



OFFICIAL REPORT
AITHISG OIFIGEIL

Constitution, Europe, External Affairs and Culture Committee

Thursday 8 February 2024

Session 6



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**CONSTITUTION, EUROPE, EXTERNAL AFFAIRS AND CULTURE COMMITTEE
5th Meeting 2024, Session 6**

CONVENER

Clare Adamson (Motherwell and Wishaw) (SNP)

DEPUTY CONVENER

*Donald Cameron (Highlands and Islands) (Con)

COMMITTEE MEMBERS

*Neil Bibby (West Scotland) (Lab)

*Keith Brown (Clackmannanshire and Dunblane) (SNP)

*Kate Forbes (Skye, Lochaber and Badenoch) (SNP)

Mark Ruskell (Mid Scotland and Fife) (Green)

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

*attended

THE FOLLOWING ALSO PARTICIPATED:

Lloyd Austin (Scottish Environment LINK)

Jim Fairlie (Perthshire South and Kinross-shire) (SNP) (Committee Substitute)

Rachel Le Noan (Scottish Council for Voluntary Organisations)

Dr Adam Marks (Law Society of Scotland)

Irene Oldfather (Scottish Advisory Forum on Europe)

Tom Sallis (Scotch Whisky Association)

Alastair Sim (Universities Scotland)

Robert Smith (Association of the British Pharmaceutical Industry)

Agnes Tolmie (Scottish Women's Convention)

CLERK TO THE COMMITTEE

James Johnston

LOCATION

The Robert Burns Room (CR1)

Scottish Parliament

Constitution, Europe, External Affairs and Culture Committee

Thursday 8 February 2024

[The Deputy Convener opened the meeting at 09:17]

Review of the EU-UK Trade and Co-operation Agreement

The Deputy Convener (Donald Cameron):

Good morning and welcome to the fifth meeting in 2024 of the Constitution, Europe, External Affairs and Culture Committee. We have received apologies from our convener, Clare Adamson MSP, and Mark Ruskell MSP, who are unable to attend the committee today. Jim Fairlie MSP is attending as a substitute for Clare Adamson. He has attended the committee before, so there is no need for him to declare any interests.

Agenda item 1 is a review of the European Union-United Kingdom trade and co-operation agreement. This is the first session of our inquiry. We are taking evidence in a round-table format from the Scottish Advisory Forum on Europe, which I will call SAFE if that is okay. I offer a very warm welcome on behalf of the committee to Irene Oldfather, who is the chair of SAFE; and to other members of the forum: Rachel Le Noan, who is the policy and public affairs officer at the Scottish Council for Voluntary Organisations; Agnes Tolmie, who is the chair of the Scottish Women's Convention; Dr Adam Marks, who is the international policy executive at the Law Society of Scotland; Alastair Sim, who is the director of Universities Scotland; Tom Sallis, who is the director of global partnerships at the Scotch Whisky Association; Lloyd Austin, who is the convener of the governance group Scottish Environment LINK; and Robert Smith, who is head of international policy at the Association of British Pharmaceutical Industry.

I will start by inviting Irene Oldfather to make a brief opening statement about SAFE, its work, particularly in relation to the review of the TCA, and your role on the UK domestic advisory group.

Irene Oldfather (Scottish Advisory Forum on Europe): Thank you so much, deputy convener, for inviting us here today. It is a pleasure to be working with the committee on your inquiry, and it is always a pleasure for me to come back to see former colleagues and friends in Parliament, particularly as we are in the Roberts Burns room, as I had the privilege of nominating him when we

were naming the committee rooms. As I come from Ayrshire, that has special meaning for me.

I will do three things with my opening remarks. I have been asked to keep them very brief, so I will try to do it all in about seven minutes. I know that you have an excellent briefing from Iain McIver of the Scottish Parliament's information centre, but I will provide a little bit of anecdotal information about why we set up SAFE and what we have been doing since our formation, and then I will say a few words about the context of the TCA review.

SAFE was set up in response to the establishment of the UK DAG. When established, the UK DAG's membership was based on expressions of interest. The first iteration of stakeholders included me, in my SCVO role, Tom Sallis from the SWA and the Scottish Fishermen's Federation, so it was quite a limited group. A second iteration included the Scottish Council for Development and Industry.

However, when I thought about it—when we collectively thought about it—we had a limited number of stakeholders to deal with an awful lot of issues on a wide spectrum. Therefore, we considered how we could put together an inclusive forum for those who had applied to the DAG but were not able to become stakeholders or those who had an interest in the TCA, as well as communities and civil society, to give them a role to input and to give a voice into the DAG's work.

A lot of bilateral discussions took place, not least of all with Anton Muscatelli, who had chaired the First Minister's standing council on Europe, to sense check that there was, indeed, a gap. There was a general feeling across academia, the third sector and business that we were in a fragmented place and that, post-Brexit and post-Covid, we had not managed to get together in an inclusive forum. That resulted in SAFE being set up.

Our membership sits somewhere between 35 and 40. It is very much a social partners approach, which is open to trade unions, the third sector, businesses and individuals. We have that whole range of representation across those stakeholders. Our membership is increasing. Recently, we recruited Enable Scotland, which, as members will know, is a very powerful organisation speaking on behalf of people with disabilities in Scotland. We have also recruited Health in Mind, the trade union sector, a number of individuals with an interest and so on.

We have agreed our terms of reference, which was a big first step. As I said, essentially, we have taken a cross-sectoral social partners approach. We are independent; we are impartial; and we are non-political. We prepared an information report for the DAG, which went to it in September 2023. That was a collection of our stakeholders' views

on the TCA and some early thinking on what we felt the DAG should be considering.

We held an all-nations conference in conjunction with one of the sub-groups of the DAG. I know that your SPICe briefing mentions that the DAG has five sub-groups. I convene the sub-group on nations and regions, with sub-conveners in Wales, Northern Ireland and England. We held an all-nations conference in Edinburgh last November. I am happy to share a conference report with the committee if it is of interest, deputy convener. There was a lot of complementarity around issues that we felt were important and the chair of the DAG spoke about mutual areas of co-operation.

We hosted a visit in November by the president of the European Economic and Social Committee, Oliver Röpkke, and we signed a memorandum of understanding with the EESC, highlighting particular areas of mutual interest on topics such as young people, green energy and citizen wellbeing.

We have inputted to the work of sub-group on nations and regions and its report will go to the DAG, probably towards the end of February, and will form part of a general report by the DAG that will include the work of all the five sub-committees.

Our strapline is “Conversations, co-operation and partnership”. I thought it worth my while to mention that we have very close co-operation with the delegation of the European Union to the United Kingdom of Great Britain and Northern Ireland, which is based in London. We have participated in a number of joint events. It held a youth engagement and youth mobility event in London last October. As chair of SAFE, I chaired three sessions, where we had young people from across the UK, including a strong cohort from Scotland, talking about their ambitions for youth engagement and how they want to participate and be involved.

We were also involved in a citizens’ rights conference that the EU delegation set up last December. I feel that there might be an opportunity to have more such events, where Scotland can participate and Scottish stakeholders can be involved. So far, the topics discussed have been youth mobility and citizens’ rights. I would quite like there to be an event on trade and small and medium-sized enterprises, but that is up for discussion.

Moving to the TCA, I would like to think that we bring to the table today not only a wide range of participants and stakeholders but a citizen and community perspective to the work. As you will know, frictionless trade is important to the economy, growth and jobs, but it is also important to communities and to the people whom we

collectively represent. At the end of the day, this is about the supply and availability of medicines in our pharmacies, the cost of food in our supermarkets, the availability of fresh produce and the safety of goods in our shops. If we look at some of the stark figures around inequalities in our communities, we find that, in areas of inequality and highest deprivation in Scotland, one in three food outlets is a fast-food outlet, whereas in our least-deprived areas, the figure is one in five. Some stark statistics support the importance of frictionless trade for consumers and communities.

Finally, what would a revised TCA look like? That is quite a difficult question to answer. The answer that we give today could be different from the answer that we would have a year from now. Last night, I reread the review article, article 776. It says:

“The Parties shall jointly review the implementation of this Agreement and supplementing agreements and any matters related thereto five years after the entry into force of this Agreement”.

