HOUSE OF LORDS

Select Committee on the European Union

Environment Sub-Committee

Corrected oral evidence: Future UK-EU relations: energy, environment and health

Wednesday 27 January 2021

11 am

Watch the meeting

Members present: Lord Teverson (The Chair); Baroness Bryan of Partick; Lord Cameron of Dillington; Lord Carter of Coles; Lord Cormack; Lord Giddens; Baroness Jolly; Baroness McIntosh of Pickering; The Duke of Montrose; The Earl of Stair; Lord Young of Norwood Green.

Evidence Session No. 4 Virtual Proceeding Questions 26 - 34

Witnesses

I: Edward Argar MP, Minister of State, Department of Health and Social Care; Ed Moses, Director EU and Trade, Department of Health and Social Care; Matthew Harpur, Deputy Director, Goods, Department of Health and Social Care.

Examination of witnesses

Edward Argar MP, Ed Moses and Matthew Harpur.

Q26 **The Chair:** Welcome, everyone, to the second session today of the EU Environment Sub-Committee on our report on future UK-EU relations for energy, environment and health. Today, we are looking particularly at the healthcare sector and patients.

This is a live session and it is being webcast. We are taking a transcript of the session. It will be distributed to our witnesses and, if you see anything there that is not in line with what you understand was said, please come back to our clerk. I ask Members who did not speak in the first session to declare interests when they speak for the first time in this session. I will ask Members to direct their questions, which I suspect will be primarily to you, Minister.

I will start the session by asking our witnesses to introduce themselves very briefly. Perhaps, Minister, I could ask you to do that first.

Edward Argar MP: Thank you very much, Lord Teverson. It is a pleasure to appear before the committee. I am Minister of State at the Department of Health and Social Care, with responsibility for negotiations and end-of-transition-period relationships, and all things flowing from our exit from the EU. I have with me two of the senior officials who have been running that work at an official level, Mr Ed Moses and Mr Matthew Harpur. With your permission, I will invite them to say a sentence or two about how they fit in.

Ed Moses: I am Director of EU and Trade in the Department of Health and Social Care. My responsibilities have covered the full portfolio of the Department of Health's interests in the EU negotiations and the subsequent implementation of the Trade and Cooperation Agreement.

Matthew Harpur: I am Deputy Director for Goods. I have been particularly involved in discussions on pharmaceuticals, health security and Northern Ireland, which we will come to later. I am also responsible for the Medicines and Medical Devices Bill, which I know Baroness Jolly and others have taken a lot of time on recently.

Q27 **The Chair:** We are very pleased to have you in front of us, I think for the first time, on this committee. Perhaps I can start with a very general question to you, Minister. How will the Trade and Cooperation Agreement that we now have with the European Union benefit the UK's healthcare system generally?

Edward Argar MP: In my answers I will endeavour, if it is appropriate, to keep myself focused on health and social care elements, and avoid straying into broader political issues relating to our leaving the EU, unless of course it is in direct response to a question.

I characterise it as a very good deal and a good Agreement for the UK and for UK business, and for UK citizens, in respect of what we have achieved around health and social care provisions. I know that in the

committee you will go through each of them, I suspect, issue by issue, but what we have done, while achieving the Government's macro political and economic objectives in the Agreement, is ensured continuity and close co-operation where we feel that is mutually beneficial for our citizens and for those of the EU.

I suspect that we will talk about health security in the coming minutes, but, again, I think we have shown that close co-operation, based on a pragmatic and mutual understanding, is possible and is effective. At the same time, we have the opportunity to further stimulate—again I suspect we may come on to this—our life sciences sector, which is already world leading, to, potentially, an even greater global role.

The short answer to your question is that we have a deal that, in the context of a bigger picture politically and economically, delivers on reciprocal healthcare, delivers continuity of supply, and delivers on health security. I believe it delivers for the pharmaceutical industry and for our life sciences sector. I suspect you will wish to probe rather more deeply on some of those elements as we go through the session.

The Chair: We will indeed, Minister. I would be interested to understand how much you, or the Secretary of State, were directly involved in those negotiations. What were your objectives and how near were you to getting them? How did co-operation take place with Chancellor Gove and Lord Frost during the negotiations? Was it a close relationship?

Edward Argar MP: The relationships at all levels have worked very effectively. There are multiple layers to that involvement, which I will run through. There are the formalised processes of the Cabinet sub-committee, chaired by the Chancellor of the Duchy of Lancaster, on which I represented the Secretary of State. Obviously, I would caveat that. Although all decisions and day-to-day working were delegated to me, the Secretary of State and I, on any important negotiating point or outcome objective, were of one mind. He and I spoke regularly about where we were and what we were seeking to achieve.

As regards involvement, throughout, and particularly in the weeks leading up to 24 December, I was briefed on what felt like almost a daily basis by my officials, and asked to give steers and decisions on particular elements of the negotiations in real time to feed back to our negotiator, Lord Frost. Obviously, he was in the room doing the negotiations.

The Secretary of State and I, working with Michael Gove, framed what our objectives were. We wanted to see the reciprocal healthcare agreement, which we have achieved. We wanted ongoing access to health security mechanisms. We have achieved that. We have done a lot of work with industry on continuity of supply, which we may come back to, but obviously we are dependent on other departments—the Department for Transport, HMRC, the Home Office and Border Force—and we worked closely with them on our preparations and negotiating asks.

As regards the pharma annexe, for want of a better way to put it—the regulatory context within which our pharmaceutical and life sciences industries sit—we worked closely with them. In that space, we got a good outcome, but, as we may come to, we did not get everything we wanted in that space. I suspect that batch testing may come up in that context.

