



HOUSE OF LORDS

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The Select Committee on the European Union

Inquiry on

VISIONS OF EU REFORM

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Questions 65 - 78

WEDNESDAY 16 DECEMBER 2015

10.25 am

Witnesses: Fiona Hyslop MSP and Craig Egner

Members present

Lord Whitty (in the Chair)
Lord Boswell of Aynho
Lord Davies of Stamford
Lord Jay of Ewelme
Lord Trees
Lord Tugendhat
Baroness Wilcox

Examination of Witnesses

Fiona Hyslop MSP, Cabinet Secretary for Culture, Europe and External Affairs, Scottish Government, and **Craig Egner**, Head of European Relations (Edinburgh)

Q65 Lord Whitty: Thanks for coming to see us as part of our general inquiry. Obviously we have decided that we need to seriously take into account the views of the devolved Administrations and the devolved Assemblies. We now have the exchange of correspondence between the Prime Minister and Donald Tusk. The question really is: does that improve your understanding of where we are heading, and would your view be that the objectives set out by the Prime Minister are achievable?

Fiona Hyslop: Do we know where we are heading? I suppose in a sense we do, because we have the four baskets set out, but clearly, in terms of the original agenda, we have now managed to crystallise the much wider agenda of the Bloomberg speech. It is now restricted to a number of four. Within that, there are things that we as a Government agree with and think are achievable. Donald Tusk, in his response, thinks that three of the four are.

We are very supportive of competitiveness. We think that that makes sense in a lot of different aspects. In relation to our own reform agenda, which you might want to come on to, I have brought some material that might be helpful. We published this back in the summer last year. It is an agenda for reform, but also touches on the arguments about the benefits, which we will come on to. We have our European action plan as well, a larger document about our engagement. That is useful background material.

In terms of the four areas, in relation to aspects of closer union and the issues around sovereignty, it depends what it says. There is no more detail than we knew before. In relation to the economic agenda, does it make sense to have an understanding that the desires, needs and requirements of those within the eurozone are different from those without? Well, a common-sense approach would say, yes, it does. Does that need to be mutually exclusive, or

does that cause tension? It should not need to. I think Europe can develop quite easily, bearing in mind that not just a small number but a large number of countries are not in the eurozone. I do not see that necessarily as an issue. In relation to some of the issues around subsidiarity, that is an ongoing debate. You can look at some of the Dutch Government's suggestions in the past for looking at it in a different way. We know that there needs to be better connection between citizens in Europe and the role of the national Parliaments. Therefore, we see that that is not insurmountable.

I suppose the issue is what is achievable. What is achievable is a reformed EU that the UK remains a part of. Is that what the desired outcome is or is the negotiation an end in itself? That is where I have difficulty. I have concerns that negotiation itself becomes the focus. The ballot we are all going to be facing will come very quickly indeed. I know from my experience with referendums that, in terms of the time, speed and momentum of these things, they can be very quick. Therefore, I am concerned about everything being seen through that narrow prism of the negotiation.

The big issue as to what is achievable or not is, as Donald Tusk has pointed out, the fourth area, which has morphed from treaty change on the freedom of movement to restriction of in-work benefits. That clearly is a challenge for different countries across Europe. We have an issue with it as well. Our view on migration and the importance of migrant workers to our economy is different from the UK's. We have had perhaps a different experience and therefore we have particular concerns around that area.

If your Committee is looking at how parts of the EU negotiation by the UK Government impinge on devolved Administrations, competitiveness does, because we have enterprise and trade as part of our areas of responsibility. Parliaments and subsidiarity does, because we already operate within the current parameters. Closer union may, and we may come on to what that might mean constitutionally. Fourthly, in relation to the issue around benefits, we are currently, as you will be aware, in discussion on the Scotland Bill about the transfer of benefit powers. We do not know where we are just now, but, even putting that to one side, the issue of the importance of migrant workers to our economy has an impact. All four areas touch on our interests and, in some cases, our responsibilities.

Q66 Lord Davies of Stamford: Do you subscribe to the desirability of the four objectives of the Prime Minister?

Fiona Hyslop: Do I subscribe to them?

Lord Davies of Stamford: Yes. Are you happy with them as an agenda for negotiation or do you think that those are not desirable objectives or even perverse objectives?

Fiona Hyslop: I do not think they are the right objectives, on the basis that three of them are, as somebody from another EU country described them to me recently, a bit like motherhood and apple pie; they would not cause any major issues. That is why Donald Tusk can reply and say, “Actually, we think we can accommodate them”. Do they require extra emphasis? Would a competitiveness agenda be happening without them? Yes. You can look at some of the deregulations around the REFIT programme.

Lord Davies of Stamford: What would be your desired agenda?

Fiona Hyslop: Our desired agenda is as set out in our *Agenda for EU Reform*, which I will leave with you. In terms of our agenda, the big issues that need to be reformed are in relation to how we can co-operate on the big issues of the day, in terms of climate change, youth employment, issues around energy security. These are very practical issues. Rather than looking at processes, the EU would be better tasked, in terms of its reform agenda, to identify key practical objectives for improvement in things that affect everybody’s lives. This comes back to the point that, if the EU project is to connect with citizens, it has to have an impact on things that they really care about, and youth employment is one of them, when you look at some of the dislocation happening in some countries. Climate change and energy are most definitely major areas.

We agree with trying to improve regulations. We think there can be improvements in relation to having more directives, rather than regulations, to improve practices. We are already helping on some of those agenda areas. In terms of the things that we think need reform, we are quite clear and have been for some time. We have set them ourselves, so we watch his agenda with interest. Is his agenda necessary to establish a better EU for us to be members of? We do not think it is necessary. We do not think the referendum is necessary. We think that the real issue is: do we want to be part of the EU or not? That is what is going to be on the ballot paper. The ballot paper will not say, “Do you think this is a good negotiation or not?” We will give the four baskets care, time and attention, but at the end of the day they will not be the decisive factor as to whether people decide to vote to remain in the EU or not. That is my opinion.

