



The Select Committee on the European Union

Energy and Environment Sub-Committee

Corrected oral evidence: Brexit: Environment and Climate Change

Wednesday 16 November 2016

11 am

Watch the meeting

Members present: Lord Teverson (The Chairman); Lord Cunningham of Felling; Viscount Hanworth; Lord Krebs; Lord Selkirk of Douglas; Baroness Sheehan; Lord Trees; Viscount Ullswater; Baroness Wilcox.

Evidence Session No. 4

Heard in Public

Questions 66 - 74

Witnesses

I: Dr Thérèse Coffey MP, Parliamentary Under-Secretary of State for the Environment and Rural Life Opportunities, Department for Environment, Food and Rural Affairs; and Dr Jesse Norman MP, Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy.

Examination of witnesses

Dr Thérèse Coffey MP and Dr Jesse Norman MP.

Q66 **The Chairman:** Can I open this public session of the inquiry we are having on Brexit, the environment and climate change? Can I remind members to declare their interests, if they have any, when they ask questions? First, Ministers, I welcome you very warmly to this House of Lords Select Committee. We look forward very much to your contributions. Perhaps I could start off by saying this is, quite clearly, an open and public session; it is being webcast and we will also take a transcript which we will provide you with copies of. If there are any errors please come back to us and we can have those amended. The best thing, not just for us but for those watching and listening, is to ask you both to briefly introduce yourselves and then we will start off with questions. Dr Thérèse Coffey, perhaps you could start.

Dr Thérèse Coffey: Thank you. My name is Thérèse Coffey. I am the Member of Parliament for Suffolk Coastal and the Minister for the Environment and Rural Life Opportunities.

Dr Jesse Norman: I am Jesse Norman. I am the Member for Hereford and South Herefordshire, and I have been given the most grandiose title in Government of Minister for Industry and Energy.

The Chairman: That is a good start. Perhaps I could start off with a broad question, which is to ask you—hopefully both of you can respond—for your vision for the UK's future relationship with the European Union post-Brexit with regards to environment, climate change policy and, particularly on the Defra side, how it will affect the 25-year plan which is a major part of Defra work at the moment.

Dr Thérèse Coffey: In regard to moving forward, Members will be aware that we play a full part in the European Union and will continue to do that. We are very active in the negotiations on the circular economy, which is part of elements still coming up, and we will continue to do that as long as we are full members of the European Union. In particular, for our departments, the environment and climate change really do not know boundaries, so it will continue to be a feature of our policies moving forward to work closely with the EU as well as other countries. You will be aware that we are already members of many multinational agreements, and we will continue to honour those and indeed play a leading part where we have specific expertise.

In regards to the 25-year environment plan, that was in our manifesto anyway. What is different about moving forward, working on the environment plan which will be closely in partnership—hopefully you will see a good dovetailing—with the food, farming and fisheries plan, is that environment will be a key element of our industrial strategy for the agriculture and fisheries industry. We have the opportunity to develop a

25-year environment plan that is more bespoke to the needs of Britain. At the moment, directives cover 28 different member states' needs, and while large elements of what we will do will continue to be business as usual there is an opportunity, thinking ahead, to move to almost having multiple environment plans within England alone, obviously working closely with the devolved nations, but moving to more of a catchment-based kind of thinking with agricultural support, and recognising that different parts of our country have different environmental challenges. I anticipate the environment plan to be an umbrella which will address our international obligations but address very specifically the needs of our country moving forward.

Dr Jesse Norman: I would add a couple of things. First, I very much welcome the work that you and the Committee are doing in this area, and it is a mark of the seriousness with which we take this issue that my colleague Nick Hurd MP at the moment is in Marrakesh on these COP 22 negotiations, taking forward some of the agreements laid down at Paris and thereafter. It is a very important issue. I can only add a few things to what Thérèse has already said very well, but perhaps I can pick up some of them. Of course, our department has industrial strategy in the title, and it is part of our concept of industrial strategy—and we will be seeing consultation documents in due course but I think it is no secret—that we want to see a greater spatiality, a spatial dimension to the way we think about industrial strategy. I think that fits rather well with what Thérèse was saying about the different kinds of standards that might be implied with the environment.

As regards the EU, as a country we have an independent personality from the EU in climate change terms, even a very important part of what climate change has been in this country, but we are well known around the world for the relationships we have with the international groupings and the support we have given to different international conventions. We try to use that influence within those frameworks to influence other emitters.

If we look at the specific kinds of areas in which Brexit may have an impact on this, there are three one could pick in particular. One of them is how we achieve the best deal overall as part of a future relationship, and that means exploiting potential where there may be opportunities having come out, as well as standards we will want to continue to adhere to. The second is what interaction there will be between EU policies and targets and our own domestic policies and targets. At the moment, it is quite a tight interaction; obviously, EU law has a direct effect in this country and the Climate Change Act has been specifically tied into a series of national commitments of which the EU is part. We need to look at that. The third is specific concerns around things such as the EU Emissions Trading Scheme and, the impact of EU policies in helping us to achieve carbon budgets, and we will have to look at those quite closely as well.

