

DISCUSSION ON GOOD PARLIAMENTARY PRACTICES AND FUTURE COLLABORATION

CAPTE TOWN, SOUTH AFRICA, 11 -12 NOVEMBER 2019



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PROGRAMME REPORT

INTRODUCTION

A team of officials from the UK Parliament, under the auspices of CPA UK, met with the officials from South African Parliament to share good parliamentary practices and scope for future collaboration with the South African Parliament. The main objective of this engagement was to share best practice on oversight and information (content and research) support to Members of Parliament, committee management and legislative processes in both Parliaments, with an emphasis on parliamentary oversight over trade and international treaties.

The two-day programme was divided into three thematic discussions:

- Sharing of good parliamentary practices, with a focus on the committee system
- Research and development
- Oversight of trade agreements

The final session was dedicated to designing a collaborative programme and a timetable to implement it.

By the end of the two-day programme participants from both South Africa and the UK:

- Developed a clear understanding of oversight functions, particularly trade scrutiny operated in both Parliaments;
- Advanced their knowledge of research, legal and other support services available to the parliamentary committees in both Parliaments;
- Acknowledged the professional development support available to staff and parliamentarians in both Parliaments, including a new members induction programme and talent management support;
- Identified key challenging issues and areas of future collaboration;
- Agreed on a schedule of meetings for the year ahead, including funding proposals – subject to the confirmation by the Accounting Officer of each Parliament;
- Agreed to produce a joint report before 31 December 2019 capturing the key outcomes of this joint programme.

The programme developed by the representatives of both Parliaments touched on key issues currently faced by the Houses and Committees and how the scoping visit would assist in cementing a sustainable relationship between the two Parliaments with a view to improving the core functions of parliaments.

Further, the changing political landscape necessitated a review of parliamentary responses to key issues facing citizens of both countries and the pockets of excellence in each institution would symbiotically contribute to better support Members and committees and thereby to citizens in South Africa and the United Kingdom.

The UK Parliament delegation was received by Mr Masibulele Xaso, the Secretary to the National Assembly and Ms Ressida Begg, the Division Manager: Core Business Support, who conducted them to the Acting Secretary's Office for a courtesy call.

Mr Xaso, Mr Masibulele Xaso, also welcomed the UK delegation to South Africa and expressed a desire for the engagements to mutually benefit both the South African and UK Parliaments.

PARTICIPANTS

South African participants in this programme were drawn from the Core Business Support Division (Committee Section and Constitution and Legal Services Office [CLSO]), Knowledge and Information Services Division (Research Section and Library Services) and Human Resources Division (Talent Management).



Ms Ressida Begg, the Division Manager responsible for Core Business Support led the South African delegation. Accompanying her were:

Dr Leon Gabriel, the Division Manager responsible for Knowledge and Information Services,
Mr Vuyisile Mathiti the Talent Manager,
Dr Gilbert Wesso, the Chief Researcher,
Ms Fatima Boltman, Acting CIO, and
Adv Zuraya Adhikarie, Chief Legal Adviser.

The UK team consisted of:

Ms Leoni Kurt, Senior Clerk, Scottish Affairs Committee, House of Commons;
Mr George Woodhams, Committee Specialist, Defence Select Committee, House of Commons; and
Mr Yashasvi Chandra, Africa Regional Manager, Commonwealth Parliamentary Association of the UK Parliament (CPA UK).

The delegation was accompanied by Mr Benjamin Boddy, Consul General, British Consulate, Cape Town and Ms Susie Latta, a former CPA UK staff and a South Africa based, independent consultant.

THEME 1: SHARING OF GOOD PARLIAMENTARY PRACTICES: THE COMMITTEE SYSTEM

SUPPORT SERVICES TO PORFOLIO COMMITTEES IN SOUTH AFRICA

After the election in May, the Parliament reduced the number of portfolio committees (UK equivalent of Select Committees) in the National Committee from 34 to 27. The number of committees in the National Council of Provinces (NCOP) remained unchanged at 11.

Parliamentary committees receive a suite of non-partisan support from the parliamentary administration in the form of:

- Procedural advice;
- Secretariat support;
- Content and Research support;
- Logistical support;
- Legal advisory support;
- Legislative drafting services;
- Language services;
- Communication support;
- Household services;
- Health and safety support;

Committees are directly supported by the following personnel: Committee secretary (Clerk), who ensures that

- All notices and documentation for committee meetings are maintained;
- Prepares draft minutes and reports for a committee;
- Ensure that the final set of minutes or reports are signed and stored;
- Liaison with stakeholders required to attend committee meetings.

