



DEBATE PACK

Number CDP-2018-0083, 8 March 2017

The implications for the Scottish devolution settlement of triggering Article 50

Summary

Westminster Hall debate initiated by Deidre Brock MP (Edinburgh North and Leith) (SNP). The hour long debate starts at 4.30pm and is on the motion:

"That this House has considered the implications for the Scottish devolution settlement of triggering Article 50".

The debate comes as the UK Parliament approaches the end of its consideration of the *European Union (Notification of Withdrawal) Bill*, and the UK Government prepares to make a notification under Article 50 TEU of its intention to withdraw from the EU. It comes two days after the First Minister of Scotland, Nicola Sturgeon, announced that she intended to seek approval from the Scottish Parliament to begin talks with the UK Government to gain authority to hold a second independence referendum for Scotland.

The House of Commons Library prepares a briefing in hard copy and/or online for most non-legislative debates in the Chamber and Westminster Hall other than half-hour debates. Debate Packs are produced quickly after the announcement of parliamentary business. They are intended to provide a summary or overview of the issue being debated and identify relevant briefings and useful documents, including press and parliamentary material. More detailed briefing can be prepared for Members on request to the Library.

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1. Background

1.1 Introduction

There is little argument that withdrawal from the EU will have an impact on devolved matters, as on other areas of public policy.

Arguments have developed over the extent to which devolved institutions should be asked to consent to legislation concerning withdrawal.

In addition there is interest in the future for those matters which are currently devolved but subject to substantial EU law, and whether they will remain devolved or be reserved to the UK level in order to create UK-wide frameworks to replace the EU ones.

1.2 Consent and the Sewel Convention

In the Miller case,¹ concerning the role of Parliament in authorising the Government to notify the European Council of its intention to withdraw from the EU, the Supreme Court ruled unanimously that the UK Government was not under a legal obligation to seek consent from the devolved legislatures for legislation authorising notification. There is further information about this in CBP 7884, [European Union \(Notification of Withdrawal\) Bill](#), 30 January 2017.

However, this was on the basis that the Sewel Convention (under which consent is sought for certain legislation concerning devolution) is not legally binding. There was no finding on whether the notification of withdrawal Bill would be relevant to the Convention as a political undertaking.

There are technical arguments as to whether the Convention might have applied to the *European Union (Notification of Withdrawal) Bill*, discussed in CBP 7884 above. In the event, the UK Government held that it did not, and as a result it did not seek consent. There are separate arguments about whether the Convention might apply to other potential legislation, such as a continuation measure (the so-called "Great Repeal Bill"), but these are impossible to predict in advance of an actual Bill.

Under the Sewel Convention the UK Government will not normally invite Parliament to legislate on devolved matters or the scope of devolved powers without the agreement of the Scottish Parliament or that of the Northern Ireland or Welsh Assemblies. The Convention is set out in a Memorandum of Understanding:

The United Kingdom Parliament retains authority to legislate on any issue, whether devolved or not. It is ultimately for Parliament to decide what use to make of that power. However, the UK Government will proceed in accordance with the convention that the UK Parliament would not normally legislate with regard to devolved matters except with the agreement of the devolved legislature. The devolved administrations will be responsible for seeking such agreement as may be required for this purpose on an approach from the UK Government.²

While the Miller judgment stressed the importance and fundamental role of constitutional conventions, it highlighted their political nature. It emphasised that there is no role for the courts in ensuring their enforcement:

Judges therefore are neither the parents nor the guardians of political conventions; they are merely observers [para 146].

Parliament's putting the Sewel Convention on a statutory footing in the *Scotland Act 2016* (and in the *Wales Act 2017*) reflected the Convention as a statement of political intent. The Supreme Court found that Parliament's intention was to entrench it as a convention – not as a legal rule. Despite the Sewel Convention's importance in the harmonious operation of the UK constitution, its operation lies outside the remit of the courts.

This does not, however, mean that the Sewel Convention – as a purely political undertaking – is not applicable to matters concerning withdrawal from the EU. If a piece of UK legislation in respect of Scotland (the same goes for Wales and Northern Ireland) is within devolved competence or changes devolved competence, the UK Government would normally seek consent.

