeil: You have to remember that we are parliamentarians here, and the Government are doing something that they feel does not need to involve parliamentarians.

Q305 **Jo Gideon:** So it is futile to ask if anybody took anything on board that you were recommending. Mr MacNeil, your Committee has called for the Government to set out an overall policy relating to the conduct of FTA negotiations. Do you think such a policy would be of benefit to Parliament?

Angus Brendan MacNeil: Yes, I think a trade strategy is exactly what the Government need. We all need to see what the Government are doing so these are not ad hoc negotiations, and they do appear to be ad hoc negotiations. Having asked the Japanese, for instance, for agricultural access, they said, "No, you get what is with the European Union stuff. Actually, you are getting less, because the European Union have still got access to the quotas that we negotiated with them. I will tell you what, if the European Union have not used some of it, you will get something extra out of that." The Japanese gave nothing extra, really.

When it came to the Australians, it was the other way; they asked for all sorts of access into the market and, rather than play the Japanese game and go, "No, hold on", their eye was on CPTPPs. If there was some sort of strategy there and we knew what we wanted vis-à-vis agriculture—which is a big one, and what a lot of trade negotiations come down to, ultimately, is the sticking point—you would have some sort of idea as to where the Government wanted to go if they were achieving their objectives.

There are arguments to be made either way. You can argue that you are better opening up and giving people cheaper food, or you can argue that it would be better to ensure that we have the ability to produce food in case of some sort of emergency. There are hours of debate to be had about that. You can see that sometimes people will rail against protectionism, but every country that developed and industrialised, from the UK in the beginning to the United States, and through to the Koreas and wherever—I mean, Korea banned the import of cars until it built its own car industry. You can have negotiations, arguments and debates about all that sort of area and trade, but it needs to be informed with a strategy.

The Government need a compass as to where they are going and, at the moment, it feels like they have a spinning compass. They just go from stepping stone to stepping stone, not really sure if they want to cross the river at all, but they are jumping along stepping stones. That must be confusing for the Government and it must be confusing for the negotiators; it is certainly confusing for us, watching them. Ultimately, at the end of the day, it seems to be that they want to be able to hold a piece of paper and, Chamberlain-esque, shout, "Trade deals in our time."



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The risks are huge. It is not me saying that; it is the current Prime Minister and the former Secretary of State at DEFRA who are pointing out the real risks with the way that things have been. That is why we are here; we are trying to get an architecture over this that is safer and not as risky, because what is happening at the moment is risky. The risks are further down the line, and they will mean economic hardship for some people. Do those people know that yet? No, they probably do not—but they will. As I said earlier, ultimately none of this will be a secret; the reality is going to land on somebody at some time.

Q306 Jo Gideon: Do you see that strategy as an all-encompassing strategy for all FTAs, or would it need to be specific to the type of—?

Angus Brendan MacNeil: No, I think it has got to be for all FTAs. You want to have a trade posture and a place that you get to so that the FTAs almost become objectives within that strategy. If you change the strategy all the time, you are back to the spinning compass. The Government need to have a trade strategy. They should have done this way back and really thought about what they wanted to do but, again, that accelerative pressure was on “get things done”—to get the bits of paper—and I think that is going to be a mistake.

There is one lifeboat in all this: either party can terminate these trade deals with six months’ notice. It might be that somebody in the future goes, “Hang about, what did they do 10 or 15 years ago? Let’s terminate this and maybe renegotiate it”—that is, of course, assuming that the UK is not back in the European Union. Ultimately, the background of this is Brexit, and these trade deals will not make up for the economic damage of Brexit in a month of Sundays.

Baroness Hayter: I would add to that I think there are two major issues. One is how the trade fits into our domestic policies; it may be our levelling up, it may be about consumer policy or it may be about alcohol policy. We may disagree on that. I see your Committee thinks that it is wonderful to have cheap booze, but there you are; the ex-director of Alcohol Concern does not necessarily agree on that. What are your domestic policies or your regional policies about freeports and all that? How does your trade strategy fit into that, or your future for agriculture or whatever?

There is another dimension that our Committee has been particularly interested in; how does it fit into our defence, our foreign affairs or our environmental policy? How can we have a trade policy that takes no account of our objectives under Paris or our environmental ones? We see the need for a strategy so that we are very clear on how trade fits into that.