The Chairman: I am sure we will pursue those. In fact, we should have

asked you to write the questions because those are exactly the issues we need to explore. I wanted to follow up on the fact that Europe, like other Governments or countries, tends to look at some of these issues in silos. Does Brexit give us an opportunity, particularly on bringing agricultural, environmental and indeed marine policy together more than it is at the moment, to avoid some of those silos?

Dr Thérèse Coffey: I would like to think Defra works closely on those matters. I appreciate you are on the board of the MMO.

The Chairman: I am indeed. As you have mentioned it, I will declare that interest.

Dr Thérèse Coffey: I am sorry.

The Chairman: It is a good point; I am a board member of the Marine Management Organisation.

Dr Jesse Norman: She is brutal, my colleague; she can see your conflict of interest.

The Chairman: It was well picked up, thank you.

Dr Thérèse Coffey: Marine conservation policy within the department has moved into my area away from George Eustice MP, but George still has the lead Minister relationship with the MMO, principally because of fisheries. The framework we are hoping to publish soon is not going to give all the answers; it is a genuine "This is where we are thinking of heading; stakeholders have already had some engagement in it", but what I would like to think is that you will see a good dovetailing of making sure that environment still continues to be at the heart of, say, fisheries. It is absolutely vital that we have a sustainable fisheries policy, and of course we will need to continue to co-operate with other EU states as well as Iceland, Norway and so on. I do not want to speak on behalf of George but the UK has been at the leading edge in trying to improve marine conservation and we need to make sure that others do not slide back on it. Our engagement after leaving the EU will be really important. That comes across as a science-based approach but George is absolutely passionate on these matters.

I would add a reminder that environment is a shared competence. We are going further than the EU on certain matters and I think we are able to start linking more issues connected with agriculture to the environmental aspects of it. As I say, unfortunately the framework is not out yet, but hopefully you will find it useful reading.

Lord Krebs: I should declare an interest as a member of the Climate Change Committee and chair of the Adaptation Sub-Committee. I wanted to pick up on something Dr Coffey said, very briefly, if you could elaborate. You talked about bespoke solutions for the United Kingdom that might be available post-Brexit. Could you give us an example of a bespoke solution and explain why the current EU system prohibits us from doing that, whatever the example is?

Dr Thérèse Coffey: It is not top of our priority list because you will appreciate the process that the Prime Minister has announced is about bringing EU law into UK law and we shall take our time to go through these, but you might want to look at every aspect of every directive; everything on the invasive species. Some of those plants do not exist or are not a problem in the UK, so again we might look at whether or not we still need to consider that. That is a transition thing and it still will be, but it is for us to think about in the future.

There are elements about having an agricultural policy that can be much more tailored to the needs of our country. George Eustice MP is the expert on cross-cutting, but we must have and will have a strong environmental influence on that, again allowing us to be a bit more tailored. Water stress is a massive issue in the south and the east; it is not a big issue elsewhere. You might want to design a policy and a scheme that is more tailored, whereas at the moment they have to be quite uniform. I think there are good opportunities for us to think through future agricultural support, as an example, where we want to drive specific environmental outcomes. I keep hearing about the Nitrates Directive, which is very prescriptive in its application, and yet it may not necessarily achieve the outcomes it is intended to anymore, so we need to think about that.

Lord Cunningham of Felling: Would it be safe or accurate to conclude from what you have both said in answer to the Chairman's questions and Lord Krebs that we can look forward to major changes in environmental policy or climate change policy when we have left the European Union?

Dr Thérèse Coffey: My view is we are going to have a smooth transition. As I have already articulated, we recognise that the environment—and I am sure Jesse will say climate change—is not a unique issue to this country and we have to work across borders anyway. If I think of air pollution, a lot of stuff comes in from the continent and we will continue to work for that. I do not think there will be a revolution in our approach at all, Lord Cunningham, but there may be some things that we think are no longer fit for purpose or not achieving the outcomes which they were originally intended to that we have an opportunity to change.

Dr Jesse Norman: Can I add to that? Of course it is right not to speculate in advance of the process on how exactly it will take place and what environmental change might be enabled by the process and by the state of the law at that point. It is worth saying that the overall course of our environmental policies, from a climate change standpoint, is very much set by the structure of our existing commitments, and they will survive Brexit. We have carbon budgets which take us up to 2030 and we have a climate change committee. None of those are EU-dependent and they are a very important part of the enforcement of targets we are internationally committed to.

The Chairman: Dr Coffey, you mentioned the Circular Economy Package earlier on, which has quite a bit of support in various parts of Parliament,

if you like, cross-party or whatever. Do you see that as an area which the UK would want to proceed with in principle even though the decisions of that package, probably, will last to beyond the point of Brexit?

Dr Thérèse Coffey: We are not clear exactly when that will come to a head. The Government support the concept of the circular economy. As I have said in the past, I do not particularly like the phrase—but I accept that is the lingua franca—only because I think it often implies a closed loop and no room for growth. The best businesses are already doing this, recognising that resources are scarce and wanting to make the most efficient use of them. The negotiations are ongoing about that. We have our concerns. We would like to focus on one definition; at the moment there are four definitions for recycling and resource reuse. There is also an example I have been made aware of that if an aluminium can is reused as a can it is considered recycling, but if it gets used to build Jaguars in St Athan in the future it will not be considered recycling. There are a few things such as that where you almost do not want over prescription to go against what the best outcomes could be.

