

Joint Committee on the National Security Strategy

Oral evidence: The National Security Strategy

Monday 3 November 2025

4.35 pm

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Members present: Matt Western (The Chair); Lord Boateng; Liam Byrne; Sarah Champion; Mr Tanmanjeet Singh Dhesi; Bill Esterson; Baroness Fall; Lord Hutton of Furness; Baroness Kidron; Mike Martin; Edward Morello; Lord Robathan; Emily Thornberry; Lord Tunncliffe; Derek Twigg; Baroness Tyler of Enfield; Lord Watts; Sir Gavin Williamson.

Evidence Session No. 5

Heard in Public

Questions 73 - 93

Witnesses

I: Chris Patten, the Rt Hon. the Lord Patten of Barnes KG CH, Former Governor, Hong Kong; Isabel Hilton OBE, Founder, China Dialogue and Visiting Professor, King's College London; Nigel Inkster CMG, Former Assistant Chief and Director of Operations and Intelligence, MI6.

II: Lord Jonathan Sumption, Former Justice, Supreme Court of the United Kingdom and former Non-Permanent Judge of the Hong Kong Court of Final Appeal; Jonathan Hall KC, Independent Reviewer of Terrorism Legislation and Independent Reviewer of State Threat Legislation.

Examination of witnesses

Lord Patten of Barnes, Isabel Hilton and Nigel Inkster.

Q73 The Chair: Welcome to today's meeting of the Joint Committee on the National Security Strategy. Today we are holding a session focusing on the UK's relationship with China as part of our inquiry into the national security strategy. Can I start by inviting our witnesses to introduce themselves?

Isabel Hilton: I am a journalist by profession. I am the founder of China Dialogue, which was the first fully bilingual Chinese-English not-for-profit website on climate change. I first went to China as a student in 1973 and I have been going very regularly ever since.

Lord Patten of Barnes: My name is Chris Patten. I was governor of Hong Kong from 1992 to 1997. I have not been to China for some time because I do not think they would allow me in. My main connections with China now are through Hong Kong. I am the patron of Hong Kong Watch,

which does wonderful work with the diaspora and at present is pretty worried about the extent to which it is subject to surveillance and intimidation.

Nigel Inkster: I studied Chinese at Oxford University, following which I joined the Secret Intelligence Service, ending up as the deputy chief and director for operations. I have served in China and Hong Kong. After leaving government, I moved into the International Institute for Strategic Studies where I have worked on issues of cybersecurity and have been engaged in paradiplomatic activities with China on issues of cybersecurity.

Q74 **The Chair:** Thank you. Let us start with a very simple question. Can each of you in turn briefly give a description of how you would characterise the relationship between the UK and China and how you see it having evolved—or if it has not, how it has remained the same—over the last five to 10 years or so?

Isabel Hilton: It is fairly obvious that the weight of advantage has definitely moved to China. When I first went to China, the economy was smaller than Belgium's—so we have come a long way. China is now a leading power in technology, it is the second-largest economy in the world, and it has devoted considerable effort in the last several years to building up its own minilateral and multilateral organisations to extend its influence in global affairs.

Its view of the United Kingdom is that it is not a great trading partner as far as China is concerned but is still a repository of some global influence as a P5 member, as still—are we?—the fifth-largest economy in the world, and as a supplier of services particularly in higher education and other services. In strategic terms it matters because China regards the UK, as a member of NATO and a very close ally of the United States, as a power to be neutralised when it gets in the way of China's global ambitions.

The Chair: Has it changed since we came out of the EU?

Isabel Hilton: Yes, it has changed in the sense that, as a member of the European Union, we were a member of China's largest trading partner. In trade terms, size really does matter. To leave the European Union was a considerable loss of influence in dealing with China. It means that we are much more vulnerable to the kinds of dependencies that have built up over the last 20 years that have been made available to China.

We have seen it in operation recently over strategic minerals, for example, and rare earths. But there are other ways that China can apply pressure to the United Kingdom as a smaller power. Compare that, for example, to the case of Lithuania. When Lithuania got into a dispute with China a few years ago, China had to back off because Lithuania was a member of the European Union.

The Chair: Interesting. Lord Patten, what is your take?

Lord Patten of Barnes: I agree with most of that except that I think we are in post-peak China. The view that China will completely dominate this century is over the top. It is interesting to see how, in GDP, China looked as though it was going to overtake the United States until not long after the financial crash in 2006 or whenever. That is obviously not going to happen now. There are a number of reasons for that. One is the extent to which extrapolation has ceased to feed into the Chinese economic figures—that is, you cannot go on producing more people to be urbanised, to take a rather obvious point, and the demography of China is a real problem. If you go down the ages, when you get to the youngest, in their late teens and early 20s, you find that the disparity between boys and girls—men and women—is huge. There are about 16% more men than women, which clearly has consequences for the medium term in their size of population and working age but also in social terms as well.

It is easier to see how China has handled pretty expertly its relationship with us than to see how we have handled our relationship with China. The Labour Party manifesto, which of course I read avidly, described the last Conservative Government as having, in effect, a pretty shambolic policy on China. That was, by and large, true, with the “golden age” and all that. But I think it is fair to say that things do not seem to have improved very much with the new Government, who seem to be all over the place and incapable of making quite big decisions about the relationship with China.

If I can add one other point, there has been one delusion that has run beneath policy on China for years and was certainly the case when I was governor of Hong Kong, and that is the delusion that you cannot have an argument with China without it seriously affecting your exports and economic relationship. I have always thought that the figures simply do not bear that out in any respect. For example, the biggest rows we have had with China during the last 20 or 25 years were over the meetings between the Prime Minister and the Dalai Lama, after which, miraculously, our export figures to China, strangely enough, went up. When I was governor of Hong Kong, having a fairly rocky time in terms of dialogue with China, our exports from Britain to China increased by more than any other OECD country. It was not because of me; it was because the Chinese buy what they want at the best price they can get for it. If they can get a better price by people thinking that they have to give China favours, then they will go on feeding that sentiment.

It is a combination of people still giving China, or the Chinese Communist Party, the Mandate of Heaven when it comes to doing international business with it. The document that the Government produced, which I am sure we will have a chance to talk about in a moment, talks about co-operating, competing and challenging, which is a pretty hopeless trilogy if you are talking about what policy we should have on China. It is less effective than the one you are told about on the Tube all the time if there is a parcel that you do not know: “See it. Say it. Sorted”. That seems to

be a rather better way of describing what our policy has been on China. It goes all over the place.

The Chair: Which country would you single out as doing it better?

Lord Patten of Barnes: At dealing with China? I think the Germans have done pretty well. It is very difficult now to compare us with any European countries because we do not have the strength of the European partnership behind us any more. The Canadians, just as they have done with Trump—sorry, with the President of the United States—have also done pretty well with China.

If one were being cynical, the country that would say it has done best in its relations with China would be Russia, which has China helping to arm it in the war in Ukraine. The Chinese buy huge amounts of oil and other minerals from Russia at prices that are probably fair on both sides. Nevertheless, the Russians have managed that relationship despite the history of their relationship down the years, with tremendous anxieties about the border in Siberia.