Q67 Lord Jay of Ewelme: Do you think there is incompatibility between what the Prime Minister has put forward and what you have put forward? We read the 2014 paper, *Scotland’s Agenda for EU Reform*, and look forward to getting that version of it. You talked about a union of solidarity, a social union, a union of support, and I completely understand why those are your priorities. Do you see incompatibility or conflict in any way between what you

would like the reform of the EU to be and what the Government are trying to achieve, or is it that they are on parallel lines with no particular points of tangency?

Fiona Hyslop: Yes, they are on parallel lines. Our focus is a different focus. In terms of a focus on a Europe of social protection, as a woman, I recognise the rights that we have gained through the EU in relation to some of the issues around gender equality, but also in terms of workers' rights protection, the 48-hour week, and in relation to age, gender, anti-racism and a lot of the equality agenda. What is interesting is that there is some concern in Europe that that agenda, of which we are supportive, perhaps may not be supported by some in the Conservative Party and that somehow the competitiveness agenda would be used to try to undermine those social protection aspects. My understanding is that that is not the intention of the UK Government. I think that is quite important, in terms of the discussion.

Lord Jay of Ewelme: If it were the intention, then that would worry you, presumably.

Fiona Hyslop: If it were the intention, then that would be a conflict. I do not think it is. I said to the UK Government that, if it is not, it is very important that they express that to other Governments.

Lord Jay of Ewelme: Have they reassured you on that or is this something you just picked up from the ether?

Fiona Hyslop: I have had assurances that that is the case, but they would be better given more publicly, both domestically and internationally. If the competitive agenda is about trying to improve regulation, of course that is one we agree with. The UK has been very influential already in the REFIT changes. It perhaps does not necessarily want to claim that; I am not sure why, but it is recognised across Europe that that has been a very helpful programme. That reform is already happening. People maybe have the perspective that the EU is somehow static and never changes, whereas improvement and constant reform should be the agenda of the EU, and I think they are. To be fair, under the current Commission, it is moving at a better pace and speed, with better openness.

Are they on parallel tracks? Yes, apart from the one that is causing the sticking issue for other countries as well. We do not think benefits should be based on nationality. That is an issue for us, as it is with other countries, because it cuts across some of the fundamental issues of equal rights and respects. A Europe of equal rights and respects is a fairly fundamental point, in principle as well as in practice.

Q68 Baroness Wilcox: Thank you for your answers thus far. The questions I was going to ask you would almost duplicate them, so I will move slightly forward, if I may. You are starting to characterise attitudes in Scotland toward the question of the UK's EU membership,

and that is good and very interesting for us to hear. Is there a distinctive debate in Scottish society compared with the rest of the UK? In what spheres does Scotland either benefit or suffer from EU membership?

Fiona Hyslop: In terms of whether there is a different debate, yes, there is, and for different reasons. For example, it is fair to say that, having gone through an independence referendum in which both the yes and the no sides were arguing the importance of European membership, in the very politicised population that we have, energised by our independence referendum, the critique and understanding of political issues generally are very acute. It is interesting to note that we have had a head start in debating some of the issues about the importance of membership, because it was characterised by both the yes and the no sides. That is one thing. In terms of what you see in opinion polling, opinion polls can change. Remember, in our referendum, the no side lost 15 points in the last few weeks and months, which went to the yes side, so opinions can always change. My side of the referendum, the yes side, lost, which we were disappointed by, but I am very cautious about the experience of the referendum. The good point about our referendum on independence is that it was focused on the issue. There is always a danger, in any referendum, that it can be blown off course by something else, but, in our experience, it was kept focused on the issue. That is a challenge for the EU one.

In terms of opinions polls, the latest one we have, which you will have access to, is the Ipsos MORI one, which had 65% in Scotland wanting to remain and 22% wanting to leave. Some of the opinion polls are taking UK samples, in which Scotland is very small, but the Ipsos MORI one was probably the biggest specific Scotland one. You have seen the polls from the last few days, where it is marginal; I think 42% plays 40% to leave in the UK, so Scotland's vote could make a big difference in a tight number. We are only 8.4% of the population, but we have a higher turnout, remember, and we have kept that. The Westminster election had a good turnout, which, again, reflected the polarisation that has taken place.

On the issue of whether we are more pro-European, the evidence underlying the academic work seems to be that we are, because I think there is more of a perspective of the importance of exports and trade. Half our exports go to Europe, so we see the benefits: £13 billion-worth of exports go to Europe. That is a 2013 figure. We export more to Denmark than Canada, South Africa and Australia put together, so we are very conscious of the importance of an export market. As in other parts, such as the north-east of England, where you have Japanese companies' investments, in my constituency we have a large number of Japanese investors. They have probably been the most specific that having access to EU markets from locations in an English-speaking country is important to them. We think 300,000 jobs, either directly or

indirectly, are dependent on the fact that we have membership of the EU in terms of the trade aspects. I was in Japan in the summer and that was something that people were raising proactively with me. Those are the benefits of it.

Do we suffer? Not particularly. The areas of most concern in the past have been agriculture and fisheries. I was delighted again to see that the fisheries talks yesterday were very positive.

Baroness Wilcox: They have done well today, absolutely. I come from the fishing industry, but from England, so I am not smiling quite so much as you are today.

Fiona Hyslop: Again, that is an area where there have been collective difficulties in the past and it has been difficult for everybody over a long and sustained period. The idea that you can have reform where you help conservation but with quotas that allow people to have livelihoods is a positive example. In agriculture, I think €130 per hectare is what we get. Compared to the EU average, we are right down at the bottom. It is more of an internal UK issue that, when the redistribution of funding came, the UK decided to make it flat across all the UK, rather than Scotland, where we had the lowest number. But, then, if you are part of a membership, some things are more positive than others.

