

Committee on the Future Relationship with the European Union

Oral evidence: The shape of future parliamentary scrutiny of UK-EU relations, HC 977

Wednesday 2 December 2020

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Members present: Hilary Benn (Chair); Joanna Cherry; Sally-Ann Hart; Dr Rupa Huq; Stephen Kinnock; Nigel Mills; Mr Barry Sheerman.

Questions 1 - 30

Witnesses

I. Dr Sara Hagemann, Associate Professor, London School of Economics and Political Science; Professor Simon Usherwood, Professor of Politics, University of Surrey; Dr Hannah White, Deputy Director, Institute for Government.

Examination of Witnesses

Witnesses: Dr Sara Hagemann, Professor Simon Usherwood and Dr Hannah White.

Q1 **Chair:** Good morning and welcome to today's evidence session of the Committee on the Future Relationship with the European Union. I would like to begin by inviting our three witnesses this morning to introduce themselves for the record.

Dr Hagemann: I am Sara Hagemann. I am associate professor in European politics at the London School of Economics and I am very pleased to be with you today.

Professor Usherwood: I am Simon Usherwood. I am professor of politics at the University of Surrey and I have been working on various aspects of the Brexit process over the recent years.

Dr White: I am Hannah White. I am deputy director of the Institute for Government, a non-partisan think tank that works on making



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Government and Parliament more effective. I have oversight of a research programme that includes lots of work on Brexit.

Q2 Chair: You are all very welcome. On behalf of the Committee, thank you for giving us your valuable time, your wisdom and your expertise this morning as we explore the question of how Parliament, on behalf of the country, should scrutinise our future relationship with the European Union, whatever shape that is going to take. We are not going to be speculating today on the nature of any deal, because we are all waiting to see what the outcome is.

My first question is a very broad one. What would you say to someone who says, "We have left the European Union. There is or there is not a deal. We have our sovereignty back. Why does Parliament need to scrutinise what is happening in relations between the UK and the EU over the months and years ahead"? What answer would you give to them as to why it is or is not important that we do so?

Dr White: Fundamentally, the point is that the EU is a major neighbour of the UK and will continue to be. It is geographically close to us. In general, what it does will affect the UK. How the UK interacts with the EU, as an entity close to it, will be significant. There are also some very concrete reasons why the UK will need to continue to pay attention to what is going on in the EU and to conduct scrutiny. There will be legislation that the EU makes or amends, which will be relevant to the UK, partly because of the Northern Ireland protocol, where areas of EU law will continue to have relevance to Northern Ireland.

There will also be areas of EU law that have implications for the internal market in the UK, and wider indirect effects. Businesses operating in the UK that want to be able to operate in the EU will need to know what is going on in terms of EU law, because they may need to meet standards that are being set in the EU, if they wish to sell into that market.

There are also questions of future treaties that the UK and the EU may enter into or future agreements in different areas, depending on, as you say, what the original deal is that we may or may not reach before the end of the year. There are really many reasons why it is important for Parliament to continue scrutinising what is going on in the EU.

Professor Usherwood: I would echo Hannah's points on this. Any deal or no deal is not going to be the end of the relationship that the UK has with the EU and that, directly or indirectly, there is going to be a major stream of interactions, perhaps through further negotiations but certainly through a formal or informal paralleling of regulatory standard-setting or other work, which means that UK sight and understanding of what the EU does and why is going to be a crucial part of this.

It is really important to recognise that this process is, effectively, a permanent one. The model that the EU has in its relations with its neighbourhood in all directions is one of semi-permanent negotiations. If



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you think about Switzerland, the EEA or other partners, the process of developing the relationship and addressing new issues is a standing one.

Because the EU is such a wide-ranging organisation, in contrast to pretty much any other, there is an important need for a central point in that scrutiny and parliamentary work of oversight that goes beyond what you might expect for normal international relations. Having a specialised body within Parliament makes clear sense, and we can unpack that as we go along.

Dr Hagemann: I do not know how much I can add to what has already been said. I very much agree with the points that have been made, but certainly, with the EU continuing as a major trading partner for the UK and as a regulation-setter in global standards, the UK will have to have a close relationship with the EU. In fact, one could say that Parliament's role becomes even more important as the UK is no longer part of decision-making within the EU. A number of channels can be pursued by Parliament to foster relations with the EU and we can perhaps discuss that in some detail. We see that other non-EU members with close relationships to the EU have very active Parliaments and very important ways of staying close to EU politics and decision-making.

Q3 **Chair:** Turning to the joint committee, there are two processes going on at the moment. One is the negotiation about the future trading relationship and the second is the job that the joint committee has been given under the Northern Ireland protocol to work out what certain parts of that protocol are going to mean in practice, like how you define goods at risk. I do not want to get into the detail of that but I want to ask about scrutiny of the work of the joint committee. It has been really difficult, from the Committee's point of view, to find out what is going on because we ask and we are told, "That is a matter for the joint committee". "What is happening?" "I cannot tell you that because it is all confidential".

I am interested in any views you have on how we might scrutinise the work of the joint committee and, indeed, the operation of the withdrawal agreement, which will continue to exist and apply, whether or not there is a negotiated deal. I wonder in particular whether, on the EU side, either the European Parliament or individual Parliaments of the other EU member states have had any greater success in understanding what the joint committee is up to.

Dr Hagemann: The workings of the joint committee are at times kept secret on purpose, which is a critical issue. The UK side is not particularly put in any less favourable position than others. The best way to pursue things from the Parliament's and from the Committee's side is in the formal and informal context with other Parliaments and committees, as well as directly with the joint committee. It is no more transparent for other members, if I understood your question correctly.

Chair: You did indeed and you are saying that we are all in the dark at the moment.



Dr Hagemann: Yes.

Professor Usherwood: One difference is that EU member states probably have more trust in the Commission to represent their views, because they sit within a wider set of interactions and processes. There has been a high level of pulling member states into the article 50 process and, now, the future relationship negotiations. Member states generally know where the Commission is and what the issues are. They have a good understanding of the detail of that whole range of things, which then feeds over into the joint committee to allow them a degree of understanding.

It is the same kind of problem that there was during membership with the Council of Ministers, which also met behind closed doors. A standing problem was that Governments could say, "This is a private business between Governments", and Parliaments across the EU were finding themselves excluded. There are different ways around that, and most obviously the Danish model, which I am sure Sara can explain much better than I. There are ways and means, and it depends very much on what Parliament wants to know. If it is information or influence, the balance between those two things is always a fine political judgment.

Dr White: The last point that Simon made there is crucial: this difference between information and influence. I totally agree with Sara that the UK Parliament is not necessarily in a much worse position than the EU side, but that does not necessarily mean that that has to continue to be the case. The model for the joint committee on the future relationship has strong similarities to the joint committee on the withdrawal agreement, we assume, if there is to be a future committee. It might be something where Parliament wants to push for more commitments even if just on the information side, I would have thought, in terms of statements after meetings from Michael Gove or his successors, so that Parliament is at least made aware of discussions, if not the detail of negotiations that have gone on.

