



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Culture, Tourism, Europe and External Affairs Committee

**Thursday 24 January 2019**

**Session 5**



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**CULTURE, TOURISM, EUROPE AND EXTERNAL AFFAIRS COMMITTEE**  
**3<sup>rd</sup> Meeting 2019, Session 5**

**CONVENER**

\*Joan McAlpine (South Scotland) (SNP)

**DEPUTY CONVENER**

\*Claire Baker (Mid Scotland and Fife) (Lab)

**COMMITTEE MEMBERS**

\*Annabelle Ewing (Cowdenbeath) (SNP)

\*Kenneth Gibson (Cunninghame North) (SNP)

\*Jamie Greene (West Scotland) (Con)

\*Ross Greer (West Scotland) (Green)

\*Stuart McMillan (Greenock and Inverclyde) (SNP)

\*Tavish Scott (Shetland Islands) (LD)

\*Alexander Stewart (Mid Scotland and Fife) (Con)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Professor Sir Anton Muscatelli (University of Glasgow)

Akash Paun (Institute for Government)

Dr Fabian Zuleeg (European Policy Centre)

**CLERK TO THE COMMITTEE**

Stephen Herbert

**LOCATION**

The Robert Burns Room (CR1)



## Scottish Parliament

### Culture, Tourism, Europe and External Affairs Committee

Thursday 24 January 2019

*[The Convener opened the meeting at 09:00]*

#### Article 50 Negotiations

**The Convener (Joan McAlpine):** Good morning and welcome to the third meeting in 2019 of the Culture, Tourism, Europe and External Affairs Committee. I remind members and the public to turn off their mobile phones. Any members using electronic devices to access committee papers should ensure that they are turned to silent mode.

The first item of business today is an evidence session on the article 50 negotiations. The committee will take evidence from Professor Sir Anton Muscatelli, principal and vice-chancellor of the University of Glasgow; Akash Paun, senior fellow of the Institute for Government; and Dr Fabian Zuleeg, chief executive and chief economist of the European Policy Centre, who joins us from Brussels via videolink. I thank you all for joining us today.

We know that significant amounts of legislation will need to be passed by the United Kingdom Parliament in the event of a no-deal scenario, but there will also be legislative necessities if Mrs May manages to get her deal through. What is your assessment of the timescales? By when will the UK Parliament need to approve a deal in order for the legislation to be introduced to make it happen before the deadline?

**Akash Paun (Institute for Government):** There is not an absolutely fixed deadline, but it is quite apparent that time is already desperately short. We are two months away from the supposed date of Brexit. Even if the withdrawal agreement were to be approved, the Government would still need to get through the withdrawal agreement bill that is required under the terms of the European Union (Withdrawal) Act 2018. That would have to be passed and there would have to be ratification processes across other European Union countries.

It is crunch time now, as most people in Westminster probably realise, which we will see in the debate and the votes in the House of Commons next week. No matter which way the situation is ultimately resolved, an extension of the article 50 process now seems highly likely, and

people on all sides of the debate are likely to be persuaded by that.

**Professor Sir Anton Muscatelli (University of Glasgow):** I echo that. Even before the deal stalled with the delay of December into January, it seemed likely that a lot of the legislation would not be passed. If a deal were to be approved by Westminster, a technical extension to the article 50 process would not be a problem in itself, because the EU27 would see that as something that could be managed, subject to other limits, which we might go into later, around the date and timing of the European Parliament elections and the new Parliament taking shape on 1 July. Those are the issues that will be debated if and when a deal is passed.

**The Convener:** You are saying that, even if the deal is passed, the article 50 process will need to be extended.

**Professor Muscatelli:** Yes.

**The Convener:** For the record, it should be said that the legislation that we have talked about would need to come to this Parliament as well. Could you confirm that?

**Akash Paun:** That is my understanding. Under normal circumstances, it would be subject to legislative consent.

**The Convener:** Dr Zuleeg, what conditions will the EU27 put on any request to extend the article 50 process? Of course, we need their permission to do that.

**Dr Fabian Zuleeg (European Policy Centre):** First, it has to be the UK Government that asks to extend article 50. It cannot come from the Westminster Parliament or from another part of the UK. It is the UK Government that the EU is in negotiation with, so the request must come from the Government. There will not be an initiative from the EU27. It is a question of asking.

If it were to be on the table, it is clear that the 27 would feel uneasy about an extension without a purpose. The major question for any request for extension would be for what purpose the extension is necessary. That would also determine what length of extension we would consider.

In the end, it is highly likely that an extension would be granted. However, it is very difficult to predict such political processes. The 27 countries would have to agree—any decision must be unanimous. It might well be that individual countries try to add some conditions or at least considerations as part of that extension process.

**The Convener:** The committee has been in Brussels a couple of times and, the last time we were there, we were told that any extension to article 50 would come only in response to a very

meaningful change, for example if there were a referendum or if Mrs May dropped her red lines. What do you think the conditions would be for extending it?

**Dr Zuleeg:** It slightly depends on where we are in the process. If we were in a situation where a crash was imminent, I would expect the European Union to consider extending article 50 even if there was no decision on the table from the UK, but in that case the extension would be very time limited. The extension would not be intended to give the UK a lot more time but would be to force a decision.

If there was a decision, it would be a question of how much time was needed to translate that decision into something that could be implemented, always bearing in mind that we have the deadline of the European Parliament elections and there is a significant reluctance to consider an extension beyond the end of June.

**Professor Muscatelli:** I agree. A technical extension simply because a deal was about to be approved would be far less of an issue. A substantive extension because we were about to crash out and consideration still needed to be given to the direction of travel would, as Dr Zuleeg points out, be much more complicated and would create significant complications for the EU if it went beyond the end of June. That is something that must be considered by the UK Parliament.

**The Convener:** Has anyone heard any suggestion that an arrangement to deal with the European Parliament elections could be made should the extension be required beyond June? We have been told that there is no chance of an extension beyond the European elections. Is there any mechanism that could allow that to happen?

**Akash Paun:** It would have to be something bespoke and unprecedented. I have not seen any formal proposal for how that might happen, although I have heard speculation—it might not be anything more than that—that, in such exceptional circumstances, a way around could be found if there were the political will. I am not entirely sure what that would look like. Perhaps there might be nominations of the current members of the European Parliament to serve a short additional term or something along those lines. It would be something very odd and I fully understand why, across the rest of the EU, there is reluctance to go down that path. However, if there were no alternative but to seek a longer extension, some way might have to be found.

**Dr Zuleeg:** There is also an important question about the legality of that. We are talking about something that would have to be tested in front of the European Court of Justice. It cannot simply be decided, because the European Court of Justice

has made decisions in the past about the need for a fully legally constituted European Parliament. As long as the UK is a member state of the EU, it is therefore implied that there will be MEPs from the UK.

The most simple response to the question of what would happen were article 50 extended beyond the end of June is that there would have to be MEPs from the United Kingdom. We would then have to look at the process by which those MEPs would be elected or appointed, if there were to be the possibility of that.