Free movement, universities and connections in terms of students and academic work are very important, so we see that. Going back to the other point about the importance of migrants to Scotland, it is worth reflecting that we have 70,000 Polish people in Scotland who designate themselves as Polish. Bearing in mind that we have 72 constituencies and mine is one of the largest, which is over 70,000, that is a constituency's worth of Poles in Scotland contributing and being part of a fabric.

In previous years, in accession periods, we would have had young single people coming. What is interesting now is the characterisation of our migrants as families, having children who are part and parcel of our education system, and more stable. That is a different characterisation of the type of people who are here. As reflected by the Polish ambassador a number of times to us, our behaviour and attitude towards our migrants in Scotland is a very positive one, from his experience. We are very proud of that and we value that, so we see our migrants as a positive aspect of EU membership, not as a negative one.

Q69 Lord Tugendhat: You mentioned your referendum, and of course you hope that you may have another one in the fullness of time. Therefore, you must be looking at this exercise not only as part of the UK, but also prospectively as perhaps a distinct and separate country at some point in the future. In that connection, I was wondering what your view was about the issue of the relationship between the euro ins and the euro outs. If you are looking forward to

a point when you might be an independent country, where would you see yourself standing in relation to being in or out of the euro?

Fiona Hyslop: We have always said that it is in Scotland's best interests, in terms of our economic co-operation, to work within the same currency aspects as the rest of the UK, so a lot of it would be dependent on where the UK is at any point in time. That is important to us, just as much as our European markets are important, because of the trade north-south. I will politely put that in the context that we would expect to be in the same position as the rest of the UK.

Lord Tugendhat: Whether the UK was in or out.

Fiona Hyslop: That would be the sensible operation. We do not anticipate the UK being a part of the euro in any short period, and we do not anticipate Scotland being a part of the euro in any short period.

Lord Davies of Stamford: The Governor of the Bank of England has made it clear that you cannot do that. You cannot leave the United Kingdom and keep sterling.

Fiona Hyslop: We are discussing the referendum immediately in front of us, and that is the EU referendum. We are not anticipating an independence referendum in the immediate future, so that is not an issue that I think is relevant to this inquiry.

Q70 Lord Trees: Can I come back to a point you and Baroness Wilcox were discussing on the opinion polls? I am particularly interested in the remark you made about turnouts. We know what the opinion polls say in England and Scotland. We are fairly divergent at the minute. What is critical in terms of how that translates on the day is turnout. The turnout in the Scottish referendum was exceptional; the engagement was huge, and it is understandable that it was. Do you think, in Scotland, there is the same energy and enthusiasm to participate in the European debate and the European referendum?

Fiona Hyslop: The 85% turnout for the independence referendum was outstanding.

Lord Trees: Yes, exceptional.

Fiona Hyslop: It was a really good demonstration of democracy, of legal and peaceful constitutional change, and a very good example, in terms of what is happening in different parts of the world, as to how things can be done. Everywhere is different, but it shows you how it can be done. One of the significant parts of the engagement was the vote for 16 and 17 year-olds, because this was a decision that would impact on them for a long time ahead, as would the EU referendum, and I was particularly pleased that the Lords recognised that as an important area. One thing that was important was that they took their responsibility so seriously and their level of engagement was really important. They also found ways of being

involved in politics slightly differently, with the role of social media in informing young people and the different perspectives that they defined by finding out their own information. It was not just about taking the leaflets or propaganda from any side. People owned it themselves and had debates within their families, across all generations. We would hear it in cafés, at hairdressers and in workplaces. It was interesting that the younger generation also helped engage the older generation. That was part of the democratic debate.

I do not have the figures to hand, but the turnouts in Scotland were I think 5% higher than in the rest of the UK for the Westminster election. Turnout depends on a lot of different things. Will the issue in and of itself motivate people in the same way as the independence referendum? Probably not. We do not know what the timeframe is for the EU referendum, but we have our Scottish Parliament elections in May, so people will be actively involved. I have had local council by-elections as well, and we have had the Westminster election and the independence referendum. If you had, hypothetically, an EU referendum in September 2016, some of the people in my constituency, in the town I live in, would have been to the polls four times. They would have had an independence referendum, a council by-election, a Westminster election and a Scottish Parliament election. This would be the fifth time going to the polls for most of Scotland in the space of two years. People might be quite happy going to the polls all the time, but you probably have your own experience as to whether people like going to the polls all the time.

Lord Whitty: It could work both ways.

Lord Jay of Ewelme: Is there any sense of disappointment here, now Parliament has decided not to give 16 and 17 year-olds the vote? Is that part of the political discourse here?

Fiona Hyslop: Yes, it is a let-down. People's hopes and aspirations of being democratically involved have been crushed. There are people who voted in our independence referendum who could not vote in the last Westminster election, and they felt let down at that point. In terms of the franchise and the possibility of doing it for Westminster, the timescales would have been extremely tight, but clearly it was possible for this one. I would characterise this as disenchantment, disappointment and a genuine missed opportunity. We all know that connecting politics and people is a big challenge and that anger, apathy or, indeed, rejection of mainstream politics and people going to extremes across Europe in different areas is something we should be concerned about. We cannot blame extremist parties for this. It is the responsibility of mainstream parties for failing to engage in the way they should do.

Q71 Lord Tugendhat: This is a very straightforward question. Do you feel that the UK Government have taken the view of the Scottish Government sufficiently into account in

defining their reform objectives? Do you feel that you have been kept sufficiently informed about the discussions in Brussels and elsewhere that the Prime Minister has been conducting?

Fiona Hyslop: The short answer is no. We set out our agenda for reform and engaged with the UK Government, and that has not been reflected from what we have seen in the 10 asks or the four baskets that we have now. In terms of whether we have been informed, yes, more latterly, but not necessarily in a satisfactory way. Our First Minister, as well as the First Ministers of Wales and Northern Ireland, asked for more information and to be engaged. I suppose the first engagement was 21 September, which is quite late in this agenda, and that was a bilateral between the First Minister and Philip Hammond. The UK Government have said that the Joint Ministerial Committee is the route to do this. The JMC Europe meets only once every three months. Although EU reform has been on the agenda and, at our request, put at the top of the agenda so it was not just in the AOB at the end, that has not necessarily been satisfactorily dealt with.