It will not surprise you to know that I spent a—I will not say jolly—busy Christmas reading the 1,240-odd pages of the Agreement. I would say that although I read my elements of it—the health and social care elements—when it was published, they were not a surprise to me, because I had been involved with officials throughout with different drafts and iterations, and where we got to was not dissimilar from where, a few weeks out, we were expecting to get to on that.

The Chair: We are delighted to hear, Minister, that you read the treaty on Christmas Eve. I want to say publicly that I think the Fisheries Minister was rather misrepresented in the press when she was quoted as perhaps not having done that.

I have one more quick question. Clearly, both sides are saying that we will continue to be very close friends either side of the channel and, of course, across the Irish Sea as well. We are no longer in the Council of Ministers, and we have not been there for a year. Will you have a direct informal line to the European Commission to chew the fat every now and again, to keep that close relationship? I am interested in how you see that future informal relationship, if at all.

Edward Argar MP: There are two layers to that. At an official level, there have been and continue to be close official-level discussions and an ongoing relationship, not least because of our shared interest in tackling COVID and the benefits of co-operation in that space, which we will come to. That continues at an official level and will continue. We continue to speak with the Commission, as much as anything about the implementation of what has been agreed, to make sure that we have a common understanding and to clarify areas where there might be a difference of view.

From my perspective as a Minister, the Secretary of State and I will continue to have close working relationships with our counterparts in other countries, and, as appropriate and necessary, where there is a mutual benefit, with the Commission as well. It is in all our interests, as you alluded to, having achieved what we set out to achieve in delivering the exit of this country from the EU, that we recognise we are close friends and neighbours of European countries, and of the European Commission, and we will continue to work with them in that vein.

The Chair: Let us move on to the detail of some of the issues you mentioned.

Q28 **Baroness McIntosh of Pickering:** A warm welcome to you, Minister, and to your team. For your information, I work with the Dispensing Doctors' Association but not on matters European—mostly.

To what extent will our citizens still be covered and have access to free healthcare when travelling or living in the EU? What was the purpose behind changing the name? Is my understanding correct that EHIC, to all intents and purposes, covered travel with the EFTA countries, Norway, Switzerland and Liechtenstein? I understand we have an agreement with Norway under the GHIC, but how confident are you that it will be extended to the EFTA countries?

Edward Argar MP: It is very nice to see you again, Lady McIntosh. It has been a long time since I last saw you.

Baroness McIntosh of Pickering: Indeed.

Edward Argar: On reciprocal healthcare, I think we have secured a positive outcome. One point I would pick up from the previous evidence session is around comms, where perhaps there is a little more for us to do in reminding people that EHICs continue to be valid until the expiry date on the card, and should be accepted as such, even while we are rolling out the GHIC in parallel. We launched that on 11 January, and, in the first week, just over 38,000 applications were received, so it is working and it is being processed.

You touched on a number of other aspects. The global element and why we are calling it a GHIC is because we are open, essentially, to building on it to secure wider arrangements with other countries. We already have, for example, long-standing bilateral agreements with places such as New Zealand and Australia in that context. By calling it a GHIC, we are signalling our ambition to use it to replace the EHIC and ensure that people have continuity of cover in Europe, and to show that we are open to exploring widening it to other countries, as appropriate in the future, to try to secure even greater benefits for UK citizens.

You mentioned the EFTA issue, as I think did a previous witness. As you may be aware, we have a bilateral agreement thus far with Norway, but we are looking at, and working at pace to deliver, a parallel agreement with Liechtenstein, Norway, Iceland and Switzerland, if we can, to build into the GHIC, so that we have that small gap filled. If you wish to delve into particular elements or categories of the GHIC, be it S1 or S2 holders and similar, I can answer questions on those.

Overall, we believe it reflects, for want of a better way of putting it, continuity and certainty. I think Cancer Care UK wrote to me about that, and I have replied. Equally, it was raised in your committee. It gives a degree of certainty for prearranged planned treatment—for example, for kidney dialysis. I think in this space we have achieved broadly, with a tweak here and there, like for like, with a few pieces that we are still working on. I think we have got to a place where citizens will continue to see that they are able to get reciprocal healthcare.

Baroness McIntosh of Pickering: I want to say on the record that what you have negotiated is appreciated. It would have been a huge disappointment if we had not, so I congratulate you on that.

The question of data adequacy was raised and of getting that information across to those already on dialysis or receiving cancer treatment. You might like to address that. Also, are our European partners aware that the EHIC is still valid?

Edward Argar MP: I will briefly take your second point first, if I may, and then go to the first one. Yes, they are. We have a duty, and we have informed the Commission and others, so that Member States know. But I take the point that was made by your previous witnesses that we cannot, in a sense, overcommunicate this, because there may or may not be glitches or bumps in the first few months, where some organisations and some Member States may not have fully appreciated it. We will continue communicating it and making sure, through our missions and elsewhere, that they know.

I suspect we may go into more detail on data adequacy when we come to that broader theme, but certainly we are confident that it is effective at the moment. We have the bridging mechanism more broadly at the moment, but we are confident that the data flows to make it effective are in place and it will work in practice. As you would expect me to say, though, my officials and I do not plan to let up the pace. We got the Agreement on 24 December. Implementation issues will arise, and we want to keep the team working hard on ironing them out where they do. We will continue to review things; if any bumps in the road occur, we will address them when they do.

Baroness McIntosh of Pickering: May I raise the question of medicines? I incurred treatment for salmonella poisoning when I foolishly travelled, having been to a Conservative Party candidates conference a number of years ago. It was not clear from our witnesses whether, in circumstances when you fall ill in a European country or a reciprocal country, the medicines are covered.