Content Adviser (Committee Specialist) is:

- Responsible for provision of support with developing a strategic plan of a Committee for the 5-year term;
- Responsible for provision of subject-specific content support to a committee;
- Regarded as experts in their field – prerequisite Master's degree and relevant experience;
- In charge of technical support with tracking of achievement of targets;
- Also responsible for ensuring quality assurance of all outputs of a committee.

Researchers provide research support to clients – analytical

papers and sectoral analysis;

- Support for oversight visits, international study tours, conferences, parliamentary programmes;
- Presentations to clients i.e. committees, parliamentary delegations, etc.

Committee Assistant takes charge of the provision of all logistical support to all activities of a committee in the precinct and outside Parliament.

Executive Secretary to Chairpersons of Committees provides secretarial support to a Chairperson in the form of office management, diary management and general admin for the office of a Chairperson.

All of these staff (excluding Researchers who are located in the Knowledge and Information Services Division) report to a Committee Unit Manager on a cluster basis. These clusters are aligned to the government portfolio clusters. The six Unit Managers reports to the Section Manager for Committees.

Since the South African Parliament is undergoing a restructuring, they were keen to do benchmarking with their UK counterparts, particularly in the area of committee support.

LEGAL SERVICES

The key strategic objective of the Constitutional and Legal Services Offices (CLSO) is to improve the average turnaround time for the provision of legal advice to the Houses, Committee and Members of Parliament.

The primary support provided by CLSO to Committees in terms of its legal advisory role related to:

- the classification of Bills in terms of the relevant constitutional provisions
- advising on the constitutionality of Bills and amendments to Bills
- providing legal support in committee oversight functions (inquiries, summoning witnesses, etc.)

CLSO has a legal drafting component which provides a legal drafting service to individual Members and Committees in relation to private Member's Bills or Committee Bills. This service is extended to cover amendments to or redrafting of executive Bills. In addition, the Legal Drafting Unit has reviewed the statute book



for example in relation to apartheid legislative provisions that are still on the statute book.

The CLSO also comprises a Bills Office which is responsible for the processing of Bills and Acts. This Unit:

- monitors the compliance with rules,
- edits bills as per committee directives,
- tracks the official passage of bills,
- reports to the programming committees on the status of bills
- process the Act form of legislation for assent and safekeeping of legislation passed by Parliament.

SHARED SERVICES APPROACH

Parliament has recently undertaken the organisational realignment project, which is geared towards organisational effectiveness through a holistic review of the Parliamentary Service Administration. The project is derived from the strategic objective of "building a capable and productive parliamentary service that delivers enhanced support to Members of Parliament in order that they may efficiently fulfil their constitutional functions".

The need for an alignment of operating models, processes, systems, structures, roles and organisational culture to the mandate and strategic direction of Parliament forms the building blocks for this strategic objective.

A shared services model is proposed for parliamentary committees, alongside dedicated support that is appropriate to the nature of the committee. Integrated Information services will ensure that all committees can access expertise to support them in their deliberations, decision making and oversight functions, whilst dedicate procedural and logistical support will enable the committee to function optimally.

The new functional structure provides for an alignment of National Assembly committees to the NA House and the same with the NCOP committees vis a vis the NCOP House; thereby ensuring that the entire law-making and oversight value chain is grouped in the Houses.

4IR AND COMMITTEE SUPPORT

As information-driven organisations, Parliaments are not excluded from the sporadic changes the 4IR has introduced. The proliferation of information and knowledge in the 21st century, driven by technological advancements, are fundamentally changing the manner in which parliaments operate, communicate and connect with Members, staff and citizens.

The ICT Division is strategically poised to improve the provision, usage and management of ICT solutions and ICT infrastructure to meet the information needs of Members and staff.

The ICT strategic focus in the 6th Parliament is to:

- Improve communication in the organisation;
- Improve the flow and use of unstructured information;
- Build efficiency and effectiveness in support of Members with the introduction of My Parliament App which is aimed at improving access to and the flow of information from Committees to Members;
- Use a common service desk platform to migrate to a service-oriented institution thereby ensuring a seamless support service to Members and staff;
- Use analytics/dashboards to measure performance from data automatically created;
- Improve institutional e-reporting;
- Improve knowledge management capability with e-repository, automated legislative drafting, etc.;
- Leverage new 4IR technologies e.g. use of chatbots, deep learning networks, etc.