I attended on 12 October the JMC for Europe. That was the same day, I think, that David Cameron provided his Statement, so we were being informed at the very same time as Westminster; it was not in advance. I had a bilateral with David Lidington that afternoon. I had a phone call on the morning of 10 November, with the release of the letter from David Cameron to Donald Tusk afterwards. Our officials have been informed and engaged, but they managed to download the letter to Donald Tusk from Politics Home before we were sent it by the UK Government.

We have been informed, but have we been engaged? Not really. Have we been part of the negotiation or have our views been discussed: “What do you think about this”? No. Have we been told at the same time as the rest of the world? Yes. Is that satisfactory? No. That level of involvement is difficult.

I have a phone call this afternoon with David Lidington, at his request, I suspect in advance of the December Council. He has been very courteous in contacting me, but I made it clear to him that I would categorise his engagement as more that he is providing information, rather than engagement. He said, “Yes, I think it is correct to characterise it like that”. I do not think that is particularly helpful. We will continue to pursue the issue agenda.

Why is that important? First, it is about courtesy and the memorandum of understanding between the UK Government and the Scottish Government generally as to how we should operate. They characterise the issue of EU membership as reserved, which we understand EU aspects are. However, our memorandum of understanding with the UK Government also

recognises that there are devolved implications, even from reserved areas. As I set out, each one of those four baskets could have an implication for us.

Why is it also unfortunate? We still do not know what the UK Government's position is going to be on this, which is dangerous politically. It is quite embarrassing to be in a situation where the UK Government cannot say whether they want to remain or leave, because that is dependent on whether the deal is strong enough. I understand from your Chairman that you have been following the evidence sessions to the European and External Relations Committee here in this Parliament. Some evidence was provided on 9 December by Professor Sionaidh Douglas-Scott and Dr Cormac Mac Amhlaigh. Their argument is that, depending on their form, the outcomes of the negotiation may require a Legislative Consent Motion to be granted by the Scottish Parliament. The argument there from Dr Mac Amhlaigh is that, if there is a removal from the EU treaties of commitment to ever closer union of peoples, which is the part of the sovereignty argument, that could sufficiently alter the objects of the EU as cited in the Scotland Act, which could trigger the need for an LCM. That is an interesting proposition.

Lord Davies of Stamford: What is an LCM?

Fiona Hyslop: A Legislative Consent Motion. That is where the UK Government have to seek permission from the Scottish Parliament to proceed in different areas. It is a fundamental part of the operation between the UK Government and the Scottish Government. I was giving evidence to the House of Lords Constitution Committee on Friday and they are very interested in that, in relation to the Scotland Bill. We do not have a view on this because, first, we do not know what the sovereignty part of the renegotiation will be in relation to some of these issues or whether there will be a change to the ever closer union of peoples aspect, but there are implications. It is not just a respect agenda, which David Cameron set out when he first came into his position back in 2010. It is not just the fact that a lot of the areas are effectively devolved interests, whether it is trade or migrant workers, but it is a constitutional question, which is an area of your interest and expertise as a Committee. That is worth having a look through, in terms of relations. On all these counts, particularly if the UK Government end up in a position that they are campaigning to remain in, as the Scottish Government have made it quite clear that we want to remain in and we are already actively promoting the benefits of this, I would have thought that we would be good allies to have. Working with us rather than just informing us would be to the benefit to the UK Government.

Q72 Lord Tugendhat: Let me ask you another question, if I may. I regard it as axiomatic that it is desirable that there should be close contacts, and I take your point about your interests, so there is no difference of view between us. Would you accept that the situation

now is very different from what it was before the general election? Before the general election, you had a handful of Westminster MPs; now you have a very large number of Westminster MPs. Not only do you have a large number of Westminster MPs, but they are represented, I think, on every Committee of the House of Commons. Therefore, the extent to which, if I can put it this way, the SNP Government in Scotland is in contact with the Government in London, and the capacity of the SNP to ask questions to hold the Government to account and all the rest of it, is greater. It is conducted not only through the channel of the Scottish Government to the UK Government, but also through that of the SNP Members of Parliament to the UK Government, which reports to the UK Parliament, so your position is much stronger and, I would have thought, different in kind from what it was before the general election.

Fiona Hyslop: That is a political rather than a constitutional perspective. It is very important to remember that, while I am here giving evidence as a Scottish government Minister and our Government happens to be Scottish National Party, the number of MPs from Scotland has not changed. There is the same number, although they are perhaps more visible, vocal and present than the previous MPs who came from Scotland to Westminster. Therefore, in terms of channels, it is very important to remember that we should respect the constitutional aspects of the relationship between the UK Government, of whatever political shape, form or colour, and the Scottish Government, of whatever political shape, form or colour. You are correct, in terms of political analysis, that members of my party are now sitting in the House of Commons EU Committee and different areas, but that should not change the relationship and the respect agenda between the UK Government and the Scottish Government.

Tangentially, I would reflect that it perhaps was only a realisation of the importance of the machinery more latterly that made people realise how the UK Government should relate to the Scottish Government, including from Whitehall. I will give you an example. From 1992 to 2007, by and large you had a Labour Government in the UK and a Labour Government, if in coalition, in Scotland, so the channels of communication were probably more party. It was not until the SNP came into government in Scotland in 2007 that we realised we had to make sure the intergovernmental machinery of consultation worked more closely.