Dr Hagemann: There are quite different procedures for individual member states and their participation. In terms of UK participation and discussions, it is important to understand that it is often the reporting back that is the information that the Parliament would receive. In other member states, there is even a mandating system, so representatives have to have a mandate from their Parliaments and, at times, from committees, and have to have discussed the agenda prior to engaging in decisions in the joint committee. That means that we have either the proactive engagement from Parliament and committees or the reporting back of the post hoc evaluation of what has been discussed.

Simon mentioned the Danish model, where the Parliament and the committees are very active, but representatives are still keeping things in the dark as discussions unfold, saying, "It is complex and difficult, but these are our red lines", and then listing what decisions they would come



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with and work towards achieving. Whether or not they are successful is a question, but there is a briefing before and after meetings, with some level of detail. This really reflects the kind of committee systems you have in Parliaments in general, not just with respect to Brexit. It is about the kind of parliamentary system and scrutiny procedures that you have in place more generally.

Q4 **Mr Sheerman:** Dr Hagemann, I have been waiting a long time to get someone in front of this Committee from my alma mater, the London School of Economics, so welcome indeed. I had to get that plug in, Chair.

People from the LSE are not noted for their politeness, and you have been polite so far. Could you be a bit more brutal? You look at this Committee and the way the UK Parliament has been carrying out its job of holding to account that relationship with the European Union post the referendum decision. Has it been good, bad or awful? What are the marks out of 10 or out of 100? Give us a real evaluation. Be robust.

Dr Hagemann: I do hope my colleagues are usually polite. Even if they are very direct in their answers, we usually have very frank but collegial discussions at LSE. During the Brexit negotiations and this whole process since the referendum, we have seen a concentration of powers in the Executive in a number of ways. Parliament has, at times, been side-lined, if I can be very direct here. It is difficult to influence, directly steer and have a say on many of the issues that are on the table with the Brexit negotiations.

The process is part of that but it is also, as I mentioned before, due to the kind of parliamentary scrutiny that is in place in the first place. There are different ways of holding Government to account in policy-making in general. During the Brexit process, it has been particularly clear that formal, direct influence is difficult to achieve at times, as negotiations have been complex between the EU and the UK. A very important part of scrutiny and holding Government to account is also to bring attention to big issues, and provide public insight and access to these big, complex topics that the UK will face.

I would not want to give a grade, as such, to the success of the Committee or the Parliament, but certainly the structures that are in place have made it difficult for Parliament to influence the process in any significant way. The public, as we look at public opinion polls, are not very informed about what Brexit will result in after the end of the transition period. In the specific negotiations between the UK Government and the EU, it has really been the Executive in control of all of that.

Q5 **Mr Sheerman:** Hannah, could I push you on the question? We have heard "in the dark" and "side-lined". If your organisation were devising a new committee system for the next stage in our relationship with Europe, how would you design it?



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Dr White: That is a fascinating question. I totally agree with what Sara said. The way in which the Executive dominates the legislature in the UK system is a longstanding fact and nothing particular to the Brexit process, but the Brexit process has overlaid another set of politics on to that position of Executive dominance, which has made things particularly tricky for Parliament.

To quickly answer the question that you asked of Sara as well, committees have done well in promoting openness of Government. They have been able to ask questions and get things on the record that otherwise would not have been but, in terms of influence or, indeed, informing the public, they have struggled.

In the future, in terms of a committee system, the really important thing is clarity of responsibility. There are various models that you could consider but the really important thing is that everyone knows who is doing what and that you do not end up with overlap or gaps. There is quite a lot of merit in the idea of having a central European affairs-type committee, which would have oversight of all the different areas in which EU scrutiny continues to be important, and would be able to triage different areas of work to make sure that they were being covered more broadly within the scrutiny system.

You could not design one committee that should do everything and, indeed, that would not be desirable. Prior to 2016, EU scrutiny in the House of Commons was pretty siloed and very much seen as the preserve of the ESC. Although there was a system at the time of trying to have rapporteurs in departmental committees who would take a particular interest in Europe on behalf of their committee, and be contacted by the ESC if there was something relevant to that committee, it did not really work very well, to be honest. EU issues were dealt with pretty poorly by departmental committees. It just was not seen as a high priority in comparison to all the domestic scrutiny that they could be doing. I would be reluctant to go back to a situation like that. Relying on a rapporteur, EU specialist system would be a bit risky.

I would go for a smaller committee than either of the EU committees that we have at present. The reason why your Committee and the ESC have been large in the past has been to do with the politics and the need to represent lots of different viewpoints. I hope that, going forward now, that might be slightly less necessary, that the EU question is settled to a large degree, and that you could have a smaller, more efficient committee, because smaller committees of the size of other departmental committees of 11 tend to work better. Members have more of a sense of responsibility that they are really on this committee and it is for them to do the work. They can build up specialisms, they get more opportunities to speak during evidence sessions and so on, so it is more fulfilling for them.



In any committee system that is designed going forward, it is really important that the chair of the committee is elected, in line with best practice across the rest of the committee system.

Q6 Mr Sheerman: You are spot on. I chaired the Education Select Committee for 10 years, and you are right: the narrowness of focus was because we knew the model. It is a good model but it is appropriate for what it does in terms of following a particular Department of State. It is a comfortable relationship. We get much less comfortable when we have that broader remit.

Simon, what ways would there be to deal with that and to get focus if we had a different sort of European committee? This Committee has a focus for a certain period of time. What could be a model that would work in freeing ourselves of being obsessed with only one Department?

Professor Usherwood: That is going to be a real challenge at the end of this year, because we lose a clear structure of how the European aspect develops. It may be that we set up a standing structure. We will have a joint committee on the withdrawal agreement. If we assume that that is the lynchpin of things, that gives you some kind of focus. The challenge will be the range of what work comes down the line.

Here, it is senseless to speculate without knowing what happens with the current negotiations, but it remains clear that that work is likely to cut across departmental boundaries. I would echo Hannah's thought that a European affairs committee that triages and makes sure that there is co-ordination is a really useful part of the process. Absent a Government agenda beyond this current phase, it becomes hard to manage that. There needs to be flexibility at this point to allow Parliament to ensure that its structures map on to what happens.

Q7 Mr Sheerman: That is really useful. Sara, you know a lot about our European neighbours. Is there a really good exemplar somewhere in Europe? I have always believed in good evidence-based policy. What works in countries a bit like ours? Where is there a country a bit like ours that has cracked this and that we can learn from?