In a way, you could drive a coach and horses through that if you wanted to. Although it is titled “Review”, not “Revise”, what does the article mean to matters beyond implementation? It is very hard to predict that.

There is no doubt in my mind that, at this point, the European Commission would like to take a very narrow view on and strict interpretation of the article, because it certainly believes that we have a very good agreement and is very happy with it. I do not get any strong sense of desire to expand or revise the agreement. However, that could change. That is about how the EU and the UK look to the future. Obviously, this is a year of uncertainty, with UK, EU and US elections, and all that could change the climate in which revisions to the TCA would take place.

We are trying to take the broadest possible look at the agreement, as things could be different in a year’s time, and at the key areas that we would want to flag up outwith a very strict implementation of some of the articles of the TCA. We have a variety of views across the membership, and I think that that is a good thing.

I will stop at that, deputy convener. Thank you very much.

The Deputy Convener: Thank you—that was very helpful. On that last point, we are very cognisant of the fact that elections are coming in the EU and the UK. Further, there have been quite strong indications from the EU that it wants, as you said, a very short and rather technical review. It would be quite interesting to garner the views of those round the table on that in particular.

We have two hours scheduled for this item, but I want to ensure that everyone round the table can

contribute, so I encourage everyone to keep questions and answers succinct. Please do not feel that you have to address every question. Also, from a technical point of view, you do not have to press any buttons on your microphone console; all that will be done for you by our broadcasting colleagues.

09:30

We have structured the session into three parts, and there will be cross over. The first part is on how trade in goods and services between the EU and UK is currently working. The second part is on the challenges and how those can be resolved. The final part is on the opportunities for further developing the UK-EU relationship. We will try to spend around half an hour to 35 minutes on each of those parts.

I will start with the first part. I want to take a temperature check, if you like, on trade in goods and services. My question is for Mr Sallis, initially. Broadly, what has been the SWA's experience of the TCA to date? Others may then want to come in to answer that from the perspective of their areas.

Tom Sallis (Scotch Whisky Association): Thank you very much for having me this morning. If you look at our export stats to the EU, it is a relatively positive story. For 2022, our EU exports were up 8 per cent compared with 2019, which is a better reference point, given that that is before the end of the transition period and we had a big Covid impact on our export figures. That suggests that exports have held up well in the EU. We have seen faster growth in the Asia-Pacific region, but that was expected, and APAC has overtaken the EU as our biggest region for exports.

In terms of the TCA, we wanted it to deliver as seamless trade as possible with the EU. We also had some other considerations about ensuring that the regulatory framework was secure, which was relevant in relation to the EU legislation coming on to the UK statute book, which is very important. There were considerations about geographical indication protection; Scotch whisky is a GI, so that is important, too. In general, those things were delivered through the TCA.

We also had a particular interest in terms of the roll-over of EU free trade agreements to the UK. That was really important because, in contrast to the EU, we would have been in line for some tariffs in some non-EU markets had that not been done successfully. We have avoided considerable tariffs through those continuity agreements, with Korea being the most important, given the scale of our exports to that market and the fact that a 20 per cent tariff would have come in had there not

been a continuity agreement. All those things have been good for the sector.

After the transition period ended, there were issues to do with customs clearance. We still encounter some issues, with border delays and with requests for different documentation—we can get into the detail later in the session. We have been trying to work through those as best we can, working with the embassy network in different EU markets, and with support from the Scottish Government and Scottish Development International to help with those issues.

As you know, our industry is very collaborative, so we have been taking a pragmatic approach and just trying to crack on and deal with issues as they have come up, but some markets have been more problematic than others, particularly in southern Europe. More issues have come up in Spain, Italy and Portugal than in other markets, where it has been very straightforward. There is a bit of a mixed picture.

In general, we want to make sure that goods can clear customs quickly and efficiently, which is good for lots of reasons. We still encounter issues with that, but the number of issues that have been reported has come down as the months have gone by, which is a good sign.

If I go back to the export statistics, they show a positive picture, whereas some other sectors may have had more challenging issues.

The Deputy Convener: Does anyone else want to speak about their sector's experience of the TCA to date?

Dr Adam Marks (Law Society of Scotland): I can provide a decent contrast to the situation with goods. From our perspective, the TCA is a good, focused agreement, and it has some useful parts for services. In particular, there is a legal services chapter, which allows us to practise international law in individual member states across the EU, and those provisions have been used.

There are two sides to what our members are looking for. Some solicitors are based in and reside in Europe, and there is also the fly in, fly out aspect of legal services, which is very useful because it not only generates legal services but tends to go alongside a lot of other work. For example, whether the trade is in goods or services such as banking and arbitration, there will often be some sort of legal aspect to the contract.

There have been challenges with how the TCA has worked, but things have now started to settle in and people are starting to see the wood in the trees. There is perhaps still some confusion and a lack of understanding about what is possible in each member state, particularly in relation to business mobility, because each member state

has individual criteria for visas and so on. That has thrown up challenges in knowing what can and cannot be done. Specific issues have started to come up with Luxembourg and Greece, and there are some bits and bobs with Belgium, too. I am happy to go into more detail on those issues later if people are interested in them. We are moving through the process.

In relation to what Irene Oldfather said about the TCA review process, we started work on a lot of the issues before the review process. My view is that the TCA review will be a simple technical one for now, but, that said, we are already working on a lot of the simple technical things, so we will have to see what is new in the review and how things develop following elections throughout Europe.

From our perspective, broadly speaking, there are issues to do with nationality requirements and whether people still have legal privilege. It is all well and good saying that someone can practise law, but, if they do not have legal privilege, in meaningful terms, they cannot. Those sorts of details need to be addressed as things shake through. I am happy to talk about any of those issues in more detail if members are interested in them.

Robert Smith (Association of the British Pharmaceutical Industry): Good morning, everybody. By way of background, I note that the Association of the British Pharmaceutical Industry represents innovative pharmaceutical companies that operate in the UK. Although our members are UK companies, we also represent multinational companies that have a presence in the UK in manufacturing or research. The majority of exports from our sector go to the EU, and medicinal and pharmaceutical products are our third-largest export. Many of our companies, if not all, have a presence in the UK and the EU, so we are intrinsically linked. Companies in the pharmaceutical industry structure themselves regionally in order to continue to provide the medicines that people need.

The TCA gives us a solid basis for trade with the EU. It includes a specific medicines annex, with commitments to co-operate on regulation, which is critical for our industry. Our industry is highly regulated, so many of the challenges that our companies face when they trade relate not just to goods and customs but to the export market regulatory environment with which they have to engage. The TCA also includes very good provisions on co-operation in relation to intellectual property and health security, and the customs and rules of origin provisions facilitate the movement of goods. The EU and the UK are both signatories to the World Trade Organization pharmaceutical agreement, which allows for tariff-free movement

of finished pharmaceutical medicines, so that is not really a challenge for our companies.

As we move on, we can talk about opportunities to further reduce trade friction. It is worth recognising that, throughout the entire process, the UK and the EU have recognised the importance of medicines as a priority good, particularly in relation to Northern Ireland, which might be outside the scope of today's conversation. It is really positive that there is an appreciation that our industry is complex and that we need some special considerations.

Under the TCA, there is a working group specifically on medicinal products, in recognition of the importance of our sector. We urge both sides to use that group as a platform for engagement, and we should continue to engage with the UK Government through the domestic advisory group in order to identify further opportunities to reduce trade barriers and frictions when we trade goods.

Lloyd Austin (Scottish Environment LINK): Obviously, Scottish Environment LINK is most concerned about environmental issues and environmental regulations that lead to action on climate change, the biodiversity crisis and so on. Those are all international issues that are best addressed co-operatively, so, to some extent, we are more concerned about the co-operation part of the trade and co-operation agreement, but I will perhaps come back to that later.