I distinctly remember, when David Cameron came into power in 2010, I attended a joint ministerial plenary session. At that time, Alex Salmond was the First Minister from Scotland. Around the table, you had a Conservative Prime Minister and a Liberal Democrat Deputy Prime Minister. From Northern Ireland, you had Sinn Féin and DUP. From Wales at that time, you had Plaid Cymru and Labour. From Scotland, you had the Scottish National Party. Every

shape and colour was around that table. That has meant that, particularly since that time in 2010, there has been in operation an institutional framework of engagement and dialogue as probably should have happened since 1999. That is more stable and sustainable.

Yes, politics matters. Do I talk to my colleagues in Westminster? Yes, I do, but that should not change people's perspective. What I said to Ian Lang in the House of Lords Constitution Committee on Friday is that, if the Westminster Government or the Westminster Houses of Parliament treat SNP Members as somehow separate and outside the system, as if they are other, and there is an othering of that constituency, that is a very dangerous place to be. Politically, there has to be a respect agenda that not only respects the SNP MPs' entitlement within the Houses of Parliament but does not regard that as a substitute for the intergovernmental dialogue that happens in terms of the operation.

I know that is quite a long answer, but it cuts to some of the tensions that lie currently within the UK. I am not a proponent of the union. I want to see Scotland independent, but there is a clear direction of travel by some people within both Houses of Parliament and the UK Government that is leading to a situation in which they are pushing Scotland away rather than embracing it. In a situation where Scotland voted to remain in the EU, and the rest of the UK, or England in particular, voted to leave, and we were being forced out against our will, that is not an active choice from the Scottish Government. That would be the result of decisions by a UK Prime Minister, and people have to be aware of those tensions.

Lord Whitty: That was going to be our next question. It is an interesting, important hypothetical situation.

Q73 Lord Davies of Stamford: I am no longer in the House of Commons, of course, but my impression is that the Scottish National Party Members of the House of Commons are playing a very full part in the proceedings of the House of Commons, both the formal Committees and the informal all-party groups. I met a number of them there and had perfectly normal dealings with them. There is no sense at all, in my view, in which they were being treated somehow specially or boycotted in any way, and I would be horrified if any of your colleagues sitting in Westminster had that impression. It is not my impression at all that any such a danger has arisen. We like to think of ourselves as the oldest continuous democratic Parliament in the world. It is not something we believe in to do that. They have been populated and they have a proper mandate. We do not agree with them on a particular matter of policy, but that is neither here nor there.

Lord Tugendhat: Can I reinforce what Lord Davies has said? I went to the meeting of the 1922 Committee that took place immediately after the election. There was a Conservative MP

who suggested that the SNP should be treated differently from other parties, and the Prime Minister made it absolutely clear that an SNP Member of Parliament was just as much a Member of Parliament as any other MP and had all their rights and privileges; and that the SNP should have, in his view, the same position on Committees and all the other aspects of the House as any other party with the strength that they had. Not only do I agree with what Lord Davies has said, but I know from what the Prime Minister said at that time that his view was that the SNP MPs should be on exactly the same footing as any other MPs.

Fiona Hyslop: I very much appreciate that point being made. Things happen in Parliament; events happen and how people are dealt with can vary. But, for example, in the Syrian debate in the House of Commons, our Government had a particular point that was also reflected by the SNP MPs, but, within that six-hour debate, only three MPs were called. There is the Committee on Human Rights—again, very important. Human rights do not seem to be part of the agenda for EU reform and do not need to be, because that is separate from EU membership anyway, although it has been confusingly presented by some. Human rights are very important to Scotland. Indeed, our constitutional set-up in relation to the Scotland Act is very much underpinned by human rights issues. The review of human rights taking place in Westminster currently has Peers, Labour MPs, Conservatives and a Liberal Democrat on it. Despite the fact that the SNP MPs are the third-largest party, they are not represented on that. You are right. Attitude and behaviour are really important. Going back to the central point of the inquiry, how the UK operates with Scotland should be in a respect agenda regardless of what political party forms the Government in either of them. I am trying to be generous in spirit here in terms of how that should operate.

Lord Davies of Stamford: I regard it as having been worth my taking 24 hours out of my life to come up here, just in order to hear you say that, because I had no idea at all that that was the feeling of the Scottish nationalist party in your headquarters here in Scotland. I am concerned by what you say. The way the House of Commons works, as you know, is that people treat each other hopefully with mutual respect and in a proper democratic fashion, and have lots of conversations behind the scenes. If there is some injustice or problem, it is usually sorted out. I know the Speaker, who I think is a very good Speaker. His door is always open. I imagine that you have gone through that door and explained to him how you feel about it.

Fiona Hyslop: I am not a Member.

Lord Davies of Stamford: No, but I am sure you talk to your colleagues in Westminster the whole time. I am just concerned to hear what you say. There were some rumours in the two

major parties, the Labour Party and the Tory Party, that, when you have such a very large harvest of Members as at the last general election, there might be a temptation on the part of the Scottish nationalist party to play games, to hold things up, to screw up the English and give us a hard time. I have not detected any of that at all; nor has anybody. I do not think people have behaved in any way destructively, annoyingly or in that sort of way. Everyone has behaved, so far as I have seen, in a very mature and democratic fashion. Whatever happens, we are not going to change the facts of geography. We will be living next door to each other for the rest of time, so we do not want to do anything to deliberately destroy this good will, even if it is sometimes in slightly short supply.

Fiona Hyslop: Having taken time out of my diary to come here, it is very pleasing to hear what you have said. If you can learn one thing, we call our party the Scottish National Party. That is its proper title. That would be a helpful lesson for today. But you are absolutely right. It is also about what the relationship can and should be, and about how we operate within Europe and in the wider European context. It is very important that we recognise and respect that the changes that we have come about through constitutional, legal and peaceful means, and this referendum coming should be conducted in that same way. We might have different agendas for reform, but, when I speak to other Ministers in other European countries, I am quite clear that the UK Prime Minister needs to have a strong negotiating position politically. He needs to achieve that. We will focus positively on EU membership, so we can be very positive allies for the operation of the UK within the EU.