The competence of the devolved institutions is circumscribed by EU law. In all three cases, neither executive nor legislature may act in a way that is inconsistent with EU law.³ In addition, that competence includes the power of the devolved Ministers to implement EU law.⁴

If a Bill removes the constraint of EU law from devolved competence, or removes the capacity of devolved Ministers to implement EU law, it would seem to be the sort of Bill that would normally be subject to the Sewel Convention.

1.3 EU law on devolved matters

There are some matters which are not reserved but in which EU law plays a prominent part. Agriculture and fishing are well-remarked examples. These subjects are devolved, but in practice EU law has implied relatively little scope for policy variation.

There is no concrete statement of detail as yet on how the UK Government intends to proceed on these matters. If the existing scope

² [Memorandum of Understanding and Supplementary Agreements between the United Kingdom Government, the Scottish Ministers, the Welsh Ministers and the Northern Ireland Executive Committee](#), October 2013, paragraph 14

³ See for instance, *Scotland Act 1998*, s29(2)(d) and s57(2).

⁴ Eg, *Scotland Act 1998*, s53.

of devolved powers is maintained, there would be greater potential than at present for policy divergence among the constituent parts of the UK. Once the constraint of consistency with EU law is removed from the scope of devolved powers, Scotland would be able to pursue policies further removed from those of Wales or Northern Ireland, or those applied by the UK in England.

The Secretary of State for Scotland, David Mundell, has stated that [Scotland will gain significant new devolved powers](#) after withdrawal from the EU.⁵

In her speech to the Scottish Conservative conference on 3 March 2017, Prime Minister Theresa May stated that,

As Britain leaves the European Union and we forge a new role for ourselves in the world, the strength and stability of our Union will become even more important.

We must take this opportunity to bring our United Kingdom closer together.⁶

She addressed the question of devolved powers in areas covered by EU law:

The UK devolution settlements were designed in 1998 without any thought of a potential Brexit.

In areas like agriculture, fisheries, and the environment, the devolution settlements in effect devolved to the legislatures in Edinburgh, Cardiff and Belfast the power to implement EU directives in these areas, within a common EU framework.

The essential common standards which underpin the operation of a single market were provided at the European level.

As we bring powers and control back to the United Kingdom, we must ensure that right powers sit at the right level to ensure our United Kingdom can operate effectively and in the interests of all of its citizens, including people in Scotland.

We must also ensure that the UK which emerges from the EU is able to strike the best possible trade deals internationally.

In short, we must avoid any unintended consequences for the coherence and integrity of a devolved United Kingdom as a result of our leaving the EU.

As I have made clear repeatedly, no decisions currently taken by the Scottish Parliament will be removed from them.

While the SNP propose that decision-making should remain in Brussels, we will use the opportunity of Brexit to ensure that more decisions are devolved back into the hands of the Scottish people.

Our aim will be to achieve the most effective arrangements to maintain and strengthen the United Kingdom, while also respecting the devolution settlements, and we will work constructively with the devolved administrations on that basis.

But unlike any of the individual devolved administrations, the United Kingdom Parliament is elected by the whole UK, and the UK Government serves the whole UK.

⁵ *Guardian*, 28 November 2016

⁶ Taken from ScottishConservatives.com

That places on us a unique responsibility to preserve the integrity and future viability of the United Kingdom, which we will not shirk.

1.4 Further reading

There are two interesting views put forward by academics for the Scottish Parliament. An analysis by Professor Alan Page for the Scottish Parliament's European and External Relations Committee held that most EU law concerns reserved matters, since both the UK and the EU are based on, and tend to legislate for, single markets. Another paper for the same committee, by Professor Sionaidh Douglas-Scott, argued that "a good part of EU law relates to competences that have been devolved."⁷ The two views may be reconciled in the sense that while the EU law on devolved matters is a relatively small proportion of the total of EU law, it is a high proportion of the law on those devolved matters.

The Papers are as follows:

[*The "Great Repeal Bill,"*](#) S Douglas-Scott, SP European and External Relations Committee, 9 October 2016

[*The implications of EU withdrawal for the devolution settlement,*](#) A Page, SP European and External Relations Committee, 4 October 2016

⁷ [*The "Great Repeal Bill,"*](#) 9 October 2016, p4

2. Press and blog articles

[Nicola Sturgeon announces second Scottish referendum](#)

Independent

Jon Stone

13 March 2017

The Scottish Government will move to hold a second referendum on independence from the United Kingdom, the country's First Minister has announced, linking her decision to Brexit.