Dr Hagemann: There are lessons to be learned from countries outside the EU that have in place scrutiny of EU legislation because they have close ties with the EU. Norway is one that immediately stands out. It has to apply all EU regulation that has to do with the single market, as it directly trades with the single market. That might be something that the UK Parliament would want to bear in mind. As we said at the very beginning, relationships are changing dramatically now but there is still a need to stay close, to follow closely what comes from the EU and to have a close relationship with the EU, both politically and economically.

To make a very practical point with regard to this, if there is a committee that is the triage, as has been suggested, which I think is absolutely the way to view this, there is still a need for specialist investigations and scrutiny of all the many policy areas where there will be close contact



with the EU. For example, this might be done not by having the rapporteur system in any committee, as Hannah said, which was not very successful, but rather by having EU affairs as a permanent feature on the agenda.

If you have on the committee agenda that there will always be an overview and maybe a debate on new policy initiatives or changes to policies in the EU and how that affects the UK's relationship, that is perhaps one way of implementing this. The House of Lords has one umbrella committee and then sub-committees. Again, this may or may not be desirable in the Commons, but certainly there is a close connection to committees dealing with the more specific policy areas.

I would highly recommend not just having the big perspective and the big umbrella committee doing the triage part but ensuring that responsibilities are defined for each and every policy area where there are close collaborations with the EU.

It is also extremely important that we keep in mind the political and policy developments in Europe at the moment. We are looking at really important new initiatives in a range of areas, which the UK has a strong interest in being closely associated with and collaborating on: security and defence issues or the new initiative of the health union. All of those are big policy topics and it is substantively in the UK's and Parliament's interests to know what is happening on the European side. Apart from the really important co-ordination in one committee, there needs to be the in-depth scrutiny in other committees too.

Mr Sheerman: Those were very good answers. I learned a lot.

Q8 **Nigel Mills:** Sara, following up on that answer as a starting point, you said that the key departmental committees should always have what is happening in the EU on their agenda, but that does not strike me as how our committees tend to work. We tend to be inquiry-focused rather than having set agendas for each meeting. Unless they were choosing to do inquiries on what impact our relationship with the EU was having on the UK, it would not work as a standing agenda item. What you are suggesting would be quite a radical change to how committees work, but I am not sure that that is a realistic system to have.

Dr White: You are quite right. Short of every departmental committee with a relevant policy focus having a standing, open, long-running inquiry, which is the way some committees operate and, indeed, yours has in the past—where you set that, it runs for the Parliament and, just occasionally, you have an evidence session within it—that would be the way to keep it. We know that all committees in the Commons have complete discretion over their agenda and some may not want to operate that way, so it is difficult to compel them beyond what we have done in the past, where we have a set of core tasks that are supposed to be guidance to committees of the areas they might cover. European scrutiny was one of those in the past, and much good it did.



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One important consideration to think about here is staffing. One reason that European scrutiny was siloed in the old system pre-2016 was that all the staff who knew about the EU worked for the ESC. If you had a separate unit of staff within the Commons committee office who focused on EU affairs but were not attached exclusively to any one committee, they could produce briefing updates for different committees when there were significant developments going on in those areas, which they could then send out, and committees could choose whether to pick up on them and do inquiries or evidence sessions.

It would be quite important for that to be a bit like the scrutiny unit is now: a standalone unit that would work for different committees when there was call for it to do so. It would do a lot of its work for a central European committee, if there was one, but would not be exclusively at its beck and call.

Q9 Nigel Mills: The challenge we have is that the needs of next year might be different to the needs over the long term, because, if there is a deal, we will have to see how it is implemented, how it beds down and how it all works. After that, it will probably become business as usual. It can be as important as our relationship with the US, NATO or other international bodies, and we have not had committees on our US relationship, our UN activities or our NATO activities. Do you just duplicate what individual departmental committees would occasionally want to do and end up with both committees doing the same inquiries at a similar time when something blew up? Would there be a role for people who understood how the structure of the relationship worked in terms of the mechanics rather than just the individual subject areas?

That is the challenge if you want a committee in the long term. I am not quite sure what a standing European committee would do after next year, once the deal had bedded down. It just seems like it would slip back into being as exciting as the European Scrutiny Committee was seen to be by a lot of Members, which was some rather boring briefings that came and that you could not really change anything about. That is the challenge.

Professor Usherwood: The EU is also going to be continuing to evolve and to do stuff that requires some kind of response from the UK and from Parliament, so there will be a continual stream of decisions that have obvious effect on the UK and perhaps less obvious effect. We might think here about GDPR adequacy evaluations or equivalence on financial services, so things that are unilateral actions by the EU, where it makes sense for the UK to be aware of where the EU is.

It spills over into questions of delegations as well, which I guess we will come to in a bit, but not being caught by surprise by what the EU does or might do is a place where Parliament can play a role and where a committee could find useful agendas to pursue. Particularly given that we are likely to find a whole series of emergent issues as whatever settlement we have from 1 January takes effect, because that will be a



progressive process, there will be a need for scrutiny of Government action as well on that front.

If I can take it more broadly, one of the reasons that the negotiations with the EU have been difficult is that the Government have not brought Parliament in, which makes the EU anxious that any deal that might be agreed by the negotiators then has problems when it comes to ratification and implementation, as we saw with the withdrawal agreement. In terms of removing or reducing some of that friction and difficulty in future relations, having Parliament well plugged into that process, being aware and being alongside Government in understanding the issues is, hopefully, to the benefit of Parliament, the UK and EU-UK relations.

Q10 Nigel Mills: I guess the challenge is that departmental committees would have more expertise on financial services equivalence rather than a standing committee trying to look across the whole spectrum. How much value would a standing committee looking at emerging EU financial services policy really add? If it was that important, you would think that the departmental committee would want to do it.

Would you agree that it would be more relevant if what we had was a relationship where ongoing work, governance changes and all manner of negotiations were going on all the time and changing things? There is a need then to perhaps monitor how the governance of all that is happening, while we still have the withdrawal agreement in force for those years as it runs down. Is that where you can see a more useful role for a standing committee, perhaps, rather than just trying to spot individual areas of future EU policy that might be of relevance to the UK?

Dr White: As you say, there is, in the near future, more than enough justification for a committee of this nature. In the longer term, having a committee whose job it is to spot things coming up that are of relevance to departmental committees and that departmental committees may want to pick up on will have value. One way around the concern that you raise, which I entirely see, is for whatever new system is set up to be done under temporary Standing Orders that would expire, which would almost force Parliament, after whatever period, to re-evaluate whether the system that had been set up was the right one and to come back to it. You can change your Standing Orders whenever you like but, if you do it on a temporary basis to begin with, that puts the onus back on Parliament to think again in however long.

Q11 Nigel Mills: You are recommending that perhaps we extend the Committee for another year to scrutinise the transition, for want of a better word, and then we can revisit it, once we know what we have transitioned to.

Dr White: Potentially, yes.