The TCA talks about a level playing field, fair competition and the impact of that on trade. In that regard, we are interested in whether there is divergence in environmental regulation and whether such divergence is a result of a race to the top between jurisdictions, which we would support, or a race to the bottom, with jurisdictions trying to undercut one another, which would be counterproductive from an environmental point of view. Perhaps I can come back to divergence on environmental issues later.

I want to flag up the electricity trading arrangements, which are important in relation to action on climate change. The TCA set a deadline for what are called alternative day-ahead trading arrangements to have been designed and implemented by April 2022. That deadline was missed, so we would very much like the UK and the EU to agree on alternative trading arrangements as soon as possible.

The TCA also committed both sides to giving serious consideration to linking the UK emissions trading scheme with the EU ETS to enable British and EU market participants to access a far larger liquid market. In our view, that would enable more cost-effective delivery of the changes to the electricity market that are needed to reach net zero. If that was agreed, it would also remove the

need for the carbon border adjustment mechanism, which is an issue in itself. If the trading arrangements for electricity were dealt with, we would not need that at all. That trading issue very much has a knock-on impact on environmental issues.

If the committee will allow it, I will come back to divergence later.

Jim Fairlie (Perthshire South and Kinross-shire) (SNP): This might be a really stupid question—I am new to this subject today—but what have been the implications of missing the deadline relating to the electricity trading arrangements?

Lloyd Austin: It is up to the two parties—the EU and the UK—whether they go to arbitration or anything like that. I think that such issues get referred to the joint committees, but the best way of addressing them is to agree to the deal, as suggested in the TCA.

Jim Fairlie: Thank you.

Agnes Tolmie (Scottish Women's Convention): The Scottish Women's Convention has consulted women across Scotland, and some issues were raised in relation to trade in goods and services. For example, supply chains can sometimes break, and medicines are in short supply. We believe that, with a bit of good will and hard work, we can fix those issues for families and communities in Scotland.

There are big concerns about jobs and food. Women in NFU Scotland told us that they are really concerned about animal welfare. Topics such as pesticides have been discussed previously, and women are concerned that the EU is backing off from its commitment not to use such pesticides.

Young women in particular are concerned about their opportunities for the future. We were promised projects like Erasmus and Erasmus+. Young women saw a future in Europe, and they still believe that that can happen if there is the will from the Scottish Government and we build bridges.

09:45

I will give some examples of the opportunities. During the year, we run a number of conferences on a range of topics, and most of them have a keynote speaker from the Scottish Government. We ran a science, technology, engineering and mathematics conference about how women are regarded and how we get more women into the jobs. We linked up with women in Denmark, who joined us online. We are not funded to do that work, but we can advocate for women in that situation. We introduced women's organisations in

Scotland to those in Denmark so that they can move forward in relation to STEM subjects. We are looking to work with education organisations in Spain and Portugal to get young women into those subjects, but that is not our role. That is why the work is all a bit ad hoc, so it would be good if we could start to formalise some of these things at a different level.

Violence against women is a big topic. The Scottish Government has done very good work on tackling it, but France has come up with some fantastic initiatives. We have been working with the people involved, even though it is at a distance and informal. Again, we can put organisations in Scotland in touch with organisations in France.

There are a lot of opportunities. Although we still have huge regrets about the decision to leave the EU, we believe that we can overcome some of the challenges, and there are a lot of opportunities for the Government, organisations and civil society to be involved in building new bridges. However, women tell us that we have to move away from ad hoc and informal approaches.

I can go into more detail if you want, but I know that you do not want me to talk for too long.

Irene Oldfather: I will make a couple of very brief comments. The first is about the unintended consequences—perhaps they are not; I am not sure—relating to the interoperability of customs administration charges for citizens. For example, if you send a small gift to someone anywhere in the EU, there is usually a customs charge for picking up the gift from the post office. We have heard from various stakeholders across Scotland and England that relationships are being severed because of the customs charges, which can be up to €35 for a birthday gift of a pair of tartan socks, a scarf or something like that. People do not know what the gift is, but they are being asked for €35 to pick it up. There is also a question about interoperability, because there is not a consistent position in every member state, so a lot of different systems are operating. The charges are a barrier for citizens, and part of what we want to do today is to bring citizens into this conversation, so I wanted to mention that.

As you know, NFU Scotland cannot be here today because its annual conference is taking place. I am sure that, during the committee's deliberations, you will hear a lot about sanitary and phytosanitary measures, particularly in relation to seed potatoes. We have heard from some of the big companies, but small and medium-sized enterprises do not have a lot of manpower to be able to understand the complexity of customs and administration, so we need to think about how we can simplify some of the procedures. The DAG has raised that issue. To be fair, educational seminars have been held with SMEs to allow them

to ask questions and to get help and support, but we need to keep a close eye on the issue. On the seed potato issue, unlike other countries, Scotland has had disease-free seed potatoes for 50-plus years, but we are caught up in some of the regulations. Those are a few issues that others, if they were here, might bring to the table, so I am raising them on their behalf.

Kate Forbes (Skye, Lochaber and Badenoch) (SNP): This may be a bit of a political question. SAFE has identified a number of areas where it would like progress, such as programmes to join or new provisions and regulations to make. There has been more success in some cases—such as the horizon programme—than in others, where there are outstanding programmes that you want participation in. Where movement has occurred, has that been because of effective consultation with civic society, or has that been pure politics?

Irene Oldfather: That is a very good question. Sitting where I am, I feel that civil society is leading the debate in a lot of the areas, to be honest. I have said that for some time.

We lobbied hard on horizon. One member of SAFE is the chief scientist for Scotland, Anna Dominiczak, who is a regius professor at the University of Glasgow and led horizon programmes when we were a member of the EU. One of our asks was not just that we would participate in horizon as a third country but—this was at the behest of Anna Dominiczak, who led a lot of programmes in the past—that we could lead on some programmes. There was strong and successful lobbying on that. Whether that was politics or civil society activity, I would like to think that civil society was involved. The issue is very important to some experts in universities in Scotland—Alastair Sim might want to comment.

I hope that that success will open a door to other things; I do not know whether we will speak about that later. In the session that I led in London with young Scottish people, there was a strong desire to open doors in other areas for school exchanges, for example. Bilateral programmes are going on between the UK and France but, when enough bilateral activity is happening, that gets to a tipping point for having a framework.

Part of what SAFE is about is conversations, co-operation and partnership. I suppose that I am veering into opportunities, but I hope that the horizon programme and the work that civil society did on it—that was successful in ensuring that we can lead horizon projects as well as participating in them, which is important for our innovators and scientists in Scotland—opens the door to other opportunities.

Participation in Erasmus+ is a clear and pressing issue, but we are not talking just about

further and higher education. In recent discussions that we have had, businesses have said that they are keen for young people to be in apprenticeships and involved in exchanges; they do not want the approach to be about just further and higher education.

There are opportunities, and I feel that a strong desire exists. I mentioned that we have a memorandum of understanding with the European Economic and Social Committee. It is interested in the subject and it has issued an opinion in relation to young people, which will go to a plenary session in late April and a committee session at the beginning of April. There is a strong desire on the EU side to take such work forward. I hope that that will provide almost a template for doing other things. I cannot speak from the political perspective but, from a civil society perspective, we are keen to keep opening the door.

Kate Forbes: That is heartening, because it means that there is the potential for change, so your participation really matters. I do not know whether anyone else wants to respond and say whether they have equal levels of optimism and hope that their participation might result in change.

The Deputy Convener: As we have mentioned Erasmus+ and horizon, I call Alastair Sim, who has not yet spoken.

Alastair Sim (Universities Scotland): I will respond to Kate Forbes's question about the combination of the pressure of civil society and politics, which is interesting. In that context, I will reflect briefly on horizon and Erasmus.

What was extremely powerful in eventually getting us over the line with full horizon association was that a conjunction of voices from Scotland, the wider UK and the EU were all saying to the UK Government and to the European authorities, "Please, please, please can we get this association agreement over the line?" We had strong support from the European University Association, the League of European Research Universities and so on.

The collective voice from both sides—from civil society in the UK and from academic leadership in Europe—was powerful. Eventually, that made association possible, subject to agreement on the cost of associating. We were lucky that the then minister for science in the UK Government was a huge enthusiast for horizon programme association and worked hard to get that over the line.