We did raise the point with the Government. We said, “Well, you’re talking to India at the moment, which has sort of gone behind the Government to pick up some of the trade with Russia. It does not seem to be fulfilling our Ukraine policy. Are you nevertheless just going ahead with discussions with India, despite what is happening and the impact on foreign affairs?” That is one of the reasons why we need a strategy.



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The other reason, which I think is really important, is, again, the role of Parliament. What the Ministers keep saying when we ask for this—for our Committee, this is really important—is, “Read our speeches. Ministers keep giving speeches, and if you read all of them, you’ll understand what our policy is.” Our view is that that is not being given to parliamentarians—it is being given to an outside audience or whatever—but even more, it is not being tested by parliamentarians. Therefore, even if they are right that if we went through all their speeches, we could put it together, it is not coming where it ought to come—to Parliament. That is why we keep saying to them, “Put it on a piece of paper. If you really think it’s clear, let us see it.” It can come to Parliament and then Parliament knows, and then our two Committees can judge whether a trade agreement actually does, or to what extent it does, fulfil that overall strategy.

Q307 Beth Winter: Bore da, both. You have given a very comprehensive account of the shortcomings and inadequacies of the current systems and processes in this place, but we are also very interested in the implications for the devolved Administrations, which you have touched on. We have previously taken evidence from the Welsh and the Scottish Governments and the legislatures there, and I think it would be fair to say that they are exasperated by the lack of consultation, involvement, and ability to scrutinise properly, and the way in which the UK Government ride roughshod over the devolved Administrations. So I am interested in the views of both of you on their comments generally, but also in whether and how the devolved Administrations feed into your scrutiny processes. Angus, do you want to go first, because you have already touched on this?

Angus Brendan MacNeil: To address your last point first, we treat the devolved Administrations as they are—they are devolved and it is up to them to come to us; we do not make any demands on them. Sometimes they do; sometimes they don’t. I think their views are fairly obvious. I think the Welsh and the Scottish Government agree with the Prime Minister when he was in between jobs and agree with the former DEFRA Secretary, after his job, that things could have been done differently and done better. This comes back to the point that the UK Government want to rush through things; they want to get things done. It is a case of “Never mind the quality, feel the width.”

A trade deal would be different for every country, and it would probably be different at different points in time. And there would be a third complexity of difference in the political make-up of who is in power. You could argue the trade agreements the UK has reached are, from the fact of being in the 2020s, let’s say, about where the UK is in the world and the economic mix of the UK at this point. It has to do with the forces going on in Government as well. The economic mix of Wales or Scotland might be different, and they might not want to do that at that particular point in time. Maybe at another point in time, they might want to do it—as things change. But with different forces in Government, you would imagine that the trade agreements they might want to reach would be different as well.



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There are the sectors. Everybody has defensive and offensive interests. On the defensive interest, if you are looking at somewhere like Scotland or Wales, it would presumably be different from that for the wider United Kingdom. That is going to be a tension wherever. It is also going to be a tension in the United States: the wants of Montana might be different from the wants of Arizona. How you resolve these things then becomes the issue. There is the favourite phrase of having to impose agreement. If you are imposing agreement, it is not agreement. "We had to make them agree"—well, you have not reached a point of agreement. If you are imposing things on people, you are not agreeing. It is not very mature. It is a situation that is building tensions.

The Welsh example is probably the easiest one to follow. I am not a great expert on Wales, but Welsh hill farming seems iconic in Wales. If you create a situation where, in 15 years' time, you have done an awful lot of damage to Welsh hill farming, that is building tensions within Wales about what the UK Government has foisted on it. You could have a situation where the Welsh are feeling, "We would have done something differently."

If you are looking at this from the wider political perspective of being a Unionist, you should be fairly united. It feels strange for me to be giving advice on this from this particular perspective, but you should be looking to take people along with you, rather than imposing things on them, and building up large or small sectoral resentments, or making people wish things were different. That is just sensible politics.

The other side of it is the economics. Do you want to damage communities anywhere, to turn millionaires in the City into multimillionaires? That might be a political objective you might have, but I would suggest it is not. If you are doing those things, let's ensure we are understanding the process and discussing it maturely. Let's ensure that everybody is involved and that we are not hoodwinking anybody. As I say, ultimately there are no secrets here. It is going to be known at the end of the day what is happening.