Q12 Dr Huq: It is good to have three academics. It is good that this Committee has not had enough of experts. This is one that you might want to set for your students as an essay question, and it builds on from



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Barry Sheerman's one. How has the UK's withdrawal from the EU affected the balance of power between Parliament and the Executive? You talk about the three branches. Rather than scoring how they have done out of 10, what has happened to the relationship and balance between those two?

Dr White: The overarching picture is that, because the Government have reclaimed a wide sweep of powers from the EU, those have come back. Because they have had to be incorporated into our system at speed, Parliament has passed a lot of power over to the Executive to do that: to legislate and to make adjustments around the EU law that was frozen and transferred across.

Indeed, in terms of the Government approach to policy areas that they now have responsibility for, they are tending to choose to pass, partly because time is short, what we call skeleton Bills, where the Government are, essentially, setting a framework and then asking Parliament to give them a lot of powers in order to fill in that framework afterwards. I know several House of Lords committees have recently written to the Leader of the House about that to express concern, because we all know that the scrutiny of secondary legislation in both Houses is far less adequate than scrutiny of primary legislation.

The Government have been put in the position, because of the inherent nature of Brexit and the speed at which the process has inevitably had to happen, of being given enormous powers. It is now very difficult for Parliament to scrutinise the volume of stuff that the Government are doing and the specific policy areas where what is being done is being done by secondary legislation, which is inadequate.

There is another issue about the powers and oversight systems that the Government have or are going to set up. Some of those are going to regulators and, historically, there has been quite an arm's-length process of scrutiny between Parliament and regulators, so there is a question in my mind about how easy it will be for Parliament to scrutinise those bodies that have been set up as a check and balance. My overall analysis is that there has been a massive shift of power towards the Executive and away from the legislature.

Dr Hagemann: I absolutely agree. Hannah is right to point out that it is the volume, but it is also the speed at which things are happening at the moment. There needs to be a move. In fact, there might be a bit of a train crash coming next year with respect to handling all of what is to come from leaving and seeing the end of the transition period. It is useful to think of different phases now as Parliament tries to cope with all that is on the table.

There is the immediate, short-term need for addressing the big-picture issues and key priorities, but it is also important to put in place some ways of having more detailed scrutiny and influence in the medium and long term. I believe that next year will be an extraordinary year for



Parliament and for the UK in general but, for Parliament's work and for the committees, it will be quite a challenge to simply cope with what it is necessary to deal with, in recognising the need for adapting existing rules or looking at how to manoeuvre with new decisions. In terms of primary and secondary legislation, there needs to be a handling next year, which may be different to what needs to be done in the longer term.

Professor Usherwood: The history of British and European policy has been one of firefighting and crisis management rather than strategic planning. There is a danger, as both Sara and Hannah have said, that we make precipitous decisions now and then spend not just the next year but many years working through the unintended consequences and shortcomings, which become apparent only with a bit more time and reflection and attempts to operationalise. It will have a major impact on the balance between Parliament and Government. There is also clearly an impact on the devolution settlement, which we will, no doubt, have questions about.

The danger here is that we end up with things that really are not fit for the purpose that we have, so it is important that, as much as possible, there is a structure in Parliament that allows for adjustments and readjustment as we go along. Nigel Mills suggested another year of this Committee. In one year's time, we will not have that clear a picture. Notwithstanding the large amount of work that is coming down the line, there will still be some major decisions that will take a long time to work through, so there does need to be scope within Parliament to make sure that it is able to forestall problems as much as possible and to adapt to be effective and efficient.

Q13 **Dr Huq:** Everyone is saying that Government are the winner here. This Parliament feels really different to the last one because of the massively big majority. Before, it felt like votes meant something, and now not so much, even with the stuff that happened yesterday. Other things have happened, such as the withdrawal of Opposition days and illegal Prorogation. It feels like part of a pattern, even from before the big majority.

What should we as Parliament do to reassert ourselves into ongoing scrutiny? You have already answered quite a lot of how the future Select Committee structure will be. More broadly, how can we take back control, as it were?

Professor Usherwood: I will go back to a point that I raised earlier. Part of it is helping Government to see that an engaged and informed Parliament is a useful ally in making sure that Brexit goes as smoothly as possible. This is not going to be a closed book come the end of the year, but rather it is going to be a running issue. For the Government to avoid difficult conversations with MPs, involving them in the process makes sense and, I would argue, strengthens their position vis-à-vis the EU, in that the EU can have confidence that the UK is not following an erratic



course that may well bump up against its internal checks and balances, but rather that it is more consensual and more stable.

If we are trying to work towards a new, stable equilibrium between the two sides in this relationship, it requires the UK to have those clear lines of communication and interaction. That is part of it. Parliament clearly has very substantial powers, which it can use in different ways at different times, but the role of Government can also potentially be brought alongside. That may be easier as the issue becomes less highly politicised. That has been a real difficulty, as I am sure you have seen and felt. The high, extreme level of politicisation has made it very hard to think about this in more structural terms rather than party-political or leave/remain divides.

Dr White: I would echo what Simon said. Generally speaking, Governments who allow their policies to be more thoroughly scrutinised by Parliament tend to find that, further down the track, they are less likely to have a train crash as they try to deal with objections that may come up from their own Back Benches as they try to pass legislation, or further down the track when a policy that has not been fully tested in Parliament then meets reality. The broad point is that it would be desirable for Government to recognise the value of parliamentary scrutiny.

The realistic point is that, as Simon says, there is an element of self-interest there. You do not want, as a Government, to suddenly realise the problems with your policy further down that track, when that could become an embarrassment. I was really pleased to see the Government choose, for example, on a different issue, with the Fixed-term Parliaments Act, to put the repeal Bill for that into pre-legislative scrutiny. Pre-legislative scrutiny is a really positive way in which Parliament can engage with the legislative process, so I would like to see Government do more of that.

A wider point is that a lot of new Members came into the House at the election. Their whole experience of Parliament to date has been of Parliament being quite side-lined during the coronavirus period. This seems normal to them and it is important for more longstanding Members to talk to them about how it can be different. When the Government choose, for example, to whip on business to do with how the House runs itself, that is not how things have been done in the past. It has been deemed to be up to every individual Member to determine how the House ought to run itself, and Members ought to see that it is up to them as individual parliamentarians as well as party politicians to think about how best to run the House as a really effective institution that is going to do its job well. That is a mindset issue, particularly for new parliamentarians but also for all the rest of you.

Q14 **Dr Huq:** One thing I have noticed in coronavirus is that we now have these calls with Ministers, the same type of call that we are on now, but



we never had them in the heat of Brexit. Every time a tier decision is announced, we do not have a decision-making process but at least they are informing us. We have a junior Health Minister or someone on one of these, and people sound off. Usually, the Tories say, "We do not want to be in your rubbish tier system. We have low rates", and then the figures change the week after. Anyway, a national crisis has brought this kind of consultation thing, even if it is phoney consultation.