Such an approach does not always work. There have been strong voices from Scotland, the wider UK and European civil society partners that it would be a great thing to keep the UK fully in Erasmus+. That would help to build the living bridge between Europe and the UK of people who

have been abroad and understood each other's cultures and circumstances. It is really disappointing not to get that, but I think that the decision has probably been driven by price. When the UK Government looked at what it would cost to be in Erasmus+, it stepped back.

We hope that, as we renew our relationship with the EU, associating to Erasmus+ or whatever its successor is will be a high priority. In the university sector, the programme was great for student mobility, staff mobility and collaboration, but we recognise its wider value to civil society, which we would like to be replicated.

The question is interesting. There is a mixture of civil society peer pressure from both sides—the UK and Europe—with politics and money.

Rachel Le Noan (Scottish Council for Voluntary Organisations): At the summit that we had in November, there was strong recognition from EU representatives that the relationship had improved, so now was the time to open new conversations.

Thanks to Irene Oldfather, we have SAFE, so we are ahead of other nations, because that forum means that we are starting to organise ourselves as civil society. That is not happening in other nations, and they would like to have the same approach. It is important to know that we need such co-operation and collaboration going forward.

Robert Smith: It is worth recognising that participation in horizon was a commitment by both sides in the TCA. Once the deal was signed, we saw a lag between the commitment and its implementation. That is a critical lens to see the issue through. Sometimes, the challenge is not renewing or getting new agreements on areas of co-operation but implementing what has been agreed.

Kate Forbes talked about optimism. We can reflect that the UK's association with horizon Europe followed closely behind the Windsor framework for Northern Ireland. For the pharmaceutical industry, that provided long-term certainty for our companies. Things are moving in the right direction, with a recognition that, as we get further away from the negotiation of the TCA and look more into implementation, there are shared areas of opportunity. Horizon is one of the most obvious and high-profile opportunities.

10:00

Keith Brown (Clackmannanshire and Dunblane) (SNP): It has been quite heartening but also surprising to hear that people are fairly sanguine and are working through solutions. That is good to know but, because we have some big

players around the table, it is surprising to hear what is quite discordant.

I was contacted this week by a small firm in Kintyre whose business has been decimated because it cannot export its cooked fish products. The difference between the big players—who know how to get around Government and legitimately prosecute their interests—and the vast majority of businesses, which are small and medium-sized enterprises, is stark.

Irene Oldfather mentioned that when she spoke about SMEs. Have you listened to such businesses and do you have feedback from them? As best I can gather—I think that most MSPs have heard about it—their experience is quite different. We read in the media—that does not necessarily mean that it is true—that there are major issues because of the impact on small businesses. How can they work their way through the TCA? For small businesses, that can be a huge challenge.

Irene Oldfather: I absolutely agree. There is interesting research on the issue from the British Chambers of Commerce. I know that the committee will hear from the Scottish Chambers of Commerce, which is a member of SAFE, but the British Chambers of Commerce produced a report in December that showed that about half of businesses did not feel that things had improved in the past year and that the complexity was quite a challenge for SMEs. That is why I mention that report.

I am looking through my notes for the report. I draw the committee's attention to the important survey that was done, which said:

"Almost two-thirds of exporters to the EU say trade with the EU is more difficult"

than it was a year ago. That survey was done in July 2023, so it related to 2022 to 2023. Perhaps there has been more confidence since July 2023, but the report is very good, and it would be worth the committee spending time reviewing it, as it has all the statistics that reflect what Keith Brown is thinking of and what we hear about from small businesses, which do not have the powerful research departments and opportunities to engage with the directorate-general for trade and so on. It is important that they have a voice, too.

Tom Sallis: I agree. We have 93 member companies, which include a lot of small distillers. It is fair to say that, when challenges come up around border processes or requests for certification, SMEs in particular can struggle. They might not have the in-house capacity to run out certificates or get them externally produced. The cost of an external certificate can run into hundreds of pounds, which is a problem. There have been issues around sending samples, too, which is important for small businesses—

particularly new distillers, which are new entrants to the industry that are trying to get their product out there to potential customers.

Cross-border e-commerce is another issue, which relates to the point that Irene Oldfather made about small packages. Anything that needs to be sent in a small quantity can run into issues. Over time, the number of issues has gone down, but it is still a challenge, and a lot of our companies have adjusted their distribution—their route to market—to get around the challenges.

I agree that, when we are talking about border processes and problems at the border, SMEs can particularly struggle.

Alexander Stewart (Mid Scotland and Fife) (Con): Thank you very much for your frankness and honesty so far this morning. You have all talked about the frustrations that your sectors, your industries or your organisations have suffered in this process, but I am also quite encouraged by the optimism that I have seen, because your willingness to adapt, co-operate and understand is what will lead to success in all of this.

My question is about the asks that you have, now that we are so far down the road. There might be more optimism and things might be improving, but what do we need to happen next to ensure that your industries, your sectors and your organisations have the capability to move forward, given the uncertainties that you have already identified? As I have said, each and every one of you has the knowledge, wealth of experience and the understanding of what needs to be acquired, but is there a political issue that needs to be dealt with next? Is there some next stage in which you need to see us—and other organisations—impart this optimism that I have talked about as you move forward?

The Deputy Convener: Does anyone want to take that question?

Robert Smith: I am happy to start.

There are opportunities that our industry has identified, and we obviously recognise that the terms of the TCA, while providing a foundation, also provide opportunities to build. One key ask is an operational one that we hope will move forward in the next couple of months—that is, the medicinal products working group that I mentioned. Frankly, just having a platform that allows both sides to exchange information is valuable. There are, I think, three specific working groups for big sectors—the others are automotive and organic chemicals—and that recognises the importance of those sectors to both sides.

The medicinal products working group has yet to meet formally, but things are moving in the right direction and it should be meeting in the next

couple of months. We would urge the UK and Scottish Governments to support that platform and use it to have proper conversations about areas of opportunity and to engage with the sectors and the businesses that are trading and which know the challenges on the ground. I think that that is our number 1 operational ask.

Secondly, as I have mentioned, regulation is very important to our sector. We have a medicinal products annex in the TCA that sets out lots of areas of co-operation and recognition, but one big area of recognition that we do not have is batch testing of medicines. Perhaps I can give you a brief explanation. When a batch of medicines is produced and comes off the production line, you have to test it to make sure that it is safe and effective, and those certificates are then used to give confidence when you export it to other countries. Often, you will batch test the product when it is manufactured in the UK, and when it is exported to another country, it will be tested again.

However, economies with strong and highly developed regulatory regimes have what are called mutual recognition agreements, in which both sides recognise that the tests one has done will not have to be done again, because they trust that the other side's tests are good enough. The UK has those sorts of agreements with the US, Switzerland and Australia, but not with the EU. As a result, if you have batch tested a product that you have manufactured in the UK, it will have to be batch tested again when you move it across the border before it can be placed on the market. That adds friction into the system; it adds costs to businesses; and it adds costs to regulators, too, because, in some cases, they have to verify or keep an eye on some of this activity.

There are some very practical things on which, even outside of the TCA, such agreements can be struck. The UK and EU recognise the importance of medicines and supply, which I have talked about a lot, and we hope that through, say, the medicinal products working group, both sides will be able to sit down and have a frank and technical conversation about what they need to do to reach these kinds of agreements.

Dr Marks: If I were to give you one big broad message with regard to what we need, I would say that the overall thing that I try to remember is that trade deals do not end when they are signed. Certainly from the point of view of services, implementation will always be where the actual value is gained. There will always be the excitement of chasing the next deal instead of just dealing with what we have already signed. That is as true with the deals that we have with Australia and New Zealand as it is with the TCA.

I think that some good work is being done. In implementing the TCA, for instance, there has

been some very good co-operative work involving the UK Government, the Scottish Government, ourselves and the other bars and law societies around the UK on issues that we have faced in Luxembourg. Things have now moved to the extent that the Luxembourg Parliament has passed a bill to fix some of the issues surrounding the nationality requirements of solicitors in Luxembourg, which has been very helpful. We might also be moving towards positive outcomes in Greece and to some—more minor—issues that we have had in Belgium.