SUPPORT TO SELECT COMMITTEES IN UK

The United Kingdom has a constituency-based first-past-the-post electoral system, as opposed to the South African proportional representation system. Subject to the Standing Orders, most select committees comprise 11 Members. The proportion of Members representing each party on a Committee is calculated by referring to the number of seats that each party holds in the House: thus the party of Government normally holds the most seats on any given Committee, since it would hold the majority of the seats in the House.

At the beginning of a Parliament, the parties hold negotiations to determine which party will hold the Chairmanship of each Committee. The number of Chairmanships held by each party is calculated according to the proportion of seats held by parties in the House of Commons. Most Committee Chairs (as listed in Standing Order no. 122B) are subsequently elected by the House: nominated candidates for each Committee will only comprise of the candidate from the relevant party, however the whole House elects the Chair from this list. There are still a limited number of Committees that choose their own Chair, such as the Administration Committee.

Juxtaposed to this, ruling party members generally chair Committees in the South African Parliament, bar the Standing Committee on Public Accounts.

Select Committees in the House of Commons normally meet once or twice a week. The focus of oversight in the House of Commons takes the form of inquiries. These inquiries are first scoped, terms of reference are developed for each inquiry and those terms are published online, and written evidence is received. In addition, outreach and engagement activities with citizens, residents and lobby groups might take place in order to expand the breadth of evidence informing the inquiry.

The committee holds oral evidence sessions relating to the subject matter of an inquiry, and the final evidence session is usually held with the accountable Minister (at times accompanied by a senior official). The inquiry culminates in a draft report which the committee agrees on. Particular focus is given to the report's key conclusions and recommendations. Provision can be made for an alternative draft report, if consensus can't be reached. The final report is launched with a press notice, designed to promote media engagement. Sometimes a formal launch event is held to promote the report. Time can be scheduled in the Commons Chamber for a statement, and question and answer session on the report. By convention, the UK Government has agreed to respond to these reports within two months of its publication¹.

The Select Committee is usually supported by a:

- Clerk
- Second Clerk
- Inquiry Manager (Generalist)
- Specialist
- National Audit Office (NAO) secondee (inquiry manager) (there are normally 5-6 secondees from the NAO at any given time, and they usually hold roles on the Public Accounts Committee, Environmental Audit Committee and the Defence Committee, as well as others according to Committee need).
- Administration staff
- Specialist Advisors who are contracted for a limited period.

Other internal support to the Select Committee includes

- Media officer
- Outreach and engagement officer
- Social media officer
- Web and publications unit support
- Scrutiny unit support (legal and financial advice and drafting)
- Principal Clerks (senior, experienced Clerks)
- Chamber and Committee Team Services

THEME 2: RESEARCH AND DEVELOPMENT

RESEARCH SERVICES IN UK PARLIAMENT

Committee Specialists and Inquiry Managers are responsible for providing research support and advice to Committee members throughout the inquiry process; from the identification of potential topics to the drafting of final reports. Additionally, Committee staff and members may choose to appoint a Specialist Advisor to support the Parliamentary staff managing a specific inquiry. Advisors are external experts that may be drawn from academia or research institutes or they may be former practitioners, government officials, military leaders or from other public sector bodies. Specialist Advisors may receive remuneration for their contribution to a Select Committee inquiry, although many choose to contribute on a pro bono basis.

Committee Specialists are expected to have a prior understanding of the issues relevant to the work of their Committee but are also required to be able to quickly familiarise themselves with new subject matters. They engage with external experts and research the subject of a Committee's inquiry through reviewing existing Government policy and practice, surveying Parliamentary debates and analysing external resources, for example from think tanks, the media and academia. This research informs the terms of reference and background briefs presented to committee Members prior to oral evidence sessions and ensures that Committee Members understand the key issues and themes of debate in an impartial and neutral way.

Additionally, Committee Specialists play a role in identifying potential witnesses and engaging with them to explain the aims and objectives of an inquiry. Witnesses may include academics, research experts, individuals with an experience of the subject matter or representatives of business, trade associations or any part of the public sector. Certain topics of inquiry may require sensitive relationship management with potential witnesses and Committee staff regularly share best practice on how to ensure relevant stakeholders recognise the value in participating in evidence sessions. More formal relationships are in place to engage with Government, thanks to dedicated Parliamentary Liaison teams within each Government Department. These teams sit within the Private Office of most Government Ministries.

One of the key roles of Committee staff is to develop suggested questions for Committee Members to ask during oral evidence sessions and this is similarly an area where best practice is regularly shared between Committee staff. Following these sessions, Specialists analyse both written and oral evidence to identify key conclusions and recommendations for the Committee members to review in a draft report.