Dr Hagemann: That is reassuring to hear. Parliaments that have a lot of influence and are strong in European affairs in particular are those that have formal powers that enable them to directly influence Government positions, so there are institutional reasons for that influence. An even more important point is that Parliaments and committees that build up expertise and become really professional in their expertise, whether in departmental committees or with respect to broader political areas, are those where there is a working relationship with Government Ministers and Ministries.

This becomes really important in terms of influencing policy positions. That is where I would make a strong recommendation for future work in which Parliament develops the already really good expertise that exists and makes use of this to influence Government positions ahead of negotiations or policy positions taken by Government.

The other aspect is the point we made at the very beginning regarding informing the public. There have already been so many really important initiatives in recent years in Parliament with regard to public access and bringing topics up in public debates, but this avenue can be pursued even further, so that the public understands more from committees. I would point to the European Parliament's structure here as a good model to follow, because it has built in key expertise. The chair and the rapporteurs for important policies become the spokespeople for policy-making within the Parliament. There are some parallels to look at for new thinking in the committee system and in Parliament more broadly.

Q15 **Joanna Cherry:** Good morning to our panel of witnesses and thanks very much for joining us. Hannah made a suggestion earlier that, if we have an ongoing committee within the committee structure to focus on the ongoing relationship with the European Union, it perhaps should be more of the normal size of a Select Committee. I see one problem with that.

Two out of the four nations that are represented in Parliament are largely represented by Members of Parliament who are not members of the two main parties. For example, in Northern Ireland, we have eight unionist MPs, nine nationalists, albeit that only two of them take their seats, and one Alliance MP, so nobody from the two main parties. In Scotland, part of which I represent, 48 out of the 59 MPs are from the third party.

Would you recognise a need, particularly given common frameworks and the like, which I am going to ask about in a minute, to make sure that,



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on a smaller committee of, say, 11, there was proper representation for the four nations? I am not deliberately leaving Wales out; it is just that Wales has a distribution that is more similar to England than Northern Ireland and Scotland.

Dr White: I will start, seeing as I made the original point. I absolutely agree with you. I know that past practice has been, among the usual channels, to ensure that, where there are particular interests in different policy areas, representatives of smaller parties get to be represented where the formula for setting who would be on an 11-member committee would not normally give them representation. A committee focused on the UK's future relationship with the EU is one where you would need to ensure that smaller parties that wanted to were able to be represented. The Northern Ireland issue, as you rightly identify, is very significant for the Westminster Parliament, given the significance of the Northern Ireland protocol moving forward and the scrutiny of that, but perhaps, as you say, that is something that we will come on to.

Q16 **Joanna Cherry:** The problem with Northern Ireland in particular is that, as I said, there are nine nationalist MPs, eight unionists and one Alliance, but only two of the nationalists take their seats. It would be rather unfair if the minority opinion in that balance, which is the unionists, were to be the representative on the committee. We would really need, in fairness, to have one unionist and one SDLP, would we not?

Dr White: I am not sufficiently aware of the details of the politics to take a view on exactly who it should be, but you are right that it would need to be given careful consideration. The wider issue is that, while it would be nice to say that the committee primarily responsible for future scrutiny of the protocol should be the Northern Ireland Affairs Committee, that looks rather difficult, given the representation on that Committee.

Dr Hagemann: We know from committees in other Parliaments that representation is key not just for ensuring that we have the scrutiny in place, but for understanding and getting legislation through Parliament later on. Any new decisions or policies that are evaluated and go through a committee where there is full representation are usually more successful because there has been a debate and full scrutiny during the process.

Professor Usherwood: I would echo that. Alongside Northern Ireland, for all the nations there will be a clear aspect of the impact on the devolution settlement and arrangements, both where it fits previous models and where it does not fit, if I can put it like that. Having a range of representation to flag those issues, as Sara said, is going to be useful across the board. It is going to reflect the changing nature of the work that the committee would be dealing with, so a lot more of it is going to be about the domestic impact of decisions made by the European Union as opposed to EU-UK relations per se, which means that there then needs to be that breadth of representation across the board.



Q17 Joanna Cherry: What about the scrutiny of the common frameworks and the Government's relationship with the devolved Administrations after the end of the transition period? It is a little bit up in the air at the moment because the Lords have made significant changes to the internal market Bill, not just in respect of part 5 but in respect of the provisions governing the relationship with the devolved Governments. I just wonder how the British Parliament could most effectively and coherently scrutinise that relationship going forward. You have Scottish affairs and this Committee, which is about to come to an end. There are various candidates for who might carry out that scrutiny, or should we be looking at something new altogether?

Dr White: The situation at the moment is that departmental committees are responsible for thinking about this. There is an important ongoing role for departmental committees because, at the moment, we are thinking very much about how common frameworks are set up, the process and how they are intended to operate. The really important thing moving forward will be the policy consequences of the common frameworks and what their implementation means on the ground. Therefore, departmental committees will probably be best placed to think about those sorts of issues.

The process questions and thinking about common frameworks as an entity or a set of processes could still sit somewhere else. Quite where the right place for that would be is difficult because we have the different territorial committees. It would be difficult to say that any one of those should take it on, on behalf of all, so it might be something where you wanted a co-ordinating function for a future EU affairs committee or, as you say, potentially something entirely new.

Professor Usherwood: It is the same kind of issue as the European issue but it does cut across. As to how much you want to have a co-ordinating focus in the committee structure as opposed to trying to mainstream it through all the places where it might pop up, I do not have an answer. It requires Parliament to have a debate about that and to have a structure that allows it to review those arrangements and to evaluate what is and is not working.

Q18 Joanna Cherry: Moving back to the questions that the Chair asked you at the beginning about the difficulties that there have been in scrutinising what is going on within the joint committee, which has particular importance for the operation and implementation of the withdrawal agreement and the Northern Ireland protocol, Hannah said that we might want to really push for more information and statements from Mr Gove and perhaps others.

What documents and information should the Government be making available to Parliament, in order to help Parliament effectively scrutinise these ongoing processes? What would help us? At the moment, from time to time, we get a reasonably sketchy report to the floor of the House from Mr Gove. What would help us by way of documentation or



information to be more effective scrutinisers of what is going on?

Dr White: I know much less than my two colleagues about the details of the joint committee. I cannot imagine the Government are going to say that they want to give Parliament the power to mandate it as they go into the talks. It seems to me that, if the Government did not feel able to talk about it in the way Sara was saying, for Parliament to be aware of the agenda of meetings ahead of time, and then to have a more detailed and useful report back on the discussions, would be a minimum.

Dr Hagemann: It is not only about the documents but also about having the dialogues: having a way for Ministers, representatives or ambassadors to appear before the committee and to brief on where things stand. The challenge here is the volume and the speed with which all of this happens at the moment.