The Chairman: I think that answers the question very well, thank you.

Q67 **Lord Cunningham of Felling:** The EU has had a long-established practice in these areas of underpinning its objectives by making them binding in law in many cases and we have done that with the Climate Change Act. Do you see any need or any likelihood of change in that kind of approach? For example, will we resile from an approach involving air quality controls or will we stick with it? Or is it too soon to say?

Dr Jesse Norman: The answer to that is it is too soon to make binding judgments in many of these areas. There are no plans to set nationally binding targets in key areas such as renewable energy and energy efficiency. One of the features of the EU regime has been the attempt to tie down some of these targets, and historically this Government and previous ones have resisted that because they have wanted it to be more neutral on economic grounds. That is the position that the Commission is coming towards. There is always going to be a balance between wanting to have rules and wanting to have flexibility. As I have said, a lot of the rules that we already obey either come through international conventions, such as COP 21, the Paris agreement, or through matters of internal statute that we have already reached with an overwhelming consensus that are unlikely to change. Therefore, those aspects I do not see as changing. However, I hope there will be flexibility within the new dispensation for us to pursue some of the changes that we have been describing today.

Lord Cunningham of Felling: What about the rules we are failing to meet at the moment, on air quality in particular?

Dr Thérèse Coffey: In the future I fully expect us to try to have a stable and clear legislative framework that underpins our international agreements. On air quality, you will be aware of the court case that happened last week. We went into that on the basis that our projections

were based on the best possible evidence that we had and that we had always committed to updating our modelling on the basis of the new COP factors, which we have been chasing the European Union for, and the real driving emissions tests that we have been chasing for the last six years to get something more realistic. That will be coming out next year. We intend to honour those. It is a top priority for the Secretary of State and it is certainly a top priority for me. Central government cannot do it alone and that is one of the reasons I am encouraging local authorities to honour the duties they have been given for the last 20 years to address air quality issues in their own area. I see it as a shared challenge moving forward.

The Chairman: Lord Selkirk, did you wish to add anything at all?

Q68 **Lord Selkirk of Douglas:** Yes. First, can I mention that I have an interest as a director in a small family property company which has a possible interest in a turbine on a piece of agricultural land? My question, which you have in large measure answered, is whether there is any intention to add renewables or energy efficiency targets to the emissions reduction targets established by the Climate Change Act.

Dr Jesse Norman: To elaborate on what I said on that, the answer is no. It is quite noticeable, and it is an interesting aspect of the Brexit discussions, in a way, that our voice has been rather a positive one in pushing the Commission in a direction that we have historically taken, which I think is probably better for the EU as a whole.

Lord Selkirk of Douglas: Thank you.

Lord Krebs: I would like to follow up Lord Cunningham's question with Dr Coffey. It was reported in the *Financial Times* on 21 October that you had written to the EU Environment Commissioner calling for a delay to new, stricter pollution control rules for coal-fired power stations. Does that signal that you would, as a Government, wish to have a more relaxed approach to air pollution than we currently have?

Dr Thérèse Coffey: Forgive me, I do not have the precise details at hand; I apologise. I think that is more of an indication triggered by a particular issue where we want to make a sensible transition on elements that have impacts on the local economy, in that particular area of power stations. We felt that we were making progress on that, but of course we want to work in the best interests of the United Kingdom and that is why we are looking to seek a site extension.

Dr Jesse Norman: It is worth adding that we are the first country to have announced that we would consult on the closure of unabated coal-fired power stations, so we are overall setting an international standard in that area.

The Chairman: There was a manifesto commitment to do it, I think.

Dr Jesse Norman: I am not sure that is true; it was regarded with great interest when Amber Rudd, when she was Secretary of State, announced the consultation at the end of last year.

The Chairman: Indeed. Good.

Q69 **Viscount Ullswater:** Perhaps I ought to declare my interests. I am a life member of Supporters of Nuclear Energy and I am also a trustee of an agricultural estate in Cumbria which receives income from a number of wind turbines. What are the most significant international mixed agreements pertaining to the environment and climate change? Do the Government expect the UK to be automatically bound by those conventions post-Brexit? The Committee heard at an earlier session that legal opinion is divided regarding whether the UK will automatically be bound by these international conventions.

Dr Jesse Norman: The lead convention in this area is the UN Framework Convention on Climate Change. We are a party to that individually as well as through the EU. As you know, we have been very clear that we will be seeking to ratify the Paris Agreement as soon as possible in this country and before the end of the year. Once we have done that we will continue to be bound by that agreement independently of our departure from the EU. I think that is the key to the position. There are, obviously, other international conventions that we will continue to be bound by but I think that is the leading one to focus on.

Dr Thérèse Coffey: The UK is party to about, I think, 30 multilateral environment agreements. You have things such as the Berne convention about wildlife and habitats; you have OSPAR, which is a regional agreement focused on the north-east Atlantic; CITES, on trade in endangered species, the Montreal Protocol, the convention on biological diversity and many others. It is my understanding that as the UK is already a party in its own right it absolutely will stick to the commitments, and is obliged to, once we leave. What has happened, particularly on the environmental side, is just a lot more convenient for the rules, in effect, to come into play as EU law in one fell swoop rather than through individual elements of international law. As has already been explained, we expect to bring the European acquis into UK law as part of the smooth transition.