**The Convener:** On that particular point, I point out that a European election in the UK in those circumstances could be extremely politically divisive. Has any scenario been discussed in which there might not be an election in the UK but MEPs would hold on to their seats?

**Dr Zuleeg:** As I said, that would have to be tested in front of the European Court of Justice. I find it difficult to believe that MEPs could somehow be appointed. At the end of the day, the European Parliament is a directly elected Parliament and MEPs have to be elected to have legitimacy. There would also be practical difficulties. For example, a number of MEPs have resigned from the current Parliament. They are no longer MEPs and therefore could not be appointed for a longer period.

**Claire Baker (Mid Scotland and Fife) (Lab):** A number of scenarios are being presented about how to resolve the situation in the UK, one of which is the possibility of a second referendum.

Mr Paun recently wrote a blog post entitled “For the first time, a second Brexit referendum is a serious possibility.” Professor Anton Muscatelli has also written about the possibility of a second referendum. Could Mr Paun expand on why he thinks that it is now a serious possibility and on how the EU27 might respond to that? That also connects to the question whether a second referendum would be a reason for a substantive extension of article 50.

**Akash Paun:** In the piece to which you are referring, I did not advocate that there necessarily should be a second referendum or that it would be a good solution to the current political crisis. However, I reached the conclusion that, if Parliament is simply unable to make a decision on any form of deal and we are therefore drifting towards the legal default position of no deal, it might be that a second referendum is the only way out of the crisis, given that the initial decision to leave the EU was delegated, in a constitutionally unusual way, to the British people. However, I have serious reservations about a second referendum. I am certainly not convinced that there is a majority in favour of it, either in the

British Parliament or among the British people. We might get a clearer sense of that when a series of amendments is voted on next week, some of which mention the possibility of a second referendum.

09:15

If it became apparent that there was a majority in the House of Commons for a second referendum, given the way that things are playing out at Westminster, the Government might well be compelled to follow that course of action, despite its reservations about it. We are in slightly bizarre constitutional times, but that seems to be one possibility. To make it work, we would absolutely need an extension. We in the Institute for Government have looked at that, as have researchers at University College London, and the consensus is that at least five months or so is needed from the moment of introducing legislation for a second referendum before the vote can take place. That would almost certainly take us beyond the summer, or at least into July at the earliest if that were to happen.

**Claire Baker:** Professor Muscatelli, you said in your blog that asking the people in a referendum is “a much simpler solution open to the UK.”

Mr Paun has highlighted some of the difficulties with a second referendum, and there is still discussion on the possible questions. Do you have any views on what the question should be? You say that we need to ask the people, but I am not clear what we should ask them.

**Professor Muscatelli:** I have said recently that, given the stalemate in the UK Parliament, a referendum seems to be the obvious way forward. I will expand on that slightly, as it is important. Had the negotiations been approached differently, with different or lesser red lines on the part of the UK, a softer Brexit might have had a consensus in Parliament. At the moment, the difficulty with a softer Brexit such as a Norway-plus solution—although we might still end up with that—is that it would need to be enacted through the existing withdrawal agreement or something like it. The withdrawal agreement would not need to be modified substantively. There could be a political declaration that changed the direction of travel on the future framework, in essence saying that there were no longer red lines on freedom of movement and that we hoped to end up with Norway plus.

The problem with that is that, because the political situation in the UK is so unstable, the EU27 would wonder who would actually be in charge of the negotiations following approval of the withdrawal agreement. If, for instance, there was a Prime Minister who was much more on the Brexit side of the Conservative Party, there would

be no guarantee on where we would end up. Therefore, such a commitment is more difficult now whereas, if we had begun on a route of European Economic Area plus two years ago, we might have ended up with that. That is why people like me are saying that, given the stalemate, a people’s vote may be the only way to try to reverse the result of the referendum in 2016 and break the deadlock.

However, Akash Paun is absolutely right that there is no clear majority for any alternative at the moment. The situation is very fluid and we will see what happens next week. As Claire Baker says, the referendum would need to be framed appropriately, and again that depends on the parliamentary majority. One possibility is that the Prime Minister says, “Parliament has rejected the deal that we have negotiated, but there is no consensus on what the alternative might be, so I will go to the country with my deal.” Logically, at that point, the alternatives would be her deal and remain, which of course would create difficulties for those who believe that there should be a harsher withdrawal deal.

That is where the issue gets really complicated. We are in the hands of what happens in Parliament. I accept what Akash Paun said about the timing of the referendum. However, the sense that I get in Brussels from EU27 Governments is that, of all the possible scenarios around the extension of article 50, a new referendum, especially given what the polls indicate, is the one that is most likely to result in a sympathetic hearing of a request for an extension. A possible reversal by the people of their decision in 2016 would be seen as the best way forward and, as a result, the EU27 would try their utmost not only to grant an extension but to find ways around the European Parliament issue that we discussed a moment ago.

**Akash Paun:** I would like to add to the comments about the referendum question. One of the major issues that very few of the advocates of a second referendum have addressed directly is what would be on the ballot paper. There are various models, some of which I talk about in the piece that has been mentioned.

My view is that, as things stand—the situation might change again—there are three credible options. When I say “credible”, I mean that, legally, we can see the path to reaching them, not that they are necessarily good things. The options are that we might remain after all; that the deal or an amended version of it might be implemented; or that we might leave with no deal. There are, of course, people who support each of those three options and other things as well.

My conclusion is that, if there were to be a second referendum—I repeat the caveat that I do

not necessarily advocate that—for its legitimacy to be secure and the result of it to be respected, all three options would need to be on the ballot paper. We then enter into a debate about what the electoral mechanism for that might be. There are different ways of doing it. One version that I am attracted to—although there would undoubtedly be drawbacks—is a two-question referendum, in which question 1 would be, “Do you still want to leave—yes or no?”, which would be a repeat of 2016. Question 2 would be, “If there is a majority for leave, which model of Brexit do you prefer—deal or no deal?” That might be a way of ensuring that whatever result emerged would be seen as legitimate.

**Claire Baker:** In your article, you make interesting comments about the legitimacy of a second referendum among the people and whether the result would be respected across the country. The country is divided on the issue. Do you think that a second referendum would help to resolve that problem? Do you think that the country would reach a consensus? Would people accept a different result?

**Akash Paun:** I genuinely think that we are in the land of least worst options. I am not naive enough to think that another referendum campaign would lead to a happy, harmonious country in which everyone was satisfied with our future relationship with the EU. We learned from what happened in 2016 that referendums and referendum campaigns do not necessarily lead to the reaching of consensus through a healthy, information-rich debate and deliberative process in the way that one would hope.

It is hard to forecast how a second referendum might play out. We might end up with an even more polarised country. I can only repeat what I said: if Parliament is simply unable to deliver on its constitutional duty to take a decision on the issue, a second referendum might end up being the only way to break the deadlock.