Edward Argar MP: On your first point, I will not infer cause and effect as to what made you ill.

On your second point, my understanding is that some medicines—for example, in the case of dialysis and similar—are covered. I am not sure that all other medicines are, such as those that you would go into a pharmacy in France, or wherever, to buy. I will ask Mr Moses to clarify that technical point if he is able to.

Ed Moses: It is the same situation as was the case before 31 December. Routine medicines are not covered, but emergency and necessary medicines are covered. It is exactly the same position as it was before the turn of the year.

The Chair: We will move on to some of the trade issues in the regulatory regime. The Earl of Stair will take the floor.

The Earl of Stair: Good morning, Minister.

Edward Argar: Good morning, my Lord.

Q29 **The Earl of Stair:** The pharmaceutical industry, like many at the moment, is facing quite a few challenges, welcomingly without tariffs. Specifically, restrictions include variations in regulations and standards between imports and exports, rules of origin and, as you alluded to earlier, batch testing. What assessments have you as a Government made of the implications of the Trade and Cooperation Agreement for the manufacturers of medicines and medical devices based in the UK?

Edward Argar MP: Before I answer, I put on record my gratitude—and I think everyone's gratitude—to the industry in this country for the way in which it has engaged with us, and made significant changes and been very flexible throughout the process to ensure continuity of supply.

For want of a better way of putting it, the assessment you are talking about is what fed into our asks around what is known as the pharma annexe on regulation of medicines and medical devices. We pushed very hard for it, but the EU was not willing to discuss it until relatively late in the negotiations because it did not want to consider annexes under the barriers to trade chapter until other issues had been resolved.

We made fairly rapid progress on that once we had those negotiations. For example, we got regulatory co-operation inherent in the Agreement for the working group. We got mutual recognition of the good manufacturing practice approach as regards not having to double test, for want of a better way of putting it, or duplicate testing in that space.

On issues that remain, we got a cushion, for want of a better word, for their not coming into force at a total cliff edge on 1 January. The cushion around batch testing and similar is very useful. We took into account what those in industry said. They said they were not ready and that that would be a real problem for them. That has given us time, but the issue around batch testing remains at the end of that period. I was going to come on to authorised persons and suchlike, but that may come up in the context of Northern Ireland separately.

On batch testing, I think we have got to a good place, in that we do not see a cliff edge and we continue to see the ability of industry to import medicines without the challenges of duplicate testing. It is clearly something we will be looking at and working with industry on in the coming months.

Rather than me talking in a general way, is there a particular aspect that you want me to dive down on and give you more detailed specifics?

The Earl of Stair: I was not going to ask you about specifics—we are where we are at the moment. But I do want to ask whether there are plans or proposals to try to regain, over the next few years, the equality of trade on import and export standards that we had beforehand.

Edward Argar MP: I will address that on two levels, if I may. Linked to the first, we pushed for that in our negotiations, as you will be aware, and the EU did not agree to it. That is in the nature of a negotiation; both

sides will have some things they are happy to agree to and some things they are not. We got, however, to a good place.

I will invite Mr Harpur to come in after this. Since Christmas, I have engaged directly with industry, not just in the industry forums we have but one-on-one with most of the larger suppliers that make up the bulk of our import market in medicines and medical devices. Our message to industry is that you need to work on the basis that what we have reached at the moment is what will happen and what will be the future state, so you need to prepare for no changes to it at the end of the period. That is to ensure continuity of supply and effective use of the time to plan.

However, as I think Richard Torbett made clear in your previous session, he and others in industry have asked us to look at two other things. The first is whether there could be unilateral extension of mutual recognition. The second is whether there is scope, when the dust has settled, for a further conversation with the European Commission.

In this first month after the Agreement was made, it would probably be premature to speculate on either of those at this point. My focus, as directed by the Prime Minister, is to make sure that we implement the Agreement and make it work. What I would say is that industry and others have made that point very firmly but politely to me, and I continue to reflect very carefully on it. There is no intention of saying, in a month's time, "We have implemented the Agreement; there we are, job done". We will continue to engage. My excellent team will continue to look at what is coming down the road that we can prepare for early and see if there is any way of addressing it. Mr Harpur might wish to add a little detail on that.

Matthew Harpur: It is important to say that GMP is really important for industry. It avoids duplication. It is also good for us and good for the MHRA. Clearly, batch testing is a major concern. We have regular dialogue with Richard and others across the industry. We know the concerns there, and that is why, of course, we have the two-year period the Minister referred to. It is really important that we have that evidence, and I know the ABPI and others are very much working on that.

On the subject of co-operation with the EU, in my previous role in UKREP I worked very closely with our European partners in Brussels. Clearly, this deal is a really good platform. We have the working group, for example, to talk about regulatory co-operation. There are very scientific areas such as pharmacovigilance, for example, and patient safety. We can see in the context of COVID how important the EMA-MHRA relationship is and will be going forward. Obviously, the working group is not set up yet. We can of course share more details with the committee when it is. The principle in all this, and we will come to it later with the research and other points, is of course that we need to co-operate going forward with the EU and other global partners.

Edward Argar MP: I would add very briefly, Lord Chair, that we are very happy, outwith this committee, if there is anything we cannot answer or

where there are developments in the next month or two, to write to you, if you feel it would be helpful, as and when those developments occur, to ensure that your committee is updated as and when things move forward in a particular space.

The Chair: Thank you, Minister; we would very much appreciate that. We thank you for your recent letter to us on Northern Ireland, which was very useful to us before this session.