In addition to engaging with external resources, Select Committees also utilise a number of House of Commons Library resources

to strengthen executive scrutiny. These library resources provide timeous "need to know" information on topical issues and provide a nonpartisan view on the latest research and statistics and include:

- Research briefings – in-depth nonpartisan analysis of key legislation. These briefings are not only available to MPs, the public can access these on the Commons Library website.
- Business briefings – these documents focus on the parliamentary business in the Commons Chamber and in Westminster Hall.
- Local and constituency data – comprise statistical data on demographics, employment etc. in a defined constituency
- Parliament facts and figures on a number of parliamentary and government subject matters e.g. legislation, debates, divisions, etc.
- Economic indicators – these focus on current statistical data on 21 key economic indicators
- Parliamentary procedure and practice background briefings

RESEARCH SERVICES IN SOUTH AFRICAN PARLIAMENT

The Research Unit in South African Parliament was established in 1997. The Unit offers objective, non-partisan research support to Members of Parliament, Committees, parliamentary delegations and senior managers.

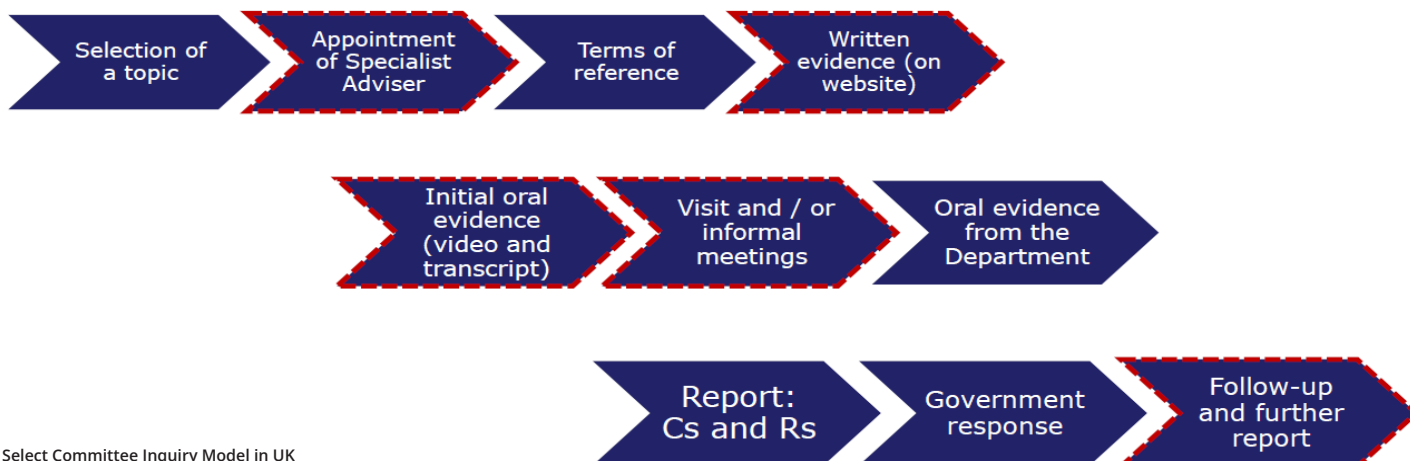
The Unit is divided into 7 clusters, each headed by a senior researcher. Each cluster comprises between 5-13 researchers and is supported by an Administrative Assistant. At present the Unit has a total staff complement of 59 comprising 7 Senior Researchers, 43 Researchers, and 8 Administrative Assistants, headed by a Chief Researcher.

The Research Unit is located in the Knowledge and Information Services Division.

The seven clusters are as follows:

1. Finance and Public Accounts
2. Trade and Economic Affairs
3. Social Services and Infrastructure
4. Justice, Security and Constitutional Affairs
5. Education and Recreation
6. Social Equity
7. Intergovernmental and Resources Matters

The Research Unit prides itself on providing a non-partisan, objective, impartial, confidential and accessible service to all Members and Committees. The Unit focuses on research support to clients, support to committee oversight visits,



Select Committee Inquiry Model in UK

international study tours, conferences, the annual parliamentary programme.

The annual parliamentary cycle gives impetus to a number of research products which includes inter alia

- Analysis of the State of the Nation Address (SONA)
- Budget analysis
- Strategic and Annual Performance Plan analysis
- Quarterly expenditure and Performance report analysis
- Medium Term Budget Policy Statement (MTBPS) analysis
- Annual report analysis
- Input in Budget Review and Recommendation Reports (BRRR)
- Legislative analysis
- Policy analysis
- Benchmarking studies
- Background papers for oversight visits, etc.