**The Convener:** Quite a few members have supplementary questions, so I ask our witnesses to keep their answers as succinct as possible.

**Jamie Greene (West Scotland) (Con):** Professor Muscatelli, I would like to pick up on a point that you made in your previous answer. I am paraphrasing, so please correct me if I have misunderstood you. I think that you said that we need a second referendum because it might be the only way to reverse the 2016 decision. Is that what you said?

**Professor Muscatelli:** I said that I thought that Parliament would not choose to permanently revoke article 50, which is the other route forward that is available, without some sort of engagement with the people.

There seems to be a consensus in Parliament that it is not an option for Parliament simply to revoke article 50 and say, “You know what? We will remain in the EU.” That is what I meant. To deal with the issue of whether to implement Brexit with a particular deal or to remain, you need to have either a referendum or a general election. I was saying that I think Parliament feels that there must be some sort of endorsement of whatever is decided if it is not the deal that is currently on offer.

**Jamie Greene:** I see. In other words, it is more of a technical point—you feel that that would be the way to achieve that result if it was desired.

**Professor Muscatelli:** Yes.

**Jamie Greene:** I mention that because there seems to be no majority at the moment—subject to amendments that will be voted on next week—for a second referendum, certainly among the principal parties. Many of the proponents of a second referendum propose one because they would rather reverse the decision of 2016 than ask which type of Brexit people would like. It is an interesting conundrum. What question would we ask in a second referendum? Could it simply be a binary, in-or-out question, as it was in 2016, or would we present a number of options? It is a fascinating concept.

**Professor Muscatelli:** Indeed. As Akash Paun pointed out, there are different possible structures. My only concern about a binary referendum and including what having no deal implies is that, in effect, you are asking people to agree either to what is on the table—which is being negotiated at the moment with some very tight red lines—or to crashing out with no deal. Even at the moment, while we are having discussions about a no-deal Brexit, I do not think that its full implications have become entirely apparent. This is where it gets very messy. If you were to hold a referendum now, I suspect that you would get into rather complicated debates in which some proponents of a no-deal Brexit would paint it as if nothing would change, which, in my view, is an utter travesty of what having no deal implies.

It would be interesting to see what would happen if we did crash out and, at that point, we said, “Now that we’ve experienced what it’s like to crash out, let’s have a referendum about whether that is what we’d really like.” You would get a different result.

It is a very complicated situation. I would rather that Parliament had resolved it, but, given that there is a complete stalemate, if you want to move in a different direction from the original Brexit endorsement of 2016, I can see the attraction in going back to the people.



**Kenneth Gibson (Cunninghame North) (SNP):** The difficulty for the two major UK parties—not for the Liberal Democrats, of course—is that 80 per cent of the MPs who are currently in the House of Commons were voted in on pro-Brexit manifestos. If there was a general election, those parties would have to fight among themselves about what would be in their manifestos. I am not convinced that a general election is necessarily a way forward.

Professor Muscatelli, in the past five minutes, we have found out that the much simpler solution that you suggest is open to the UK is clearly not a much simpler solution. There seem to be a number of complexities around holding a second referendum. For example, we are still not very clear about the wording of the question—to an extent, that issue has been body swerved—or the timescale. If we had another referendum and Scotland again voted to remain while England and Wales again voted to leave, where would we be then?

**Professor Muscatelli:** On your first point, saying that something is a simpler solution does not mean that there is a simple solution—it is a matter of comparison. How a referendum would be structured is clearly a matter for debate. I think that it is undesirable to go to the people with a blank sheet of paper, which is what we did in 2016. That is why I would favour a one-question referendum that says, “This is the only deal that has been negotiated, so it is either this deal or the status quo.” That would be a much more natural referendum, but I understand why some people would regard that as illegitimate.

What we would do in respect of how different nations of the UK voted and whether that would matter to the overall outcome would be a major issue for the UK parliamentary parties to discuss to see whether they wanted to put up any more barriers in relation to that. I do not have a personal view on that.

09:30

**Akash Paun:** There is also the inverse scenario of what occurred in 2016, which is that England again votes to leave, but more narrowly, and the overall UK result is to remain. That would cause a different set of complex political problems.

**Kenneth Gibson:** Dr Zuleeg touched on that in his evidence. You have listened to the discussion patiently, Dr Zuleeg. What is the European view on that?

**Dr Zuleeg:** From a European perspective, if the UK decided to hold a referendum, it would be very difficult for the EU not to grant an extension to article 50. I expect that the time would be given but that there would be a lot of pressure, first, to

ensure that the referendum result was decisive and that, after the referendum, we would not end up in limbo, similar to the situation that we are in currently and, secondly, to ensure that there were no unicorn options on the ballot, by which I mean the idea of getting something from the European Union that is not on offer, such as access to the single market without freedom of movement. That would be the main concern for the 27.

At the moment, most people do not believe that there is a realistic chance of that happening. In the end, the negotiations have to be conducted with the UK Government, and, at this point, the UK Government is very clear that there will not be a referendum and that it will not ask for an extension to article 50. That is the status quo from an EU perspective.

**Kenneth Gibson:** I have a final question. The reason that the referendum was held—let us be honest about it—was that David Cameron wanted to head off a civil war in the Conservative Party, and he clearly miscalculated.

**Tavish Scott (Shetland Islands) (LD):** That went well.

**Kenneth Gibson:** There is still a strong possibility of a split in the Conservative party if, for example, there were to be a referendum. Is the biggest impediment to holding another referendum not the fact that the party of Government might split as a result?

**Professor Muscatelli:** I totally agree with that, and it is clear that that is what is conditioning all the current manoeuvring. The Prime Minister is trying very hard not to split the party, but that is almost impossible because there are more than two positions in same parliamentary party. At one point, I thought that she might say, “Look, I can’t get this deal through, but it is genuinely the best deal. If Parliament won’t approve my deal, I am going to go take it to the country.” I thought that that might be the tactic at one point, but that does not seem to be the case.

**Tavish Scott:** I agree with Kenneth Gibson’s analysis. The only thing that he missed out is that it would split the Labour Party as well, which is why I do not think that there will be a second referendum. Is it not more likely that the Brexiteer amendment that would time limit the backstop will be passed, as will Yvette Cooper’s amendment ruling out a no-deal Brexit—as far as one can tell, there is a parliamentary majority for that—and then the deal will be passed? What would the EU do in those circumstances? If I understand it correctly, it would mean that the two sides would have to renegotiate the backstop bit of the formal withdrawal agreement. Would the EU countenance that in the circumstances that the

Commons overwhelmingly passed the deal but with those two amendments?

**Professor Muscatelli:** I do not think that the EU would renegotiate the backstop. It would be interesting to hear from Dr Zuleeg on that point. It is likely that, in those circumstances, the EU might offer more reassurances that the legally binding withdrawal agreement stands but that it would do its very best to negotiate a free trade agreement that would avoid the backstop kicking in. However, I cannot see the EU renegotiating the backstop.