Q308 Beth Winter: Do you reach out to the devolved Administrations on your Committee to involve them in scrutiny?

Angus Brendan MacNeil: Not specifically. We reach out to everybody. The devolved Administrations have their own Committees. They are reached out to, but we are not particularly reaching out to devolved Administrations. There are adequate Committees in the Scottish Parliament, which are probably listened to just as much as House of Commons Committees by the UK Government, who will use and corral some of this.

We have had Ministers from Scotland, Wales and sometimes civil servants from Northern Ireland, because of the lack of an Administration, in front of the Committee, basically giving their pitch and point of view over the period. It is a difficult balance, because you have to respect that they have their own processes. We have also got to be aware that, if we are saying



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something on a UK basis, that very obviously, if the UK is a Union, the constituent parts of the Union have their voices amplified and reflected.

Q309 Beth Winter: What is your view, Baroness Hayter?

Baroness Hayter: There is a big difference for us between Scotland and Wales. I think possibly because the SNP do not really believe in the House of Lords, they have not sent us any material and that is their choice. The situation in Wales is different. There has been a journey by the Government. At the beginning, I think they were only discussing with Wales devolved areas. They did not think about the impact of reserved areas on the Welsh economy. I think they did learn a lesson from that. I have had some indication that it has improved a bit.

There is obviously a difference between the Welsh Government and the Welsh Assembly. We have certainly had a good relationship with the Assembly. We met them once about how we can work best together, and how we can get our timetable to fit in, so that we do get their input in time.

We have said to the devolved Government, "Let us have your views." Clearly, they will want to do some of that in private to the Government, and I understand that that is Government to Government. But we have also said, "Where you know we are doing a report on a deal, let us have your views so we can take them into account in writing our report." I think there is a great willingness there to do that.

Q310 Beth Winter: Taking a specific example, neither the Scottish nor Welsh Parliament gave legislative consent to the Trade (Australia and New Zealand) Bill. Were those concerns made clear to you in advance? Was there input in terms of your scrutiny? Did that have an impact?

Baroness Hayter: We did not know at the time that we did our report that they would withhold it. Scotland may be withholding it for different political reasons, shall we say? In a sense, we should not fight their battle. If they want to withhold consent, that is important. What is more important for us is to hear their evidence, and to be able to test it. If they have problems, particularly with Welsh farming, that should go into our report. That is the most important way that we can bring it to the attention of Parliament.

Q311 Beth Winter: But given the evidence you have both given this morning about the inadequacy—even for Parliament—of the timeframes to be scrutinising those agreements, what are your views on the ability for the devolved Administrations to scrutinise them properly and come back to Parliament, or feed into the existing processes? Are the processes in existence adequate for the devolved Administrations?

Baroness Hayter: As I say, there is a difference between the Government and the Welsh Assembly. If the Government are having regular dialogue, that is where they are making their major input. In a sense, they then have to answer to their Assembly about whether they were able to persuade the UK Government sufficiently that their interests



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were taken into account. But they will be doing it very late in the day. The Assembly will be; the Government will be involved earlier, obviously. The Assembly will get it very late—too late, probably, to influence us, because we will have to get our report out at the same time as them.

Q312 Beth Winter: The evidence that we have from the devolved Administrations indicated that they were not involved at an early enough stage. That is a real issue for the devolved Administrations. The ability to be scrutinised within the Welsh Assembly or the Scottish Parliament is difficult; the timeframes are very tight.

Baroness Hayter: I am hoping that that was about those early, rushed ones. I am hoping that the lesson has been learned and it will improve. It will be interesting to see whether they are already discussing the Gulf and other agreements. I have not heard from them whether they are involved.

Angus Brendan MacNeil: It should not surprise us that they feel like that, because Members of the House of Commons feel like that.

Beth Winter: Yes.

Angus Brendan MacNeil: The devolved Administrations, the devolved Parliaments, were not listened to or consulted. It had the rush of a sausage factory, going through. That is what we are here for, today. If we take out the actors of what is going on—SNP, Labour, whatever—this morning is about considering a framework that works, which involves people at all levels. How do you want that to happen? There is one side of me saying that it might not matter for Scotland, anyway, because we will be independent in the next couple of years. Let us leave that to one side, for the moment, for your purposes, Committee and Chair. As I say, remove the actors—remove the Conservative party, the Labour party, the SNP—remove the lot. What do you think is going to bring about the best outcome from a trade agreement, which is going to reflect as broad a support as you could possibly give, with broad inputs in the beginning, with people making sure things land in the right place at the end of the day?