The Research Unit is envisaging broadening the research services offered to include:

- Strategic planning support
- Presentations for seminars, conferences, etc.
- Collaborative partnerships with UNICEF, Assaf, Universities across the country

The Unit does limited primary research but is embarking on more empirical research in the 6th Parliament and to produce more signature publications.

MEMBERS PROFESSIONAL DEVELOPMENT: INDUCTION OF NEW MEMBERS IN UK

A General Election Planning group comprising staff and Administration Committee Members is responsible for the induction services. Over and above the parliamentary induction, political parties arrange their own training and induction for their own Members. Information packs are made available to Members post the election results, advising them what to do next. These packs include:

- A New Members' Guide
- A welcome letter from the Clerk of the House
- A checklist of key documents to bring to Parliament on the first day
- Information on IPSA (Independent Parliamentary Standards Authority).

Over the years, the focus of the induction has shifted from procedural rules and "the niceties of conduct in the Chamber" to providing "practical, time-critical, information at the first point of contact". In 2015 a new telephone service was introduced which enabled logistical support to new Members, booking accommodation and travel.

Specialised information guides in the form of a New Members guide, Members Handbook and Member's staff handbook provide further information to help new Members onboard. The House of Commons has introduced an Induction Buddy system. These are staff members who have undergone a comprehensive training programme on the induction process, parliamentary procedure, services offered to Members, customer service, how to find out information a Member requires, etc.

Since 2015, the New Member's Reception Area was set up for Members to collect parliamentary passes, find travel information, gather details on IPSA, IT set up, learn about Members' pension advice, and participate in a tour of Parliament. Additional information made available to new Members includes the Code of Conduct, a "Short Guide to the Business of the House and its Committees and other useful guides.

Post the 2015 election, the focus of the induction programme

centred on "What do you need to know straight away?" In answering this question, sessions were held on the work and rules of the Chamber, complying with standards and declarations of interest, setting up an effective office, followed by sessions on Select Committees. All the induction briefings were Member-led.

- The following were reflected as key developments in the induction programme:
- More interactive sessions, tailored to members' individual needs
- Smaller group sessions
- Practical sessions on the courtesies in the House
- Mock debates
- Procedural training and seminar
- App developments to communicate key information

Provision is also made for non-returning Members to receive support via the parliamentary support phone line.

INDUCTION OF NEW MEMBERS IN SOUTH AFRICA

Towards the end of the 5th Parliament, a multi-party committee was established to prepare for the end of the Parliament and to ensure that plans were in place to receive new and returning members in the 6th Parliament.

This committee provided valuable feedback on Members' induction and training in general. Criticisms were levelled at past induction programmes where Members were inundated with information without practical exposure. These information sessions were premised on what officials thought Members should know as opposed to the immediate need for Members to be able to function effectively in their roles as public representatives. A more Member-centric induction programme was required.

More so, was the fact that once the induction program was concluded over a week or two, Members were expected to navigate all aspects of their representative roles. Further ongoing training was limited.

To address these constructive inputs, the administration adopted a new approach to the induction and ongoing training of Members of the 6th Parliament.

- An assessment was done on the number of returning vs the number of new Members. The latter number increased dramatically in the 6th Parliament to 56%, which meant that more than half of the Members of Parliament were either new to the legislature environment or had exposure to provincial and local legislative arenas.
- A multi-phase induction programme was developed to cater for the needs of members. The first phase focussed on their immediate needs.
- The second phase focused on the core mandates of law-making, oversight and public participation.
- Further phases would focus on specific processes such as passing the budget, oversight in committees and the Houses based on the annual parliamentary cycle.
- Training on subjects such as speech writing, engaging the media, how to run a constituency office, and accessing current technology, would be spread over the five year term based on the immediate needs of Members.
- Each work unit in the administration provided an overview of the services offered to Members and who the relevant contact officials are.
- The Members welcomed the opportunity provided by the Legislative Sector Support (LSS) programme to acquire a tertiary qualification as a number of Members successfully concluded this programme in the 5th Parliament.

TALENT MANAGEMENT IN UK PARLIAMENT

The House of Commons Talent Management Model was recently reviewed by the Commons Executive Board. The Future of Talent Development formed the basis of the review. Using the Bersin Talent Management Maturity Model the Board concluded that it was currently operating at Level 1 i.e. Essential talent activities. These talents have however been developed in isolation and in the absence of an overall talent management strategy. The target for the next 12-18 months was to move to a Level 2 – Critical Talent Growth with the ultimate view of achieving Level 4 – Inclusive Talent System.