**Tavish Scott:** It could just put in a time limit.

**Professor Muscatelli:** It would not put that into the legal document. There might be an aspiration to conclude negotiations within a period of time, but the EU would not put it in the document. We could potentially end up in a stalemate situation if that is what the Commons wanted.

**Akash Paun:** I thought that Michel Barnier was quite definitive—not for the first time—in his statements yesterday.

**Tavish Scott:** Yes, but he would say that. Come on—this is politics, gentlemen.

**Akash Paun:** Perhaps, but a fairly consistent line has been taken.

**Tavish Scott:** I agree.

**Akash Paun:** The line has been that there can be no legal time limit to the backstop; otherwise, it does not fulfil the function that it is there to fulfil.

Is it Andrew Murrison's amendment that you are talking about?

**Tavish Scott:** Yes.

**Akash Paun:** Perhaps that amendment will be passed, as there was some suggestion that the Government might support it. However, that would not change the legal position.

**Tavish Scott:** No, but it would change the politics of the situation. It would mean that the House of Commons had passed something, which is a very different position to where we are now.

**Akash Paun:** That might be the case, but it would not change what is in the withdrawal agreement.

**Tavish Scott:** I agree. Dr Zuleeg, do you have a view on that?

**Dr Zuleeg:** Absolutely. There is no way that the European Union will get rid of the backstop, and setting a time limit would mean getting rid of the backstop. A backstop with a time limit is not a backstop.

There will be no renegotiation of the backstop—that has been made very clear. If there was any question of that, it would have to be agreed with

Dublin. There is no way that the remaining 26 EU countries will overrule the Republic of Ireland here—there is no sign of that whatsoever. What is the purpose of going back to Brussels with something that clearly will not happen? That smacks of trying to shift blame to the European Union, because it is clear that that will not be the outcome.

**Annabelle Ewing (Cowdenbeath) (SNP):** I will pick up on a point that Mr Paun made on the timing of a second referendum and what would need to be done to pave the way for a referendum to happen.

The legislation for the referendums in Scotland and Wales in 1997 received royal assent at the end of July 1997—further to a white paper that was issued in early July 1997—and, in Scotland, the vote was held on 11 September 1997. It is important to recognise that precedent is already established for setting a much shorter period of time in which to pass legislation that allows a referendum to take place. There is precedent, and it does not seem that there should be a different position pertaining to a second EU referendum, if that is what happens next.

**Akash Paun:** One significant thing that has changed since the 1997 referendums is the passage of the Political Parties, Elections and Referendums Act 2000, which sets out certain processes, though they could be set aside by primary legislation at Westminster—parliamentary sovereignty has to be recognised. However, assuming that the established statutory processes for referendum campaigns are followed, there is a fixed 10-week period for a campaign, which includes time to nominate the official campaigns. Before that, of course, there is the legislative process.

As I mentioned, we concluded, from the studies that I have seen and the work that we did, that around five months would be not only the minimum timeframe but a lot shorter than the timeframe for other recent referendums, such as the 2014 Scottish referendum and the 2016 Brexit referendum.

**Annabelle Ewing:** Yes. I take your point about PPERA. However, by the same token, should the House of Commons decide to go down that route, it would find ways to smooth the passage of the legislation and produce it in a reasonable timeframe. The point is that, if that was the political decision, it would be possible to accelerate the process.

**Akash Paun:** Yes. Our constitution means that, if Parliament so decides, it can not be bound by previous legislation. That could be one way around it, but there would be risks involved in that. The timetable was set out in PPERA as it was to

ensure that the referendum question was clear, comprehensible and not biased towards any particular outcome, as well as to ensure that there was time for a proper campaign and that information could be conveyed to the public about the choices that were on offer.

**Annabelle Ewing:** I am sure that that was the intention, but we could reflect that, in 2016, the opposite of all the good things that you have just suggested happened. If that is what happened when we took longer, maybe taking less time might help matters.

**Stuart McMillan (Greenock and Inverclyde) (SNP):** Mr Paun, a few moments ago, you put a different scenario on the table, which I found quite interesting. You suggested that, if there was a second referendum and the final outcome was different but England still voted to leave, that would throw up some different consequences. However, if the same principle that the UK Government has been stating to Scotland for the past two years applied—that it was a UK-wide referendum and we should just get on with it—why should a different principle apply to England?

**Akash Paun:** If we were to have another referendum, the legal position would almost certainly be that there would be a single, UK-wide result and a single mandate for whatever outcome emerged. My point is not that there would be any question about the legal legitimacy of the result in that specific scenario, but that there would be questions about the political legitimacy of the result, as there have been in Scotland since 2016.

In that entirely hypothetical scenario—this is not based on polling analysis or anything like that—people in England who had campaigned and voted twice for Brexit only to see it not happen after all because of votes elsewhere in the UK could argue, as the Scottish Government has argued, that there was no mandate for that result, and they could say that Brexit had been taken away from them after they had voted once. People on that side of the argument could make a powerful case that the ultimate outcome was democratically illegitimate from an English perspective, although the legal point would be a different question.

**Stuart McMillan:** Hypothetically speaking, would that mean that any so-called UK-wide decision would be based purely on the result in England?

**Akash Paun:** I am sorry—could you repeat that?

**Stuart McMillan:** Hypothetically speaking, should the final outcome of a UK-wide referendum be what England wants over what the other three nations in the UK want?

**Akash Paun:** That is not what I am saying.

**Stuart McMillan:** I am just posing the question.

**Akash Paun:** That is not what I am saying. We do not have a federal system. There is an interesting and important debate to be had about whether we should move to a completely different constitutional model, but, as it stands, we do not have that model. When we have UK-wide referendums, the result that matters is the result across the UK as a whole. People will then argue about the political implications or the legitimacy of the result.

That is not my personal perspective on the debate; I am just speculating about the questions that might arise. My point is that, if a second referendum were to happen, the guiding principle in designing the referendum should be that it would most likely ensure a legitimate outcome that would leave the country less divided. That is my concern.

09:45

**Ross Greer (West Scotland) (Green):** I would like to go back to the discussion about the extension of article 50. Like most of the sub-topic debates on Brexit, the debate on the extension of article 50 in the UK has been incredibly domestic in its focus, rather than acknowledging the fact that the negotiation involves two sides. The debate seems to be based on the assumption that extension means extension until the end of June, and there is broad recognition of the difficulties of extension beyond that time.

As the convener said, when we were in Brussels not that long ago, we were sent the strong message that extension beyond the end of June was unacceptable to a large number of people. A significant number of people also said that they would find it unacceptable if extension went beyond the day of the European elections in May.

Given that extension requires unanimity, and that the UK might request an extension without there being a clear route out of this situation—for example, without the UK Parliament having agreed to a referendum or to a deal that just needs time for implementation—what is the likelihood of people objecting to an extension that lasts until the end of June? Might there be a scenario in which extension does not go beyond the day of the European elections in May?