Lord Young of Norwood Green: Welcome, Minister. I have no interests to declare, except an interest in hearing your responses.

According to my information, you got zero tariffs and quotas on goods, and that was agreed, and, to qualify, GB goods need to meet the rules of origin. You have to face the problem that the deal will not remove the need for customs declarations and paperwork. Your plans are surely to digitise that process. If so, do you have the IT in place to do that? It seemed to me that Matthew Harpur was the man dealing with that, but if you would like to comment first, Minister, or pass it on, I will leave it to your judgment.

Edward Argar MP: I am happy to give an opening answer and, if my officials want to add anything that would be useful to the committee, I will invite them to do so.

Essentially, you are talking about the fact that, although we have specific sections of the Agreement that are health, medicines or medical devices related, they sit in the context of continuity of supply within a broader context, which is barriers to trade, how trade flows, customs declarations, and what goes on at the border. In that context, we and our major suppliers in this country—our major life sciences firms—are dependent on HMRC for the sorts of systems that you referred to for declarations and the right paperwork, and on Border Force, and to a degree the Department for Transport, for the operation of the ports.

What I want to say before I bring in Mr Harpur is that it is early days. I would characterise continuity of supply in what we are seeing as, "So far, so good". I caveat that with the comment that these are not normal times, as we know, in the context of COVID, and therefore border flows are perhaps less than they would be normally. Industry has already done a huge amount to get ready, and to work with this new regime, by re-routeing supplies away from the short straits to other ports so as to ease any impact of congestion. In the health sector, we were not particularly impacted by what happened at Dover over Christmas.

The second thing is trader readiness. We have engaged throughout with businesses and suppliers in the sector, as has HMRC, to make sure that they understand how to fill out the online forms and how to complete their declarations in advance to be trader-ready for travel. We have had no reports yet from our engagements with the sector of major issues or problems with that.

The third mitigation, which has not had to be hugely used but it is there, and we put it in place as a buffer, is that suppliers kept a six-week supply of stock of different medicines in this country. Were there to be any short-term disruption or issues with systems, you would not see problems at the front end, be it in pharmacies or hospitals. We have put in air freight options for things such as radioisotopes should there be any delays. We have that multilayered approach.

That is a slightly long answer, and I hope the Lord Chair will forgive me, to your question on whether we are ensuring that traders are ready with the paperwork and so on. I hope that sets a bit of context around the preparations we have put in place. Matt may want to add a bit on the specifics of your question around declarations and the systems.

Matthew Harpur: This refers to what we will come to later on Northern Ireland. The Minister has said it already as regards working with HMRC. There is work with the authorised trader arrangements, which links to the rules of origin point, and is clearly an issue for a small subset of medicines and devices, and for things such as medical feeds.

The trader support service is all about supporting companies; for example, regarding Northern Ireland, and ensuring that they have the support they need to fill in the two forms, one on the day and then one on the fourth day of the next month. Of course, we are happy to provide more detail if it would be useful.

Lord Young of Norwood Green: Are the HMRC systems up to it? There have been some problems in another area, which indicated that they were not that good. I am not trying to exaggerate a problem. I was just trying to probe whether you felt confident about that aspect.

Edward Argar MP: On that one, yes, based on experience. This is week three or week four, so, as you would expect, we continue to look at it, and we continue to monitor border flows and any issues that come up. In each of my calls with some of our major suppliers and the ABPI and others, I have said, "Tell me if there are any issues with those HMRC systems, be it processes or IT, and we will raise them". They have not, to the best of my recollection, raised anything that has impacted on them at this point. We continue to engage with them, and I know they will not be shy in telling me or my team if anything occurs. At the moment, I would stick to my "So far, so good".

The Chair: We now move to the rather complex area of Northern Ireland, on which we have corresponded recently. Lord Carter will take the floor.

Q30 **Lord Carter of Coles:** It is good to see you, Minister, and your officials, Ed and Matt. You will have heard that our previous witnesses rated the Northern Ireland issue as one of the key ones that needs to be faced. Can you tell us about the clarification and how you are getting on with the rules of supply of prescription and over-the-counter medicines after the one-year grace period?

Speaking about uncertainties, do you want to say anything about the COVID vaccine and the difference from the EU? Does Northern Ireland fall into that or is it a UK or GB matter?

Edward Argar MP: I will try to cover all those and then invite my officials to say anything that will add to the answer. Hopefully, you received and have seen the letter I sent. I apologise to the Lord Chair that there was a slower turnaround over Christmas than I would normally have wished, but hopefully you received my response about the publishing of guidance and where we have got to on that.

We have added clarity around what the current situation is with the standstill, with the cushion, and how that will operate. We continue to work closely with industry to address what will happen at the end of the period. I think one of your previous witnesses referred to the positive impact of the decision to phase in regulations and changes to give industry time to prepare. In a past life I worked in business, and, while my chief executive's ideal answer was always the one that was best for his business, his next best answer was, even if he did not like it, to give him clarity as early as possible so that the business could prepare for it. That is what we seek to do here.

I suspect it is a little too early to give granular guidance on exactly what will happen at the end of that year, but we are continuing to work through with business how we might address the concerns it has highlighted. For example, and I think it may have been Richard who highlighted this, there is a barcoding issue under the falsified medicines directive. Technically, something will leave the EU with the barcode deactivated, it will come into the UK and then need a barcode to go on to Northern Ireland. At the moment, the fact is that most of the supply chains from the larger companies, and indeed the smaller ones, are through GB into Northern Ireland. I spoke to the Chair of the Northern Ireland Affairs Select Committee about this relatively recently, and we explored some of the options.