For example, on climate change, we have very strong legislation, have made very strong progress and have been a very good example at the Paris climate change discussions. We are a country that is now delivering almost 50% of our electricity from renewables. We are on target and in a very strong position, so we want to share that experience and can do so in a constructive way. Until such time as the constitutional arrangements in the UK are changed, we want to operate on that basis.

Therefore, I think the UK should have more confidence in working with us as a Government. As I have said to them, I have been a local government Minister since 2007, and on not one occasion have the Scottish Government ever betrayed a trust from the UK Government. It is what you would expect, but it is also worth remembering that engaging us, not just informing us but having us involved in the process, is part of their interest and can and should be done.

Q74 Lord Davies of Stamford: Let me just ask the question I had on the order paper. You have probably answered it, but let me try to make sure, for both my colleagues and myself, that we have a completely unambiguous answer. If you do not want to give an answer on the

part of the Scottish Government at the present time, it would be very helpful to have, informally, your personal expectation as to what is likely to happen. If there were a vote in the British referendum on membership of the EU against our remaining part of the EU and that was based on a majority of the English electorate, and the Scottish electorate voted the other way—in other words, voted by a democratic majority to remain in the EU—is it your expectation, feeling or even explicit policy that that would call for a new referendum on Scotland's continued membership of the union?

Fiona Hyslop: What I will say reflects what our First Minister has already said. Were that scenario to come about, clearly that would cause a constitutional and political issue if the views of the Scottish people were not reflected in the outcome of a referendum. That is why we have asked for a double lock or double majority. We wanted to see in the legislation a provision that, should any one part of the UK decide to remain, they would not be removed against their wishes.

Lord Davies of Stamford: You lost that one. We had that discussion. The answer to my question is yes; is that right? Can we take that away with us back to London?

Fiona Hyslop: That is not our focus. Our focus is to ensure that there is a vote to remain in the EU. It is in our interest for the UK as a whole to remain in the EU. We are not preparing or trying to position ourselves to take advantage of the situation.

Lord Davies of Stamford: I personally very much agree with you. I am a great supporter, as colleagues know, of our remaining in the EU, but that is not the point. In life, you sometimes have to prepare for things you do not want to happen.

Fiona Hyslop: We are not actively preparing for a situation where the remain vote loses.

Lord Davies of Stamford: What is your personal expectation as to what would occur in the circumstances?

Fiona Hyslop: I am less confident of a remain vote across the UK than I was three months ago or six months ago.

Lord Davies of Stamford: But, if you had a Scottish majority in favour of remaining in the union and that was being overridden by a UK majority based on English votes against, would that be acceptable or would you demand a new referendum?

Fiona Hyslop: We have said that the possibility of a future independence referendum would require material change. The scenario you set out would be a material change in the relationship.

Lord Davies of Stamford: That has answered my question, thank you.

Lord Whitty: Can we move back from the hypotheticals to the four baskets, and in particular the fourth basket, the migration basket?

Q75 Lord Jay of Ewelme: We have covered some of this already and you have made it clear that there is a difference of view between the Scottish Government and the British Government about the importance of migration and so on to the economy. I just wondered whether you thought that this is one area where there was incompatibility between the British and Scottish Governments. Would it be something that would concern you, in particular in its implications for the Scottish economy, if we were to leave and stronger controls were put on migration? I say that word, rather than “immigration”, because there is a subtle difference between the two.

Fiona Hyslop: It is a very important difference and that needs to be surfaced in the debate. The Chairman said he wanted to move on from hypotheticals, but I am afraid we are still in the hypotheticals, even on this issue, because we do not know the detail. That is a concern: what is the detail? Is it about in-work migration? Is it just about child benefit? Is it about changes that can happen and have happened in other countries to limit domestic issues in terms of benefits people can achieve? Is it compatible? We do not know. I have asked the Minister, and I think the House of Commons Committee has asked David Lidington as well. How many people are we actually talking about? Is it about people who are already here? As I understand, it will just be for new people coming, as opposed to people already here. Which benefits are we talking about? We should bear in mind that we have just had George Osborne’s Budget and there have been major changes proposed for welfare. In terms of working tax credits there has been a change, not least because of the role of the House of Lords and others as well. It is in-work benefits that he is trying to target.

Now, other countries have different systems, which are worth considering. It is not for me to do their job for them, but other countries have different systems where you have accumulated rights for benefits. We have immediate access and entitlement, and that is different. Other countries have changed their domestic benefit systems already, but they did not do it by requiring treaty change or change from other countries, or impacting freedom of movement. They did it by changing their internal benefits system for their own purposes. For example, Ireland several years ago changed their benefits system, but they changed it for everybody. It is equality, so that is taking the nationality aspect out of it. I do not know if that is where the UK Government are going or if it is a possibility for them. That is for them to resolve.

We are still dealing with hypotheticals. That is why it is really important. We have agreed with David Lidington that our officials can talk with each other. It is very important that our

officials working on welfare benefit changes that we might be getting can have that dialogue with the DWP. My understanding is that officials have had discussions with the DWP but I understand that the DWP were not themselves able to provide as much information. I do not want to compromise you in your discussion with officials, but, in a positive way, we are trying to have that dialogue. Is that a fair description?

Craig Egner: Yes, there has been an initial exchange with the DWP on this issue, but we as a Government are seeking more information from them and they have not as yet been able to provide that.

Fiona Hyslop: The timing for this is critical. In February, you might get an agreement on the first three areas, and they can move into technical talks and presentations as to what that would look like. We can have the political discussion about what benefits are meant in the December Council, in the next few days, and then we go to February. But, remember, we go into the *purdah* period for our elections at the end of March, so there is a time issue here, and not just for us, but for Wales and Northern Ireland as well. There are different relations to benefits in Wales and Northern Ireland than there are for us.