**Professor Muscatelli:** There is a risk of that. Dr Zuleeg highlighted the risk that there could be other considerations, given that the EU27 would need to show unanimity. If a technical extension was requested—for example, if Parliament agreed to a softer Brexit with a different political declaration, but needed time to implement all the legislation—I suspect that it would be granted. I cannot imagine many of the EU27 having an

appetite for imperilling a deal in order to make a point about some national consideration.

If an extension was requested because the UK was about to crash out of the EU and did not know where it was going, that would lead to the sort of discussions that Dr Zuleeg mentioned. It would get very complicated at that point, and we cannot predict what might happen. However, a number of EU27 countries would, of course, want to avoid there being no deal at all costs, because it would impact on them more than it would on some of the other EU27 countries.

**Dr Zuleeg:** I fully agree with that. In a scenario in which the UK has not made a decision, I would not exclude the idea of the EU granting a very short extension, simply to avoid the UK crashing out at that time. However, it would be up to the UK to decide what to do, and it would not be given up to the end of June to continue the debate.

**Ross Greer:** I will ask another hypothetical question. If the UK decides to revoke article 50, by referendum or by a resolution of the UK Parliament, the European Court of Justice has ruled that, legally, there would be a simple and clear process. The UK would not lose any opt-outs and so on. Politically, that would be quite different, and I am interested particularly in Dr Zuleeg's position on it. If we revoke article 50, what are the potential political implications for the UK's continued relationship with the EU?

**Dr Zuleeg:** First, it is important to be clear about how the UK can revoke article 50. After a referendum, the UK has the right to unilaterally revoke article 50 but, to get there, the UK would need to ask for an extension, which would need to be agreed unanimously by the EU27. In those circumstances, the EU27 would need to allow the process to happen. I think that is it very likely that the EU27 would allow an extension because of the reasons that have been discussed but, in effect, it is not a decision for the UK to make unilaterally.

The unilateral decision would be the revoking of article 50, through Westminster, before the date of exit. That means that there would need to be a clear decision by the Houses of Parliament not to leave the European Union. The mechanism could not be used to extend the article 50 negotiations and buy time before re-issuing a notification under article 50 at a later date. That could not be discussed. There would have to be a clear and constitutionally legal decision of the UK not to leave the European Union.

If the UK remains a member state, legally, the situation would be as if it had never put in the notification under article 50, but of course that would have political implications in terms of the willingness of other member states to work with the UK and the sort of alliances that the UK has

had in the past. Personally, I think that a lot of bridges have been burned in this process, so things would be much more difficult. For example, in the discussion of the next multi-annual financial framework—the multi-annual EU budget—the UK rebate would be under intense attack from other countries. That would not be a legal matter; it would simply be part of the normal political processes in the EU.

**Ross Greer:** Are there any other views on the burned bridges?

**Professor Muscatelli:** I totally agree with Dr Zuleeg's analysis. To go back to the point that I made to Mr Greene, politically, I cannot see Westminster revoking article 50 without there being some sort of event, whether that is an election or a referendum. One can argue about whether there might eventually be a majority for a people's vote, but I certainly do not think that there would be a majority for revoking article 50 without referring the matter back to the people in some way.

**Alexander Stewart (Mid Scotland and Fife) (Con):** A deal with the EU is certainly preferable to no deal—we have gone through that at some length. Because of the uncertainty of the process, the Government and businesses have put in place contingencies. What contingencies has the EU put in place and how would it react to the possibility of the likelihood of no deal continuing to increase?

**Professor Muscatelli:** We have seen some of the contingencies with the publication, before Christmas, of considerations from the Commission in which it highlighted its preparations. Increasingly, we are hearing about the preparations that a number of EU companies are making, such as changes to their supply chains. Decisions are being taken about where investments are located and, increasingly, companies that operate across the EU, for example in financial services, are increasing employment in their EU operations and, by implication, over time, decreasing employment in places such as the City of London. Those changes are being implemented.

However, to be clear, as most people have pointed out, there will be damage on the EU side as well as in the UK, although as Dr Zuleeg said in his written submission, the damage will be asymmetric. Certainly, the assessment of the expertise in the standing council on Europe is that damage will be done to the EU27 countries—some more than others—and that they are preparing for that. However, some contingencies simply cannot be insured against—you cannot re-engineer supply chains overnight—so, whatever the preparations, there will be economic damage on both sides.

**Akash Paun:** I am not close enough to those economic questions to offer much on that. I apologise.

**Dr Zuleeg:** I fully agree with Professor Muscatelli. Preparations have been under way in the EU for quite a long time, and probably longer than in the UK. There is an awareness of the costs and the potential ways of trying to mitigate some of the impact, although it is clear that we cannot mitigate all of it.

I have one little qualification. As well as the fact that the impact will be asymmetric, for some sectors and companies, there will be a benefit, even in a no-deal scenario. If it takes out UK competitors, that is not necessarily negative for all companies. There is a balance. Overall, there will be a loss but, for individual sectors and maybe even some countries, the longer-term effect could be beneficial.

**Alexander Stewart:** As we have already identified, it is much more important to have a deal. If we can secure a deal, that will stop the uncertainty. However, as you indicated, there will be winners and losers, although that depends on which situation we find ourselves in. That creates even more uncertainty for the EU27 going forward.

**Dr Zuleeg:** Absolutely. From an EU27 perspective, most people would now conclude that the best possible outcome would be to agree to a deal. At the end of the day, the deal that is on the table respects the red lines of the European Union and those of the UK as they were during the negotiations. The political declaration leaves open the possibility of going in directions other than that of a very hard Brexit. From that perspective, the deal that is on the table would be the quickest way to resolve the immediate uncertainty.

**Annabelle Ewing:** Dr Zuleeg, in the short paper that you submitted to the committee, you mention the need, in your view, for the EU27 to formulate a common strategic negotiation position in early course. Specific planning in certain sectors has already been referred to, particularly by Professor Muscatelli. Could you give the committee more information on what you mean by the idea of a common strategic negotiation position in the event of a no-deal Brexit? Do you have any intelligence of that being formulated? If it is not being formulated, why not? One would think that that would be the obvious next step for the EU27 at this stage.

**Dr Zuleeg:** The EU27 and the institutions have certainly been thinking about what their reaction would be in the case of no deal and what the next steps would be from an EU perspective. However, the thinking has been guided by the fact that none of the countries or institutions wants to send the message that that is where they want to go or that

it is a mechanism by which the UK can be punished for making the wrong choices. The emphasis has always been on positive engagement and on wanting to negotiate a deal that works for both sides. To some extent, that has prevented discussion—at least publicly—of what will happen at a strategic level if there is no deal.