Q70 **Lord Trees:** Good afternoon, Ministers. It has been suggested to us by a number of stakeholders that in the light of recent cuts to Defra's budget and the expanded remit of BEIS that the departments may not have enough resources to cope with the colossal workload associated with the whole process of Brexit. How would you address those concerns?

Dr Thérèse Coffey: Defra is probably the government department most closely related and impacted by EU activity. We have already been through a process within the department; we are redeploying some people. We are advertising and recruiting for new staff to make sure that happens. I think the detailed planning has come to an end on what we need, and certainly the Cabinet Secretary, as far as I can tell, agrees that

we are a priority in regard to getting good-quality people in to help us. It is fair to say, especially on the environmental angle, given that our approach currently is to bring the *acquis* into law, that the key issue for us is making sure that that works, so operability is our key focus. What is different for other parts of departments is that we need to have in place a new fisheries policy and a new agriculture policy. We do not need a new environment policy that is not already sketched out as part of our 25-year environment plan. There are some activities where that takes priority in that regard. Nevertheless, for the environmental side, thinking in particular on things such as pesticides and chemicals, operability is the key focus for us in making sure that nothing falls between the cracks.

Dr Jesse Norman: From a BEIS standpoint—I still call it BEIS—

Lord Trees: I am sorry; I did take advice on how to pronounce it.

Dr Jesse Norman: My preference would be “beast”, but that is a separate matter. From a BEIS standpoint, we are a department formed of two departments coming together. The plan is that this should be an absolutely integrated single and fully functioning department of state by April of next year. From the very outset, we as Ministers have been given briefs that sit across both of the previous departments as part of a process of integration. I think it is a little premature, from our point of view, to talk about resourcing. I certainly had not noticed reasons for concern on that front, from a BEIS standpoint. I have noticed that there are clear opportunities for, if not synergy, a more interesting, holistic view of some of the issues. As a department now with Ministers straddling both sides, we can think not just about the cost in the energy side, if you like, but the revenue side. Hopefully that will enable a more intelligent conversation within our department, and possibly within Government, about how to balance some of the priorities we have talked about.

The Chairman: This is where I was going to declare my interests in the Marine Management Organisation. Defra has been one of the departments that has, perhaps, suffered, enjoyed, or whatever, some of the largest of the budget cuts, with these challenges in agricultural policy, particularly. I take the point that environment is one you fix legislatively rather than with people power, but on the marine and agriculture side you feel that Defra is going to be resourced to cope. You feel relaxed about that, do you, Dr Coffey?

Dr Thérèse Coffey: Certainly the Cabinet Office is very clear and very aware of our need for more officials to help. We are recruiting and the analysis is pretty intensive. Frankly, I cannot talk beyond what the Secretary of State is still discussing but nevertheless I do not apologise for the cuts that have been made in the past. I am a Conservative Member of Parliament, we have to be a Government who live within our means and I have said publicly before sometimes budget cuts force people to prioritise.

The Chairman: We are not questioning that.

Dr Thérèse Coffey: Nevertheless, there is a recognition that we need some additional posts, and we are recruiting for them.

Lord Krebs: Again to follow up with Dr Coffey, on the environment side, I accept what you say that if the legislation is translated into UK law in the Great Tepeal Bill that will work quite well for the environment, but there are also areas where we rely on European institutions for expertise—in risk assessment, say. Can you tell us how that will be transferred into the UK situation?

Dr Thérèse Coffey: That is still part of ongoing discussion and deliberation. In particular, articulated to chemicals, pesticides and things such as flourinated gases, where we have a particular focus about operability in the future, it is fair to say we are still working up policy options which will then need to be considered as part of the negotiation.

Baroness Sheehan: We have heard from the Chemical Industries Association that there are legislative proposals it will be important for the UK to engage with over the next two years. Is the UK currently resourcing full engagement with the EU on environment and climate change issues? As an additional question to that, do UK officials still have access to relevant discussions?

Dr Thérèse Coffey: Yes and yes, is the shortest answer I can give. We have to recognise that we are hoping to negotiate a good trade deal. Quite a lot of regulatory equivalence will almost certainly be required, so it is in our interests, as the United Kingdom and for UK industries, that we are very active in the negotiations moving forward. Of course we will still be fully bound by those laws as members of the EU. We are not diminishing our attention on issues that will impact the UK in the near future and in the medium and long term.

The Chairman: The reason for some of the questions we ask, such as on Defra funding and this, is because in the evidence we have taken these have been major areas of concern in terms of the stakeholders you are obviously dealing and consulting with as well.

Dr Thérèse Coffey: I will give you a slight insight; I cannot remember the exact issue off the top of my head, but it came up fairly recently. There are some things where, traditionally, certain countries look to the UK to take the flag forward and they come in behind us. I am thinking of some of the eastern European countries. There are some where we are now needing the eastern European countries to pick the flag and lead things forward because the negotiations may not even be complete by the time that we leave the EU, so that is more about realpolitik rather than trying to reduce our influence in those matters. That is an example of where I have seen it in one policy area, which I just cannot remember off the top of my head, but it came up at the last Council meeting. We are still fully engaged, but we recognise that we are leaving the EU and we cannot just drop the ball on the day we leave and leave the negotiations in mid-air, so other countries are stepping forward.