As for specific asks as we look forward with the TCA, there are two big ones that I think that it would be good to fit into the review process. First of all, article 145 has some specific obligations on transparency. In effect, it is just about understanding what people can do, what the visa requirements are, how long you can go for, how much the visa costs, what documentation you need, whether it can be filed electronically, whether you need to go to a consulate and so on—in other words, the simple things. Having a central repository of that information would be very useful to both sides. Indeed, I think that there is a willingness to tackle that; even before we get into a formal review process, there have been moves by the UK and the Commission to start trying to pool that information. Inevitably, however, we have to recognise that the deal has been signed only relatively recently, and this sort of thing is big-picture stuff and will take some time to shake through. However, I think that the process has been constructive.

My other specific ask comes under article 126, on short-term business visitors. Adding legal services to the occupation list in that respect would obviously be useful not just for legal services in general but for other things, as it would mean that you could take your lawyer with you instead of your having to move from place to place and worrying about that. It comes back, again, to the argument that solicitors and legal services are the lubricant for a lot of other business, and it just makes life easier if you can fly across borders and do that.

Lloyd Austin: My answer to the member's question is that I would quite like an answer to the question that Jim Fairlie asked me earlier—that is, what does civil society do if this or that happens?—and I want to explain why.

Chapter 7 of the TCA—the environment and climate chapter—talks about non-regression, maintaining levels of protection for the environment and so on, but we are already beginning to see divergence between the EU and the UK. Just this month, the Institute for European Environmental Policy published a very good report on divergence in environmental regulation,

particularly divergence in ambition. The report contains a number of examples, and I would certainly recommend that the committee look at it for issues from an environmental point of view.

One key area that the report highlights relates to chemicals and the UK registration, evaluation, authorisation and restriction of chemicals, or REACH, regulation—which is really a Great Britain REACH regulation, given that Northern Ireland is under protocol-type arrangements. Since we left the EU, the number of chemicals that the EU has added to watch lists—in other words, ones that need to be assessed for risk and so on—has been quite significant, whereas the UK has added nothing. As a result, there has been increasing divergence. What that does, from a trade point of view, is lead, potentially, to unfair competition, while from an environmental point of view, which is where I am coming from, it obviously leads to risk to the environment and so on. It leads to a race to the bottom rather than the race to the top that we would like to see.

As for what happens next, the real question is the one that Jim Fairlie asked earlier: what can civil society do about this? We are very pleased that there are environmental non-governmental organisations on both the UK DAG and the EU DAG—the European Environmental Bureau is the representative on the EU one and the Green Alliance is the representative on the UK one. That has been very welcome, although it is still early days. We can raise issues there, but what we do not really understand is what happens to the issues that we raise, what responsibility is on the UK and the EU to do anything about them and what opportunities there are for civil society to say to the UK or the EU, “You are not sticking to what you promised in the TCA.” If you promise, as chapter 7 does, to maintain levels of environmental protection and one of the parties does not do so, what can civil society do about it?

The same question arises with the issue of electricity trading that I highlighted earlier. There was a deadline for agreement, but it was not reached, so what can we do about that? Looking at those sorts of implementation issues will, as Adam Marks has said, be a big focus as we move forward and for the review process.

10:15

Alastair Sim: In response to Alexander Stewart's question about opportunities for deepening this relationship as we go forward, I would say that not all of them are specific to renegotiating the TCA; some of them also require the evolution of UK policy.

I would absolutely put at the top of the list mobility of talent and ensuring that we have good

arrangements for people—particularly university staff, researchers and teachers, but students, too—to be able to move across borders. After all, the ability of people to collaborate, to move freely and to exchange ideas is the lifeblood of academia.

We also need to give people more freedom to spend more time in the EU when they are working on these collaborative projects or studying, and we therefore need a visa regime that makes it as easy as possible to have mobility of talent and collaboration with European partners—and, indeed, to make things as easy as possible in the other direction by allowing EU talent to come here, too. With the health surcharge, visa costs and restrictions on entitlement to bring dependants, we are already setting up barriers that make it quite difficult for, say, an early-career or post-doctoral researcher to choose to come to the UK.

We have already talked about Erasmus+, and it would be great if we could find a way back into that as we renegotiate the relationship with our European partners. There is also the recognition of qualifications, which the Law Society of Scotland has already touched on. In that respect, there are some helpful things in place, but it would be fantastic if we could have some general co-recognition of qualifications between the EU and UK, as it would mean that those qualifying as engineers or architects at a Scottish university would be recognised as engineers or architects throughout the EU.

Neil Bibby (West Scotland) (Lab): It is very regrettable that we are no longer part of the Erasmus+ programme. Alistair Sim and others have talked about its benefits this morning, and the points were well made. You said earlier that the UK Government looked at the costs and found them to be prohibitive. How much are the costs involved in that in terms of weighing up the costs and benefits of the policies? I apologise—I might be jumping the gun slightly, but, if there is no prospect of joining Erasmus+ in full, is there anything that stops short of that that we could potentially do that would improve the situation for universities and students in Scotland, the UK and the EU?

Alastair Sim: I do not know for certain, but I do not think that there is a publicly available figure for what it would have cost the UK to buy into Erasmus+. It was probably hundreds of millions, if not billions, of pounds—a large amount of money that a UK Government that felt itself to be facing a degree of financial crisis did not feel that it could invest at that stage. One would hope that, as part of renegotiating the TCA, the Government will look towards an affordable mechanism for us to be in Erasmus+, or whatever successors there are, as fully as possible; that would be really good.

We have tried to introduce mitigations at UK and Scotland levels. The Turing scheme is not perfect. There are a lot of administrative difficulties, and it supports mobility in one direction only. Nonetheless, in the latest year for which we have data, it was being used by more than 3,500 people from across Scotland's universities and colleges and others who can participate in it. That is not incomparable to the numbers of students who went out from Scotland under Erasmus+. However, it is clunky; the administration is not great, and it does not open as many opportunities as Erasmus+ did.

We now have the Scottish Government's pilot for a Scotland-European exchange programme. I think that it was inspired by what is being done in Wales under the Taith scheme to promote two-way student mobility, in particular, and youth mobility more generally. At the moment, it is so small that it is hard to reach a judgment on it. It is very much proof of concept. The Scottish Government will need to evaluate it and decide whether it is worth developing further and whether it is good value for money compared with other things that, frankly, having faced funding cuts, universities are prioritising.

Mitigations are being developed, but, in an ideal world, I think that we would all want to participate in Erasmus+ and its successors as fully as possible.

The Deputy Convener: I am glad that you mentioned the new pilot programme and the Taith scheme. The Royal Society of Edinburgh has said that the Scottish Government scheme is on a much smaller scale than the Taith scheme.

Jim Fairlie: Alastair Sim outlined some of the barriers for European citizens to come here. Is there the same level or a higher bar of participation for UK folk to go to Europe, if it is the other way about?

Alastair Sim: It is a bit different. One problem, for instance, is the limit on the number of days that you can stay in Europe visa free. There is more friction. I do not think that it is a question of cost. We put quite a lot of cost barriers in the way of mobility of talent. However, with the EU, it is more that we now have a much more restricted entitlement to spend time in EU countries visa free, which is another bit of friction for the mobility of talent.

Irene Oldfather: I want to pick up on a couple of Alexander Stewart's points, following on from Lloyd Austin's remarks. There is something around governance. The specialised committees are part of the engine room in how we look at this, and the audit, monitor and review role is important. Some of this could be dealt with in the specialised committees, but I get the sense that they are not

working as well as they could be and that it is very variable. One committee did not meet last year, another met twice and the others met in an ad hoc way. There should be stricter governance around that. I am on the Scottish Ambulance Service board, and we get very strict risk registers. All of us here receive agendas that are published several days in advance and, after meetings, we receive minutes, which are published online and transparent. I would like to see consistency brought to the specialised committees.