If you come at it from that point of view, you are going to have a situation where you are wanting the House of Commons, the Welsh Senedd, the Scottish Parliament and the Northern Irish Assembly to be engaged. You might even want the Crown dependencies round about—the Channel Islands and the Isle of Man—to be engaged as well, depending. Certainly, they have their own concerns. At the moment, none of those is involved. That is the complaint I have: the lack of adequate involvement. That lack of involvement is leading to two dangers: the danger of what the current Prime Minister has said about these three deals and what the former DEFRA Secretary has said.

The secondary danger is that you negotiate this shiny trade deal and you have not involved anybody; nobody is really aware of it and nobody is using it. At the end of the day, this is not for politicians to point score or parliaments to point score. This is for people to use to increase trade. It is



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not going to be open trade, like the European Union had. It will still be trade with bureaucracy. It will be trade with tariffs removed and trade with some of the non-tariff barriers removed; but it should be better. It will still be a bureaucratic trade, requiring paperwork and whatever, but it should be better. People should know about it and be able to use it. But if we are not creating an architecture that can involve people, ultimately it will all be futile.

Q313 Beth Winter: A very quick final question. Do you think the UK Parliament should be able to monitor whether the devolved Governments have been sufficiently consulted?

Angus Brendan MacNeil: I think the devolved Governments can speak quite well for themselves. Their voice should be unfiltered while we still have a devolved settlement. I would argue that Ireland's voice is very unfiltered, because they have moved to a more mature situation. While we have the settlement that we have, I think we should be able to listen to them speak as they want to speak.

There might be very different conclusions from a Labour Welsh Senedd or a Scottish Parliament with the SNP. There may not be, though. If they have similar conclusions, it should be a bigger alarm bell. From what we are seeing, I think you can remove the politics and the political colours from the parties and you could probably get the majority, if not the vast majority, of Westminster MPs to agree privately that this is not good enough and we want to move it—this is where the Committee is, Mr Chairman—to somewhere much better.

Chair: With that sunny optimism, we come to our final set of questions from Karin Smyth.

Q314 Karin Smyth: I just want to talk about changes to treaties, and I think we have covered some of this. To be clear, are your Committees notified of changes to international agreements?

Baroness Hayter: The CRaG ones, yes.

Angus Brendan MacNeil: Not all, no. We are just in the trade area.

Q315 Karin Smyth: Do you think you should be notified of all those changes?

Baroness Hayter: Of all the CRaG ones? Yes, absolutely. With the others, again, some of them will be very minor. It goes back to my thing about criteria. If Sweden had four different regions and we had an agreement, and they re-drew their boundaries so there were now five regions in Sweden and it was a change to the treaty—we have got to be careful we are not clogged up with that.

Q316 Karin Smyth: Your point earlier was about the criteria. I managed to get some: political implications, human rights, significant expenditure and some others that we will have on the record. In response to my colleague David Jones, I think you said that some of that pre-scrutiny could be done by our hard-working Clerks. If we just tease that out a little bit, I will then come to you, Mr MacNeil. The Clerks, excellent though they are, are not



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politicians and are not publicly accountable. Is that a make-do process, or is that a pre-scrutiny process that you think we should be working towards?

Baroness Hayter: I did not mean that they would take the decision; I mean they would do the hard work. With the European one we did the lift and shift and brought all that over. The staff of our two—we put an extra Committee up—basically read it all and then they went to the Chair of the Committee. Formally, it was signed off by the Committee, but I am afraid that the work was done by staff behind the scenes. But there was undoubtedly Peer involvement to decide, effectively, which secondary legislation we should look at. That is the scrutiny that happens now for our secondary legislation, so we are well used to that idea of a sifting process.

Angus Brendan MacNeil: To the earlier point, the DIT tells the Committee when it is negotiating, signing or ratifying, but it does not formally need to tell us if it is negotiating a change to a treaty. When these are coming forward, as Baroness Hayter has been saying, a lot of the early reconnaissance and scouting work is done by staff. It is an inevitable part and the question that we have had is whether we have enough staff. We do not have control of what comes our way, so you can be swamped by work, and there is other trade work to be done over and above agreements. The difficulty is working out and filtering through what is important and on what level of detail we engage with this.