Nigel Inkster: I agree with quite a lot of what has just been said, although I must confess that I am less confident about the diagnosis of “peak China”. I will go into that in a second.

On the UK’s relationship with China, we have probably not been very good at going back to first principles and looking in a clear-eyed way at the nature of the Chinese state. The nature of that state has come into starker relief over the last eight to 10 years in its being apparent that, for China, its survival and prosperity in its current form is dependent upon eroding the influence of the West. It has become an article of faith among the Chinese leadership to say, “The East is rising, the West is in decline”, and they have to believe that. The party has decided that this is what it is so there is to be no further argument on the subject.

China is looking to erode US leadership in the West. It does not want to necessarily replace the United States as a global policeman but it wants to reduce that influence and create a world that is more favourable towards China’s interests. It wants its ideology and form of governance to be accepted as normative globally and, for that to happen, our system has to be shown up as inadequate and, essentially, failing. I do not think that people have really internalised that reality.

Having said that, we are also struggling to come to terms with the fact that China, which has been struggling for the last 150 years to achieve a state of modernisation while preserving its unique cultural characteristics, has not just modernised but is now starting to define what modernisation looks like in the world we now inhabit. This is something that is very difficult for us to come to terms with. For a long time, we assumed that we were top dog, as it were; that our system was normative and globally desirable. That is no longer the case. All these factors come into play.

When it comes to peak China, I question that. I worry that a perception of peak China is something that has been shaping US approaches to dealing with China in recent days, particularly in the trade dispute that we have seen edging towards some sort of very unsatisfactory compromise solution. It is dangerous to write off China and to underplay the very real strengths that China has developed.

The Chair: When you look at the multifaceted challenge that the UK faces and at Ken McCallum saying that between 2018 and 2022 there was a seven-times increase in the number of espionage cases that MI5 was dealing with, which you may have some insight into, or whether you look at the number of challenges, such as the hack into the Electoral Commission or the economic challenges we are facing in terms of IP theft and so on, would you say that China represents an enemy, Nigel?

Nigel Inkster: No, I would not—and I would point out to the committee that at no point in the past did the UK Government ever designate the Soviet Union as an enemy.

The Chair: What would you describe it as?

Nigel Inkster: As appears in multiple government documents in recent times, it is a challenge and it can pose a threat, but it is also a country that we cannot ignore and with which we have to engage. I do not think China seeks to represent an existential threat to the UK in the way that the Soviet Union sought to do.

Lord Patten of Barnes: You finish up balancing missiles on pinheads. I think that China is a threat across the board, and I do not think you can discount what the heads of MI5, MI6 and GCHQ have said publicly and, in one or two cases, on the same platform as the FBI. What makes China a particular danger is the existential threat it feels from the things that Hong Kong represented, such as free speech and free media, which is ultimately a huge weakness.

The Chinese Communist Party is incapable of reforming itself and adapting to the things that make it easier to have an innovative and imaginative economy. It is no surprise that the Leninists in charge of the Chinese economy have cracked down so much on bits of the private sector which have actually produced most of the imaginative growth in the last few years. The real weakness of the Chinese Communist Party is that it cannot change itself and adapt. Sorry, I will stop there.

The Chair: Thank you. I am just conscious of time because there a lot of questions we want to put to you. We could, I am sure, talk for hours.

Isabel Hilton: On the question of “enemy”, I do not find it a very helpful word in this context, to be honest. The party is concerned with regime security and that leads it to be an adversarial power in many respects to western democracies. Simply to call it an enemy does not really help in coming up with a strategy.

Lord Patten of Barnes: Can I just add one footnote to that? I take the point. But you are certainly not a friend if you lock up British citizens for five years and do not allow them any consular access and, in the case of Jimmy Lai, who is a committed Catholic, do not allow him to hold communion, as a piece of vengefulness. You are certainly not a friend if you put a bounty on the heads of the Chinese who are living here now—mostly Hong Kongers, 180,000 of them—that anybody who can deliver them back to China to be locked up can collect. Those are clearly not acts of friendship. They are certainly not enemies in the sense of being about to drop a bomb on us, but I do not think they are the greatest of friends.

Q75 **Sarah Champion:** First of all, I start by saying, Lord Patten, thank you for all you did as governor and thank you for all you have done to try to protect Hong Kongers ever since. I was struck by your, “See it. Say it. Sorted” comment because, when I have tried to report things, no one wants to take responsibility for it. Who do you think should be sorting this? Who should be sorting it when it comes to espionage threats from China to the UK?

Lord Patten of Barnes: I feel very strongly that when we see it, we should say it, and we should not feel awkward about disturbing the Chinese by pointing out what they are up to.

The Chair: But if you were in government now, rather than being in the Foreign Office or Business and Trade or wherever, which department or which individual should take ownership of this? As Sarah is saying, who should she report it to?

Lord Patten of Barnes: First of all, I do not think it should be the Treasury. The Treasury is not known for its great depth of knowledge about China and, unfortunately, ignores the Chinese wisdom of taking account of what is happening before you try to provide evidence for your next step. It is interesting, in relation to two of the last rows about China and its behaviour, that David Lammy has spoken up—and spoken up very well. But there are some departments that are scared stiff—I suspect that Trade is—of saying anything that sounds as though it is critical of China, because they think, completely incorrectly, that if they do that, they will lose export opportunities for our trade. It is just bilge, and it always has been.

The Chair: Okay. I must move us on, I am afraid.

Q76 **Mike Martin:** Thank you to you all for taking this time with us. My question is for Lord Patten. How does China view the UK both at a governmental level—I suppose I should say a Communist Party level—and also across the wider society?

Lord Patten of Barnes: It very much depends. When the Chinese took back Hong Kong, as they were entirely entitled to, they started describing Hong Kong not as a colony or an ex-colony but as an occupied territory. They did not ever point out that it was occupied by Chinese people who were refugees from the Great Leap Forward and the Cultural Revolution. They crawled over barbed wire, swam through difficult waters and, in the

case of Jimmy Lai, stowed away in order to get to—heaven forbid—a British colony, an aspect of British imperialism. Why did they want to go there? They wanted to because Hong Kong represented, and our best liberal values represent, freedom.

I am very struck when I talk to Hong Kongese diaspora citizens in Britain. You say to them, “It must have been a terrible wrench for you in leaving your job, your home in Hong Kong and your friends”. They reply as though all schooled to say the same thing, but I think it just means that they have had the same experience: “We wanted to bring up our children in freedom”. That is an extraordinarily powerful part of the reason for the Chinese Communist Party finding it difficult to get on with this. It is because they feel that sentiment very strongly that, when they read about the Chinese trying to build the biggest embassy in the world, they start to worry about what that means for surveillance and intimidation for them and their friends.

Mike Martin: How do the Chinese Government view the UK now, in 2025? For instance, how do they view the sailing of the UK Carrier Strike Group out to the seas just off China earlier this year?