As regards mitigation outwith any major change, there are options either around supply chain re-routing, which some businesses will be looking to do, or, for example, around bonded warehouses and cabotage, and whether a route to explore might be that, technically, something has not left the EU if it is sealed in one of those warehouses before it carries on. We continue to discuss those things with industry, but we are doing it at pace because we recognise that anything like this, particularly a supply chain change, has a long lead time and, indeed, a cost for businesses. We are keen to give them as much clarity as early as we can. As and when we have further developments on that, we will of course write to the Lord Chair, updating him on that.

Matt or Ed might want to pick up on where we have got to with the discussions around publication of guidance and next steps.

Matthew Harpur: The first thing to say is that we had a very constructive dialogue with the Commission in the run-up to the joint

committee, and it was great that we got the Agreement we did on the one-year period, but there is much left to do. For example, Richard Torbett talked in the previous session about there being slight differences in the guidance; for example, on the marketing authorisation holder point. We have been very clear on that and we have issued guidance, as has the MHRA, on both the marketing authorisation holder point and on other licensing points. We are also working very closely with industry to have a complete set of the concerns and how they are best dealt with.

The point about the end of the one year is very important, because the Commission was very clear in agreeing the one year. It is one year and industry needs to be ready. That means a common transit convention, as the Minister said, or other supply routes. Equally, the Command Paper we published in December talked about warehousing, for example. We are working with the Cabinet Office and with industry on all these issues, almost on a daily basis, to make sure that we get to the right place. We can, of course, update the committee, as the Minister said.

Edward Argar MP: I am conscious of the time, but perhaps I could give a very helpful one-sentence addition. If I were to characterise now the whole raft of issues we were dealing with last year—healthcare right the way through—and what my and the team's energy is focused on as remaining challenges, I would say the vast bulk of it is around the Northern Ireland Protocol and the Northern Ireland medicines and medical devices regulatory regime. They are the bits where we continue to work at pace to try to give greater clarity and certainty and, ideally, find ways to work with the Commission to address outstanding areas where there is disagreement or a difference of interpretation.

Lord Carter of Coles: Do you have anything on the vaccine, Minister?

Edward Argar MP: It will not surprise you if I avoid straying into the broader political debate that is going on around that at the moment, save to say two things. First, Northern Ireland is part of the United Kingdom. We work very closely together, and I work very closely with my opposite number, Robin Swann, who is the Northern Ireland Health Minister, as I know does the Secretary of State, to ensure vaccine supply.

All I would say on the broader political context is that we know this is a disease that has no interest whatever in which country or border it crosses and who it infects; it merely looks for a victim. We continue to work hard to co-operate to achieve the best outcomes for everyone in beating this disease. That includes getting on with the vaccine rollout. Our focus should continue to be working together to beat the disease, rather than focusing on any other sub-aspects of that debate.

Matt or Ed, do you want to add anything on the vaccine point specifically for Lord Carter?

Matthew Harpur: I think you have covered everything, Minister. The only point I would add on the regulatory side is that we have used Regulation 174 on the vaccine. Once an EMA decision is made on the

vaccine licence, that will take place in Northern Ireland because it is under the terms of the Protocol. That is the one factual point I would add.

The Chair: Minister, I was very pleased to hear that you listened to our previous session, so you will know that there was a lot of concern about information sharing and data. We will move to part of that area now with Baroness Jolly.

Q31 **Baroness Jolly:** Minister, are you content that the Agreement's provisions on health security co-operation allow for effective joint working to address cross-border health risks? In what situations would you consider requesting ad hoc access to the early warning and response system, and have you made such a request in relation to COVID-19?

Edward Argar MP: It is nice to see you again. I think we met virtually just before Christmas.

To your point on health security and information sharing, pages 362 to 363 of the Agreement cover, in a relatively short and, for an international agreement and treaty, pretty clear seven clauses. I think we have achieved a good and effective outcome in that space, given what we need. We have seen the pragmatism and common sense that will make it work in the context of COVID, which I will come to later, which I think is a reflection of how it will work going forward.

Before I come back to that, on your second specific question about in which context in the future we might look to make a request to the EWRS, I think clauses 1 and 2 of that section of the treaty are pretty clear in setting the framework: "For the purpose of this Article, a 'serious cross-border threat to health' means a life-threatening or otherwise serious hazard to health of biological, chemical, environmental or unknown origin which spreads or entails a significant risk of spreading across the borders of at least one Member State and the United Kingdom".

While I would not wish to be prescriptive in giving examples, beyond COVID, of what specifically in a given circumstance that means, it gives us a pretty clear framework. In that context we would, as in the case of COVID, which I will come to, be perfectly willing to fulfil our obligations to notify and to reflect that access.

On your specific point about such a request in the context of COVID, yes is the short answer. This may be the first time I have been asked this publicly, so I will answer it for the first time in your committee. Once we had the Agreement, in the few days over Christmas, before the end of the transition period on 31 December, I and the Secretary of State were extremely keen to ensure continuity of access to EWRS and the arrangements we had been using throughout. On 30 December, I instructed my officials to request that access, and I have to say that it was granted and approved seamlessly within a matter of hours, if not minutes, by the Commission and by the EU. I take that as a reflection of the common sense and mutual interest that is being applied, and that I

would expect to see in any future health pandemics or serious health challenges.

A final comment is that, more broadly, as you know, we co-operate within the WHO and the Global Health Security Initiative, and will continue to work closely with the EU on matters of mutual benefit around health security and the threats to that. In the context of clause 7 of the Agreement, while at the moment we are focused on the pandemic and work on COVID, I have asked officials to begin looking at the option around the MoU referred to and when we might start to think about that. My focus at the moment is on where we are now, and what we are dealing with in this pandemic and the emergency that we currently face. But I am not going to lose sight of that aspect of clause 7, so I would expect further advice in the coming weeks and months as to how we might explore that option with the Commission.