[This is why an independent Scotland post-Brexit will lead to economic devastation](#)

Business Insider

Lianna Brinded

13 March 2017

Article examining the economic arguments against independence.

[How Brexit could break devolution](#)

The Conversation

Richard Percival

7 March 2017

Blog post by Senior Research Fellow, Law Reform and Policy Analysis, Cardiff University

[A democratic outrage: Scotland's constitutional position and Brexit](#)

London School of Economics blog

Sean Swan

6 March 2017

Although reaction to the recent Supreme Court ruling on the triggering of Article 50 has focused on arguments about the sovereignty of parliament, for Scotland it has highlighted once again not that parliament is sovereign, but that the Westminster Parliament is – and that this rule applies even if Westminster intends to legislate contrary to Scottish wishes.

[Theresa May: I will not allow Scotland and England to 'drift apart' after Brexit](#)

The Telegraph

Simon Johnson

3 March 2017

The Prime Minister used a speech to the Scottish Conservative conference to set out the case of the “enduring” economic, security and social benefits to Scotland of remaining in the UK.

Article 50: the final say

The Journal of the Law Society of Scotland

Alan Page

20 Feb 2017

Some comment has suggested that the Sewel convention has been devalued as a result of the Supreme Court's judgment. This is to misunderstand the significance of the convention, which remains no less politically binding than before. The possibility of going to court has been removed, which Governments are not in the habit of doing save in exceptional circumstances such as those of Brexit, but the leverage which the convention gives the Scottish Government through the Scottish Parliament remains essentially intact.

Court rejects Scottish government Article 50 argument

BBC News

24 Jan 2017

Judges at the Supreme Court have rejected the Scottish government's argument that Holyrood should get a say on the triggering of Article 50.

Nicola Sturgeon to thwart Brexit with 50 amendments as SNP pushes for new Scottish independence referendum

The Telegraph

Auslan Crumb

24 January

The SNP has also promised to put forward 50 "serious and substantive" amendments to the Brexit bill, including a proposal that the UK would stay in the EU under "revised" membership if MPs reject the final deal with Brussels. Another amendment will demand that the UK Government seeks the unanimous agreement of the Joint Ministerial Committee that the triggering of Article 50 "encompasses the devolved administrations of Scotland, Wales and Northern Ireland".

Brexit, Article 50 and devolved legislative consent

Devolution Matters

Alan Trench

23 Nov 2016

This post is about whether Brexit requires legislative consent from the devolved legislatures, particularly the Scottish Parliament, and what that consent relates to – whether the whole process of Brexit, or only aspects of it.

3. UK parliamentary material

3.1 Parliamentary Questions

[Oral questions on Scottish Devolution](#)

HC Deb 9 Mar 2017 c919-22

Drew Hendry (Inverness, Nairn, Badenoch and Strathspey) (SNP):

What discussions he has had with the Secretary of State for Scotland on the potential devolution of further powers to the Scottish Parliament as a result of the UK leaving the EU. [909136, 909146 & 909151 grouped]

The Secretary of State for Exiting the European Union (Mr David

Davis): As the Prime Minister said in Glasgow last week, as we bring powers and control back to the United Kingdom we must ensure that they are the right powers, at the right level, so that the UK can operate effectively in the interests of all its citizens, including the people of Scotland. Where powers should best sit will be a matter for further consultation and discussion across the United Kingdom.

Drew Hendry: I remind the Secretary of State that on 27 November, in The Sunday Times, the Secretary of State for Scotland stated:

“Whatever the circumstances, no powers will be re-reserved to Westminster.”

In Scotland, we know that such vows are not worth the paper they are printed on. Will the Secretary of State give the House a guarantee that powers currently exercised by the European Union will be devolved to the Scottish Parliament?

Mr Davis: Those are two different questions, if I may say so. It is unfortunate that the right hon. Member for Gordon (Alex Salmond) is not present, because he would have been able to tell his colleagues in the Scottish National party that for many years I have been a strong advocate of devolution. Indeed, I was the first Conservative Member, and probably the only Member outside the SNP, to call for fiscal autonomy for Scotland back in the days of the first devolution Bill. I take this issue very seriously indeed, but there is a distinction between the current exercise of powers over matters such as agriculture, fisheries and the environment by the Scottish Parliament and matters that are dealt with by the United Kingdom Government in the EU on behalf of the whole United Kingdom, with heavy consultation.