Nevertheless, certainly in European member states, there are very frequent briefings. The way that the joint committee works is also important for Parliament to understand. This is an issue that I know, in other Parliaments, has had to be discussed and debated. The reality is that the EU has its representatives that engage in the negotiations and try to sort out any agreements in a whole range of policy areas.

In order for that mandate to be one that is workable and that can lead to decisions that are acceptable at the end of the day to all 27 member states, there is quite a chain of delegation that has to be in place and has to be clear all the way back to Parliaments. The importance here is to understand the process by which this is going on as well as the substantive issues on the table that are negotiated and where Parliament would want to have clear information and scrutiny of decisions that happen.

The timeframe here is very tricky. One thing is to have the documents and any information that it is possible to get your hands on—the agenda or the minutes of the meetings—but also to have the briefings, both post and prior to key negotiations happening in the joint committee.

Q19 **Joanna Cherry:** The difficulty we have is that the Government assert that many of the documents and reports on what the proceedings have been are too sensitive to be shared with Parliament. What do you make of those assertions?

Dr Hagemann: That is misleading, in that there are many issues that come back to Parliament later on in any case and that one could say would need to be at least broadly presented to Parliament prior to these negotiations happening.

One could think out of the box here. I know that other Parliaments have gone down the route of contacting EU institutions and ensuring that information is shared through collaborations with other national Parliaments as well as through EU institutions, not only through their own Government. For example, the reason why the COSAC system was set up



between the European Parliaments in the first place was to have a better understanding of how Parliaments scrutinise and get information about Government negotiations and decisions in the EU institutions.

There is the direct line to Government about the need for information regarding meetings and decisions, but also the need for dialogue and briefings, with an opportunity for Parliament and committees to give their input and questions, as well as the alternative route of getting information through collaboration with EU institutions and national Parliaments.

Professor Usherwood: The question of secrecy or sensitivity, as Sara said, is misleading. The issues are generally understood and it is not as if it comes out with radically surprising outcomes as a process. While I understand the Government's desire to maintain more margin of flexibility, I would come back to the general point that having a Parliament that is briefed, informed and onside ultimately helps it to secure the things that it feels are important and do it in a way that makes it more confident that, at the point that it comes to Parliament for more formal approval, it is not going to have problems emerging.

It is the same issue that we had during membership with the Council of Ministers, and there are ways and means to deal with that in a way that does not unnecessarily or overly tie the Government's hands in those meetings, but which allows for a broader degree of confidence and scrutiny that goes on.

The one thing that I would add to the list of things is timing. There needs to be enough time in all these interactions with the Government to allow for meaningful space to discuss the issues and for adjustments to be made, rather than being given things the proverbial five minutes beforehand and told, "Here you are; I am off to go and do my negotiating". It needs to reflect a constructive dialogue rather than simply a brief discharging of the agenda that sets out, very telegraphically, some general areas. Working together to define the standards of what is useful, acceptable and necessary will be part of that process.

Q20 **Stephen Kinnock:** I should start with an apology. Unfortunately, I had to jump off from about 10 am until 10.25 am for another urgent call, so I may well have missed some comments that would be pertinent to the line of questioning that I am going to go for, so apologies in advance if I am asking you to go over ground we have already covered.

I want to start by drilling down into this idea of a European affairs committee and the co-ordinating or triage role that it might play. Can you say a bit more about how you might see that working? I know that we are talking hypothetically here because we do not know what the shape of the future relationship will be, but we know that there are going to be a number of dimensions: trade, politics and security, justice and home affairs, and scientific co-operation. It is, of course, going to be a



multifaceted relationship.

Is your suggestion that an issue comes through—let us say it is related to trade or justice and home affairs—and it comes, first of all, to the European affairs committee, which takes a look at it and provides a kind of screening and advisory note or something like that, which is then forwarded on to the relevant departmental Select Committee with an advisory recommendation and an analysis? Can you say a bit more about how you would see that working in practice?

Dr White: Broadly speaking, that is what I have in mind. You would want to avoid getting into the situation that perhaps you have at the moment with the PAC, where it decides that it wants to take on some of the most interesting topics for itself and, only when it is not all that interested in the topic, passes it on to a departmental committee to potentially pick up the relevant NAO report. You would want to see it as a filtering process.

If a departmental committee chose not to pick up on a topic that, for whatever reason, the European committee thought was important, that would be something that the committee itself could conduct inquiries into. I would also see that committee as being able to do more cross-cutting inquiries itself, looking not just at the specific policy areas that, as you rightly say, would be better delegated to and brought to the attention of departmental committees. We have to bear in mind that it may have a full agenda and not decide that it is a high priority to address those things, so it still might be for the European committee to pick up on those topics.

There are some specific areas like future treaty and international agreement scrutiny that that committee might want to have some kind of oversight of, but which probably would be better dealt with by a specialist committee. I know that the Liaison Committee, when it looked at this a couple of years ago, talked about the potential of a joint committee with the Lords, but the Lords have now made alternative arrangements for the time being. There would be value in a joint committee on treaties, for what it is worth. Mainly as a cross-cutting and filtering mechanism is the way I would see it.

Dr Hagemann: I very much agree, but there are two points that are perhaps worth keeping in mind. Many issues are relevant not just to one Department or committee. Let us say that, in EU policy-making, you have something that would be of relevance to agriculture and the environment. In other Parliaments, the EU affairs committee is often where the positions of the different departmental committees are brought together, to have a much more comprehensive take on what the next steps in this policy area should be.

It is not just a filter and a post office to other departmental committees to then go on and do their analysis and recommendations, and take things forward; it is really to make the different interests and special



focuses come together to something that is coherent across the different departmental committees. That is quite significant.

The other aspect is to see this as a way to build up expertise, which is the point made earlier. If a parliamentary committee of this sort on European affairs become the specialist department across these many committees, it becomes a very different kind of scrutiny that the committee can engage with, because it becomes one where it is powerful in terms of information and steering policies in specific directions, but also communicating what new initiatives may look like and bringing attention to topics. This is a really good way of thinking about that role for a parliamentary committee on European affairs in general, but not underestimating how important that work can be.

Q21 Stephen Kinnock: As I understand it, you are saying that, when the European Union comes forward with an important new regulation or directive that is likely to have an impact on the United Kingdom, which is contingent on the kind of relationship we have, this committee would look at that new piece of legislation and say, "We think that this is important and relevant to the following departmental Select Committees. We will convene a group from those committees to work on scrutinising, assessing and informing Parliament more broadly on the implications of this new development". It is a convening role and not just a co-ordinating role. The production of the report or analysis should be the product of that team-based approach across different committees. Have I understood correctly what you are proposing there?

Dr Hagemann: Yes. That would be a really constructive way of setting this up. One point that may be a bit far-fetched at the moment is that, in other Parliaments, the large committees that have these broad remits, such as a European affairs committee, have the ability to ask Government Departments to provide information and evidence for any of the issues that they are dealing with. Again, if that was to be co-ordinated by a European affairs committee, with input from departmental committees, that would certainly make that committee extremely important as well.