We are now in a situation in which the UK Parliament has rejected the deal by a large majority. Whatever one believes about the probability of no deal, it must now be seen as a substantive possibility. In the short paper that I submitted, which Annabelle Ewing referred to, I wanted to say that we need to get serious about what we would do in such a situation. For example, what kind of mini deals would we consider in particular areas in order to avert the situation in which planes cannot fly and medicine gets stuck in transit? Are there things that we would be willing to do even if the negotiations break down? How would we react to particular initiatives and ideas from the UK in that situation? Although there would be very little negotiation going on in those circumstances, we should have something that looks very much like a negotiation position.

10:00

**Annabelle Ewing:** It is interesting that you say that what is said publicly might not reflect what is going on in private.

You mentioned mini deals. What will the priorities be? Whose interests will be put at the top of the tree—the interests of business or those of individual citizens? Brexit will have an impact on citizens in all walks of life from the point of view of travel, work, health provision, holidays and so on. If there were to be mini deals, what would the narrative be as regards the overarching priority? Would the priority be business or individual citizens?

**Dr Zuleeg:** I think that the key consideration would be the scale of the impact if we did not have those mini deals. It is a case of identifying the areas in which a no-deal Brexit would be most catastrophic and trying to mitigate in those areas.

From an EU perspective, I do not think that there would be a prioritisation of business over citizens or the other way round; it would be a question of making sure that the negative impact on EU businesses and citizens would be minimised in such a scenario, as long as that was compatible with the overall legal framework. That is an important rider that must always be there. Such mini deals could not override the overall framework. They would still have to be within the confines of what is possible—in other words, within the confines of World Trade Organization

rules and single market rules. That will restrict the ability to make mini deals to mitigate the worst effects of Brexit.

**Professor Muscatelli:** That is a real concern in the EU institutions at the moment. Getting mini deals in areas where people are simply trying to deal with what Dr Zuleeg described as “catastrophic” circumstances is the easy bit. We have seen what has been said as part of the EU preparations about UK aviation carriers and UK safety licences, with 12-month and nine-month extensions being mentioned. Those are the easier things. When it comes to trade in goods, the danger of having mini deals that are, in effect, ad hoc arrangements that continue is that they can be challenged in the WTO, because we would be a third country. We would not be in the EU and, in effect, the EU would be granting, without a formal trade agreement, advantages to the UK that it would not be granting to other countries, which would take us outside the WTO rules.

That is where it gets really complicated. I think that it would be a pretty chaotic situation, with pretty ad hoc arrangements. Measures might be put in place to make sure that aviation did not get disrupted immediately, but there would still be a lot of disruption. Non-essential goods would not be a huge priority when it came to blockages at borders.

An interesting issue to explore—I am not an expert on this—is what would be done in Ireland, about which there has already been some discussion. Ireland does not want a hard border—nobody wants a hard border in Ireland—yet, if the UK crashes out of the EU, that will raise the issue of what should be done as far as trade and other controls are concerned at the border between Ireland and Northern Ireland.

**Annabelle Ewing:** Sadly, all those issues were not part of the debate in 2016; they were not even contemplated. With regard to the point that you made about the UK receiving preferential treatment not being in keeping with the WTO rules, there is an exception for freedom of commerce and navigation treaties that might pre-date that framework. Although that might provide limited relief in certain areas, it would not provide the relief that would be necessary for the UK to reach mini deals that complied with the WTO provisions. Frankly, the whole situation remains a complete mess—or boorach, as we say here.

**The Convener:** On the topic of trade, you will all be aware that it was revealed recently that the UK Government’s Department for International Trade has failed to renegotiate any of the 40 EU preferential trade deals, which it must do, regardless of whether a deal is reached by 29 March. Would you care to comment on the significance of that?

**Professor Muscatelli:** I do not think that many of us were hugely surprised by that. It was always going to be a difficult issue, particularly because there is no incentive for many of those countries to strike deals until they see exactly where the UK is going to be in its relationship with the EU.

This is one of the things about the whole Brexit business that gets to you. A lot of these things were predictable two years ago, as has been pointed out, including the fact that we were not going to strike deals of this type, generous or otherwise, with other countries around the world until they saw exactly what kind of relationship the UK would have with the EU.

**Akash Paun:** I entirely agree that it certainly has not been a surprise to see how that situation has unfolded. Viewed from the perspective of countries with which the UK might be trying to strike deals, it is not just a question whether the incentives are there to enter into those negotiations, but what the sense is in entering into negotiations when there still is so much uncertainty about the UK’s ultimate relationship with the EU and the extent to which we might end up within a single customs territory, potentially for a long time hence. All that will obviously shape the kinds of deals that the UK will be able to do with any other country. Until we have clarity domestically, I do not think that we can expect much progress to be made with trade agreements elsewhere.

**The Convener:** I think that the United Kingdom Government was hoping that, whatever happened, the existing deals would roll over, at least for a short time. Dr Zuleeg, what are the chances of the 40 third countries rolling over their deals with the EU for the UK after Brexit?

**Dr Zuleeg:** That was always a misapprehension, or perhaps a deliberate misrepresentation, of what the world of international trade looks like. It is a hard business and countries are quite ruthless in pushing their interest. Yes, there is the WTO framework, but it is really there to forbid certain practices. It is not there to encourage trade in that sense. It is not a framework that leads to free trade on the global level. There was always an illusion about the kind of trade position the UK would have post-Brexit or in the run up to Brexit.

My expectation is that there might be some small deals when it is in the interests of the other country—perhaps the political interest of the other country—but the idea that the UK could replicate in any form the extremely successful position of the European Union was always an illusion.

**Stuart McMillan:** I have a couple of questions about intergovernmental relations, but first I have a supplementary question about Northern Ireland.

There has been an increase in dialogue about Northern Ireland and the border issue. If there is no deal and the UK leaves, how can that be fixed? As you said a few moments ago, nobody wants a hard border between the Republic and the UK on the island of Ireland.

**Professor Muscatelli:** There is no obvious solution. Some initial comments were made about this the other day; I cannot remember whether it was Michel Barnier who commented. If we crash out with no deal, at that point, the EU will be worried about the integrity of the single market and, apart from anything else, WTO rules require the EU to have some sort of customs border.

It is a genuinely difficult question and it is not one that has been resolved. Brussels is obviously looking at what to do in that particular situation, but it will take us into uncharted territory. I do not know whether my colleagues have any particular insights into what might happen.

**Akash Paun:** No. It is clear that there is no obvious solution in that scenario, hence the lengthy and complex negotiations about how to avoid a hard border via the backstop mechanism. If the deal is not ratified, the normal default would be that there would have to be checks on that border. However, clearly, for the reasons that have been laid out, there would be a desire on all sides to minimise the practical impact of that in terms of the visibility of the border and so on, which has a huge significance in Ireland.

**Professor Muscatelli:** We are into the world of fantasy politics and none of us can predict what will happen. However, one scenario, if we crashed out with no deal, is that the UK Government could try to reach a mini deal on the issue of implementing the backstop so that we guarantee that Northern Ireland remains in homogenous regulatory alignment with the EU for the moment. It is there now because we are part of the EU; we could implement that option.

