Thank you very much for inviting me to speak with your Committee in relation to its Review of Investigative and Legislative Committees. My apologies again for having to cancel my appearance at your Committee but welcome the opportunity to set out some comments in writing to the Committee.

When I was first elected to the Scottish Parliament in 1999 if powers weren’t reserved to Westminster under Schedule 5 of the Scotland Act, then it was clear they were devolved. This is no longer the case. With the introduction of a number of shared powers, the operation of the fiscal framework and the possibility of a number of other common frameworks post-Brexit, devolution is now significantly more complex. Crucially, for all of us parliamentarians and for Committee scrutiny, devolution is also much more dependent on effective inter-governmental working, much of which understandably is confidential.

So, where does that leave parliamentary scrutiny and accountability as well as the need to ensure public confidence in the effectiveness of our constitutional arrangements? The need to allow governments a legitimate space to negotiate in private, while ensuring effective scrutiny and accountability, is not an easy circle to square. But it does emphasise the need for effective inter-parliamentary working across the UK.

The Interparliamentary Forum on Brexit is one of the ways that Parliaments have evolved to work together more effectively. This informal group has provided members of devolved and UK Parliaments a neutral environment in which the cross-party concerns of the devolved and UK Parliaments could be raised and which can then help shape some of the thinking in key committee reports.

It also provides a positive opportunity to discuss those areas of our work where there is a mutual interest as well as those where our perspectives are different and to build trust and relationships which enable more collegiate and collaborative working in future. It also facilitates discussion of work our Committees are undertaking in shared policy areas such as Intergovernmental relations and common frameworks. These are areas where the forum can play a collective role in seeking improvements across all the Governments in terms of greater transparency and engagement with Parliaments as well as with stakeholders. The Forum’s recent letter to the Rt Honourable David Lidington MP demonstrates that collective will.

The strength of the Forum flows from its informal nature. One lesson learned from the Finance and Constitution Committee visit to Brussels to discuss Common Frameworks was that strong, well supported, agreements are best delivered when all parties enter into discussions early on, with trust and good will but crucially all seeking to deliver the best outcomes. That should be the basis on which we should work together across the Parliaments and should be how the Forum operates.

As I comment above, Common Frameworks are one area where scrutiny by Parliamentary Committees will be both necessary and challenging. This newly
emerging shared policy area has been a focus for the Finance and Constitution Committee more recently and we are now well underway with our inquiry. Whilst all our work is available online, a key theme emerging from our work is that if meaningful engagement is undertaken early on and throughout the process then disputes are less likely. This theme emphasises to me the importance of Parliamentary Committees being able to scrutinise not only the delivery of common frameworks but also their earlier negotiation and agreement. This scrutiny function is equally important in relation to trade agreements and international treaties as we recognise in our recent report on the Trade Bill Legislative Consent Motion.

Finally this year has seen the first year of our new budget process whereby budget scrutiny becomes a year round approach for Parliamentary Committees. As part of this new process, we have taken on board the Commission on Parliamentary Reform recommendations and successfully delivered a number of interactive sessions for Members, and staff on the new budget process. Facilitated by Committee and External Staff, these well attended sessions provided a valuable opportunity to ask questions and discuss what the new process means in practice.

I look forward to reading your Committee’s final report and if I can provide any further information then please do not hesitate to contact me.

November 2018