Q22 Stephen Kinnock: Hannah, you mentioned that the Committee is currently far too large and has too many members, and you set out the reasons why that is not a productive way of doing things. Do you have a recommendation of the ideal size? If such a European affairs committee were to be established, how many members should it have?

Dr White: With the current make-up of the House, and subject to the discussion I had earlier with Joanna Cherry, 10 or 11 is probably about right. The way Parliament has made use of the guesting procedure has been really positive, particularly in the context of coronavirus. Building on Sara's excellent suggestion, a European affairs committee could make use of guesting procedures to bring together small sub-groups of members to work with it on different topic areas. In a way, it would be co-opting people with the right expertise for the right task, while being



small enough to be nimble and to keep everybody focused on their role within the core committee.

Q23 Stephen Kinnock: In this context, we are talking here about one committee, so you could not have this alongside the European Scrutiny Committee. We have not really spoken about the role of the European Scrutiny Committee, or maybe you did while I was not on the call. Do you have anything to say about the European Scrutiny Committee going forward?

Dr White: It would be best to simplify the structure and to have one committee responsible, but I am interested in the views of my colleagues on this topic.

Professor Usherwood: In this case, it is another one of those areas where it depends on what the current negotiations produce. If we are going to end up with a deal that involves a significant amount of level playing field provisions that will cover wide areas of regulation and, potentially, legislation, there is a lot more work that needs to be considered in that format.

The modalities of that are not clear to me at this point: how much work there would be, how much time one would need to spend on thinking about equivalence of regulation with the EU and how you want to reflect that in a parliamentary structure. Until you know where that ends up, it becomes hard to say, but, even if there is not a deal now, the EU will clearly want to pursue those same objectives in any future discussions with the UK, so it is likely to come back on the table.

In one form or another, it may well be that there is a substantial channel of work that has an overtly European dimension, which might well merit the existence of a separate committee. As Hannah said, a parsimonious structure always makes sense, but we have to be cognisant that this might be a situation that requires dedicated structures.

Q24 Stephen Kinnock: I have a final question about treaties and the role that Parliament would play, not so much in the why or wherefore of whether treaties should be negotiated, because I am assuming that that will continue to be the prerogative of Government, but in the scrutiny of the way in which treaties are implemented and the implementing legislation that is wrapped around the international treaty.

I believe that, in Australia, the model is that they have a standing treaties committee that has a cross-cutting role in all international treaties. Is that a model that we should look at? Is your view that a European affairs committee would include a big piece around potential treaties going forward with the EU, and then the departmental International Trade Select Committee would do all the other international treaties that we may be negotiating?

Dr Hagemann: I would recommend that any committee structures follow what we have just described regarding the functionality. Anything that



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would be within a European framework would be within the European affairs committee, and trade relations with other countries would fall to other committees that already exist.

Treaty negotiation is a very difficult issue that the UK may experience differently to other third countries. It will now find that the situation with the EU is one where there are rather a lot of veto players and a lot of obstacles ahead. I would not expect the UK-EU future relationship, whatever that may be, to result in 50 new treaties that are to be adopted within the foreseeable future, so it does not merit a committee to have that sort of role.

Rather, whatever comes next—I will not hide that I think it will be difficult—it will be necessary to have a strong European affairs committee to be very closely involved with any new bolt-ons that come between the UK and the EU, but they will take time, in particular because ratification on the European side is tricky.

Q25 Sally-Ann Hart: Good morning to our panel of witnesses. I am going to ask some questions about parliamentary relations with European institutions. I thought I would go to Hannah first. Is it appropriate for the UK Parliament to continue to engage with the EU's institutions on an informal basis at the end of the transition? If so, what would be the best channels by which it could do that?

Dr White: It is appropriate and important for the UK Parliament to continue to engage with the European Parliament and, indeed, for serious thought to be given to facilitating how the devolved Parliaments will be able to do the same thing. I know the Government have, in response to an initiative from your Committee and the Lords, said that they are seeking an inter-parliamentary dialogue mechanism in the course of the negotiations, which is a positive thing.

It is important for that to happen, because the general message that I get from people who are much more expert than I am, like Sara and Simon, in terms of how other third countries engage with the EU, is that every form of intelligence gathering mechanism that you can possibly use is of value. Parliamentary and inter-parliamentary dialogue is one way of gathering intelligence and is therefore important.

My colleagues will know more on this, but we have COSAC, which already exists. I do not know whether there is any possibility of at least occasional involvement in that and what the precedents are elsewhere. There are equivalent mechanisms for regional legislatures, which I believe the Scottish Parliament, the Welsh Parliament and so on may be thinking about whether to engage with. I do not know what the precedents are for that on the EU side.

Professor Usherwood: It is not just about intelligence; it is also potentially a way of representing British views, perspectives and interests in the system. It is easy to forget that the European Parliament is a very



diverse institution, so having informal contacts with MEPs and different committees is also an opportunity to make sure that there is more of a representation of British positions on specifics and more generally. I would be very strongly enthusiastic in terms of making sure that those informal links, on top of whatever is formally agreed, take place.

As far as COSAC goes, we do not really have a precedent situation, as so often with Brexit, but it is another line of communication. We also need to think about the involvement of parliamentarians in European parliamentary groupings that go beyond the institutions themselves and how that might provide for other lines of engagement and intelligence sharing.

Taking the broadest possible picture is going to be consequential here, to ensure that everyone knows what is going on. It reduces the degree of surprise at developments and it leaves open the lines for trying to find solutions where problems arise.

Dr Hagemann: There are only a couple of points that I would add to what has been said, which I agree with very much. The main lines that are worth pursuing here are where the very formal structures will be agreed currently. National representations in Brussels, which are of course quite large representations, work very closely together for their Governments, but it is also important to keep the informal connections with national representations and not just EU institutions in order to represent British interests and views in Brussels on all areas.

In terms of the EU institutions, it will be more difficult to say that there is any direct way of influencing policies, which is also a consequence of how the Brexit negotiations have taken place. We have to acknowledge that a lot of diplomatic efforts will be necessary now to enable good communication and collaboration between the British representation in Brussels and the EU institutions, but also the national representations of key allies in the EU.

The Committee may also want to understand how the workings of the representations in Brussels will now change and what kinds of strategies will be put in place, in order to have the intelligence gathering we talked about and to represent British interests in the best way.

Q26 **Sally-Ann Hart:** Picking up the point about the UK Parliament, should a permanent UK Parliament presence be maintained after the transition period? If so, would the EU allow it? What would its role be?

Dr Hagemann: I would recommend that the UK tries to be as well represented in Brussels as possible and maintains the current level of representation even when outside of the EU. There will be a steep change. We have already seen the consequences of leaving the EU with respect to no longer taking part in council meetings in European Parliament settings. All of that will be the reality with which the UK representation has to work.