Gavin Newlands: Talking of devolved powers, last month the Prime Minister ventured north to tell Scotland just how poor the Scottish NHS is, despite all evidence to the contrary, including information about public satisfaction and A&E waiting times. If the situation is so bad, will the Secretary of State tell us when we will receive our share of the £350 million a week so that we can fix it?

Mr Davis: I have generally exercised a self-denying ordinance about not attacking the domestic policies of the Scottish Government, because I think that those are matters for them to worry about, and their day job

should be their main interest. The aim here will be to secure the best outcome for the whole United Kingdom, including Scotland, and for Scotland not to lose in any way.

Margaret Ferrier: Because we are so generous on these Benches, I shall give the Secretary of State another chance to answer the question. Notwithstanding the key principle of the Scotland Act 1998 and what he said that the Prime Minister had said at the Scottish Tory conference on 3 March, will he please assure us categorically that when non-reserved powers are repatriated from Brussels, they will come directly to Scotland?

Mr Davis: I think that the Scottish National party needs a bit more originality in its questions as well.

The simple fact is that no powers that are currently exercised by the Scottish Government will be removed from the Scottish Government. As for other powers coming back from the EU, we will consider—in conjunction with representatives of the Scottish Government, the Welsh Government and the Northern Ireland Executive, when they are back in place—what is best for the United Kingdom and the constituent nations thereof. It is very important for us to have as much devolution as possible, but it is also very important for us not to damage the United Kingdom single market, which is four times as valuable to the Scots as the EU single market.

Mr Iain Duncan Smith (Chingford and Woodford Green) (Con): I wonder whether, during the discussions and negotiations, my right hon. Friend raises an issue that the Scottish National party is constantly putting on the table, namely a special arrangement for being in the single market. Recently, the Partido Popular in Spain made it absolutely clear—I wonder whether my right hon. Friend has translated this for the Scottish National party and its leader in particular—that its policy, and that of the other parties in Spain, was that there would be no special arrangement for the SNP, and that, should the SNP seek to leave the United Kingdom and rejoin the European Union, it would be vetoed by Spain on both counts.

Mr Davis: My right hon. Friend has made his point as well as ever. I believe that this issue will arise again in a later question on the Order Paper. The simple truth is that it is not solely a technical matter within the United Kingdom; it is also something that we must deliver diplomatically.

Mr Peter Lilley (Hitchin and Harpenden) (Con): Is my right hon. Friend as puzzled as I am that the Scottish nationalists appear to oppose any devolution of powers from Europe back to the United Kingdom and Scotland? It seems that they would rather be governed entirely from Brussels than see some of those powers returned to this place, where they have a great influence, and others returned to Holyrood, where, temporarily, they have a near majority.

Mr Davis: My right hon. Friend points exactly at the incredible inconsistency at the heart of the Scottish National party: it believes that

it is fine to be ruled from Brussels, but not to be ruled from anywhere else.

Sir Desmond Swayne (New Forest West) (Con): Given the huge identity of mutual interests that Scotland shares with the rest of the United Kingdom, will not a good deal for the United Kingdom shower all sorts of benefits that can be devolved on Scotland?

Mr Davis: My right hon. Friend highlights an important point: what matters in this negotiation is the outcome, not the mechanism. The Scottish Government have laid a great deal of emphasis on their own preferred policy of separate membership of the single market, but the simple truth is that what we want is a good outcome in terms of access to the single market for everybody in the United Kingdom, and that will achieve exactly the same aim in a different way.

Stephen Gethins (North East Fife) (SNP): In terms of powers for the Scottish Parliament, the people of Scotland were promised a week before the vote that Scotland would decide its own immigration policy in the event of Brexit. Next week we have a crucial vote on EU nationals—we have another opportunity. If this Government will not use their powers to give EU nationals the certainty they require, will they give those powers to the Scottish Parliament?

Mr Davis: Again, we are talking about aims, ends and means. On the Joint Ministerial Committee, the Scottish Government have raised the very important issue of the immigration needs of Scotland. I have relayed their questions to the Home Secretary and I expect that when we come to a UK immigration policy, it will reflect the needs of every part of the United Kingdom.

