Question 1. How effective is Parliament’s current scrutiny of treaties in both holding the Government to account and helping it get the best agreements possible? How useful are the processes and powers under the Constitutional Reform and Governance Act 2010 and do they strike the right balance between Parliament and government?

1. Parliamentary scrutiny of treaties in holding the government to account is currently ineffective. The Constitutional Reform and Governance Act 2010 does not given sufficient powers to enable this.

2. Example: Third edition of UNICEF Implementation Handbook for the UN Convention on the Rights of the Child effectively undermines the UNCRC treaty by substituting ‘gender identity’ for sex, and introduces sexual orientation for minors. The UNCRC is a major UN treaty signed and ratified by the UK, yet here it is being undermined with no questions asked about this in Parliament. ¹

3. The repercussions can be seen in the way in which the Scottish Government leaned on the third edition of the Implementation Handbook in its consultation document on the reform of the Gender Recognition Act in 2017-2018. In pages 20-23 of our response to that consultation we criticised this tendency extensively. ²

4. Note that for reasons of space only this one topic is given as an example here. No doubt many more could be furnished.

Question 2. What challenges does Brexit pose for Parliament’s consideration of treaties?

5. It is time to revisit the effect that EU treaties have had on matters of fundamental human dignity such as the right to life, children’s rights,

parental rights, the nature of marriage, freedom of speech and religious freedom. In particular there is a need to scrutinise not only the treaty texts themselves but also and especially the ‘soft law’ that has been produced in relation to these, often by committees in international institutions, and which in practice are often wrongly taken to provide the meaning of the laws themselves.

**Question 3.** What role should Parliament have in the future in scrutinising treaties, from potentially requiring approval for the negotiating mandate through negotiations themselves to treaty agreement, as well as in subsequent treaty actions like amendments, derogations, enforcement and withdrawal? How should this link to Parliament’s consideration of treaty-implementing legislation?

**Question 5.** Should different types of treaties be subject to different levels of scrutiny? If so, how should these be differentiated?

**Question 6.** Is a parliamentary treaties scrutiny committee required to examine government treaty actions post-Brexit? If so, how should it be composed and supported, and what powers should it have? Or would another model be appropriate?

6. Yes, such a committee is required because this would make decision-making more public and thus make it easy for journalists to cover. A committee would also be able to conduct investigations and make public calls for evidence.

7. Another reason to have a specific committee for this issue is the need to differentiate the scope of this committee’s work from that of existing committees involved in legislative scrutiny, e.g. Joint Select Committee of the House of Commons on Human Rights, House of Lords Select Committee on the Constitution.

8. **Question 7.** What information should the government provide to Parliament on its treaty actions? Should there be a regular reporting requirement during negotiations?
9. The government should provide Parliament with a complete list of organisations that have lobbied for particular treaties including clauses therein.

**Question 8. How might the government and/or Parliament best engage other stakeholders and members of the public during treaty negotiation and scrutiny?**

10. Introduce mechanisms for transparency and make journalistic coverage of every stage of debate mandatory, esp. for UN Committees, as they receive the least scrutiny, perhaps because of the location of UN Committees in New York.

11. Review the definition of ‘stakeholder’ used in government consultations as it is often implicitly understood in an individualistic manner, as well as presupposing that people who share a protected characteristic operate in a vacuum. Perhaps there is a need for an inquiry or consultation into this topic.

*6 December 2018*