The Chairman: On the chemical side and REACH, everything becomes part of current legislation at that point, but how do we then keep an equivalence so that, whatever relationship we have, whether it is the single market, a customs union or the WTO, we then continue to enable British business and supply chains that go through the UK to keep that bit? How do we keep that equivalence at that point?

Dr Thérèse Coffey: That is one of the detailed analyses and option forming that we are doing. Some things will be massively interdependent, and I agree that chemicals, in particular, will be one of those particular areas of interest that we need to be very alert to on that regulatory equivalence. I do not know in the future; that is a decision for the Prime Minister ultimately to take on our negotiations.

The Chairman: Obviously, international trade is not part of those, but for trade, industry and business, it is clearly important.

Dr Jesse Norman: A lot of this will depend on the way in which Brexit takes place. Environmental standards are already written into trade agreements that the EU has. It is a well-known issue to try to make sure that the standards, as it were, are applied across a level playing field in trade agreements, so one would expect there to be some recognition of that, whatever the outcome.

The Chairman: We are going to move on to enforcement and oversight.

Q71 **Viscount Ullswater:** Dr Coffey, your Secretary of State has stated that a quarter of EU law will require intervention or will fall away before it can be brought into UK law. What steps will you take to ensure that there are no gaps in environmental legislation post-Brexit? There are three strands to this. We understand that all departments are mapping the effect of Brexit on EU laws under their remit. Have either Defra or BEIS reached any conclusions through this review? What are the most challenging policy areas to deal with, and will the great repeal Bill apply to all EU law regarding the environment and climate change, or only to those laws which have been put into secondary legislation? Finally, will the ECJ interpretations regarding environment and climate change legislation be applicable in the UK after the great repeal Bill becomes law? It is rather a long question, I feel, but it is all around one particular subject.

Dr Thérèse Coffey: The purpose of the Great Repeal Bill is not to repeal all EU legislation, it is to repeal the European Communities Act and, very precisely, the Prime Minister has said that we will bring EU Regulations, which are not already part of UK law and have not already been transposed, into that.

In terms of jurisprudence, that is still an ongoing discussion, but my view is that the laws which we apply today include that jurisprudence, but I do not want to give any cast-iron commitment on that because again that is a decision, dare I say it, for higher up the chain on some of those finer details of the Great Repeal Bill.

Defra has not yet finished doing this mapping exercise because it is so huge for us. What is very clear, and I think I have referred to it a couple of times, is that the key areas where it is most complex are chemicals, pesticides and greenhouse gases, and they are what is consuming a lot of grey matter. Very detailed work is being done to ensure that nothing falls between the gaps in preparation for the Great Repeal Bill. It would not be good for our legal system to suddenly develop a hole, and that is not our intention, but that is where most activity is happening on those three areas of legislation.

Dr Jesse Norman: Just to follow up on that, as you have noted, Lord Ullswater, there is a review going on at the moment in this area. There are aspects of European environmental law or practice which obviously have an enormous impact on us—something like 40% of our emissions are covered by the EU Emissions Trading Scheme under the current budgets. The Climate Change Committee assessment is that something like half of our emissions reductions to 2030 are covered by EU policies, so it is a very complex matter that is being reviewed at the moment. I think the key here is to give as much stability as possible, recognising that, inevitably, the negotiations and the legislative timetable, to some extent, overlap or run in parallel, which is no small matter.

As regards the Great Repeal Bill and the ECJ, of course, where there are interpretations that are, as it were, already mirrored in UK law separately, those will persist and, where they are brought in under the great repeal Act or similar legislation, they will be imported. There may well be ECJ judgments that sit in, as it were, limbo where they are not imported and it may be open to judges to follow or not follow those, depending on their view of the jurisprudence, so it is not a matter that is precisely capable of definition, even in principle, at this stage.

The Chairman: Has Defra thought about the ECJ issues at all, Dr Coffey?

Dr Thérèse Coffey: I tried to articulate where we currently are. That is how our laws operate. I think Jesse is right, that the whole principle is that we bring this back to the decision of UK judges in the future on interpretation of matters of law.

The Chairman: A number of our witnesses were quite concerned that those judgments had become an important part of policy. and that although clearly, the future is the future, as those were important in the past, there would be a way found to make sure that those continued in the spirit of not moving backwards on B Day, if you like.

Dr Thérèse Coffey: Lord Teverson, you will be aware that the overriding commitment of the Government is to leave the environment in the best place that we found it and to be the first generation to achieve that. People should not have cause for concern all of a sudden that we see Brexit as an opportunity to backslide on the environment; far from it. We want to have a better environment than we inherited. We may have more of an outcomes-focused approach; as I was alluding to earlier, sometimes

legislation gets a bit out of date or is no longer achieving the purpose it originally intended.

Dr Jesse Norman: It is worth saying that there are areas that we have not mentioned so far, such as greenhouse gases, where the EU has outperformed its nearest EU counterparts. We should regard this as an opportunity rather than, as it were, just see it negatively in terms of the potential backsliding.