Talent management goals

| | |
|---------------|--|
| People | Initiatives aimed at individuals whose attraction, retention, development and progression would add significant value to the business (compared to the same investment made in other individuals). |
| Roles | Initiatives ultimately aimed at addressing hard-to-fill roles in the business. |
| Risks | Initiatives aimed at individuals already in the organisation and whose loss would pose a significant risk to the organisation. |

The main focus of the talent management review was to ensure that the “best people do the job” and to ensure that “we have the skills and tools needed to help the House of Commons function effectively”.

Outstanding performers would take responsibility for their own development with a coaching approach. Greater representation of underrepresented groups would ensure a diverse workforce reflecting “the public we serve: A fair representation of internal and external recruitment would further enhance the ability to achieve a diverse workforce”.

A Graduate Development Programme has resulted in direct recruitment with 9 appointments in 2016/17.



The Summer Diversity Internship Programme (SDIP) provides a paid internship programme for underrepresented groups and these interns have fed into the Graduate Development Programme. Apprenticeships scheme allows ten apprentices per annum to participate in one of two types of apprenticeships; Business Administration and Customer Service.

In addition, the Speaker’s Parliamentary Placement Scheme

provides participants with a nine-month internship opportunity to work with a Member. This programme allows participants to gain experience in the operation of the House of Commons, as well as gaining political and team work experience.

Other talent management initiatives of the HOC include mentoring, coaching and buddying.

TALENT MANAGEMENT IN SOUTH AFRICAN PARLIAMENT

The Human Resources Strategy for the 5th Parliament made provision for a Talent Management sub-strategy and which resulted in the development of a Talent Management Index.

The primary focus of this Index is to ensure that each staff member is able to reach his/her potential by making use of different training opportunities availed by Parliament. Parliament would want to ensure that it has the right person with the right skills in the right post.

A bespoke Executive Development Programme developed by the Talent Management Team in conjunction with the University of Stellenbosch Business School (USB) saw all Division and Senior Managers participate in core leadership modules such as strategic leadership in a changing world.

A core focus of the talent management strategy is to focus on the development of women in leadership in Parliament. A customised Women in Leadership (WIL) programme was developed with USB focusing on women in mid management positions. The first cohort has successfully concluded a programme after attending block sessions on campus and working with division managers, assigned to them as mentors, on a HR themed group assignment.

Coupled with both these programmes, both senior and executive managers were assigned coaches from an external company who provide ongoing coaching to address day-to-day issues with a view to improve the overall management in Parliament. In the 6th Parliament, the focus has shifted from one-year internship programmes to a more sustainable Graduate Placement Programme (GDP). The purpose of this programme is to assist graduates with an opportunity to obtain experience in a legislative environment and to establish a conduit for prospective parliamentary staff.

A New Management Programme (NMP) is being rolled out for staff in supervisory roles with a view to develop management capabilities whilst the Management Development Programme (MDP) is aimed at making middle managers more strategic roles.

A Secondments and Transfers policy is in place which allows staff to be seconded for a short period to another department for experience. The policy also makes provision for staff members to be transferred to other non-departmental areas.

Apart from these opportunities, each division is required to develop an annual training plan that would capture the training needs of categories of staff in the division.

THEME 3: PARLIAMENTARY OVERSIGHT OF TRADE AGREEMENTS - SOUTH AFRICA AND THE UNITED KINGDOM

OVERSIGHT OF TRADE AGREEMENTS IN SOUTH AFRICA

The South African Parliament has established a uniform approach to oversight of trade agreements which finds its basis in the Constitution. Section 231(1) of the Constitution gives the national executive the power to negotiate and sign all international agreements. Section 231(2) requires international agreements to be approved by Parliament before they are binding. The latter excludes technical, administrative or executive agreements, or those not requiring ratification or accession. Section 231(4) requires that an international agreement must be enacted through national legislation to be law in South Africa.

Oversight over trade agreements falls within the purview of the Portfolio Committee on Trade and Industry. The Committee is responsible for:

- Overseeing the negotiation process
- Consider trade agreements to approve for ratification
- Pass legislation to domesticate international commitments
- Oversee the implementation of trade agreements and monitor its impact.

As part of its oversight role, the Committee also attends the WTO Ministerial conferences where its members have observer status. This allows members of the Committee to keep track of and develop a technical understanding of developments on negotiations and to engage with other parliamentarians on how to strengthen oversight over trade agreements. South African Parliament has also developed a number of cooperation platforms like SA - EU Focus Group. This Focus Group represents the South African Parliament in the SA-EU Inter-Parliamentary Meetings (IPMs). The structure is not an oversight structure but a cooperation platform. It has however played a major role in dealing with issues around the implementation of certain trade agreements.