Stephen Gethins: I look forward to having the Secretary of State's support for his leave campaign's promises on immigration power being given to Scotland. As part of that and on the issue of EU nationals, will he consider the 2012 European Court of Justice judgment in the case of Zambrano v. Office national de l'emploi, which gave EU nationals with primary caring responsibilities the right to reside in the member state of which their dependent child or adult is a national?

Mr Davis: I am not familiar with the individual case the hon. Gentleman raises. I will look at it in detail and come back to him, as is my normal approach. I say this, however: the European Court of Justice will not rule over the United Kingdom after the date of Brexit. That does not mean that we will not have a very humane, sensible and straightforward policy with respect to things such as family relationships, which the hon. Gentleman talks about.

Oral Questions on Article 50: "Scotland's Place in Europe"

Roger Mullin (Kirkcaldy and Cowdenbeath) (SNP): Whether the Government plan to refer to the recommendations of "Scotland's Place in Europe", published by the Scottish Government on 20 December 2016, in their notification to the European Council of the invocation of article 50. [909147 & 909150 grouped]]

The Secretary of State for Exiting the European Union (Mr David Davis): We are working closely with the Scottish Government to ensure the best deal for Scotland and the rest of the UK as we leave the European Union. We share many objectives, including having an open and outward-looking country, ensuring access to labour, collaborating on science and research, protecting workers' rights, having a smooth and orderly exit process, and guaranteeing the rights of EU nationals in the UK and of UK nationals in the European Union. We should also agree that there should be no new barriers to living and doing business within our own Union. They should not be created.

Roger Mullin: Who knows what the Scottish people will think of such an imprecise answer to a specific question? Let me try something else that may help the Secretary of State. How many trade negotiators have been recruited to deal with matters such as the very specific and unique needs of some sectors of the Scottish economy?

Mr Davis: Many trade negotiators have been recruited, particularly by the Department for International Trade. I recommend that the hon. Gentleman raises the question with that Department, because it has been very busy at that in recent months. The simple truth is that the British Government share the hon. Gentleman's aims for his constituents and for the people of Scotland—namely, we want the best possible deal, which will be best for the Scottish economy, for Scottish business and, most of all, for Scottish people.

Hannah Bardell: Following on from the question of my hon. Friend the Member for Kirkcaldy and Cowdenbeath (Roger Mullin), I am glad to inform the Secretary of State and, indeed, the House that an STV poll shows that support for independence has gone up to 50:50. Given the Secretary of State's intransigence and his Government's determination for a hard right-wing Tory Brexit, which way does he think that poll will tip as he continues in his intransigence?

Mr Davis: First, I do not recognise the phrase "hard Brexit" or, for that matter, "right-wing Tory Brexit". Secondly, I am not a great believer in polls when it comes to referendums; they do not exactly work very well. If the hon. Lady wants to go with polls, perhaps she should go with the poll of the Scottish people, who say they do not want another referendum.

Andrew Stephenson (Pendle) (Con): I respect the desire of the Scottish Government to contribute to the Brexit process, and that of the Welsh, Northern Irish and some English regions. May I urge the Government to reflect on all representations made and proceed with a policy that works for the whole United Kingdom?

Mr Davis: My hon. Friend is exactly right, and that is the intention of the Government, which is why we are going for a comprehensive, overarching free trade agreement that will deliver extremely beneficial results for Britain and—I stress this point—for the European Union as well.

Oral Questions on Devolved Administrations

HC Deb 9 Mar 2017 c934-6

Patricia Gibson (North Ayrshire and Arran) (SNP): How he plans to involve the devolved Administrations in negotiations on the UK leaving the EU.

The Parliamentary Under-Secretary of State for Exiting the European Union (Mr Robin Walker): The Prime Minister, supported by my Department, will agree the format of negotiations with our counterparts once negotiations have begun. In the meantime, she will be informed by the Joint Ministerial Committee (EU Negotiations), which will ensure that we negotiate the best possible future for the United Kingdom, representing all its constituent parts.

Patricia Gibson: Regarding Scotland's role in the article 50 process, Supreme Court president, David Neuberger, said on 24 January that it was a political decision whether formally to involve the devolved Administrations in the process of leaving the EU. Will the Minister tell us what role the devolved Parliaments will have in the passing of the great repeal Bill?