Lord Patten of Barnes: I would guess that they are nervous whenever it looks as though we are in any way increasing our understanding and commitment to Taiwan and to Taiwan’s continuing status. I think they would think that we are sometimes showing a tendency to be too big for our boots, given that our boots have shrivelled over the last few years. Nevertheless, distinguishing between the Chinese Communist Party and Chinese people, I think that there is quite a lot of good feeling about Britain, not least because of association football.

Mike Martin: How much do you think the actions of the UK Government bother and affect the actions of the Chinese Government? Imagining Xi Jinping’s in-tray, the US is probably the country that they are worried about the most. Do we even feature in the kind of things that he needs to worry about and think about in Chinese foreign policy?

Lord Patten of Barnes: I would not have thought he gives more than the occasional minute to reflecting on Britain’s role in the world or the Chinese relationship to Britain. He would not want Britain to sound too enthusiastic about the United States. The Chinese used to pretty well be the only people who believed in the European Union. That has probably disappeared now. I would not think that he is disturbed by or thinks very much about Britain unless, probably, it is in relation to Taiwan or to something we should be much more conscious about and do more about—that is, face up to China when it breaks its agreements, which it does. I am not just thinking about the joint declaration in Hong Kong; it is very difficult to think of an agreement that China has reached which it has not conveniently forgotten about when it does not suit it. That is true of the International Health Regulations, Covid and I am sure that it would be true of the environment as well.

The Chair: Nigel, did you want to come in on that?

Nigel Inkster: On the whole question of how China views the UK, I agree that in the overall scheme of things we occupy a very small proportion of Chinese leadership time. None the less, they do not want a worse relationship with us than they need to have. To the extent that we do things that hack them off, such as hanging out with the Americans, being part of NATO and sailing a carrier battle group close to the Taiwan Straits, they are always going to react forcibly.

Lord Patten of Barnes: I can add one other thing that hacks them off. Plainly, you cannot ignore this morning's newspaper reports about Sheffield Hallam University. That is a common feature. Our universities are better than they were in trying to ensure that China studies can be conducted in a way that does not hurt Hong Kong or Chinese students. There are all sorts of procedural things you can do, such as anonymising essays. I think that the Chinese get nervous about the amount of really good research that is done on things such as Uyghurs and other issues in China in British universities. We should continue doing it.

Mike Martin: I have just one final question. Our China policy has waxed and waned over the years, but we are having a thaw, or an unfreezing, at the moment. Notwithstanding your comments that perhaps we could be a lot less timid in our forthrightness, how is that unfreezing being viewed in the Chinese Government? Is that something they have driven? Do they want it to happen? Are they that fussed, or is it quite important to them, for the reasons that you cite—that we are a member of NATO and all the rest of it?

Lord Patten of Barnes: I am not sure whether or not the observation of that former Russian dissident Gordievsky would apply to China as well as it did to Russia. He once said that we should not forget that authoritarian regimes are always more comfortable with democracies and open societies if they are obviously not prepared to stand up to the authoritarian regimes. That is probably true of China as it was in the past of Russia.

Isabel Hilton: The problem is for Britain to decide how vigorously it will defend the values that it proclaims. I agree that the UK has been both confused and, on the whole, timid. A lot of the Chinese reaction is performative and quite loud, but that does not make it a major threat. Where it seeks to ensure that Britain stays silent is in this pursuit of global normative power that Nigel mentioned. That includes a rewriting of global priorities away from individual human rights, for example, and towards the predominance of states over political and civil rights. Sheffield Hallam University and the work that was done there gets in the way of that. That is China's reaction. It is up to the United Kingdom as to whether we fund our universities sufficiently that any sort of economic threat, which appears to be one of the things that the university considered, is moved. That is our decision.

The Chair: I think we will come back to that one.

Mike Martin: I will pose a final question to you, Ms Hilton, if I may. Do

you think that the Treasury and the trade department have too much control over British foreign policy with respect to China?

Isabel Hilton: I am not in government.

Mike Martin: That is why I asked you the question.

Isabel Hilton: Certainly, in the Covid era, a very unwise and, apparently, Treasury-driven policy in the end cost the British taxpayer far more than a more realistic and informed policy would have done. It involved us rushing into agreements that we then had to buy our way out of at considerable expense. A more informed and perhaps more circumspect policy would have, in the end, been a much better bet.

Lord Patten of Barnes: Can I just add one point about the golden age, launched when George Osborne was in Urumqi while Muslims were being locked up? During the golden age, British exports to China went down. Whatever else happened—pints of beer and all that—it did not seem to make very much difference to that very utilitarian judgment.

Q17 **Lord Boateng:** Mr Inkster, a question for you. You have served this country over many years in this area and I was particularly struck by a comment you made that the UK must be shown to have failed—that that is something that the Chinese are very keen to do. Both Houses represented around this table have produced reports on China and the Arctic and on China and Africa. Are there any comments you would like to make in regard of seeing China as a competitor and a threat but also, as has been said by witnesses to both Houses in these reports, as a potential co-operator? Do you have any views about that?

Nigel Inkster: Yes, I do. It is certainly the case that China is expanding its influence into the areas that you mentioned and others as well. I remember, a long time ago, shortly after I left government, talking to China's state councillor about all this—China's expanding global influence—at a time when the official Chinese policy was "hide and bide", not one of growing assertiveness. I remember saying to the state councillor, "This is all very well, but as your engagement grows, so you find yourself being caught up in a dynamic that you can't always control and you'll probably end up doing things you never set out to do"—rather like as happened with the United Kingdom. We never set out to govern India. It was only the incompetence of the East India Company that led us to undertake that rather ambitious project. China is moving towards this phase at the moment and it may, in due course, find itself possibly unpleasantly surprised by some of the consequences of the engagement it is now pursuing.

In certain areas, we have to acknowledge that China's engagement in, for example, Africa is seen by the countries concerned as beneficial. It has delivered infrastructure and development projects that would otherwise not have been possible—not, perhaps, in ways that we would approve of. Some of the things that have happened—in particular, China's provision of communications systems to those countries, complete with all the

surveillance capabilities that are built into the Chinese systems—are clearly very unwelcome. But if we take a broad strategic view that it is in our interest for those countries to develop and prosper to the point where they no longer feel a massive imperative to migrate northwards to Europe and the UK, then arguably, yes, there would be occasions in which we might want to look for opportunities to co-operate with China. That is something that would be worth pursuing.

When it comes to the Arctic, we are looking more at an issue of raw geostrategic competition. Managing that is going to be much more of a challenge and probably provide fewer opportunities to co-operate. At best, what we might be able to do is look at ways in which we can engage in a degree of strategic avoidance—not unnecessarily getting in each other's way—but I am not sure we can do much more than that.

The Chair: I am going to have to move us on, otherwise we are going to run out of time. I am going to bring in Liam Byrne now. This is all really fascinating to hear but, if I could just ask witnesses to ensure your answers are a little bit pithier, that would be much appreciated.