The Focus Group has promoted and built relations between the SA and EU Parliaments and contributed towards a better SA-EU strategic partnership. In addition, it has developed a sound and informed parliamentary position on Africa and the EU's vision of regional integration, development, trade and peace. Existence of such forums also ensures more efficient parliamentary scrutiny of intergovernmental SA-EU agreements and their implementation.

Whilst South Africa has made substantial strides in international engagement since the advent of democracy, there is still a need to:

- strengthen the capacity of Members to engage on trade matters,
- strengthen public participation processes and the oversight over trade agreements to allow for input prior to the executive negotiation process
- oversee the impact of the implementation of existing trade agreements on South Africa's economy and employment
- strengthen integration between committees and issues arising from special parliamentary delegations.

Some of the key agreements South Africa is part of are:

- **South African Development Community (SADC) Free Trade Agreement**
- **SADC-EU Economic Partnership Agreement (SADC-EU EPA): This agreement between Botswana, Lesotho, Namibia, Mozambique, South Africa and Eswatini creates market access for agriculture for SADC countries into the EU market**
- **EFTA-SACU Free Trade Agreement: The EFTA comprises Iceland, Liechtenstein, Norway and Switzerland and makes provision for bilateral agreements on basic agricultural products by the individual EFTA States**
- **SACU-Southern Common Market (Mercosur) PTA: Mercosur is made up of Argentine, Brazil, Paraguay and Uruguay.**
- **African Continental Free Trade Area (AfCFTA): This agreement creates a single market for goods and services and enhances economic integration**



UK PARLIAMENT AND TRADE AGREEMENTS

Trade as an issue within the UK has been undergoing a significant transition in recent years. Historically, the UK fed into EU trade arrangements. Concurrently, the UK has negotiated a number of treaties in its own right, for example, the UK also has more than 100 bilateral investment protection agreements with mostly non-OECD countries². The UK has also negotiated treaties relating to the recognition of professional qualifications and degrees, for example, the UK Chile Agreement on the Mutual Recognition of Qualifications and Degrees³, as well as air services agreements that give UK airlines more advanced access to third country markets, such as the UK-Indonesia air services agreement⁴.

Despite the existence of UK-led treaties and MoUs, the largest proportion of treaties have been agreed at EU level, on behalf of the UK. Since the UK voted to leave the EU in 2016, the UK Government has been establishing a UK specific trade policy: a task which has not had to undertake since pre 1972, before the UK joined the EU.

Although Parliament is able to scrutinise the content of treaties and trade deals, and prevent ratification of a treaty, it has no role in systematically scrutinising treaties prior to signature. Furthermore, Parliament is unable to amend the content of a treaty (other than by exerting political pressure during the period of negotiation).

Trade Bill

During the 2017-19 Parliament, Parliament began scrutiny of the Trade Bill⁵. The Bill contained provisions for rolling over existing EU-third country trade agreements into equivalent UK-third country agreements. The Government argued these agreements had already been scrutinised, and thus, the Bill as originally introduced did not include provisions on Parliamentary oversight. The lack of Parliamentary oversight in the Bill attracted significant criticism.

The Trade Bill covered only non-tariff barriers as tariffs/quotas were covered in the Taxation (Cross-border Trade) Act 2018. Non-tariff barriers are those created by regulation, such as requirements on product specifications, packaging, labelling etc. This Bill has fallen due to the dissolution of Parliament, which took place in November 2019.

Trade and treaty scrutiny

Trade and treaties in the UK Parliament, have in recent years, been scrutinised in the following ways:

Constitutional Reform and Governance Act 2010 (part II) (CraG)

Where trade agreements are agreed via a treaty, they may fall under the legal arrangements for treaties. Part II of the Constitutional Reform and Governance Act 2010 codified the "Ponsonby Rule", which had a long-standing convention of treaty scrutiny.

Treaties are subject to a negative-resolution procedure: the Government must lay (provide) most treaties (with some exceptions) alongside an Explanatory Memorandum before Parliament, for 21 sitting days before it can ratify them. The Commons can block ratification by agreeing a motion not to ratify the treaty. The relevant Minister can respond with a statement explaining why the treaty ought to be ratified, thus re-starting the 21 sitting day period. The Commons can choose again to resolve against ratification, and this process can continue indefinitely. The Lords has one opportunity to resolve that a treaty not be ratified. There is no statutory requirement for a debate or vote, and parliament cannot amend treaties⁶. However, neither House has yet resolved against ratification of a treaty via this process.