Mr Walker: Of course, we have formally involved the devolved Administrations in our preparations through the JMC process, and we continue to engage in that process. With regard to the great repeal Bill, a White Paper will be published and the devolved Administrations will have their opportunities to respond to that, as will hon. Members across the House.

Wayne David (Caerphilly) (Lab): When the Government devolve powers that have been repatriated, will they consider allocating extra resources to ensure that those policies are implemented properly?

Mr Walker: As we have said, we have not made the final decisions about repatriation. That is something we will want to discuss with the devolved Administrations, as I think the Welsh Government have suggested. The Treasury has already made important guarantees that cover devolved Administrations as well as Government Departments.

Tom Brake (Carshalton and Wallington) (LD): In devising plans for Brexit and involving the devolved Administrations, Ministers will have drawn on the advice of a large number of UK and foreign consultancy firms such as Accenture. The Press Association and others want to know how much this has cost. Will the Minister confirm the spend to date on the likes of Accenture, PwC, City legal firms and others in supporting the Government on Brexit?

Mr Walker: I am sure all that type of information will be disclosed in the usual way when the Department reports its accounts.

Business Questions, HC Deb 9 Mar 2017 c949

Mark Durkan (Foyle) (SDLP): Will the Leader of the House tell us about the role and locus of his office in the preparation and passage of the great repeal Bill? Given that that office steered English votes for English laws, what assurance can he give us that that Bill will not be a vehicle for English votes over devolved competences?

Mr Lidington: My office will be involved, and I will be involved in the Cabinet Committee that reviews that legislation before its introduction in the same way as we review all legislation. I assure the hon. Gentleman that the impact of the whole Brexit process on devolved competences is one of the key issues we are considering. Many EU-level competences cut across devolved matters, although they also include some reserved matters—fisheries is one example—so we will continue to engage very closely with all three devolved Administrations to ensure that we get the right outcome and that there is no question at any stage of taking away powers that have been devolved under the three devolution Acts.

3.2 Debates

[Leaving the EU: Animal Welfare Standards in Farming](#)

24 Jan 2017 | Westminster Hall | 620 cc89-90WH

[Extracts]

Member: Dr Paul Monaghan (Caithness, Sutherland and Easter Ross) (SNP) | Party: Scottish National Party: The UK Government's plans for a hard Brexit, including taking all the nations of the UK out of the European single market—in Scotland's case, against our will and against our interests—will not only inflict, in our view, catastrophic damage on Scotland's agricultural sector but bring the serious possibility of damage to the welfare of farm animals. The Minister knows that the people of Scotland voted decisively to remain within the European Union and to continue to enjoy all the benefits and opportunities our membership provides. Short of continuing EU membership, we believe that full membership of the single market and the customs union is the best outcome, not only for Scotland but for each country of the UK, not least in respect of animal welfare standards. Outside the single market, within a UK that has isolated itself in the world, Scottish farmers would face the prospect of paying the same high tariffs that apply to countries outwith the EU such as Ghana or Mozambique, for example. That is hardly the preferential access we currently enjoy.

The consequences will be profound—much lower sales or much lower prices paid to our farmers and food producers. The potential loss of the animal welfare controls we currently have in place to protect both human health and animal health will make future trade agreements considerably more difficult to achieve. As my hon. Friend the Member for East Kilbride, Strathaven and Lesmahagow (Dr Cameron) noted, if Scotland is forced to leave the EU, we would expect powers over animal

welfare and protection to be fully devolved to Scotland to enable us to address this challenge.

The Minister of State, Department for Environment, Food and Rural Affairs (George Eustice): Several hon. Members—particularly the two Opposition Front Benchers, the hon. Members for Caithness, Sutherland and Easter Ross (Dr Monaghan) and for North Tyneside (Mary Glendon)—have raised the issue of regulation when we leave the European Union. It is the case that much of the current regulation relating to farm animal welfare and the welfare of animals at the time of slaughter is governed predominantly by EU law. I reassure hon. Members that nothing will change overnight. As the Prime Minister has pointed out, the great repeal Bill will, in the first instance, convert all existing EU law relating to animal welfare on to a legitimate UK legal basis, and we will be free to improve that legislation over time.