The Chairman: Indeed.

Lord Krebs: I would like to develop the conversation with Dr Norman a little more on the climate change targets. Of course, you have now accepted the fifth carbon budget which takes us through to the early 2030s and, as you said, two crucial elements of that are our membership of the EU ETS and the fact that about 55% of the specific legislative measures that drive the reduction in carbon emissions come from the EU. I did not quite understand your statement about those two matters, where it ended up and what it led to.

Dr Jesse Norman: The first one was a recognition of the size of the task and, therefore, the concern to make sure that there was an adequate joining up between the different parts. Part of the goal of the great repeal Bill is to make sure that that stability is maintained and that those gaps do not exist.

On the issue of the ETS, I think it is widely recognised that it is not functioning perfectly at the moment. It is a further matter for discussion at government level as to whether or not we withdraw from that or what relationship we might have with it in the future, independently of Brexit, but one should again not see that as something that is perfect in its own right or incapable of improvement.

Viscount Hanworth: As an adjunct to Viscount Ullswater's question, Andrea Leadsom MP has asserted that UK courts will be able to deal with any matters concerning enforcement of environmental legislation. However, we have heard that the ECJ has played a major and significant role in raising UK environmental standards. Indeed, I think there have been 30 environmental cases brought by the Commission against the UK which have resulted in a judgment against the UK. The absence of EU enforcement after Brexit would seem to leave a considerable void. What steps will be taken to ensure timely compliance with environmental legislation in these circumstances?

Dr Thérèse Coffey: As the Secretary of State has already articulated, if people want to mount legal challenges to allegations that the Government are not complying with the law, that will still be there. I am a strong believer that it is the role of Parliament to hold the Government to account and, of course, ultimately the Government are accountable to the people through the ballot box, so, if people do not like some of our policies or whatever, they can always choose to get a new one, but I am very confident that they will like our 25-year environment plan and show

that this Government are going to be a huge champion of the environment moving forward.

The Chairman: But there might be other Governments after this Government at some point. Are you equally confident about them?

Dr Thérèse Coffey: Part of the role of the Environmental Audit Select Committee in the Commons is exactly to do this kind of work across government—focusing not just on Defra but on others—and hold us to account. I do think Parliament has a strong role to play in that.

The Chairman: But infraction plays quite an important role, does it not, in reality? Pragmatically, the fear of infraction by the European institutions drives civil servants and officials as well as Ministers, and that is going to be gone. It is one of the areas where perhaps the NGO witnesses and some in business as well have a concern.

Dr Thérèse Coffey: I hear what you say, but I am going to stick to the role of Parliament to hold the Government to account.

Viscount Hanworth: You have mentioned judicial review in passing. Do you expect that that will be a fruitful route for enforcing environmental legislation, or do you imagine, in view of the fact that it is expensive and protracted, that it will be only a minor element?

Dr Thérèse Coffey: It is my belief that, when a Government and Parliament sign up to making laws, it is their responsibility to maintain those laws.

Viscount Hanworth: We are talking about practicalities.

Dr Thérèse Coffey: You are talking theoretically about potential future judicial reviews and I am not going to get into the theoretical.

Viscount Hanworth: We want to know what the mechanisms of enforcement are liable to be. You have told us that we must trust the good will of your party, but that is not really an adequate answer, I think.

Dr Thérèse Coffey: I am saying it is the role of Parliament to hold the Government to account. The Government are accountable ultimately through the ballot box, but, as the Secretary of State outlined, the law is there and, if people believe that we are not complying with the law, they can take the Government to court about it.

Viscount Hanworth: For judicial review and all the rest of it.

Dr Jesse Norman: I do not think it is quite a fair characterisation of what my colleague said. You have Parliament as an entity, and it is not a particularly party matter, but it has a very well developed mind of its own, especially on environmental issues, and you have parliamentary committees and judicial reviews. I do not need to remind the Committee that judicial review has been an extraordinarily effective means of holding the Government to account in many different ways over at least the last

two decades, and many of these issues are ones where there is little reason to think that a sufficient body of opinion does not exist to be able to support a judicial review.

If I can turn to the areas that I focus on in climate change, of course, we have had a highly effective mechanism already in place through, if Lord Krebs will excuse me, the Climate Change Committee, which is very widely respected across parties and indeed across countries. The carbon budget process which successive Governments have gone through with the Committee has been an effective means of adding enforcement to a set of longer-term targets. These are not trivial matters. The fourth carbon budget will impose quite a severe further constraint which we will need to meet, and will be meeting, in the emissions reduction plan. I do not think one should worry about the absence of constraint in that area; I think it is pretty effective.

Baroness Sheehan: Could you both say a little bit about the historical enforcement regime before EU mechanisms were implemented and, in your opinion, how well it works and how we could improve on it post-Brexit?

Dr Thérèse Coffey: Given that I was one year old when we went into the EU, I am afraid I have not really thought about the enforcement mechanisms we had prior to that. Of course, environmental legislation did not start just because we joined the EU; we have had a long history in this country of Acts of Parliament to tackle certain issues, with the Clean Air Act probably being landmark legislation, but there have been other elements of protection of wildlife for some time. I expect that there will have been situations in the past when the Government were held to account on their performance on each of those matters, but I am afraid I cannot give you a very detailed answer.