Q77 **Liam Byrne:** I want to get into how we de-muddle some of the trade-offs. Ministers would say they are working with China to try to advance some great global goals, such as tackling climate change, improving development, advancing economic interests and prosperity, and standing up for UK interests and values. They would broadly say that those are the goals and that that is what they are trying to trade off. Implicit in a lot of what we have heard today is that those trade-offs are not being made in the right way. Isabel Hilton, how do you think the Government should be striking a better balance between those objectives in the future?

Isabel Hilton: It is important for all departments in government to be aware of the potential security risks of anything that we do with China. I have spent many years working on climate change. China has very proactive policy on climate change and now dominates, as you know, the supply of low-carbon goods and technologies to this country. It is the cheapest.

There are two problems here. One is China's mode of production. It undermines competitor companies, and that happened in telecommunications and solar panels and will happen in European wind if we do not take active measures to protect it. That creates dependencies, which can then be weaponised. We have seen this relatively recently.

There is a second problem with connected technologies, which all climate technologies are, which is that they connect to our critical national infrastructure. If China and Russia are in a limitless friendship, then we have to take that as a security risk. I have not seen an argument beyond, "They are a very good price".

Liam Byrne: But given those perils, how do you advise Ministers to make better decisions about the trade-offs in the future?

Isabel Hilton: I do not know what China's intentions would be but, if you give China the capacity to interfere with national security and critical infrastructure, then you have, frankly, been irresponsible. That needs to be a priority.

Liam Byrne: The implication of that is that we are prosecuting this relationship without the right defences in place.

Isabel Hilton: As far as I am aware. I have not seen the technological defence and I have not seen the strategic content—

Liam Byrne: Let me just row it back. We do not have a Uyghur forced labour Act in this country and we have this story in the *Guardian* this morning about Laura Murphy's research being forced to be dropped. We are considering considerable investment from Mingyang into the offshore wind infrastructure in the way that, once upon a time, we considered allowing Huawei into the telecoms network. Our diversification strategy is so poor that we appear to be vulnerable to Nexperia China stopping chip exports and threatening to bring production in the automotive industry to a halt. Are we able to make the right trade-offs if we do not have the right defences in place?

Isabel Hilton: All the examples you cite are examples of failing to consider and put in the right defences from the beginning. If we continue down that path then we are accepting that we are helpless, which I do not like to think we are. We have allies. All the countries our size have a similar problem. We can make alliances over, for example, mitigation of technological risk and indeed supply-chain risk. There is an increasing willingness in liberal democracies to explore those options. We should actively explore them and we should be prepared to bear the cost.

Liam Byrne: Should we be allowing companies such as Mingyang to invest in offshore wind infrastructure in the UK?

Isabel Hilton: Not if we do not have a technological defence against potential weaponisation.

Liam Byrne: Lord Patten, what is your view on how we make better trade-offs and defend ourselves more effectively?

Lord Patten of Barnes: I very much agree with what Isabel has just said. You could start thinking not only about turbines but also about EVs—electric vehicles—which, as everybody knows now, are mobile surveillance operations. I think I am right in saying that the Prime Minister's car was stripped down to see what it might be reporting for China.

Overall, it would certainly help if we got a move on and produced this audit, which is supposed to be the basis of our future strategy on China and which would certainly help not just government but local government, universities and techno firms to co-ordinate how we deal with China and to make sure that we are all on the same page.

Liam Byrne: Nigel Inkster, are we getting the trade-offs right? Are we defended effectively enough?

Nigel Inkster: In my line of business, you always start with the worst-case assumptions and work back from them. In this situation, dealing with China, that is what we have to do. What is the worst thing that could happen? What can we do to mitigate this? Only then do we actually move forward in terms of engagement.

Q78 **Emily Thornberry:** I would like to ask you about the China audit, only part of which has been published and the rest is secret. I would like to ask you about the China strategy, which I think is completely secret. You have already referenced the story in the papers about Sheffield Hallam. What kind of useful advice could you anticipate within a China strategy that might be published and might be able to help universities defend themselves against aggression and intimidation from China?

Lord Patten of Barnes: First, on the audit, I totally agree with what you said some time ago; it is barking mad to have an audit which is supposed—

Emily Thornberry: I did not say barking mad.

Lord Patten of Barnes: I am a vulgar former Tory. It would be crazy for us to think that we should publish an audit and not let most of the people who would benefit from reading it actually see it. It is extraordinary to have that audit and put off publishing it for months, and then, when you do publish it, that there is one very short Answer to a Question in the House of Commons and that attached to the Answer is a long explanation as to why you cannot tell people most of what you would like to tell them, because it is secret. It is absolutely barking. Sorry, I used that word again. You were right to say that, although you did not use that word.

Until you have got people to see things in more or less the same way, it is not going to make much sense to try to produce a strategy. An effective audit is a basis for having a strategy on universities. Inevitably, because universities and higher education have been underfunded by Governments for some time, they have started to depend perhaps too much on recruiting foreign students. They have then put themselves in a position where they can be bullied and pushed. In effect, one of our best China scholars left his job as a professor at one university because they tried to stop him speaking about China. There was a visit by a distinguished Chinese politburo member, so he went off to another university.

Emily Thornberry: Is that openly known? Are you able to tell us the names of the universities, or is it not known?

Lord Patten of Barnes: I am not sure. Isabel, you are nodding. I think it was Nottingham, was it not?

Isabel Hilton: Yes.

Lord Patten of Barnes: He is an extremely good historian of China.

Isabel Hilton: Correct.

Lord Patten of Barnes: I think universities have some experience of trying to ensure that Chinese and Hong Kongese students at universities have the same experience of a liberal and open society education as other students. Not all do it as effectively as they should.

Of course, it is worth noting that as well as bad Chinese practices in universities, a lot of our universities benefit hugely from substantial donations from rich Chinese people, which have been without any strings really. The university I know best has certainly been in that category. Others take money and then get bullied. We should be open in saying that. The Office for Students has actually been pretty clear about wanting to stand up for freedom of speech and freedom of inquiry in universities. If we do not have those in a free society, heaven help us.

The Chair: Sorry, we have to move on now.

Emily Thornberry: Can I ask one other question?

The Chair: Is it brief?

Emily Thornberry: Yes. You have talked about Germany doing well in terms of its strategy in relation to China. Certainly, the Government said that they were trying to line up with the G7 allies. It is right, is it not, that Germany has published its China audit?

Lord Patten of Barnes: Yes, it is.

Emily Thornberry: Do you know why it can be published in Germany and not in Britain?

Lord Patten of Barnes: If I ever see the German ambassador, I will ask him.

The Chair: And do let us know.

Q79 **Baroness Fall:** Lord Patten, just to stick with the university point, you were chancellor of Oxford. To my knowledge, Oxford does not have a Confucius centre. Is that correct?

Lord Patten of Barnes: It does not have a Confucius institute?

Baroness Fall: Was that something you decided not to host when you were chancellor?

Lord Patten of Barnes: No, it was not. I have to say that I was very happy to leave decisions such as that and questions about research collaboration to academics. On the whole, they got that absolutely spot on, including refusing a huge research collaboration project with Huawei.