To go back to how article 776 of the TCA is interpreted, I note that not everything has to be a revision of the TCA; some of the things that we are talking about could be by mutual agreement. The specialised committees could play a role in that, but it seems that there is no coherent governance around it, although I say that as an outsider. The more rigorous application of a governance structure around the engine room, sitting alongside the DAG and the parliamentary partnership assembly, could give more rigour to how we resolve some of the issues without necessarily having to revise the TCA.

Of course, it takes two to tango, and this is about the UK and the EU wanting to resolve the issues. We spoke about seed potatoes in our submission. The UK Government has refused to dynamically align with the EU sanitary and phytosanitary measures and the EU is unwilling to grant a derogation, so everybody is a bit of loggerheads. If we had more conflict resolution opportunities around the governance structures, we could perhaps reach resolution on some of the issues.

That is quite a subjective perspective, but, to me, looking in on this, it seems that there could be more to that. I think that Tom Sallis agrees, and he might have further insights.

Tom Sallis: That is a good point. All of us have collectively raised a lot of issues through the DAG process, and some of those have found their way on to specialised committee agendas. It is now a good time for a rigorous follow-up check on the extent to which issues are being addressed. This year is an opportunity for us to get clarity, particularly about some of the broader issues that I referred to earlier. Can we get consistent application in certain markets? It is much easier for companies if they know what the requirements are—even if there is a bit of a burden in that—than if their product lands at a port in the EU and is held there while people run around trying to find a document that has been asked for, which they were not expecting. As I have said, those issues have reduced, but they have not completely gone away.

That is why I think that there is an opportunity to use the specialised committees to raise the

issues, follow up with the relevant markets and see whether we can get some improvements. I fully support that. There are obviously other means, too. There are the WTO committees, which provide an opportunity for the Government to raise issues about EU policy.

There is an interesting point about future EU policy. We are raising concerns about the situation at the moment, but there is also a lot of important stuff coming down the line in Brussels. How will the Government raise concerns about that?

I support the point about the specialised committees, but perhaps there should also be other regulator-to-regulator dialogues. There are a few working groups that exist for some sectors but not for others; perhaps there is more to do in that area, too.

The Deputy Convener: The convener, Clare Adamson, and I are observer members on the PPA, which meets twice a year in the UK and the EU. The role of the specialised committees is very much on the agenda, and issues about how frequently they meet and how they operate are very live.

Agnes Tolmie: I want to come in on Neil Bibby's comments about Erasmus+. From the work that we have done, there is no doubt that young people in Scotland want to be part of developing what a future Scotland that they want to live in looks like. That is an added benefit from their being involved in such projects. It helps them to develop the skills that they need for the future, including other languages, and teaches them how to work collaboratively and interact. They bring the skills back to our country and develop them here.

It is not all just about business. Sometimes, we can take our eye off that particular ball. There is a revival in Scottish music and culture, which we are sending out to the world, and embracing other nations' culture in music and arts has to play a fundamental part in any civilised society. That is where the benefits of such organisations and programmes can help us. I argue that the benefit outweighs the cost for us to have a better future Scotland.

The Deputy Convener: One of the remits of this committee is culture, obviously—it is in our title—and we cover it, particularly Scottish culture in Europe but also European culture coming to Scotland. It is very pertinent.

Keith Brown: I agree with what Agnes Tolmie said. Back in the mists of time, I did an exchange course as a student. It was outwith the EU, but I gained a huge amount from it.

Tom Sallis made points about the WTO being a way to influence the EU indirectly and, earlier, about South Korea and the Asia-Pacific region.

The other side of this is the absence of trade agreements between the UK and countries around the world. One or two have been signed, but people say that the New Zealand one is pretty disastrous. Previously, of course, we would have been included under EU trade agreements. What has been the impact of the absence of trade agreements? Has there been any impact on exports, trade or other matters?

10:30

Tom Sallis: From the Scottish whisky industry's perspective, a lot of important continuity agreements were signed, and there was a degree of involvement by the UK and the EU with third countries to ensure that that happened. That was very welcome, because it prevented tariffs from coming in where they did not previously exist due to EU free trade agreements. There are lots of examples in the Americas region, as well as South Korea, which I mentioned earlier, and South Africa. We really welcomed that.

The UK's independent trade policy agenda is hugely important for us, as you would expect, because we are a big export industry. We are eagerly awaiting something on India and understand that negotiations are at very advanced stages; we have our fingers crossed on that one, which is a priority. An import tariff of 150 per cent obviously impacts Scotch whisky going into the Indian market. We have only about a 2 per cent share of the total Indian market, so the opportunity is huge, as is the opportunity in the rest of the free trade agreement agenda.

We fully support the effort to get trade agreements over the line. We appreciate that it is not an easy exercise, but we certainly do all that we can to give the Government our support and technical input on negotiations.

Rachel Le Noan: I will go back to the question about what we are asking for. The key things are clarity and transparency, and the implications for all of us. We all have jobs to do: the SCVO's job is to inform our members about what is happening. We need that information, because at the moment it is very difficult to understand the possible impact on people. We are all consumers, producers and citizens who have a right to that information.

That leads to the bigger questions. The EU settlement scheme, for example, was not perfect, although we had some information. I can speak from experience: I was one of the lucky ones who had no issues with it. People still need support today and are in very difficult situations because they did not get an application done and needed support from organisations in the voluntary sector, such as the Citizens Rights Project. Such organisations need to be funded to do the job.

There is therefore a broader question to ask about sustainability of the voluntary sector to provide support when it is needed. That situation comes on top of everything else, including the cost of living, fundraising issues and volunteer shortages. That is part of a bigger picture that we need to keep in mind.

Irene Oldfather: I will follow on from Rachel Le Noan's points. We considered funding at the nations and regions conference. It is fair to say that the shared prosperity fund has not fulfilled expectations. We are about to finalise the report of the nations and regions sub-committee. I am aware that, for example, that in Wales there is a "Turing plus plus" scheme that we will be using as a case study. I think that using the name "Turing" is a little off-putting because the scheme is much more advanced than Turing. I hope that there is scope to develop something between a Turing plus plus and Erasmus+.

We also have to look at what economists call the social return on investment. It is not just about spend; it is also about the social return from that spend. We have analysed some of our work in the third sector in terms of social return on investment, and it has been very surprising to see the added value that culture, education and the third sector can bring, when you look at spending through a slightly different lens. I wanted to mention that and the Welsh case study on Turing plus plus—I think that the scheme is actually called Taith.

I also flag up that the shared prosperity fund requires a bit of adjustment because it has not met expectations. I know that in Wales, for example, third sector organisations have closed because of changes to funding, which is not a good thing.

Robert Smith: I will go back to Mr Brown's questions about trade and something that Tom Sallis outlined. The UK rolled over many existing agreements from when we were a member of the EU, which largely kept the same terms of trade with the partners. The UK is now starting proper negotiations with a view to striking new deals with some partners—the ones that spring to mind are South Korea and Switzerland.

The pharmaceutical sector certainly sees an opportunity for the UK to look at the terms of deals that were signed 10 or 15 years ago, in order to update them and bring them into line with best practice for important sectors of the economy, particularly in relation to regulatory co-operation and supporting innovation.

It is worth recognising that the UK now has an independent seat at the WTO, which provides us with the opportunity to use things like trade policy reviews and to use our voice to uphold the WTO system, but also to use the committees that we have talked about to go further in agreements as

they are constituted, and to push for things that are good for the UK economy.

In short, there is continuity of trade for the most part and there are opportunities, now that we are looking again at deals to see how we can perhaps go further than we did when we were a member of the EU.

Keith Brown: If it is the case that there are opportunities that can be exploited, we are years since Brexit and that has not been realised. We have not done a deal with the big ones, such as the US and Canada, and I am much less optimistic about India than Mr Sallis is, to be honest: Modi has made it fairly clear that we will not do a deal any time soon. We miss more opportunities the longer this goes on; if they exist, we are missing out. We were told deals would happen very quickly. That is my concern.

Robert Smith: The point about continuity is most important. Rollover of agreements has meant that there has not necessarily been a direct and immediate change in our trading relationships.