That was a long answer I fear, Lord Chair, but hopefully a comprehensive one.

The Chair: Let us move on to the important factor of data, which has effects not just in the health sector but much more broadly.

Q32 **Lord Giddens:** Baroness McIntosh has already raised this issue, Minister, but perhaps you could say more about it. We are living in a digital age. Data are the key to more or less everything. Could you expand on the healthcare implications if the EU does not grant a positive data adequacy decision?

Edward Argar MP: You would expect me, I suspect, in my opening line to caveat what I am about to say by noting that I believe positive progress is being made around the data adequacy assessment and similar, and I am hopeful that we will secure a positive outcome. The process has been under way since March last year. But you ask me, quite reasonably, within that context, the "what if" question about contingency plans and what we are doing in case that does not happen.

As you will be aware, we have at the moment under the TCA the data bridging mechanism, which is time limited to four months, plus an additional two, should either side request that and it be agreed to, but there is a hard cut-off after six months. That will ensure continuity of data flows at the current time. You are right: we continue to seek data adequacy recognition for the fact that we have, essentially, equivalent provisions under GDPR and the law enforcement directive.

Where are we with that in the context of DHSC and the health sector? I know that there is a macro level or pan-government answer, which is that DCMS continues to work across government not just on securing data adequacy but on continuing to update iterations of guidance should that not be achieved, so that people are well prepared. In the context specifically of DHSC, we have continued to strengthen our readiness. We have worked particularly closely with the Welsh Government on this.

Before Christmas, we reached out to all 44 of our arm's-length bodies and non-departmental public bodies and similar, to do a mapping exercise to assess their readiness in the event of no data adequacy being agreed. In that context, we matched all the different data flows with the EU, or from the EU, in those different organisations. Of a total number in the hundreds, I think the number of streams that required further mitigating actions to ensure that they could continue to operate in all circumstances was only just over single figures. Those actions are being taken as we speak in that small, single-figure group. All organisations in that group have continued to develop and assess alternative transfer mechanisms to ensure that, whatever the outcome, we do not see an interruption to those data flows, which are essential to patients and indeed to the sector.

That was a slightly long answer, but hopefully it addresses both the macro point and the steps we have taken within the department to reassure ourselves that the alternative transfer mechanisms are in place, and in the very small number where they were not initially, when we looked at this last autumn and last winter, they have been put in place now.

Lord Giddens: Thank you for that answer. It is a really big issue. Data are constantly evolving because of the rapid nature of transformation in medicine and other areas. It is very important to look ahead and try to get a mobile outlook on data.

Edward Argar MP: That is absolutely right. The data bridging mechanism does not prohibit changes to what we do with data but requires us to agree them with the European Union and the European Commission. Going forward, I remain hopeful, indeed confident, that we will make significant progress in the coming weeks and months around data adequacy. But your point is absolutely right: as we become an ever more joined-up digital world, those flows of data must continue unhindered.

The Chair: I said in the previous session that, in the healthcare sector perhaps more than others, the degree of ongoing collaboration is very much to be welcomed, perhaps in comparison with some of the other sectors. I believe that is good news. We move on to something that is perhaps more contentious, particularly in the care sector, rather than in the NHS itself: the workforce.

Q33 **Baroness Bryan of Partick:** What we absolutely know now is that we cannot separate health from social care. We heard earlier from Kate Ling of the NHS Confederation that her major workforce concern relates to lower-paid healthcare workers who will not be able to meet the points-based immigration criteria. She indicated that we could lack 112,000 social care staff and that it would be very difficult to fill those posts by local recruitment, without using overseas workers to supplement it. What steps are you taking to ensure that the UK's health and care systems can access all the workers they need at all levels?

Edward Argar MP: If I may, I will take the opportunity in answering this question to put on record my gratitude, and that of my officials and fellow Ministers, to everyone who works in our health and social care workforce. In "normal times" they do an amazing job, but they continue to do a phenomenal job in extraordinary times at the moment. I want to put that on the record.

To the specifics of your question, and I think this came up in your previous session, we recognise—and my colleague the workforce and social care Minister, Helen Whately, recognises—that adult social care employers, even outwith the COVID pandemic, can at times struggle to recruit and retain the right numbers of staff. We equally recognise in the context that you have set out how important it is to have enough people in the sector with the skills, and indeed the mindset and values that we see with our amazing social care workforce, to deliver high-quality and compassionate care.

We recognise, and the sector has been very open about this, that the ending of freedom of movement from the EU poses challenges in social care. However, it is important to recognise a number of things in this context. First, the independent Migration Advisory Committee has been clear that migration is not the long-term solution to the challenges facing the sector. In thinking about the workforce, and the future needs of the workforce, my colleague Ms Whately is looking at a range of levers to improve the numbers in our social care workforce. Primarily, that means a homegrown workforce. It is about continuing to make social care an attractive career for people in this country and, indeed, for people coming here not just from Europe but globally.

To the point you make about the future, we have made clear, and I think it was mentioned in your previous evidence session, that we have committed to review the impact of the new approach on social care and on the workforce. It would be premature to prejudge what that impact assessment and review might say. What I would say is that we will consider very carefully and openly what it says about any impacts.

Baroness Bryan of Partick: Thank you. Even as regards the lower-paid healthcare workers who might meet the points-based criteria, do you not think that the impact of the financial requirements for bringing in families will create barriers for those low-paid workers?