Baroness Fall: So you did not make a decision about not having the institute because you were worried about censorship.

Lord Patten of Barnes: I cannot remember any details of that, but I certainly would not have made that sort of decision. I was too conscious of my position as one in which, to borrow from Roy Jenkins, impotence was assuaged by magnificence.

Baroness Fall: Thank you. We and my colleague Liam Byrne just talked about the balance between national security, human rights, sovereignty and economic prosperity and whether we were getting that balance wrong, which, clearly, most of the panel think we are. You mentioned Germany as an example of where you thought it was getting better. Why?

Lord Patten of Barnes: I really could not answer that question intelligently, but I will try to answer it. It is clear that some of the main bridges between Germany and China are individual companies which have huge businesses there. That may have helped a bit.

I just add one other point. Earlier, somebody mentioned China's activities in Africa, which are obviously in part a consequence of the fact that the USAID programme was cut to ribbons by the richest man in the world. I do not think one should underestimate the extent to which, these days, for the Chinese, President Trump is the gift that goes on giving.

Baroness Fall: Do you think that our inward investment law is tough enough? You talked about scrutinising inward investment. Do you think we need to be tighter? It is relatively new. Do you think it is working well?

Lord Patten of Barnes: It seems to be. As you know, the Chinese are in the section which is subject to most detailed scrutiny.

Baroness Fall: One last question, if I may: when we signed the FTA recently with the Americans, they added a clause about scrutiny and supply chains. Do you think the Americans are unduly influential in dictating our own China policy?

Lord Patten of Barnes: I would doubt that they are influencing our China policy. The Americans have made a fuss recently about the size of the proposed new Chinese embassy, but I cannot think of many other things. I think they would be uncomfortable about some of the things we say about human rights, lest they come home to bite other people, but I do not know.

Baroness Fall: Thank you, Lord Patten. Any views from the panel on this?

Nigel Inkster: Could I just add something on that point? There is one example, and, of course, that is the whole Huawei saga and 5G. The Americans made it abundantly clear that there would be serious consequences if we went ahead with that particular project and effectively threatened to withhold intelligence co-operation, which is not a trivial consideration. That is something that the UK is going to have to think about quite carefully. At the moment, the somewhat mercurial and

quixotic nature of US policy-making makes it rather difficult for us to anticipate such developments, but we cannot discount them.

Isabel Hilton: I dissent slightly from Lord Patten's view of the success of the German relationship with China. I think that it is pretty problematic, but if you are looking for a case study, I would look to Japan. It is much the same size as we are, it is very close, it has a problematic history, it is an ally of the United States, and it has handled it rather well.

Q80 **Baroness Tyler of Enfield:** Following on from what Isabel has said and thinking about how we could strengthen collaboration with some of our international partners and allies, a recent Chatham House paper argued that the UK needed to align more closely with what it called the Indo-Pacific four—Australia, New Zealand, Japan and South Korea. How should the UK Government go about that, particularly in trying to avoid undercutting each other's approaches to China and co-ordinating on things such as development support for the region? Is there a template for managing that process?

Isabel Hilton: We are talking about quite multifaceted relationships, but in terms of strategic interests, those four are pretty much aligned. They all recognise that they have to deal with China. Some of them are much closer than we are, but they are all trying to derisk and hedge against future problems, as China is. China has been derisking and hedging for at least 10 years in anticipation of a stronger confrontation with western liberal democracies. We should learn from that example.

For example, in the choke points that we will suffer from, like everybody else, over strategic minerals, rare earth magnets and so on, there are increasing moves to source and develop refining capacity elsewhere, including in President Trump's much discussed swing through Asia this last week. All countries of our size and with our level of development have the same issue. We need to get together. China is very good at divide and rule. The same is true for British universities. If British universities could establish a convention to all sign up to, to resist pressure, it would give them collective strength. As it is, China picks off individual entities one by one and does the same with international relations. The more alliances that we can build, the better we will be.

Lord Patten of Barnes: I share Isabel's enthusiasm about Japan and the role that it plays as a country with its own sense of identity but still being an international player. I regret that we have not been better, not least at the university which I know best, at recruiting more Japanese students. Surprisingly, though, the Japanese are very outward-looking, they do not send students abroad as much as the Chinese do. That is partly because of the quality of their own universities. I would love it if there were more Japanese students here.

Nigel Inkster: Picking up on Isabel's point very briefly, the extent to which China expresses a vocal objection to alliance relationships is a testimony to the utility of these relationships.

Q81 **Derek Twigg:** Mr Inkster, I refer to your opening comments about the threat that the Chinese pose. In the context of our ability to prosecute those who might be suspected of assisting the Chinese state or the Chinese Communist Party, if the Government were clearer about the precise nature of the threats that are being posed, we would be in a better position to prosecute those suspected of assisting the Chinese Communist Party—given the recent case around Chinese spies.

Nigel Inkster: That issue arises from old and not fit for purpose legislation. It has now been replaced by the National Security Act, which would make it much easier for such prosecutions to take place. The mere fact of working for a foreign state and failing to disclose that fact is ipso facto an offence that can be prosecuted. The new legislation should make a difference. However, legislation is one thing; implementing it effectively is another.

Derek Twigg: I assume that you have read the statements produced by the deputy national security adviser which were used to aid the Government's prosecution. Having read them, do you think that there were not sufficient grounds to continue with that prosecution?

Nigel Inkster: No, I think that the prosecution should have gone ahead and the jury been entrusted to use their good sense to deliver a verdict.

Derek Twigg: Regardless of the change in legislation and regardless of the fact that the Government have not been clear about the nature of the threat, in your view we still should have gone ahead.

Nigel Inkster: Yes.

Lord Patten of Barnes: The case of the Bulgarian—

Nigel Inkster: Exactly—there is a precedent here. On the earlier part of your question—how we can increase awareness of the threat without gratuitously causing offence and giving China reasons to react adversely—this is a more difficult problem. There is an issue of public education here. The utility of having such prosecutions is not because it will deter China. It will not. However, it does raise public awareness of the problems that need to be dealt with.

Derek Twigg: I suspect that the answer may be no to this, but it will be interesting to see what your view is, based on what you have said. Given the change in legislation and given what we know today, are there any other challenges that the security services and the police face in supporting such prosecutions?

Nigel Inkster: Not that I am aware of. I think that they have the basic tools. One issue that we do have collectively is that there is still a relative lack of expertise in our security agencies regarding China. We need to remedy that, but it is not just there. Across government there is a lack of expertise on China. The Chinese language is not seen within government as conducive to rapid preference and promotion through the system. This needs to change. Efforts are being made but more work is needed.

Q82 Lord Robathan: I am under pressure to be quite swift. This question goes to you, Mr Inkster, although others may wish to add. Lord Patten mentioned the Chinese embassy. We know about the plans to have a very large embassy on the Royal Mint site. The Government have called it in and will make a decision next month. Should the new embassy be given the go-ahead? What security issues do you know of around it? Going back to what was talked about, what consequences might the embassy being built have, given the security concerns and the proximity to the City of London?