The Deputy Convener: I said at the start that we were going to try to cover three separate themes, but we have overlapped the first and second ones quite a lot. The second theme was challenges and how they might be resolved: we have discussed a wide variety of challenges and potential solutions. To draw that theme to a close, would anyone like to add anything about current challenges and potential solutions?

Dr Marks: I will return very briefly to what Irene Oldfather said earlier on governance. In the broader structures of governance of trade agreements, we are slowly moving towards having a bit more clarity about how it all works. The UK Government has just done another reform of the various bodies that feed into that, which is useful for knowing precisely who is doing what—especially in our case, when, in dealing with the TCA, parts are handled by the Department for Business and Trade, parts by the Ministry of Justice, parts by the Foreign, Commonwealth and Development Office and parts by the Scottish Government. We are slowly now starting to get a feeling for what goes where, but that process will take time. Reform as we move forward is useful.

To comment purely from the society's point of view, I note that the Law Society and the Faculty of Advocates applied to join the domestic advisory groups but were turned down, which has produced the slightly curious state of affairs that domestic advisory groups will meet in the Scottish jurisdiction without any representative of the Scottish legal sector. We offered sharing a joint seat between us, as we have done in a number of other cases of Scotland getting only one seat on a body. That is another dissatisfying outcome that it

would be good to see being changed as the DAGs evolve and time goes on.

Irene Oldfather: On Mr Brown's point about trade agreements, I am in the invidious position of having been on the other side of the table on the EU-Canada DAG, with EU colleagues. It takes a long time for such groups to deliver results, even where you have agreement.

SMEs are particularly disadvantaged in this. The opportunities tend to be for bigger companies, so we have some work to do to simplify things to bring in SMEs.

We got off to a slow start with the architecture of the TCA; we were a little bit behind the EU domestic advisory group. As Adam Marks said, however, we are gaining ground. We have visibility, and we are beginning to know and understand where the connection points are and whom we need to connect to.

We are very sympathetic to Adam Marks's particular point about the Law Society of Scotland. There has been a recommendation from the executive council—the two vice-chairs, who are me and Steve Turner, and the chair, who is Sean McGuire—of the domestic advisory group to the UK Government that that is something of a missed opportunity that we would like to see being rectified at the earliest possible time. I hope that we will see that in the not-too-distant future.

I gather that there is a view that the DAG is already very large, which it is. The EU DAG has 30 members—10 people from the business sector, 10 from the trade union and professional association sector and 10 from the NGO and third sector. It is quite a compact group of 30. In the UK DAG we are running at about 60 members now; I know that one of the considerations is whether we have, if we open it up, the capacity to go beyond 60. I am certain that, as has been recommended by the executive council, the Law Society is a particularly special case and there should be means to involve it in the DAG.

Of course, that is one of the reasons why we set up sub-committees. It is an important part of the visibility and making progress that Adam Marks talked about that we have five sub-committees whose membership is not restricted to members of the DAG. Anyone who has an interest can join one of the five sub-committees. Our nations and regions one has quite wide membership from outwith the DAG. I hope that that represents an opportunity, going forward.

The Deputy Convener: We are certainly aware of the issue around representation. I add that I am a member of the Faculty of Advocates, so I am particularly aware of the matter and am sure that it is an issue to which we will return.

I move to our third theme, which is on opportunities for further developing the EU-UK relationship and looking to the future. I will ask Irene Oldfather a question, because her submission touches on the importance of continuous engagement and on adaptability being significant. What is your sense of how the relationship might evolve in the next few years? We have spoken about elections, the review and so on, but where are the opportunities?

Irene Oldfather: There are huge opportunities at civil society level and there is willingness to engage. As I mentioned at the beginning, we signed a memorandum of understanding with the European Economic and Social Committee, which, I suppose, was a really clever one to do because that committee is made up of social partners, business, trade unions, the third sector and academics; it mirrors our membership. I think that there are huge opportunities through that.

Scotland is the first sub-state region to sign such an MOU. We do not want to try to do too much too quickly, so our first steps are in youth engagement and youth mobility. There is currently an opinion going through the EESC that Scotland and Scottish young people have had the opportunity to input into through our conference in November. John Curtice and I have been invited to committee in April to further those discussions. Other areas that we are interested in are green energy and citizens wellbeing.

It is an iterative and incremental process. For so long, post the pandemic, I felt that we were all sitting in a train station waiting room and all the trains were passing us by. We were quite fragmented in the civil society sector, but I feel as though we are back on the train now. There has been a very positive response from the EESC, which is our equivalent, and from the EU delegation. They are very keen to work with us; I believe that there is a trip to Scotland planned for April. There will be a meeting with the Scottish advisory forum on Europe and we will work to develop and expand co-operation in areas of common interest.

10:45

My day job is director at the Health and Social Care Alliance Scotland. In health, we have strong partnerships with, for example, the European Union Patient Academy on Therapeutic Innovation, in which we have involved Scottish academia and so on in clinical trials and how to work together to share information and best practice. We are also members of the European Patients' Forum.

There are opportunities. We now have a way to bring people together and a pathway into things,

which is good. We lost a lot when we left the EU and European funding stopped. As Rachel Le Noan said, that had an impact especially on the third sector and on communities. I feel that we are beginning to find our feet a little bit and to make connections. I am very pleased that Enable, for example, is joining SAFE. We now have a forum for discussion and a way to take things forward positively.

The Deputy Convener: I will come back on one of the things that you mentioned. You have given us a clear picture of SAFE, its work and its activities. It is obviously a very vibrant body that is thinking about things. We also know about what the DAG does at UK level. Do you get a sense that, on the EU side of things, there is a similar vitality and an interest in the issues? You mentioned engagement and Alastair Sim mentioned contact with European universities. Do you get a sense that the EU is as lively, interested and engaged in these issues?

Irene Oldfather: There is a vibrancy and an interest in relation to co-operation and partnership. Following the Windsor framework, things have thawed out quite a bit. You will know that the architecture of the TCA provides for a joint civil society forum. The forum has met twice. Some people round the table were at the first one, which was very stage managed and I think that there was general agreement that it did not take things forward in a positive and constructive way. However, the second one that we had last November was much better.

There are differing views. Certainly the European Commission is very much of the view now—as I am sure you will hear the Commission say if you take evidence from it—that it wants a very strict interpretation of things. However, the third sector, academia, trade unions, business groups and civil society—I suppose that this comes back to Ms Forbes's point—are very interested in taking forward that engagement.

We are in a unique situation. I referred to when I sat on the EU-Canada DAG. We were members of the EU for nearly 50 years, we are near neighbours and Europe is our biggest market, so there are good reasons for us to find partnership opportunities and to work together going forward.

Alastair Sim: There is a huge amount of goodwill and desire for ever-closer connectiveness from partners within the European Union. As I said, on the research side, the consistent message to the European Commission from the partners that our universities are working with in Europe is, "Please, please, please, let's find a way to keep the UK as close in as it conceivably can be to the horizon programme" and to basically treat the UK equally to European member states.

The vitality of interest in relation to mobility is quite striking as well. The last time that I was on a mission in Brussels, many of the people whom I talked to in the Commission and the European Parliament had been on an Erasmus+ exchange in the UK and Scotland. They represented a real hunger to get that restarted because they felt that that is of bilateral benefit and that so much of what we do in Scotland and the wider UK is interesting, valuable and culturally enriching for people coming from the EU. They want the bilateral relationship to be fully enabled and vitalised. Particularly following the Windsor framework, there are an extraordinary number of open doors, through which to build on a deep reservoir of cultural desire to have the closest possible relationship with Scotland and the UK.

The Deputy Convener: If that is right—I am sure that it is—why does it appear that the EU wants only a short, somewhat technical review of the TCA? Is this not the opportunity for a much more wide-ranging and substantive review?

Alastair Sim: That is a huge political question. I guess that there is a degree of fear that, once you start unstitching the agreement with a wide range of interest groups and member states, you could end up somewhere worse than when you started. My general sense is that, underneath that, there are still relationships at many levels—politically, culturally and academically—between the UK and opinion formers in the EU that create momentum and a direction of travel towards a closer and more meaningful relationship.