Politically, that would cause an absolute storm, but on the other hand, it is the only way that you could do it in the short term. I am interested in hearing what Dr Zuleeg has to say on that, but I cannot see any other way of avoiding it, given the way in which world trade functions.

**Akash Paun:** That may be a potential technical solution but, as you say, I do not see how that could command a majority in Westminster.

**Dr Zuleeg:** The difficulty is that unless there is some form of agreement, whether that is the backstop, the deal or whatever it might be, we are in a situation where even if neither side were to introduce border checks, it would be extremely difficult for companies to continue trading across the border. You would have liability issues and legal issues; you might even have criminal liability

issues for some of the trade that would then be illicitly crossing an international border.

Bigger companies would certainly be extremely reluctant to continue trading across the border. We also have a legal framework that can be called upon—not just by Governments. Companies in the Republic of Ireland, for example, could take other companies to court on competition grounds. They would have the right to be protected from what would then be illegal competition from non-EU companies.

We are talking about a situation where the practical difficulties alone would make trading across the border extremely complicated. We would have serious disruption in any case. Security considerations would also have to be taken into account in such a scenario. For all those reasons, having some sort of deal would clearly be better than no deal, but whatever is in place cannot contradict the legal framework or the obligations in relation to the EU and international law.

**Stuart McMillan:** That has been very helpful. Another element to this is the economic consequences to the Republic of Ireland. About 80 per cent of its exports go over the land bridge that is the UK. In this particular scenario, if its economy were to suffer, as it certainly will, given what Dr Zuleeg said a few moments ago, the people of the Republic of Ireland will feel the consequences of something that they did not even vote for. Would you agree with that?

10:15

**Dr Zuleeg:** Yes. That is absolutely true. We can already see that discussion in the Republic. Some Brexiteers have concluded from that that the Republic would side in some way with the UK. There has even been talk about Ireland leaving the European Union. For me, that is utter fantasy. It is very clear that there is a strong public majority in Ireland for staying in the European Union, and a strong recognition that that is the way forward for the Republic.

**Jamie Greene:** Can I pose a scenario to the panel? A deal was agreed between the EU27 and the UK, but it was overwhelmingly rejected by the UK Parliament. At that point, the EU said that the ball was in our court and that we should come back to it with what we want.

I was intrigued by the scenario that Tavish Scott mentioned, so let us consider a scenario in which the UK Parliament agrees to a deal next week. I have no idea what will happen in that vote, but if amendments were to be accepted and there were a majority for something—whatever that something was—the UK Government could feasibly go back to the EU and say that the UK

Parliament had agreed a deal. What would happen in that scenario? The EU has said that we should come back with something. What if UK Parliament decided on something and said, "This is the only thing we can get Parliament to agree on, and it has not been easy"? Given what sounds like the EU's own red lines about any new deal that it would or would not accept, and the asymmetric negative outcome that no deal presents both parties, would we end up with a stalemate? What do you think would happen in that situation?

**Akash Paun:** Just to clarify, I point out that next week's vote is not a second meaningful vote on the terms of the withdrawal agreement. The Prime Minister made a statement to the house on Monday; you might question exactly how much detail it gave about precisely how she plans to proceed, but obviously there is some aspiration to get some amendments to the agreement or at least to explore the possibility of that. The votes will be on a take-note motion saying that the house has noted the statement, and then there is the series of amendments, which do all sorts of things.

Your question was about what might happen after the house presumably—we might say hopefully—votes for something. It obviously rather depends on what that something is. Mr Scott mentioned a couple of the amendments that have been talked about quite a bit, and we have already explored why, if there were to be a vote for a time-limited backstop, it does not seem likely that that would lead to a change on the EU side. Indeed, Dr Zuleeg set out the reasons for that from the Brussels perspective.

**Jamie Greene:** That is the premise of my question. What would happen if the something that the UK goes back to the EU with is unacceptable to the EU? We would have a stalemate.

**Akash Paun:** Yes, we would. The amendments would not necessarily bind the Government to take that position, but if the Government came out in support of that amendment, there would presumably be a stalemate. I would question whether that would be a sensible approach for the Government to take.

**Professor Muscatelli:** It would not be sensible, because we know that the backstop is one of the red lines that will not change. We have to think of next week as conditioning the sequencing of what happens afterwards in the UK Parliament. If the scenario in question were to happen, it would pretty quickly become apparent that there would be no renegotiation of the backstop. There might be verbal assurances from the EU about not wanting to invoke the backstop, but we know that that would not be enough to get the DUP or part of the European research group on board.

However, it would potentially condition support for whatever alternative there might be. This is completely hypothetical, but it might create more momentum towards a softer, Norway-plus type Brexit, which of course solves the problem of the border. That is the sort of thing that could happen. I do not think that such a situation would fundamentally change the negotiation with Brussels. I really do not think that that is likely to be a factor over the next few weeks; the issues are more likely to be about the effect on the sequencing and the parliamentary dynamics at Westminster.

**Jamie Greene:** Dr Zuleeg, in the past, the narrative from Europe has been, "This is the deal—take it or leave it," and the Parliament has said, "We'll leave it, thank you." Is there any genuine flexibility in the EU27 to look at a new type of deal?

**Dr Zuleeg:** We have to be clear that the deal was conditioned by EU principles and UK red lines. The EU has always been clear that, if the UK red lines changed, there might be the possibility of a different deal. However, the EU red lines will not change, because those are about principles that have an existential impact on the EU. Fundamentally, it is in the overriding political and economic interest of the 27 to stick to those principles, which is why we have seen a remarkable display of unity by the 27. That is not going to change at this stage.

As for the point about a stalemate, I would respond that the situation would not be a stalemate, because it would not remove the ticking clock. In the end, unless the UK can find a different decision, there will be a crash out, with enormous consequences for the UK. It will also hurt the EU27, but the overall consensus on the 27 side is that that is manageable and that it is better to keep EU principles than to concede on that to the UK in order to avoid a no-deal situation. In the end, the EU27 will live with no deal if that is the only possibility, and in those circumstances, the costs will be far greater to the UK. It is about the UK finding which of the options on the table is acceptable, but it is too late to create a new option that takes us in a different direction. We have had the negotiation—that is what the whole two-year process has been about.

**Jamie Greene:** The logic of what you are saying is that the EU would rather have no deal than concede any of its red lines.

**Dr Zuleeg:** Absolutely, because those red lines are about the principles that have been set out from the beginning, and the EU has been transparent in that respect—they were in the negotiating position from the start. It was always clear that we would have to find a deal that met those red lines. By the same token, the EU has



also made it clear that it will respect the UK red lines, which is why we have the deal that is on the table.

**The Convener:** Do you want to come back in on that, Professor Muscatelli?

**Professor Muscatelli:** Yes, with a simple point. One thing that is really concerning is that there are still segments of opinion in the two main parties at Westminster that there is some sort of deal in the middle that has not yet been discovered. If you look at the possible options, you will see that there is no way that that will happen. There is full integration with the single market, possibly adding a customs union, and there is where the Prime Minister would like to go following the divorce settlement, but there is nothing in between. There is only one example of partial integration into the single market, and that is Switzerland, but that would not solve the Irish border issue, so a different regime would have to be maintained for Northern Ireland, anyway.