Edward Argar MP: I would go back to what I said just now in addressing the question. You have seen the changes we have made around, for example, the immigration health surcharge and similar aspects. I do not think that specifically is what you were getting at. I think you are talking more about Home Office policy, if I am right, and immigration policy around visas, and similar.

I go back to what I said, in a sense. We have made it clear that we will review the impact, and that will be part of it, because, obviously, no man or woman is an island—they have family members and dependants.

In the context of reviewing impacts, when we come to that point, I suspect it will very much be an element of looking at what impact it has had, and the drivers of people's decisions or ability to come or not to come.

The Chair: I appreciate your optimism, Minister, but, getting down to reality, you have a Home Office that will be very concerned about loosening any further migration rules, particularly when it comes to families. As regards enticing UK citizens into the social care sector, as we would all want, to make that work there will be a big impact on public sector expenditure, I would have thought, which the Treasury will resist. Are you not battling against two fairly deaf major ministries in this area, in reality?

Edward Argar MP: You tempt me, Lord Chair, into territory that is perhaps more rightly the purview of the Home Secretary.

Going to your latter point, I do not think it is an entirely fair characterisation. The Home Office, the Treasury and others are entirely content with and supportive of the commitment to review the impact on the social care sector. That shows a willingness on the part of both those departments to look at it objectively and to see whether there are any impacts that have not been anticipated. I may have been a Minister for only two or three years, but I fear that, beyond that answer, you will not tempt me to stray into the Home Secretary's remit much further than that.

The Chair: Good luck, is what I would say, and I mean that sincerely.

Lord Cormack: I have admired the clarity and precision of your answers, Minister, and your mastery of your brief, but I am deeply troubled about what you have just said because I see terrible problems ahead on the social care front. I do not think it will be easy to recruit indigenous subjects of the British Crown in this country, and the Chair has just put his finger on one of the problems.

I also think that we have not taken sufficient account of the impact of COVID on the morale and the longevity in working life of those who serve us so well at the moment. It is desperately important that you and your Secretary of State have an early dialogue with the Home Secretary to point out that, in this particular area, points could mean losing a great deal.

Edward Argar MP: Having been familiar with your work when you were sitting at our end of the building, I am grateful for your kind words at the outset, but I suspected they would be followed by a challenging question in the conclusion—as indeed they were.

On the specifics of the point you make, outwith COVID and outwith any changes to the immigration system, workforce challenges have always been, and continue to be, an issue for the social care sector in this country. I think you are right to highlight that. You are also entirely right

to highlight the strain—I could probably use a tougher word than that—of dealing with COVID, and the emotional and physical drain that dealing with COVID will have had on our workforce in the social sector.

Before doing this job and before being a Member of the House, I was a councillor for almost 10 years, and for a chunk of that time I was cabinet member for public health and adult social care. I saw at first hand the amazing work that is being done, but I also saw the challenges in not just attracting but, exactly to your point, retaining a skilled and dedicated workforce in the social care space. That is one of the reasons why, in her workaround workforce and her plans around that, the social care and workforce Minister has been looking not just at attracting additional members of staff from abroad, be it from the EU or more globally, but aspects such as retention of staff and what will help retain a skilled workforce.

To your final point, I know that she will speak, and does speak at regular intervals, with her opposite number in the Home Office, the immigration Minister, around the practical operation of the new immigration system as it will impact on individual parts of the sector for which she and I, and others, are responsible.

Lord Cormack: Thank you, but it will remain a very real problem.

The Chair: We move on to Lord Cameron.

Q34 **Lord Cameron of Dillington:** Good morning, Minister. I echo Lord Cormack's comments about the clarity of your responses and the excellence of your answers. Thank you very much for that.

On the last point about people movement, a point made in the previous session was on the whole question of movement of research staff and how the expense of our visas might put them off. It is very important. I am involved in the research side of life—nothing to do with health, I might add—so I am aware of its importance. Most of our research institutes have 25% of their staff coming from the EU. It really is important for the research community that we keep encouraging them to come here. In your dialogue with the Home Office, as mentioned by Lord Cormack, it would be really good if you could emphasise the question of the expense of our visas.

Moving on to my question, you saw the last session with the research officials. They had priorities going forward as to what they felt were the real priorities for future negotiations with the EU. What will your priorities be over the next months, even years, with the EU? Perhaps you could outline where you feel the art of the possible might come into the negotiations. What do you feel you are most likely to succeed in?

Edward Argar MP: Again, like the Lord Chair, you slightly tempt me to speculate. To your first point, before turning to what future opportunities might look like, yes, as well as this being relevant for the Home Office, I will continue to discuss it with the universities Minister, because there is a

read-across to the scientific and academic base in this country—one of the things I will now turn to on your second point.

I will deal with the long term before I come back to the short and medium term. In the long term, I am very keen, as is the Prime Minister, to see us continue to build on the success of the amazing life sciences sector we have in this country. It has shown in recent months just what it can achieve. I recognise, and it is important to say this, that that is in the context of its being a multinationally owned global industry and the research is global. There is a real opportunity to further support the life sciences sector in continuing to innovate and in continuing to drive innovation and change. That links to your first point, which is to make sure that we factor that in when we are talking about universities and our academic and research life in that context.

What are my short to medium-term foci on what we might achieve? For the next month or two, to be honest, my focus, and that of Matt and Ed and the team, will be on making sure that we fully implement the agreement we have, and that we iron out and address any short to medium-term bumps or issues that emerge from that specific Agreement, be that clarifying guidance or, if there is a slight difference in the interpretation of the guidance between us and the Commission, working with it to have a common picture, where we can.