Nigel Inkster: As for the size of the embassy, you need to clarify that this is largely a function of China, unlike the British Foreign Office, not employing locally engaged staff. All the staff in the Chinese embassy, up to and including cooks and bottle washers, are from China. China wants to accommodate them all within one location. That goes a long way in explaining why the embassy will be that size.

In terms of security threat, some of the claims that have been made are misplaced and overdone. China does not typically run sensitive intelligence operations out of legal residences. Therefore, I do not accept the proposition that a large Chinese embassy will become a nest of spies in a way that it has not done before. Yes, the Chinese will engage in close access signals intelligence collection from the embassy. That is just a fact of life. We all do it. This is just something that you have to accept as unavoidable. You cannot really prevent it. You can only seek to mitigate the risk where you find it.

On the proximity of cables under the location containing commercially sensitive information. I do not know what the risk is. It is practicable to tap into these fibreoptic cables; this can be done. Whether China would be willing to take that risk, given our awareness of the threat and our desire to mitigate it, I do not know. In the worst case, we could always move the cables so that they were not readily accessible.

I do not think that some of these issues are as concerning as they have been made out to be in the popular press.

Lord Patten of Barnes: But we are entitled to raise these points. Within the last couple of years we had those terrible scenes at the Manchester consulate with somebody protesting outside about Xi Jinping being hauled into the consulate to be beaten up. As a result of that, six Chinese diplomats were sent home.

I can understand why the Hong Kong diaspora should be nervous about an embassy of that size and should raise questions about whether it would enhance surveillance and whether it would increase intimidation of exiled Chinese or ex-Hong Kong citizens who are living here. These are legitimate worries and surely we can raise them.

The Chair: Well, thank you very much for a fascinating first session. To our three witnesses, we really appreciate your time. We have run slightly over but we wanted to get into as much detail as we could.

Examination of witnesses

Jonathan Hall and Lord Sumption.

Q83 The Chair: Order, order. Welcome back to today's session on the national security strategy, focusing on the UK's relationship with China. Welcome to our two witnesses. Could you introduce yourselves?

Lord Sumption: I was a justice of the Supreme Court between 2012 and 2018 and a judge of the Hong Kong Court of Final Appeal between 2019 and 2024.

Jonathan Hall: I am a lawyer. I was appointed the independent reviewer of terrorism legislation in 2019. In 2024, I took up the post of independent reviewer of state threat legislation. In practice, I review the National Security Act. I have delivered my first report to Government and am hoping that it will be published very soon.

The Chair: I am sorry that we are running slightly over and appreciate your patience. We ask you to keep your answers as tight as possible to the question; it would be greatly appreciated.

Q84 Mr Tanmanjeet Singh Dhesi: I will start with you, Lord Sumption. In evidence to our committee, Cabinet Secretary Sir Chris Wormald asserted that, in passing the National Security Act 2023, Parliament had resolved the problem with the Official Secrets Act that led to the collapse of the China espionage case. Do you agree with that assessment?

Lord Sumption: Yes. It is an extremely comprehensive Act. It was the result of a prolonged study by the Law Commission which included the receiving of confidential evidence from the security services. If one looks at the Act's drafting, one must bear in mind that any Act which seeks to anticipate threats in a highly developing situation, politically and technologically, may have flaws in it. However, it is very difficult to find them in this Act because of the very wide range of offences which it creates, which to some extent overlap but which seem to cover everything that my powers of imagination have been able to conceive.

Mr Tanmanjeet Singh Dhesi: Thank you. Mr Hall, do you agree with Sir Chris Wormald's assessment?

Jonathan Hall: Yes, but with the caveat that it will always be difficult to deal with patient Chinese operations—what they might call seeding operations, where it is difficult to identify the nature of the harm that is intended. For example, is it about promoting a politician who might become influential in the future? Is it about getting access to someone else? That is evident in the Cash and Berry case.

There are some lessons to be learned from the Cash and Berry prosecution which are relevant to the National Security Act when it comes to what I call status allegations. In the Cash and Berry case, it was to say that China had the status of an enemy and all the difficulties that this

gave rise to. There are similar issues under the National Security Act—if an allegation is made that a person or an entity is a foreign intelligence service, which could have similar diplomatic economic consequential as well.

Mr Tanmanjeet Singh Dhesi: Lord Sumption, in your opinion are there any issues that have not been addressed by the National Security Act which could have a detrimental impact on future espionage cases?

Lord Sumption: Not that I have been able to see.

Jonathan Hall: It is the point that I made before. The Chinese might want to collect information which is not sensitive. For example, they might just want to find out about someone taking an invitation to a party to meet a target. The truth is that there is only so far that you can go in legislation. If you made all conduct that might potentially be of use to China a crime, you would end up penalising everyone the whole time. A line has to be drawn. However, that does mean that there will be, in practice, one or two circumstances where it would be more difficult.

Mr Tanmanjeet Singh Dhesi: That is a fair point. Lord Sumption, the Official Secrets Act 1989 is still on the statute book, but are there any problematic elements of that piece of legislation which have not been addressed by the National Security Act?

Lord Sumption: I think that my answer to that is implicit in the last two answers that I gave you—no.

Mr Tanmanjeet Singh Dhesi: That is fairly clear.

Jonathan Hall: The sentence is quite low under the 1989 Act. It is only two years, so it is not considered to be a major deterrent. The point is to catch insider threats under the National Security Act and give them longer sentences. To that extent, it has been cured.

Q85 **Sir Gavin Williamson:** Mr Hall has answered most of my question. I was going to ask about seeding and how you deal with it. Are there any thoughts that you could share with the committee on anything more that could be done to cope with that? It is probably an unfair question.

Jonathan Hall: If you wanted to make the legislation even more robust you could put China on the enhanced tier in relation to activities around Parliament.

Sir Gavin Williamson: That would be picking a specific area where you think there is a vulnerability.

Jonathan Hall: Yes. The difficulty with Cash and Berry was that it was a collection case. It was not a case where they were going to do something, but you could penalise them if this was the case for not registering as paid agents of China in the collection of information.

Sir Gavin Williamson: Very helpful. Thank you so much.

Q86 Sarah Champion: Jonathan, I am going to direct my question to you but, Lord Sumption, please do come in. Should China be placed on the enhanced tier of the foreign influence registration scheme?

Jonathan Hall: There is quite a strong case in relation to action around Parliament. From a democratic point of view, it is right that if people who are dealing closely with politicians such as yourself are doing so by an undeclared paid principle, they should have to make that apparent. It would have been a much easier route to prosecution.

I am approaching Cash and Berry on the basis that they are guilty, but they never had their day in court and are in limbo. That is one of the tragedies of the failure of the prosecution. However, even under the National Security Act, one would have to approach it on the basis that you could prove that they intended to deal with a foreign intelligence service. That would depend upon looking at the nature of their communications—whether they were using covert devices, the information they were getting, what they happened to know. Alternatively, you could identify someone within the system and say, for example, that Cai Qi was in a foreign intelligence service or that he was in contact with someone. It is much easier to simply say that you were being paid to gather information and did not declare it.