I always have problems when people say that there is a different deal to be had. What is it? There is no continuum—you are either in the single market or not, and if you are not in it, you cannot have frictionless trade across borders.

**The Convener:** We are running out of time so, by way of a conclusion, I ask our witnesses to speculate briefly on what they consider the position will be on 29 March.

**Akash Paun:** That is a dangerous game. We have talked quite a lot about extension of the process. There is a lot of uncertainty about what the purpose of that would be and how long it would be for but, on balance, it is likely that, for one reason or another, the Government will have asked for and, based on what we have heard, will probably have agreed a degree of extension to the process. Things might change, but my prediction is that we will therefore still be in the EU at that point. However, I do not suppose that all the other bigger questions will have been magically solved by then.

**Professor Muscatelli:** I agree that there will be a need for a technical extension at the very least. In my mind, the probabilities are along the following lines. There is around a 30 per cent probability of no deal and about a 10 per cent probability that the Prime Minister will rally people round her deal through some political manoeuvring, although it is difficult to see that happening, given the scale of the defeat. The remainder is split pretty evenly. There is a 30 per cent probability of a different kind of approach by Westminster that changes the direction of Brexit, perhaps to a soft Norway-style Brexit, and a 30 per cent probability that there is such deadlock that, in the end, there is a decision to move

towards a people's vote. That would probably come relatively late in the day because, as has been said, there is not a majority for that at the moment.

**Dr Zuleeg:** I am a little more pessimistic. I think that the highest probability is that a deal will not be reached, with all the consequences that that will have. I do not think that that will happen at the end of March. I think that there will be some form of extension but, unless there is a radical change in the UK that leads us to a majority for something that the EU can also accept, the chances are quite high that the UK will crash out without a deal.

**The Convener:** On that rather despondent note, I am afraid that we have to wind up. I thank all our witnesses for giving evidence.

We will have a short suspension.

10:27

*Meeting suspended.*

10:34

*On resuming—*

## Correspondence

**The Convener:** Agenda item 2 is consideration of correspondence that has been received from Historic Environment Scotland regarding Scotland's links to the slave trade. The background to the issue is that a member of the public wrote to the committee because they were concerned about the origins of some artefacts. As a result, I wrote to Historic Environment Scotland to ask what its policy position is on the matter. Historic Environment Scotland's letter outlines that it is about to undertake a research programme into the subject, which I thought was most interesting. Do members have any comments on the letter?

**Jamie Greene:** The letter says:

"Given the scope of this work we expect it to take place over a number of years."

That could be two, three or 10 years. I wonder whether HES expects to report back to us in this parliamentary session or the next.

**The Convener:** I note that point.

**Kenneth Gibson:** What is the purpose of the research? HES might find out about the impact of slavery, which ended in the British empire 185 years ago, but how is that different from looking at the impact of Calvinism, the industrial revolution, international trade or all the other things that have had an impact on Scotland's built environment over the years? What is the end game of the research?

**The Convener:** The member of the public who wrote to me, who I think represents a fairly broad range of opinion, made the point that there was no indication that much of the wealth in the property that she had visited had been created on the back of slavery. That happened throughout the UK, not just in Scotland. She was interested in how often such artefacts were presented without that indication, not only by Historic Environment Scotland but by others. I think that it is very interesting that HES is undertaking the research programme and I am very supportive of it.

**Kenneth Gibson:** When I was at primary school, the only aspect of Scottish history that we were taught was about the tobacco lords in Glasgow. Interestingly, there was no mention of slavery; we were taught about the wealth of the tobacco lords, who traded with Virginia. There is an appreciation—certainly in Glasgow—that a lot of wealth originated from such trade.

It is difficult to try to break down where the money that was generated went. It was used for street lighting, pavements, house building and so

on; it was not just used to build mansions for the wealthy. It is an interesting project, but I just wonder what its real purpose is. That is all. I am curious more than anything else.

**Ross Greer:** I think that the purpose would be to resolve the fact that, although specific areas of the country might have a relatively broad level of knowledge about the subject, there is an incredibly low level of knowledge in Scotland, overall, about the significance of the slave trade to Glasgow as the second city of the empire, about where a lot of the wealth came from and about where a lot of the physical legacies of the trade still remain.

I entirely take the point about much of the wealth going to infrastructure that has since been replaced or is not particularly notable, such as pavements and street lights. However, a lot of historic buildings are some of the most notable fixtures in Scotland, and it would be appropriate and responsible for us, as a nation, to acknowledge how they came to be, who paid for their construction and where that money came from. If we conducted a survey, I imagine that the level of awareness of the subject among the overwhelming majority of people in Scotland would be incredibly low.

**Kenneth Gibson:** I do not want to go on about the matter, but the same could be said about the people who were cleared from the Highlands, people who came over as a result of the Irish famine or poverty, or people who left their historic farms as a result of the industrial revolution. How many people in Scotland know much about the enlightenment or other aspects of Scottish history, other than about kings and queens? A minority of people might know about the union of the crowns or the Darien expedition. There is an issue about the knowledge of Scottish history and culture generally, but I am curious about why we are looking at this particular aspect as opposed to witch burning, for example, or any other aspect of Scotland's somewhat awful past. We need to look at Scotland's history in the round—the good parts and the bad parts. For example, I am interested in how society thought that it was okay to send five-year-old children down the mines or up chimneys.

**The Convener:** I take your point.

**Annabelle Ewing:** I will pick up on some of the points that Kenny Gibson has made. In addition to asking about the timing of the proposed project, perhaps we could ask about the proposed budget and its implications. Given that Historic Environment Scotland says that it is "an ambitious research project", it would be fair to ask how much it proposes to spend.

**The Convener:** Tavish Scott, would you like to come in?

**Tavish Scott:** I would rather not. [*Laughter.*]

**Stuart McMillan:** I believe that the University of Glasgow is undertaking a similar piece of work. It would be useful to ask for a briefing on its proposals, and on what its end game is, to help shape our thoughts on the issue in the future.

**Claire Baker:** I support the work that Historic Environment Scotland is undertaking and I was pleased to see the letter. We could write to HES to ask for more details, because I imagine that the planned research will be linked to properties that HES owns that are open to the public and already display a certain amount of information about the properties and, possibly, the owners. I think that the work will look at adding additional information. HES says that the early planning stage will be at the start of this year, so we could ask for information on what comes out of that and for more detail on what is planned.

**The Convener:** I propose that we write back to Historic Environment Scotland to ask for a little more detail, particularly on the budget and the timescales. We will discuss the matter when we hear back from HES. Do members agree with that approach?

**Members** *indicated agreement.*

**The Convener:** Thank you very much.

10:40

*Meeting continued in private until 11:14.*



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