Going to the medium term, the sorts of issues that I will be working on closely with industry and others, and to which I have alluded, are around the regulatory environment for medicines and medical devices and how that works in the future. In the pharma annexe, we got a large chunk of what we wanted, but we did not get it all. That is an area where I will continue to work with industry on what we can do to help to make sure that we can maximise the opportunities there.

Of course, it will not surprise you to hear me say Northern Ireland and the Protocol again: how will we continue to make that work, to ensure that any challenges that come at the end of the buffer period are dealt with? That is a short to medium-term thing.

As I say, there are significant opportunities going forward to support our sector around international trade and us becoming even more of a global leader in the regulatory and life sciences space. It is probably a bit early for me to add more flesh to the bones than that, but perhaps I might come back before your committee at some point in the coming months to answer further questions on what the future looks like.

Mr Harpur or Mr Moses might want to add something on the particular point about looking forward.

Lord Cameron of Dillington: It might be helpful to deal with the particular question of batch testing.

Edward Argar MP: Do you want me to touch on that myself, or would you be happy for Mr Harpur to touch on that one?

Lord Cameron of Dillington: Either will do.

Edward Argar MP: I will say a few words and I will hand over to Mr Harpur, because I suspect you will get an even more detailed answer from him.

We touched on batch testing. We did not get the mutual recognition agreement clause that we wanted around batch testing. I will be honest: we pushed it, but the EU was not keen. That is in the nature of negotiations. I know industry has asked that we look at a further discussion with the Commission when the dust has settled, when we have implemented the Agreement, either on whether that could be revisited or on unilateral actions. Of course we continue to reflect on that, and we talk to industry about it, but I do not think in the short term that it would be an achievable prospect, given where we have just got to and what we are doing at the moment.

I am always happy, as are the Government, to continue looking at these things. It is probably a little premature to speculate at this point on where we might go with that. I would not want to send the message to industry that it does not need to deliver on what has already been agreed, or prepare for it, because it does. While I know the industry is pressing me to see if we can have another look at it, in the absence of that, what we have got is what will happen, so I do not want to send a message that industry can pause and it will all be okay and something will change.

We need, in parallel, to look at the implementation of where we have got to already, and the contingency plans for the end of that, but of course continue to have discussions with industry and others about where there might be opportunities in the future to look at it.

Matt, do you want to add anything or clarify anything?

Matthew Harpur: On batch testing, you have said it all, Minister. The evidence is clearly important. We have a very close dialogue with the industry on it, and we will continue with that in the coming weeks.

On the opportunities, the Medicines and Medical Devices Bill, which I think is going to the other place this afternoon, is a really exciting opportunity to promote innovation and to protect patient safety in the light of Baroness Cumberlege's report, which I know you are all very familiar with.

Above all, it is about global co-operation with the EU and other partners, both on regulatory issues and on health security. The Minister mentioned earlier the MoU with the ECDC. On top of that, there are opportunities. I know that AMR is very important to Baroness Jolly and others in the House. It is how we work globally together to tackle those threats and challenges.

The Chair: Minister, we have come to the end of our session. Is there anything you and your officials would like to sum up before I conclude the

session? I think all of us have found it most useful. We are very appreciative of the clarity that you and your officials have given. Is there anything you would like to sum up on?

Edward Argar MP: Very briefly, if I may. First, thank you, Lord Chair, for the invitation to appear before your committee this morning. It always seems to be the case that committees of the other place are perhaps a little less political and a little more forensic in what they look at than at our end of the building. It is always interesting.

I simply reiterate two things. First, I think what we have secured overall is a good Agreement for this country. From the perspective of my department and my responsibilities, we have got to a very good place with the European Union in respect of healthcare: reciprocal healthcare, health security, and continuity of supply, noting that that has externalities that can impact on it, but so far, so good.

In the context of managing Northern Ireland and the Protocol, and medicines and medical devices regulation, we have got to a good place. My final point on that would be that the work does not stop now. Some of it is done, and we just have to ensure that we implement it smoothly and effectively. There are other aspects, which you have touched on, around the Northern Ireland Protocol, and around the medicines and medical devices regulations, which the team will continue to work on.

Feel free to write to us if there are any developments you want further information on, and we will endeavour to be as proactive as we can, when there is a major change or step forward, and notify your committee. Of course, should you wish in the future, it would be a pleasure to return and appear before you.

My final point is to put on record again my thanks not just to the industry but to my officials who have worked in the team. It is not just Ed and Matt; there is a whole team who worked throughout the Christmas and new year period. They had a brief break after negotiations on the deal were over and then got back to work on implementing it. While at times in some parts of the media and elsewhere it may be fashionable at the moment to be critical of our Civil Service, I have to put on record that, in my experience working with this team, they are the gold standard and have worked flat out to get a good outcome in this space from the negotiations, for the citizens of this country. I crave your indulgence in putting on record my gratitude to my officials.

The Chair: Thank you, Minister. Matthew, is there anything you want to add to the session?

Matthew Harpur: Nothing from me, thank you.

The Chair: Ed, do have anything to add?

Ed Moses: No, nothing. I do not want to take anything away from that final statement in any way at all, so nothing from me.

The Chair: Minister, Matthew, Ed, thank you very much for your evidence. I am particularly thankful for your time, because clearly we are in the middle of one of the greatest health crises that we have known, certainly in my lifetime. I am very aware of the pressure that puts on your department and your civil servants, let alone the NHS as a whole. I am sure the committee as a whole would like to thank them all, and you, for all the work and the effort that I know is going on to extricate ourselves from the crisis we are in at the moment. With recognition of that, and with my thanks to everybody in your department, I bring this public session to a close.