Sarah Champion: Looking at two other cases—Christine Lee and Yang Tengbo—would it have been easier to prosecute them had China been on the enhanced tier?

Jonathan Hall: Yes. I think it is quite a good question about what would you prosecute them for under the 2023 Act. With Christine Lee, one could take the approach that the Australians took, which is that this was an influence operation over politicians, which would have had an effect on how they exercised their public powers. On that basis, one could have prosecuted under a Section 13 foreign interference offence because they were having an impact, rather than simply trying to collect information.

I think the case involving the former Prince Andrew is particularly difficult, because it is quite hard to identify what the intention was behind cultivating that relationship.

Sarah Champion: Most of the discussion tends to be on individuals. My understanding is that the transnational repression is repression of individuals. One of my concerns is: should that be expanded to organisations, particularly, as we have been talking about today, when my local university, Sheffield Hallam, has come under scrutiny?

Jonathan Hall: I suppose that organisations are made up of individuals, so, ultimately, you do not need to expand any further. There is an individual within Sheffield Hallam who undoubtedly lost work, lost an opportunity to publish and so on. That had an impact on her human rights, and that is one of the impacts or what they call interference effects under Section 13.

Sarah Champion: But, looking at that particular case, what was actually

happening was, for example, that SLAPP law cases were put on the university and there was pressure on multiple staff members. It was very much a multifaceted attack on an organisation. So, should we be looking at broadening that definition?

Jonathan Hall: I do not think it is necessary, because in an indictment you could always identify those individuals or a number of individuals whose rights have been affected by the work of China.

Sarah Champion: On the other side of the fence, Section 3 of the National Security Act 2023 is triggered if there has been material co-operation with a foreign intelligence service. Could Sheffield Hallam fall afoul of that?

Jonathan Hall: That is one of the areas for slight caution about identifying an entity as a foreign intelligence service. For example, if you were to say that a Confucius institute is a foreign intelligence service, it would mean that any university that had anything to do with it would be at risk of committing a criminal offence. Of course, prosecutors and police are not going to take cases in there, but it could have a significant chilling effect. Trustees might start to say, "Are you even allowed to do this under law?" This is the risk about the Act; it is a useful Act, but it is very broad indeed.

Emily Thornberry: Can I ask a question?

The Chair: If it is very brief.

Emily Thornberry: I am so sorry, I thought I was due to ask a question next.

The Chair: I apologise, I did not have you down. Sorry, yes.

Q87 **Emily Thornberry:** I will ask two questions, if I might. You have talked about the enhanced tier and having an enhanced tier just in relation to Parliament. Is there any sense in trying to have an enhanced tier of FIRS with regard to universities?

Jonathan Hall: I do not know. That seems quite a big question. I can see the sense of it. I have not done the thinking.

Emily Thornberry: I understand. Obviously, we are all thinking about this case. I will not go into details, because I am sure that you have read it, and I do not want to take up unnecessary time. At the end of the article, there is a statement from a government spokesman saying, "The government has robust measures in place to prevent this activity, including updated powers and offences through the National Security Act"—this is on what the Government are going to do about it. I wondered what updated powers and offences through the National Security Act would protect Sheffield Hallam from what has happened.

Jonathan Hall: I think it would be the offence of foreign interference under Section 13. One assumes that someone perhaps involved in United

Front Work Department work was putting pressure on the university or its employees, either locally or in China; that that was done in a covert way, because they were not necessarily declaring what their true intentions were; or they were using coercion, which is another limb of what they call “prohibited conduct”; and that the intention was to have an impact on the human rights of the academics, who were undoubtedly unable to express themselves as they wanted to. That is probably the offence that they are talking about.

- Q88 **Sarah Champion:** Briefly, one of the problems the universities had was that they did not know who to report the interference to. Who should they report it to going forwards, or should we create a specific body for this? I know it is meant to be—I cannot remember what they call it—the student body or the college body.

Jonathan Hall: I think the idea of a transnational repression hotline is probably a bad idea. It will probably be within the organisations, but organisations should make sure that they are sufficiently alert that if they come across something that is as bad as that, that maybe someone right at the top of the organisation—a senior person—has the ability to report it to counterterrorism police or the Government. I would not say that you want members of the public—

Sarah Champion: So they should go to counterterrorism?

Jonathan Hall: Yes.

- Q89 **Lord Watts:** I think you have dealt with my question, but I will give you another opportunity, if you like, just to go into a bit more detail. Given that there are individuals assisting the Chinese state, such as the case that we have just heard about, do you think that the new Act gives the Government the powers that are needed to control that situation?

Jonathan Hall: It depends on what they do.

Lord Watts: What is not covered by it that you would like to see?

Jonathan Hall: I always think about the Australian case of Sunny Duong. He was successfully prosecuted in Australia for cultivating a federal Minister called Alan Tudge. The United Front Work Department identified him as a future Australian Prime Minister. This agent of influence went to his constituency and said, “I am going to hand over a huge cheque to a hospital. Will you come along, Mr Tudge, and have a nice photo opportunity?” The idea was to get close to him. That was successfully prosecuted under acts preparatory for foreign influence. We do not have an equivalent, which is why I was talking about the need to place China on the enhanced tier when it comes to dealing directly with parliamentarians.

Lord Watts: Why do you think that that is the case, bearing in mind that we have just had a messy experience with this Chinese case and we have now got a new Act that is supposed to cover the problems that were faced with this case? Have the Government not taken to the opportunity

to cover this in the way that you have suggested?

Jonathan Hall: I expect it is because the question of whether China goes on the enhanced tier is incredibly political. I do not know whether or not they have thought about a sectoral approach, but I know that the principal approach as to whether China should be on the foreign influence enhanced tier is a big issue for Government.

Lord Watts: Are you suggesting that it is political?

Jonathan Hall: Everything is political at this level.

Lord Sumption: There is a problem in trying to cover absolutely everything, which is that you end up covering a large number of things that are entirely innocent. It is quite important in the criminal law that offences should be precisely defined. Sometimes the only way that you can be sure of catching problem A is to draft something that catches problems B, C, D and E as well. That is a problem that should be avoided.

Q90 **Lord Boateng:** UK universities actively seek and recruit Chinese students for obvious reasons: they bring money and considerable intellectual and academic skill. They benefit the UK economy in the City of London. Successive UK Prime Ministers have led trade delegations to China seeking inward direct investment and trading opportunities. And yet we know, because the Intelligence and Security Committee has reported the fact, that the Chinese actively use students and cyber espionage to carry out theft of intellectual property and that they acquire IP through investment in the acquisition of UK companies.

We now have legislation in the form of the National Security Act 2023 and the National Security and Investment Act 2021 to prevent the strategic acquisition and transfer of sensitive UK intellectual property by Chinese entities. Is it, in your view, sufficient? Do we need to do more in that regard? In terms of cyber, do we continue to be at risk? Do we have to do more to protect ourselves from state-backed Chinese actors stealing data from a whole range of networks in this country?