Lloyd Austin: I will follow on briefly from Alastair Sim's comments. From an environmental NGO point of view, many of our members remain part of European and international networks, because we recognise that environmental questions are global and multinational. Scottish Environment LINK is still a member of the European Environment Bureau, which has members in all countries on the continent of Europe, not just those in the European Union.

I come back to the third part of your opening question about future opportunities. The biggest opportunity is to use the co-operation that the TCA and the review offer to agree and deliver on shared environmental ambitions. Rhetorically, all Governments in the UK and in the EU have positive environmental and climate ambitions, but whether they are delivering them is another question. Therefore, we would like there to be more mechanisms to help that delivery in a co-operative way. Initially, that would seek to fix divergence issues. I mentioned the divergence in relation to chemicals. Since leaving the EU, the UK has added no chemicals to its list of potential substances of very high concern whereas the EU

has added 31. There are examples of similar numbers in other categories.

We need to look at a way of addressing such divergence. CHEM Trust, which is one of our members that specialises in chemicals, has produced a recent report looking at the model of how Switzerland regulates chemicals in partnership with the EU. It might be worth the UK's while to look at that model. That is one opportunity for the future.

Another opportunity is the European Environment Agency. The agency deals with environmental data and information, which it shares with Governments. Obviously, it is strongly associated with the EU, but its associate members include virtually every other country in Europe, including Iceland, Norway, Switzerland and Serbia.

In recent maps and reports from the EEA, the UK is unfortunately now a black hole, or a white hole, if you see what I mean, on environmental issues across Europe. I think that the Scottish Government would be supportive of working with the EEA, because officials from the Scottish Environment Protection Agency and other bodies were previously involved in swapping data and comparing information. Ensuring that all the policy decisions taken by Governments, regulators and so on are based on good data is crucial for the environment. Some form of associate membership of the European Environment Agency would be a very positive move for the UK in the future.

Going forward, clarifying what maintaining levels of protection in the TCA means, particularly as the UK and the EU develop new laws in different ways, and how those levels of protection are compared and so on, will be important. Since we have left, the EU has moved forward with a nature restoration law and with a new environmental crime directive, which includes a phrase to the effect of "ecocide". It does not actually use the word "ecocide", but it uses a phrase that is equivalent to that.

How and whether the UK matches those pieces of legislation is an important question. That is an equally important question for this place because, of course, many of the areas of environmental regulation and legislation are devolved. Therefore Scotland has the opportunity to keep pace with those areas of law. Scotland should look at the opportunities of matching the ambitions of the EU going forward.

The Deputy Convener: Does anyone else want to speak about the future and any quick wins that could be achieved?

Dr Marks: There is an interesting relationship between the bars and the law societies across Europe. The Law Society of Scotland is a member

of the Council of Bars and Law Societies of Europe—the CCBE—which is the big umbrella group for all bars and law societies across the EU. After Brexit, we negotiated an associate membership status, which means that we do not vote on things that affect only the EU, but we still have a vote on an awful lot of the issues that the CCBE deals with. We are in a relatively positive position compared with where we thought we might be. We still participate, and our experts are still asked for their opinions. We are still very involved, even if we do not vote on Commission-only business. That is a far better position than that which we feared we might be in at one point, so there has been a positive win in that relationship.

On easy wins, as has been mentioned a few times we should think about mobility. I referred earlier to issues relating to articles 145 and 126, but addressing mobility in general would tidy things up and enable things to be a lot easier. Surprisingly, a lot of members in Europe whom I have spoken to have referred to youth mobility. To a degree, having got through Brexit, we have sat back and thought, “Who is going to follow on from us? Who are the next generation coming through?” There are concerns about that, so a bit of broad positive work could be done in that regard.

The Deputy Convener: That is one of the specific issues that the PPA has been looking at, so it is on its agenda.

I will bring in Tom Sallis and then, unless anyone else wants to come in, I will ask Irene Oldfather to round off the discussion in whatever way she sees fit.

Tom Sallis: I will give you time to think for a minute, Irene.

I will make a couple of very quick points. One is about implementation, which we have talked about. In particular, the sanitary and phytosanitary chapter of the TCA contains a range of useful provisions. I will not go through all of them, but one provision is that there should not be

“unduly burdensome information requests that might delay access to each other’s markets”,

and another is that SPS procedures and measures should be

“proportionate to the risks identified”.

Those are useful provisions if they are implemented to the letter. In relation to some of the issues for small businesses, particularly with certification, looking back at those provisions would be a useful exercise. We will be doing that anyway, regardless of the review, but it is certainly something to prioritise.

11:00

There is a difference between theory and what is in the agreement and actual practice, and it is hard to make progress on those issues and to make use of the provisions. That probably takes us to a discussion about agrifood products in general and SPS agreements. I know that others in the food and drink sector are looking more closely at perishable products. The devil is in the detail, but that should be looked at, because anything that can help to reduce the number of requests for documentation has to be a good thing. We have to look at how the UK Government and the Scottish Government could continue to regulate. I just mention that because the idea is out there, and it is worth exploring how it would actually work.

The Deputy Convener: Do any colleagues or guests want to contribute before I bring in Irene Oldfather?

Keith Brown: I do not know as much about this as I would like to know, but, from the opening comments, it seems that the big question is about where we go from here. If there is no pre-made plan based on ideology or whatever else for where we should go, surely we should take a pragmatic approach by thinking about how things that are not currently working could work better. Irene Oldfather made the point that the situation is likely to change over the course of the year, but surely it is about trying to deal with the pressure points and friction points. That is my suggestion.

The Deputy Convener: I ask Irene Oldfather to close the conversation on behalf of everyone. The pressure is on.

Irene Oldfather: I feel that it is important to pick up on a few points. We have discussed the EU’s technical approach to the matter. It is worth mentioning that there is a joint statement from the EU and UK DAGs, and it is important to reflect on the language in it. The statement talks about human rights, employment rights and citizens. That sits slightly outwith the technical approach, so I think that there is some common accord between the EU and UK DAGs.

That might be a little different from the Commission’s position, which is understandable for a number of reasons. Brexit was a long and difficult process and, as someone said, the Commission is probably a bit reluctant to go back and undo some of it. As one of my colleagues said, the EU is moving forward. It is busy with candidate countries and the war in Ukraine. There are other big pressing issues, and there is no doubt that the EU will be thinking about the European elections and the election in the USA this year. As I said at the beginning, some of those big-ticket issues will influence things over the year.

The sub-group on nations and regions is approaching its report by thinking about things in layers. What would require an absolute change to the TCA? What could be done by mutual agreement? We have spoken quite a lot about that today. What would require a bit of work in relation to domestic policies and relationships with the UK Government? All those three areas are important, and two of them do not require changes to the TCA. That is all to the good.

In summing up, I thank the deputy convener and the committee for giving us the opportunity to speak today. I hope that we have represented the voices of stakeholders, businesses, the third sector and individual people, and that we have raised issues that are important to citizens. You might say that we bring a democratic perspective, because we all work in communities, whether they be geographic, thematic or sectoral communities, and it is great for us to have the opportunity to come along and speak to the committee. SAFE has been in operation for—I meant to check the date, but I did not—roughly nine months. We have achieved quite a bit in that time, and we have built a broad stakeholder group. We will keep a close eye on the issues, and I hope that we can continue our discussions.

The UK DAG is holding its next meeting in Scotland. It is written into the DAG's terms of reference that its meetings will rotate among the devolved nations, so the next one, in April, will be in Scotland. I do not know whether diaries and parliamentary days will coincide to allow for this, but, in a recent discussion with the convener and the vice-chair from the trade union sector, we said that the UK DAG would be keen to meet the committee at that point, whether in a private or a public session, because I am obviously here today in my capacity as the chair of SAFE.

The Deputy Convener: Thank you very much. I am sure that we can discuss with the clerks whether that would be possible. I thank everyone for attending the meeting. We have had a wide-ranging discussion. As you might know, this was our first scene-setting evidence session as part of our inquiry, and it has been incredibly useful.

Meeting closed at 11:05.

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