Dr Jesse Norman: It is worth saying that these issues of climate change and environmental compliance have a prominence in our public life now that no one could have imagined or contemplated even 20 years ago, so I do not necessarily think that the past is a particularly good guide. What I think is a good guide is the flexibility with which British Governments over the years have created standards for themselves and been able to hold themselves to account by parliamentary means in a way that has given comfort to the wider public that these standards are being properly enforced and understood.

Baroness Sheehan: I will not pursue it any further except to say that some of the NGOs have expressed concerns based on our historical performance in enforcing environmental standards.

Lord Krebs: I appreciate Dr Norman's comments about the Climate Change Committee's role. I wondered whether there might be a case for establishing a committee analogous to the Climate Change Committee, a statutory committee with a broader remit to hold the Government to account and report to Parliament on the Government's progress in implementing a broader range of environmental measures.

Dr Jesse Norman: It is very hard to comment on that in the absence of a specific proposal. What we can say is that the question of what balance needs to be struck between discretion and rules and how those rules need to be enforced is an active part of the question of what environmental policy overall ought to be over the next 20 years and is, therefore, certainly and properly, a concern for the Government.

Q72 **Lord Krebs:** You have partly answered my question because I was going to ask if it would be necessary for the UK to engage with the EU on environmental and climate issues post-Brexit, and I think at the very beginning Dr Coffey answered clearly yes on that and Dr Norman too. Perhaps a follow-up would be: given that the answer is yes, can you tell us anything about which policy areas will be a priority—again, I think you have partially answered that certainly on the climate side—and what are the means by which you will pursue an engagement with the EU?

Dr Thérèse Coffey: Obviously, we have the environmental agreements I have already referred to. The Oskar convention will be crucial, I would suggest, on marine conservation and other elements. The UK plays a leading role on illegal wildlife trade, so I expect us to continue to be leading on elements of CITES, and the Secretary of State is currently on her way to participate in the Illegal Wildlife Trade Conference hosted by Vietnam, but we started this cycle in London a couple of years ago. There are some other things, such as the Convention on Biological Diversity. We have views on synthetic biology which may be akin to those of America and other countries and some of our friendly neighbours across the Atlantic in Canada, so those might be examples of where we want to increase attention on those sorts of policies.

The Chairman: Just to explore this a bit more, most of that engagement will be through existing international bodies and agreements, effectively, and do you feel that that is sufficient? This is not a pejorative question, it is a real question.

Dr Thérèse Coffey: I do not know the practicalities of it, Lord Teverson, but, just like Norway and the US have embassies in Brussels and are very proactive in their engagement with the EU, I fully expect the United Kingdom to be so. Of course, we also have wider relationships through the Council of Europe, which also has quite a lot of environmental angles to it.

The Chairman: Things like migratory species?

Dr Thérèse Coffey: Yes, but I cannot remember which convention that one is now. As I have discovered since coming to this role, there are meetings going on all the time around the world and, although, of course, we are part of the EU, the UK is a party in its own right and leads an influential role in many of them. Even if we come together on certain aspects of voting as a bloc under the EU, we have to remember, as I said before, that this is a shared competence and not everything the EU votes for on behalf of the United Kingdom at these international conventions.

The Chairman: Absolutely.

Q73 **Lord Krebs:** This is for Dr Norman. We have heard from a number of other witnesses that, in relation to climate change and our global influence, what has been very important up to now is that we have been part of a large and powerful influencing group, namely the EU, and that, once we have left that group, and some people have put it to us in very blunt terms, we will become a relatively small, solitary voice, unless we join with another group, such as the High Ambition Coalition or the umbrella group. I wondered what you can tell us about the thinking. Would we wish to join another group, or would we be a small, solitary voice on our own in international climate discussions?

Dr Jesse Norman: Possibly, neither of those two things. It is too early to decide what specific relationships we will want to have. I am certainly not of the view that, even if the UK were absolutely, in the fullest sense, independent of the EU or any EU-related bodies, the UK would thereby be somehow marginalised in the sense that we are talking about. We would continue to be a very active member—a leader indeed—in many environmental issues, we will continue to set standards in the way in which we conceive and enforce environmental legislation around the world and we will continue to be part of the UN process. I do not see that one has to be gloomy about that. We might decide, as part of the institutionalisation of our own standards and profile within the world, that we wish to affiliate with, or indeed form, new groupings that would allow us to promote those interests and ambitions, but I think it is quite premature to speculate about that at this stage.

Baroness Wilcox: This is a similar question, but how might the recent developments in the United States of America affect the UK's approach to positioning itself globally on climate issues? I am dying to hear you give the answer to that, Dr Norman.

Dr Jesse Norman: It is a very tempting fly that you are wafting, if I may say so, Lady Wilcox, in front of me, but I think the fair thing to say is that, whether or not the US continues to maintain the lead that it took when it joined the Paris Agreement so importantly recently, or whether it decides to step back, I have no doubt that we will continue to have a strong voice, and an argument can be made on either side as to why that would specifically help us. If the US does decide to step back, there may well be that much greater need for a voice that has a special relationship with that country to be heard. If it does not, one would love to think that we could be helpful in continuing a process of developing the international environmental sensibility that that suggests.