Jonathan Hall: When it comes to China, I would be wary about going even further than the National Security Act. The Act is shot through with workarounds to deal with the fact that China operationalises so many different people. It has an unconventional way of carrying out intelligence activities. It does not reserve it for particular institutions. On one view, every citizen under the national security law has got a duty or a function to co-operate. The Act is designed very much with that in mind. However, it means that it is incredibly broad. It butts up against what we would want to have prosecuted in a free and fair society.

I will give an example. It may be quite hard to prove that someone is being tasked by China. They may have an encrypted device or some covert communication device that has not been found. However, you may find some indication that they knew that they were doing it for the benefit of China. There is something called the foreign power condition. That says that if you act for the benefit of a foreign power, which would

include China or a small unit of China, then the foreign power condition is met.

When you think about it, acting for the benefit of a foreign country is completely normal. I might say, "Ukraine should have arms". I satisfy the foreign power condition. It is there to avoid a situation in which China is getting away with things, but it does mean that the Act brings into criminal law a huge range of activities that we take for granted. I would not say to go any further with that at the moment. I have done some work on state threats, but that was more in relation to Iran—not those subtle long-term influence operations but bodies that are overtly operating on UK soil. The ability to say, "You are going to be proscribed as a state threat entity" would be a useful addition, but that is less relevant to China, which is going to operate in that more subtle, shadowy way.

Lord Sumption: I do not think that I can add anything to that.

- Q91 **Lord Robathan:** You were here, I think, for the last few questions to Lord Patten and others. I am particularly interested in your view, as the independent reviewer of state threat legislation, of the Chinese embassy bid. Mr Inkster's opinion was very interesting. What do you think about the Chinese embassy?

Jonathan Hall: I honestly do not have a view. I was learning as much as you. When I heard about the cooks and bottle washers, that was new to me, which probably shows you that I am not the right person to ask.

Lord Robathan: Okay, fair enough.

- Q92 **The Chair:** I am interested in what should happen next. We have sat through months of this uncertainty over the China espionage case. It has not looked good to the outside world. You said that the legislation is more or less there now in terms of the 2023 Act. What needs to change? We are looking at the processes behind how this came before the CPS and the DPP. Is there a challenge there with the actual enforcement, or will it all too often come down to political will in such cases?

Lord Sumption: As you say, this was a problem that arose under the old Act. A lot of one-off mistakes and misconceptions have been made in dealing with the case. It strikes me as extremely strange that the CPS thought that they could properly bring charges at a time when they thought that the test was much tougher than, in the light of subsequent case law, it has turned out to be. Yet on the more relaxed test, the CPS felt that it did not have enough material.

It was surprising that the witness statements of Mr Collins were not regarded as sufficient to establish that China was a threat to national security. I was struck that nobody seems to have applied their mind, at least not judging by public statements that I have seen, to the other aspect of this: that is whether the information itself was of such a character that its disclosure constituted a threat to national security. It is

not good enough just to say that China is a threat if the information that you are giving it is not potentially threatening to national security.

The information, which is summarised by Mr Collins in his witness statement, with very few exceptions, such as the bit about disclosing UK government contacts with the Taiwanese, seems to be pretty well useless. I was astonished that it should be regarded as “useful”, to use the rather vague term in the Official Secrets Act 1911.

There were also muddles about whether a government witness was giving evidence about government policy or about the basic facts, to which the answer is perfectly clear. A government witness is not giving evidence about government policy and is not obliged to change his evidence because government policy changes, if indeed it does. He is giving evidence personally. He is assuming personal responsibility for what he gives evidence about and is in a position where he must say whether China is a threat to national security, and whether the information is of a character that its disclosure would be injurious to national security. That is what he is giving evidence about—not what the Government think.

The Chair: Jonathan Hall, having heard that, what is your view of the usefulness of the evidence?

Jonathan Hall: It was a fiasco, a disaster, that Cash and Berry could not be prosecuted. The answer is the need for better communication between the CPS and the Government.

The Chair: And the Attorney-General.

Jonathan Hall: The Attorney-General could be a linchpin but the constitutional convention, which is all good and well, of making sure that there is no sign of any pressure on the witness or the prosecutor, had this terrible effect that the CPS did not seem to realise that the witness, Matt Collins, was never going to say the magic abracadabra phrase, “China is a threat to national security”. It looks as if the Government did not really realise, for their part, just how difficult it was going to be to get the prosecution home.

Conventions are really important but ultimately, in these rare cases, they must not be self-defeating. Having much better co-ordination, probably at the level of the Attorney-General, so that the CPS and the Government can talk to one another—I can imagine situations where it might arise under the National Security Act—is a really good learning lesson from this case.

Liam Byrne: Lord Sumption, is the implication of what you are saying that perhaps the DPP got the strategy wrong? To err is human but to correct is divine. Was there ultimately a failure of superintendence by the Attorney-General in allowing that mistake to go unremedied?

Lord Sumption: I cannot answer that question without knowing a great deal more of the facts about the contacts between them that actually occurred. However, in any complex prosecution question, ultimately they

depend on the skills and forensic courage of the case officer. There is a danger in trying to expand the scope of the problem so that it embraces larger numbers of people who I would not always expect to be involved.

Lord Boateng: Would you expect the Attorney-General to be involved at the end of the day, when there was seeming uncertainty as to which way to go? Would you expect the Attorney-General to have a constitutional role as the supervisor of the DPP—at least to have a view and to express that view?

The Chair: And be independent of government?

Lord Sumption: Yes, I would certainly expect that to happen if a problem was brought to his attention. I expect that the truth is that the problem was not brought to his attention until it was too late.

Jonathan Hall: I agree with that.

Q93 **The Chair:** Finally, Jonathan Hall, do you think that there is a risk in future that the Government will for ever be reluctant to designate an individual as a foreign intelligence agent in these sorts of cases?

Jonathan Hall: I find it easier to think about a concrete situation. Let us imagine that you are prosecuting Cash and Berry for their contact with Cai Qi. Cai Qi, I understand, is number 5 in the Communist Party. One can imagine a situation in which the CPS decided that it was going to present its case on the basis that Cai Qi was a foreign intelligence service, and then the Prime Minister is going off to China to negotiate some enormous wind farm deal. You can imagine a situation not necessarily where the evidence would then change but where the Attorney-General might be summoned—as the director of the SFO was summoned in over the Al-Yamamah arms deal—in the case involving the prosecution there and told that “Lives are at risk if you carry on”. Eventually, the director of the SFO decides in the public interest that the case should be pulled. You do not want to have a situation where how the prosecution presents the case potentially leads to the Attorney-General using a power that he has—the *nolle prosequi*—to say, “You should not prosecute this case because it is contrary to the public interest”.

I can see a situation in which the naming of a particular person as a foreign intelligence service could cause problems down the track. It is not always necessary to do that. There are ways of getting around it. The case presentation itself has diplomatic connotations.

The Chair: That concludes our session. I thank you both for your time and your forbearance in our starting that bit later. Thank you to all the witnesses that have joined us today. That concludes our session on China for the moment. Order.