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I am very sure that other national representations and the EU institutions will welcome a British presence in Brussels and will see Britain as a key ally in many policy areas. This is really important to facilitate and nurture as we go forward. The level of representation in Brussels should be high. That would be my recommendation, as we are still looking at the largest trade partner, the closest political ally, and a whole range of other mutual interests that are important to maintain.

Professor Usherwood: I just want to reinforce what Sara is saying. We have to remember that the EU is an intensely lobbied body, and an awful lot of interests are trying to have their voices heard. We have to be aware that the visibility of what might be important to the UK has dropped already because of its removal from the formal institutions.

More informally, anything that reduces the British presence in and around those institutions and policy-making communities raises the chances of inadvertent problems arising. As Sara says, there is a whole range of things where the EU is going to make decisions and choices that will have material effects on the UK, whether it realises that or not. The more the UK can be kept in mind as those things are happening, the better chance there is of doing that in a less problematic way.

It is worth underlining that the EU is not the only channel we have. We have bilateral relationships; we have other multilateral relationships as well. Part of having a parliamentary presence in Brussels and around the institutions would be exactly to stress those multiple lines of communication and interaction, which can produce new ways of doing things that work for both sides. It is not simply about doing things as we have done in the past, but about looking for novel ways of co-operating to make sure that the UK's interests are well represented and served.

Q27 **Sally-Ann Hart:** You talk about new ways. Are there any effective third-country models for informal EU engagement that the UK can learn from on that?

Professor Usherwood: I would point to the EEA experience. While we have had some formal mechanisms for countries like Norway and Iceland, you have seen a very intensive informal structure of representation and engagement around those processes to give them real meaning.

The hard and fast rule of EU policy-making is that you only get to be part of the decision-making if you are a member. For quite a long time, EEA members found that a difficult situation to be in. Over time, they have developed a broad range of interactions that ensure that their interests are more mainstreamed and taken into account beyond the letter of the EEA treaty, which allows that to work more smoothly and less problematically.

There are models, but the general gist of the model is that doing more is always advantageous just because of the dense network of relationships



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and dynamics that are going on. Weight and consistency across the board is what really matters.

Q28 **Sally-Ann Hart:** Taking Norway and Finland as the example, have they had to make a trade-off to have that formal engagement with the EU?

Professor Usherwood: Finland is a member, so it has gone through a different trajectory after a brief time in the EEA. For Norway, yes, there is a difficulty that a lot of this relies on informal networks, which are less transparent and less scrutinisable. That is not a word, but you understand the gist of it.

It comes back to who is doing this kind of action. To come back to the big arc of this session, it gives an opportunity for Parliament to be not merely a place that is a convening point and a clearing house for European issues within the UK, but a key axis for EU-UK relations.

Transparency is always advantageous in a democratic system. You have to think about those legitimacy and accountability mechanisms to make that work for populations. The last thing you want is a public that feel that things are happening behind their back, which is not what I am suggesting at all.

Dr Hagemann: The comparison to Norway is useful only up to a point, because the UK is choosing a very different relationship with the EU than Norway has. Norway is not a member for a number of reasons, but it fully accepts all EU legislation in return for having access to the single market. That means Norway does not raise issues with respect to the policies that come from the European level. It does not raise issues with jurisdiction of the European Court of Justice and other big, important issues that the UK has taken up during these Brexit negotiations and has issues with.

The UK will be viewed very differently to how Norway is viewed, not only because of the size of the UK, and because it has been a member and is such an important political ally, but because it is choosing not to have any of those structural parts of the European Union applied to its association with the EU.

The other aspect, if I may be very frank, is that the Brexit negotiations have been a rather bruising process for the EU side as well. For example, the internal market Bill has really made a dent in the trust and the viewpoint from the EU with regard to how the future relationship will be with the UK. Therefore, to have a constructive, productive and good relationship, there need to be efforts on clarifying what kind of framework the two sides would want to have after the transition period ends, whatever deal we get.

The channels between the UK and the EU have certainly been affected by this process. For the UK to be part of any meaningful policy discussions and reflections on next steps for the EU, the UK has to be the one



reaching out and making these things happen. It will not be on the initiative of the European side

Q29 **Sally-Ann Hart:** Both sides have been bruised, so it is a question of channelling a new model.

Dr White: I totally agree with what Sara says about Norway being different, but there is a precedent. As well as the other member states, Norway has a national parliamentary representative to the EU and it is not a member state. It is possible that the EP will consider allowing the UK to continue to have a national parliamentary representative on the basis of that precedent.

Q30 **Chair:** We have covered a number of different issues, in which we have discussed and you have expressed your views on how future scrutiny arrangements should work. Can I just take one more? One assumes that, if there is an agreement, there will be a dispute resolution mechanism. If so, when particular disputes arise, how should parliamentary scrutiny of those be handled? If it is about car parts, pharmaceuticals, workers' rights or whatever that is, is your view that it should fall to the relevant departmental Select Committee? Whatever future parliamentary scrutiny arrangement there is for our relations with the European Union in the months and years ahead, should that body also have a role when disputes arise?

Dr Hagemann: There is a logic to following the same arrangements as we discussed earlier. If there was a European affairs committee acting as the umbrella body and an important co-ordinator between departmental committees, that would be a good way to address such issues as well.

Professor Usherwood: There is another obvious aspect of what Sara is saying. If a dispute resolution mechanism is allowing cross-linkage—so a dispute in one area can lead to penalties in another area, which is what the EU is pushing for—that necessarily cuts across the lines of departmental committees. It would make sense to have a central point at which all these issues are triaged and separated, but also to have the capacity to adapt to the specifics of the situation. It is not likely to be as simple as car parts; it is going to be car parts and something else.

More generally, disputes are likely to be raising questions of principle that have general import. Having the capacity for Parliament to be aware of those more generic, principled aspects is going to be essential.

Dr White: The issues we have already covered of timing and access to information are going to be crucial in allowing full scrutiny of disputes. I can well foresee that the Government will take similar attitude as they have to other joint committee issues and say, "This is all very sensitive and we cannot release anything". In those circumstances, it may be quite difficult for Parliament to insert itself into the scrutiny role.

Chair: On behalf of the Committee, that concludes this morning's evidence session. On behalf of the members, I would like to express our



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grateful thanks to you, Sara, Simon and Hannah for coming along today and giving us evidence, because Parliament will ultimately have to decide what kind of future scrutiny there is going to be.

This Committee, rather like Cinderella's coach, will disappear in a puff of smoke at midnight on 16 January. What will come thereafter is yet to be determined. Your evidence, thoughts and ideas in what has actually been a conversation today between those who do the scrutinising and those who watch those who are scrutinising has been really helpful. It will inform the judgments and decisions the Committee makes about any advice to give to Parliament. Thank you for coming today.