Looking back on it, we think we probably did the Australia deal to our own detriment, and to an awful lot of work, and the New Zealand deal perhaps less so. There is a responsibility on you, because who gets the blame later when the landmines that I have talked about explode? Is it the people who negotiated or the gatekeepers who kept an eye on scrutinising this? You feel a responsibility to be flagging up issues. That said, there is a danger in that as well, in that you flag up issues and you do not flag up opportunities as much because there is a natural caution.

Q317 **Karin Smyth:** As we on the Committee have been told, these are not static once they are agreed. We have focused quite a lot on new ones coming forward, but they change over time and it is the notification of those changes that we do not seem to have a process for managing.

Angus Brendan MacNeil: That is true. They are sometimes described as living documents with active committees going on. It is not inconceivable that they could metamorphosise and move off in a fairly new and novel direction—perhaps the changes in technology could see things going in a different direction. So, yes, there are again judgments to be made, and it is ad hoc—

Q318 **Karin Smyth:** You won't know, necessarily, unless there is a formal notification process.

Baroness Hayter: No, CRaG ones are notified to Parliament.

Angus Brendan MacNeil: Yes, but there is no formal understanding that the Department will inform the Committee if it is negotiating a change to a



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treaty. That is, I think, the point that you are driving at. If there is a change to a treaty—a treaty is legally binding on both sides—perhaps that should be tightened, even if it is only for a point of information.

Q319 Karin Smyth: Would the criteria outlined earlier, with regard to new ones, form a suitable threshold of when Parliament should be informed about changes?

Baroness Hayter: For CRaG, they have to be. Anything that has already been through, where there is a treaty change, Parliament is automatically informed. The other ones could be by a Command Paper, but that would still be laid. The issue, I think, is much more about how many we can deal with. We need criteria ourselves on how we sift to see whether they are significant or not. The issue is probably for our Committees to be working out criteria, possibly with the Government, about which ones we would therefore need more time for.

Angus Brendan MacNeil: The work should not be underestimated. Some of my Committee staff were building up hours and hours of overtime and working hours a week—working until 2 in the morning, for at least two or three of the staff—to get through this to make sure they were flagging things up for us. They were doing a lot of the heavy lifting and sifting through, to inform us of the pinch points.

We have no control over what is coming our way, and we have also a small staff, relatively speaking, for the demands, in comparison with the negotiating teams that have arrived with this stuff.

Q320 Karin Smyth: And, indeed, with what we had in the European Union.

Let us move briefly to memorandums of understanding, which we have looked at, and Parliament's ability to scrutinise those. Are MoUs something that both of your Committees are concerned about?

Baroness Hayter: It is a big issue for us. Right from the start, when we were setting it up, my predecessor Lord Goldsmith was always aware that there were these other agreements that would not be covered by CRaG and so, right from the beginning, we put down the criteria that I have read out to you, about MoUs. We looked back to Ponsonby.

Now, there is no point having an argument about whether the 1924 undertaking is the right one or that because it was said then, it is right now. What he said at the time—this is from his 1924 statement—is: "We shall inform the House of all agreements, commitments and understandings which may in any way bind the nation to specific action in certain circumstances". He goes beyond what is legally binding in saying that they would not do these things "without Parliament having cognisance of the particular agreement, which may constitute an obligation of honour." I think it is very interesting that he was saying at the time—these are not necessarily formal treaties, but, a bit like with the words I read out earlier about Sweden and Finland, the idea that someone else would expect us to consider military action would be important. The MoUs are a big issue for us.



Q321 Karin Smyth: One of the suggestions we have had is about a repository for MoUs in Parliament. Do you think that is something that is achievable and would help Parliament to scrutinise? There are masses of them.

Baroness Hayter: Yes. Certainly, there should be. Again, we would need a sifting process to know of the major ones, and I think there should be an agreement with the Government—I am pretty relaxed about whether we call it an exchange of letters or concordat—that significant ones, if we can agree the criteria, would be notified to us. It just seems to me that a Government, to use the Ponsonby words, entering into any agreement of that sort should be telling Parliament. I think we need to agree criteria so that Ministers must come to us where they are signing obligations of that sort.