Exiting the EU: Scotland**14 Dec 2016 | Westminster Hall | 618 cc382-4WH**

[Extracts]

Peter Grant (Glenrothes) (SNP): The first argument for giving Scotland its proper place throughout the Brexit process is that it is Scotland's proper place. If we are truly an equal partner in this Union and an integral part of the United Kingdom, we are entitled to nothing less than equal partnership. We should be an integral part of the most important negotiations that the United Kingdom has undertaken since 1945.

The second argument stems from the Prime Minister's repeated claims that she will negotiate a deal in the best interests of all the United Kingdom. How can she possibly know what is in the best interests of all the different nations and regions of the United Kingdom? Who is now telling her what is in the best interests of the people of Scotland? Who in the inner circle of the Cabinet will speak up for Scotland's interests or those of other devolved nations when—not if, but when—they do not coincide with the interests of other parts of the United Kingdom? The Secretaries of State for the devolved nations are not even part of that core decision-making team. How can it be credible for Cabinet Ministers to say that they will negotiate for what they know is in best interests of Scotland, when they are fighting among themselves about what is in the best interests of the United Kingdom?

By contrast, the Scottish Government are pretty clear about what they believe is in the best interests of Scottish people. Their immediate response after the referendum was almost unanimous and supported across party lines in the Scottish Parliament. They have committed to publishing proposals before Christmas that could deliver as much as possible of what is in Scotland's interests while still allowing the UK Government to respect and honour the decision made on 23 June.

The Parliamentary Under-Secretary of State for Exiting the European Union (Mr Robin Walker):

The hon. Member for Glenrothes touched on the future trading relationship with the EU. One of our first priorities is to allow UK companies to trade as freely as possible with the single market in goods and services—that is the very point he was making. We will work hard to get the best deal for the whole UK, and are considering all factors carefully in implementing the referendum decision. We are, though, looking for a unique outcome, not an off-the-shelf solution. We are aiming for the right deal for the United Kingdom. As we conduct our negotiations, it is a priority to secure British companies' trade with the single market in goods and services.

Indeed, we want the best possible arrangement for trade in goods and services with the EU. We are not seeking to replicate any other model; we want a bespoke approach that works for the whole of the UK, including Scotland. This objective is a priority that I believe businesses across the United Kingdom and across Scotland will share. A single UK

position in relation to our future relationship with the EU is vital to protecting the UK's interests as a whole.

For Scotland, exports to the rest of the UK are worth four times as much as those to the EU. This Government are determined to promote Scotland's future, including through the extra £800 million of capital funding through Barnett consequentials, as a result of the autumn statement. If that funding is used properly by the Scottish Government, it will make a real difference to productivity, jobs and growth, so that the Scottish economy can perform even more strongly in the future.

I note that the hon. Member for Glenrothes and some of his hon. Friends have touched on a role for the Scottish Government in the negotiations themselves. We have made no decisions yet about the format of the direct negotiations with the European Union. Of course, it will be for the Prime Minister to ensure that we negotiate the best possible future for the United Kingdom, and our Department is there to support her, representing the interests of all of the UK's constituent parts. However, it is very clear that in each of the three devolution settlements, the conduct of international relations is a matter that is expressly reserved. In the Scotland settlement, "international relations...including relations with the European Union" is a reserved matter. That does not diminish our commitment to engaging the Scottish Government. I say again that the JMC(EN) has an important and enduring role in overseeing these negotiations as they take place.

3.3 European Union (Notification of Withdrawal) Bill 2016-17

House of Commons

2nd reading: [31 January, 2017](#)

2nd reading: [1 February, 2017](#)

Committee: 1st sitting: [6 February, 2017](#)

Committee: 2nd sitting: [7 February, 2017](#)

Committee: 3rd sitting: [8 February, 2017](#)

Report stage: [8 February, 2017](#)

3rd reading: [8 February, 2017](#)

House of Lords

2nd reading: [20 February, 2017](#)

2nd reading: [21 February, 2017](#)

Committee: 1st sitting [27 February, 2017](#)

Committee: 2nd sitting [1 March, 2017](#)

Report stage: [7 March, 2017](#)

3rd reading: [7 March, 2017](#)

3.4 Commons Select Committees

Exiting the European Union Committee

[UK's negotiating objectives for withdrawal from EU inquiry](#)

Terms of reference:

- What should be the UK's objectives in negotiating its future economic and political relationship with the EU, looking at both risks and opportunities?
- What will have to be included in the negotiations to leave the EU under Article 50 and to what extent will this include provisions relating to the UK's future relationship with the EU?
- Is there a case for the UK seeking to negotiate transitional arrangements in the event that it is unable satisfactorily to reach agreement on its future political and economic relationship before it has left the EU under Article 50?
- Does the Government have the capacity and the appropriate structures to meet its objectives?