Q74 **Lord Trees:** The last question is about devolution and Brexit. Environmental policy is a devolved matter and, to some extent, while we are in Europe, that ensures a degree of consistency across the devolved nations, but that would cease. Have you had discussions yet and, if you have, to what extent do you see, going forward, that there would be a consensus among the devolved nations with regard to environmental policy, and do you see the UK Government co-ordinating that policy in

the future?

Dr Thérèse Coffey: You will be aware that the Prime Minister has met the First Ministers of other nations. I personally have met the appropriate Ministers from Scotland and Wales at the British-Irish Council; the Northern Irish ministers who attended were not specifically the environment Ministers, so I have been having some discussions with them, but principally to do with the circular economy. It really matters going forward because the United Kingdom Government are responsible for upholding the multinational agreements to which we sign up. We need to ensure that we honour those obligations, so we will need to build on the protocols that we already have to ensure that we help the environment. As has already been articulated, air quality does not change just when you step over the border from Chester to Wrexham—well, it might change a bit, but not significantly—so we need to ensure that we work together on matters that affect our own residents as well as our commitments to the international community.

Dr Jesse Norman: As regards Brexit, it is DExEU that will be leading the conversations and already, I think, is heavily engaged with the devolved Administrations. As you rightly know, Lord Trees, they are all committed to tackling climate change. That central issue is, of course, not a devolved matter, but it is quite important to make sure that, in so far as devolved Administrations have control over things that bear on policy locally, those things do, as it were, meet the wider emissions targets that we have set ourselves as a country. I do not expect that to be affected particularly by Brexit, as such, but it does mean that we need to continue that process of engagement. Certainly we, as a department, take very seriously what I have described as the “spatial regional dimension” and we have specific Ministers responsible for relationships with the devolved Administrations. I was in Aberdeen yesterday and colleagues of mine are all regularly working with those devolved nations, so I would expect that to continue and, conceivably, even intensify.

Dr Thérèse Coffey: Lord Teverson, I have been given some information which may help improve the answer I gave to Lord Krebs earlier about the letter to the Commission. As I have been helpfully reminded by my excellent officials, we wrote with other countries—Poland, Spain, Finland, Slovakia, Greece and the Czech Republic—to the Commission asking for an extension to the timeline, as you laid out. We did that because we believe that the Commission, when it made its proposal, did not account for some of the technical challenges that we face for certain industrial sectors, some of which were quite bespoke adaptations. In particular, we did it because, apparently, the Commission did not undertake a cost-benefit analysis or impact assessment when proposing the deadline, so that is why we have pushed back on it.

The Chairman: Thank you very much for that very comprehensive reply. I just wanted to follow up one thing on devolution. Because the quoted figure is that 80% of our environmental legislation originates in Europe, clearly, you have a limit on the diversity of environment policy, even though it is devolved within the United Kingdom. Given the fact that that

constraint disappears, is there a risk in terms of devolved environmental policy contradicting between nations of the United Kingdom, is it an opportunity to make them more specific, or is it something that someone has to keep an eye on and, if so, who?

Dr Thérèse Coffey: I have tried to articulate that we have to honour our international agreements, and I expect it is the UK Government who take the lead and are the main party on any infractions or judicial review, even if it is happening in another part of the United Kingdom where we do not have direct control. It is fair to say that all the four nations are rather ambitious in their plans for the environment, and you will be aware that the Welsh Government go further now than we do today. We have a baseline on things, such as recycling targets, and the Welsh Government have already legislated for higher. I think the challenge will be where you might be suggesting that other countries want to perhaps take a different route which may then potentially detract from it, and that is where any future workings will conflict and are followed up on and assessed. Although two years, I am sure, will disappear quite quickly, there is still time to go through that level. Our officials already work together extensively and there are conversations between the UK Government and the other Governments on these matters now, so there is already a system in process and we will have to have an even firmer protocol when we no longer have the European regulations there.

Lord Selkirk of Douglas: I just wanted to ask whether discussions amounted to a dialogue or just limited discussions from time to time.

Dr Jesse Norman: Certainly, within BEIS and others, there very much is a dialogue. The whole point of this, in a way, is to construe these potential differences as a fruitful discussion and a fruitful basis for review and consideration rather than, as it were, anything necessarily more conflictual. I would also say that we should not regard the existence of a common standard from the EU or from any other international source or, indeed, a self-imposed common standard as something that could automatically insulate us from perverse regulation. Any students of the effects of lobbying on the diesel car industry might wonder whether or not that is something to be aware of in the future, whatever one's regulatory set-up.

The Chairman: Indeed. I was in Slovakia at a national parliaments conference under the presidency, and energy and the lobbying of gas problems were particularly mentioned in terms of strength. I think we will bring the meeting to an end at this point. I thank both of you very much indeed for coming before the Committee and taking us through this. Dr Coffey, I wish Defra all the very best because you do have the highest workload in this area in all sorts of ways, and I am sure that is true of BEIS to a degree, but I think Defra has huge challenges, and I am sure we wish you every success in getting over those. I bring this public session to an end, and thank you once again.