Angus Brendan MacNeil: With us, we are routinely informed about MoUs being negotiated by the Department for International Trade. We note their contents, but we have never requested further information on MoUs. Let me tell you why. You have to understand that inside the DIT there are hundreds of staff working in various areas, and the scrutiny staff is absolutely tiny. I am looking over my shoulder at my Clerks—I would say we are in the order of about 10; they are in the order of several hundreds. They are producing stuff and we in Parliament are then trying to scrutinise what the Department is doing. That clearly provides a difficulty to the Committee, so we then have to make informed decisions about the potential hotspots. Clearly, we have taken a view that treaties are a hotter spot than MoUs. We have not taken evidence on the idea or the feasibility or desirability of having a single repository, but it is a good idea I think, personally, on MoUs.

It is also worth bearing in mind the difficulty—I am sure it is the same in the House of Lords—that the Committees have in dealing with a Department that is several hundred in size and producing stuff to a Committee of MPs. You well know this, but perhaps the wider public are paying attention this morning, so let us remember that MPs have constituency concerns and a number of other ongoing concerns. MPs can devote only part of their time to this issue and the Committee has a very small staff, comparatively speaking. That crystallises the difficulties around this.

Baroness Hayter: He has 10; we have three and two halves.

Chair: We are almost at risk of ending on a note of acrimony—

Angus Brendan MacNeil: I thought it was jealousy.

Q322 Chair: I have a final question. How can the Commons and the Lords work most effectively together on the scrutiny of international agreements? Who would like to go first on that easy question?

Angus Brendan MacNeil: When Lord Goldsmith was in the role, being aware of the group-think that we talked about earlier, one of the views that I certainly had, and that I think he shared, was that the more angles that come at these agreements, the better. There should be more



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independent angles, including the farming angle, the services and business angle, the House of Commons angle, the Lords angle. These things are multifaceted and we are trying to conceive and we have probably all missed something that is going to become apparent in eight to 10 years' time from these agreements. We want to have as many lights shining on this from as many different directions as we can.

For me, yes, you have to watch that you are not repeating the work of the other side. I think that our Clerks at that sort of level make sure that we are not doing the same stuff, but that we are independently looking at these things and using our intuition and judgment to get to certain points. Going back to the point that I made to Karin Smyth, we are small, the Department is large and this stuff is landing on us in volumes, so we have to make decisions about where we go. We need the independence to not have the danger of there being group-think. We did not speak to each other at all about what we were going to say here this morning, but if we over-conferred we would have one view and we would have exactly the same problem that I criticise the Government negotiators for probably having.

Baroness Hayter: In the short term—this is certainly what I have said, and I think Angus has said it as well—there are relationships that we need to sort out with the Government in terms of what they tell us when, and about criteria. If there is one job that we should go away and do as a result of this session, it is for us to work together on that so that we have a shared understanding of what the Government should be telling us. Obviously, the Commons has a much wider remit, because you look at the WTO and all these other bits of trade, which we do not. On the other hand, we will look more broadly than just at trade: we will look at the Home Office, Transport and all the other Departments.

Angus Brendan MacNeil: If I could make a plea to your very influential Committee, Mr Chairman, it would be that in respect of a number of the commitments that were made to us over the period, we were very happy with the commitments but it was about the practice and what came out of it. If this could be codified—if even the Government's own commitments could be codified—and sort of structured in a structure that they have to adhere to, rather than riding roughshod over things, we on the International Trade Committee would be eternally grateful to arrive at such a situation.

I hesitate to speak, but why not? I am sure it would be appreciated not just by the House of Commons but by the Lords Committee if we had these milestones, we had things respected and we had a commitment to proper scrutiny and, ultimately, the carrying out of proper scrutiny, rather than the Government just saying, "We want to do this and that." There is a beautiful quote from when Liz Truss was Secretary of State. She said at the 2020 Conservative party conference that "Angus Brendan MacNeil is not a Government patsy" and that scrutiny would be happening. It was only later that I released that they were not even looking for a patsy: they were just marching onwards regardless.



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We need to get back to a place where we have mature scrutiny and we are not getting absolute bombshells coming out from a Prime Minister when he is between jobs or from a DEFRA Secretary after he has left post. These things should not be bombshells and should be defused gently and maturely, within a structure that is respected by all.

Chair: Thank you very much, Baroness Hayter and Mr MacNeil, for attending and giving us the benefit of your experience. You have done quite a thorough job of it this morning, so thank you both.