Lord Jay of Ewelme: You mentioned earlier on the 70,000 Polish people in Scotland. Is that 70,000 Polish citizens or 70,000 British citizens, some of whom are of Polish origin?

Fiona Hyslop: I am also Minister for census, although I do not personally go round collecting people's data. At the last census, we put down some identity issues about where people are from. These are people who have at some point lived or been born in Poland and come to Scotland. There are areas where people self-identify as Scottish-Polish, but the 70,000 are people who have been born in Poland and have come to Scotland. They also may include people born in Scotland. This is rough. We can provide you a proper briefing, so that might be helpful.

Lord Jay of Ewelme: That would be very helpful. Do you have the same figures for others? It is just that the Polish are so much bigger than anybody else.

Fiona Hyslop: Our figure for France is about 7,000. We think that may be underreporting. We thought it would be much, much more.

Lord Whitty: So much for the Auld Alliance.

Fiona Hyslop: The Auld Alliance is very lively. I attended an event last week at the French Consulate, celebrating and recognising the 500th anniversary of Marie de Guise, who was regent of Scotland and had provision for citizenship of Scotland and France collectively, which was only rescinded by General de Gaulle in the early part of the last century. There is an affinity with France more generally. In terms of numbers, Poles are by far and away the

largest. This is important in terms of the difference between immigration and migration and the importance of migrant workers. I represent West Lothian, where Mary, Queen of Scots was born, as Marie de Guise was, in Linlithgow Palace. We have had shale mines and coal mines, and we have had different waves of Polish workers at different points. The Polish workers came to West Lothian 150 years ago to work in the shale mines, and we have one of the few John Cantius churches outside Poland. They came for coal mining, but we also had many Poles who came after the Second World War and more recent waves. We have had about four waves of Polish people. We recently unveiled a lovely memorial to Wojtek the bear. If you are looking for some Christmas reading, I recommend the book of Wojtek the bear, who carried ammunition at Monte Cassino and was adopted as a symbol by the Polish army. When he was a bear cub, he stayed with them, and he ended his days in Scotland. We had a fantastic event, with lots of people coming to it to celebrate.

Looking at migrant workers, we are Scots. There is a McDonald's on every corner, unfortunately for healthy eating, but it is a good point that we are a country of migrants, who have populated it at different times. We cannot see the prism of EU membership through a narrow focus on one area in the context of one time, bearing in mind the movements of people over many, many centuries. There is a record in the House of Commons commenting, "We do not want to be in a situation like Poland is, which is overrun by Scots", because there were 40,000 Scots in Poland 500 years ago. We have to see things in context. Why are we causing dislocation across Europe at this time, when everybody needs to stick together for solidarity and mutual support because of that narrow political prism, which I and many regard as an internal political concern within one party and a threat from another party that failed to realise electoral success at the last Westminster election? Why are we putting ourselves through all this?

Q76 Lord Trees: I do not wear a political hat at all; I am a Cross-Bencher. Would you not concede there are some differences in what the south of the United Kingdom faces in terms of density of population and sheer numbers, which is not a problem here? Is there any degree of understanding of that? To be fair to the Government, they are reflecting a mood in England that is undoubtedly there. We cannot pretend the concern about pressure on resources, on social services, on roads, traffic and housing does not exist.

Fiona Hyslop: It would be wrong not to recognise that there are different issues and pressures in different parts of the country. We are just asking for our difference to be recognised. There are benefits and disbenefits. In terms of the pressure on public services, I also know that, if we

did not have migrant workers, we would not be able to provide the public services we do in our health services and elsewhere.

Lord Davies of Stamford: That is even truer of the south-east of England.

Fiona Hyslop: Yes, everybody is looking at it. There is a temptation to look at things from the point of view of the migrants who are using services, as opposed to the migrants who are providing services. That is the evidence that needs to be provided on both sides. There is an issue: why do people move? Is there an issue of lack of work elsewhere? Are people moving for benefits? No, they are not moving for benefits; they are moving for work. I have yet to see evidence that people are moving for benefits. They are moving for work. The fact that the Prime Minister is focusing on in-work benefits is an acknowledgment that people are moving for work. I suppose the issue then is: "How do you change that?" That is the bigger picture of solidarity across the EU. That is an economic argument. It is in the UK's interest to make sure that the south of Europe can be stable economically and improve their employment position. It goes back to tackling youth employment. It is not in our interest for Spain to have high levels of youth unemployment, because we need to have places to sell our goods and services. A stronger EU is a benefit for all of us. The way to tackle some of these issues is to make sure that there are decent wage levels and employment opportunities in those countries from which individuals potentially want to move to Scotland. We have seen the difference in Poland. When they had wage increases and more sustained economic activity in Poland, it is more of an incentive for people to stay in Poland rather than come to Scotland.

Lord Tugendhat: May I make a political observation? It is an irony in England that the feelings about immigrants tend to be highest in the areas that have fewest. When you look at London, which has a very high proportion, UKIP did extremely badly. On the whole, the feeling about immigrants does not loom very large in London. When you look at the areas where UKIP did well, in as much as that is a barometer of feelings, it was in areas in which there are not very many immigrants. It is partly because of the point you make, about the fact that they come for work and that public services rely a great deal on them. Of course, there are social stresses and strains. There are problems about housing. There are problems in schools when too many people do not have mother-tongue English and that sort of thing, but it is an irony that feelings run strongest in the areas where they are fewest.

Fiona Hyslop: That is a very important point. It would probably affect London more than Scotland, as it has far more of a migrant community than elsewhere. Hot off the press, in terms of educational services, we have just had an OECD report into education in Scotland. I read that one of their findings is that the educational attainment of migrants' children in

Scotland is better than anybody else's, because there is that willingness to take part in and improve education. Our experience, particularly in the late 1990s and the early part of this century, was that, in Glasgow, the children who come from Kosovo, the Balkans and elsewhere were a great asset to our schools and helped to improve the educational experience of all the children within that area. It depends through which end of the telescope you look at things and whether the glass is half empty.