[Scottish Government's role in Brexit negotiations examined](#)

Exiting the European Union Committee questions Scottish Government and academics on EU withdrawal

Scottish Affairs Committee

[Scotland's place in Europe](#)

Scottish Affairs Committee inquiry into Scotland's future relationship with Europe following the referendum result

[David Mundell questioned on UK Government's Brexit plans](#) by the Scottish Affairs Committee, 14 Dec 2016

3.5 Lords Select Committees

EU Select Committee

[Inquiry on Brexit: devolution](#)

The inquiry will consider the political and economic implications of Brexit for Scotland, Wales and Northern Ireland, and on the devolution settlement as a whole. It will consider the process by which responsibility for current EU competences that cover devolved matters will be transferred to the devolved institutions; the extent to which the devolved institutions have the capacity and resources to cope with these additional responsibilities; and what the repatriation of powers from the EU to the devolved institutions will mean for the balance of power between the UK Government and Parliament and the devolved bodies.

EU Energy and Environment Sub-Committee

[Brexit: environment and climate change](#),

12th Report of Session 2016-17, 14 Feb 2017, HL Paper 109

Chapter 9, [Devolution and the Environment](#)

4. Scottish parliamentary material

Debates

[Economic impact of leaving the European Union](#)

28 February 2017

Economy, Jobs and Fair Work Committee's report on the economic impact of leaving the European Union.

[Withdrawal from the European Union \(Article 50\)](#)

7 Feb 2017

Minister for UK Negotiations on Scotland's Place in Europe, Michael Russell MSP, argues against approving the triggering of Article 50

[Scotland's Future Relationship with Europe](#)

On protecting Scotland's interests in negotiating our future relationship with Europe

Committees

[European and External Relations Committee](#)

To consider and report on-

- Proposals for European Communities legislation
- The implementation of European Communities legislation
- Any European Communities or European Union issue (d) The development and implementation of the Scottish Administration's links with countries and territories outside Scotland, the European Communities (and their institutions) and other international organisations; and
- Co-ordination of the international activities of the Scottish Administration.

5. Further reading

5.1 Commons Library briefings

[**Legislating for Brexit: directly applicable EU law**](#), Jan 2017

This Briefing Paper explains what 'directly applicable' EU law is, how it applies in the UK, and estimates how many EU regulations are in force.

[**Legislating for Brexit: Statutory Instruments implementing EU law**](#), Jan 2017

This paper looks at how the majority of EU directives are implemented in the UK and lists EU-related UK Statutory Instruments.

[**Effect of the UK leaving the EU on the rural economy**](#), 16 Jan 2017
Commons Debate packs | CDP-2017-0018

[**European Union \(Notification of Withdrawal\) Bill: analysis of Lords' amendments**](#), 10 Mar 2017

This Commons Library briefing analyses the Lords' new clauses on EU/EEA citizens in the UK and on a 'meaningful vote' at the end of the negotiations, for the Bill's return to the Commons.

[**European Union \(Notification of Withdrawal\) Bill**](#), 30 Jan 2017

This Library briefing analyses the short Bill that offers Parliament its first opportunity to give legal effect to the result of the EU referendum by providing the UK Government with authority to trigger Article 50 on leaving the EU.

[**Brexit: devolved legislature business**](#), 13 March 2017

A record of Brexit-related business in the devolved legislatures updated each Monday.

[**Brexit: next steps of UK's withdrawal from the EU**](#)

Parliament's analysis of how leaving the EU will affect different policy areas in the UK.

- [Defence and security](#)
- [Economy, business and trade](#)
- [Education, science and research](#)
- [Employment and pensions](#)
- [Energy and environment](#)
- [Farming and fishing](#)
- [Health and social care](#)
- [Immigration and border controls](#)
- [Transport and infrastructure](#)

5.2 Chatham House Research Paper

[Devolved External Affairs: The Impact of Brexit,](#)

Richard G Whitman, Feb 2017

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