Lord Davies of Stamford: On the supposed draw of our welfare system, there was a very interesting study, which I quoted in the House of Lords last year, from a group of academics at University College London. You may have seen it. It showed quite conclusively that the contribution by immigrants from other EU countries, mostly from eastern Europe but not entirely, to national insurance and income tax was very much larger than their consumption of benefits and of public services. In other words, every taxpayer in Great Britain is better off as a result of their being here, because they make a net contribution that runs into billions. That is an interesting piece of evidence that has never been refuted. What you have been trying to tell us, but in a very tactful, diplomatic way, is that you think the English in their culture and their history are more chauvinistic than the Scots

Lord Whitty: I do not think the Minister said that.

Lord Davies of Stamford: I am not sure it is not true. I have noticed the *Daily Mail*, which is my great hate, sometimes has different captions and pictures on this matter in its Scottish edition from those in its English edition. You do not get quite so many pictures of Roma coming from Romania and so forth.

Lord Whitty: Before we go down that road, I am conscious of the time here. We asked you for an hour and the hour is almost up. Do you have another 10 minutes or is your timetable dragging you away?

Baroness Wilcox: There is a jolly important question I want to ask you. It is nothing like the ones we have just had.

Fiona Hyslop: I have another meeting at quarter to, so I will need to leave in seven minutes. The UCL figure is really important: £20 billion from 2001 to 2011. Who is going to replace this economic loss? Can we assume that all those currently not working would replace the workers, or would employers just decide not to have the same number of workers? There is an issue about who is going to replace that tax take. Again, it is part of the services argument. It is not just about who uses services; it is who helps make services. It is not just who uses benefits; it is who pays for the benefits from taxation.

Lord Whitty: This is the most contentious area of the four questions.

Q77 Baroness Wilcox: You have had sight of this question, so there are no clever bits or surprises. It is a straightforward question on what I regard to be a very important subject. Regarding the eurozone and non-eurozone member states, the Government are seeking to secure “legally binding principles that safeguard the operation of the Union for all 28 member states and a safeguard mechanism to ensure these principles are respected and enforced”. What is your perspective on this question?

Fiona Hyslop: If it is conducted in a way that does not compromise the interests of either the eurozone or the non-eurozone countries, that is a common-sense understanding. It is quite clear that the eurozone countries themselves are going to have to have some kind of legally binding arrangements, so it is not unreasonable to say the non-eurozone can. But what we cannot have is either of them compromising the other. I do not think that is the intention of anybody. The more that that is articulated as part of this issue, the better.

Baroness Wilcox: But what is your perspective on the question?

Fiona Hyslop: I do not think it would or should be a compromise. It depends what the wording is.

Baroness Wilcox: You do not disagree with what the Prime Minister is seeking or the Government are seeking: to secure legally binding principles that safeguard the operation of the Union for all 28 member states?

Fiona Hyslop: The relationship between the eurozone countries and the non-eurozone countries is not my most burning issue of importance.

Baroness Wilcox: Do you not have a response or view?

Fiona Hyslop: As long as it is done in a way that does not compromise the development of the eurozone countries, and equally their developments do not compromise the interests of the non-eurozone countries. Most of this comes down to capital markets. Remember, Edinburgh is one of the financial capitals in terms of operations.

Baroness Wilcox: So you support the question being asked, at least.

Fiona Hyslop: It is not unreasonable. The big worry the eurozone countries have, as you know, is that what David Cameron is proposing would compromise their development. As long as it does not compromise their development, that is not unreasonable, because we are not going to have a situation in the near future where everybody is a member of the eurozone. That is the reality of life.

Baroness Wilcox: It is easy to drift into these things, if occasionally you do not stop and ask. For example, France keeps saying that the European Union has a single currency. It is not a single currency; not all of us are in the euro. It is important that we do not drift. I think that

this question is one that is important to us, because we are in a situation whereby we are different in some aspects. It does not mean to say that we do not want to be part of the European Union.

Fiona Hyslop: Your point of emphasis reflects that there is a spectrum here. For some people, the point you are making will be really important, and that is absolutely critical.

Baroness Wilcox: It is not only our country, of course.

Fiona Hyslop: Others on the spectrum will recognise and acknowledge it, but it will not be of the same importance. That could have been an issue that might have compromised David Cameron achieving a renegotiation, but I think it can be couched in ways that, as the law is developed, do not compromise the interests of the eurozone and non-eurozone together.

Baroness Wilcox: Do you think it is worth going to the wall for?

Fiona Hyslop: Not particularly, no.

Q78 Lord Whitty: We have used up five of your seven minutes, I think. Can I just wrap up the other two aspects of the baskets from the Prime Minister? On competitiveness, you said you are broadly in favour of better regulation and all of that, but you put in a big proviso that this does not necessarily mean a deregulation agenda, particularly in relation to social protection. Is that your point on that?

Fiona Hyslop: Yes, and we have had somebody from the Scottish Government actively involved in the EU habitats directive, constructively helping, with our experience, with deregulation in relation to the existing agenda.

Lord Whitty: In relation to the ever closer union, do you have any views that you would like to record for us?

Fiona Hyslop: I do not know what the Prime Minister is trying to achieve. The concept and the political argument of it I can understand, but I am not sure what the reality of it would be and I have concerns about that. If that is what he needs to do to win a deal and it does not compromise the rest of Europe, let us see what he comes up with. It is too hypothetical, I am afraid.

Lord Whitty: Fair enough. We do not deal with hypotheticals, obviously, although we have dealt with a few today. I am sorry to have kept you slightly longer than we intended, but you have been very good value to us. We have taken a lot from that, so thanks very much for your time and your official's time as well. We would like to keep in touch with you. We will read that literature, if you would care to leave some of it with us. That will be very helpful as well, so thanks a lot. It was very good to see you.

Fiona Hyslop: Thank you.