Memorandums of Understanding, and "double taxation" agreements are not covered by the CRAg process. There might also be other exceptional cases, from which the CRAg process might not be applied.

Select Committees

Various Select Committees have, over the last few years, played a role in the scrutiny of trade and trade-related treaties, as well as over-arching trade policy. Often, the Government will send treaties to the relevant Select Committee, for further scrutiny. However, Select Committees rarely hold inquiries which consider the content of individual treaties. Some Committees hold specific roles in relation to Trade and treaties oversight:

- **House of Commons EU Scrutiny Committee**
- **House of Lords Secondary Legislation Committee/ Lords European Union Committee**
- **Commons International Trade Committee**



THE INTERNATIONAL TRADE COMMITTEE

The International Trade Committee was formed in 2015 to shadow the newly created Department for International Trade (DIT). Its main objective is to examine the expenditure, administration and policy of the DIT and its associated public bodies⁷. During the 2017-19 Parliament, the Committee held inquiries on UK investment policy, UK trade policy transparency and scrutiny, and UK-US Trade relations, amongst other topics. Its inquiry topics tend to look at general trade policy, rather than specific agreements.

A particular concern for the Committee has been the significantly small pool of expertise in the UK on the subject of trade. Most of the UK's trade arrangements have taken place at EU level for over 40 years, potentially leaving significant skills gaps in the UK.

In its report on UK Trade Policy and Scrutiny⁸, the Committee identified 4 principles, which it recommended that the Government incorporate into UK trade policy:

- (1) Conducting trade negotiations is the prerogative of the executive, but there must be a meaningful role for Parliament in the trade policy process.
- (2) Trade policy must be open and inclusive, and maximise benefit throughout the UK.
- (3) Government must operate from a presumption of transparency.
- (4) Consultative processes must be formalised.

In addition, it noted that "there is currently huge public interest in the UK's future trade policy and trade agreements, and if the Government wishes to increase public trust in UK trade policy, it should operate with a presumption of transparency. All documentation relating to trade negotiations should be made available, unless there is a genuine and reasonable justification for keeping specific documents confidential"⁹.

Future trade scrutiny

Government Commitments

The Government published its Processes for making free trade agreements after the United Kingdom has left the European Union in February 2019¹⁰. In the document, the Government outlines its future plans, which include some form of Parliamentary oversight. It stated that Parliament would have a role in scrutinising its Outline Approach, including negotiating objectives and a scoping assessment informed by economic modelling. The Government also considered the role of Parliamentary committees:

"The Government further proposes that it should draw on the expertise of Parliament throughout negotiations via a close relationship with a specific parliamentary committee in each House. We propose to work with the House Authorities to establish which committee(s) – including the possibility of creating a new one(s) – would be the most appropriate to take responsibility for scrutiny of future [Future Trade Agreements] (FTAs)... This would need to be on an understanding of confidentiality, and we envisage that the committee would need to take a mixture of public and private evidence from Ministers and negotiators on the progress of negotiations. This would ensure that the committee(s) was able to follow negotiations closely, provide views throughout the process and take a comprehensive and informed position on the final agreement. The detail of what would be shared and on what basis would be a matter for discussion between the Department for International Trade and the committee(s)"¹¹.

House of Lords Constitution Committee: recommendations on future Trade Scrutiny

In April 2019, the House of Lords Constitution Committee held an inquiry on subject of "Parliamentary Scrutiny of Treaties"¹². Its final report recommended that:

"a new treaty scrutiny select committee be established. This committee should sift all treaties, to identify which require further scrutiny and draw them to the attention of both Houses. The committee would have the option to undertake scrutiny of those treaties itself or engage the policy expertise of other select committees as appropriate. For significant treaties, the committee should be able to recommend that the Government extend the 21 sitting day period under CRAG, providing the committee with sufficient time to report to Parliament. The treaty committee should also be able to secure a debate on treaties it deems significant. We recommend that if the committee recommends a debate on a treaty, the Government should commit to providing time for it within the 21-day period"¹³.



RECOMMENDATIONS FOR FUTURE COLLABORATION

The purpose of this scoping engagement was to explore and identify areas for further collaboration. After the end of the programme, participants from both sides acknowledged that both parliaments could benefit from sharing good parliamentary practices and learning from each other.

Both parliaments, while following the Westminster model of parliamentary democracy, operate in certain unique ways. As highlighted earlier, while the RSA use the PR system, the UK elections function under the first-past-the-post system. The President of South Africa is directly elected whereas the Prime Minister is elected by the governing party and works within the Constitutional Monarchy. Yet, there is a lot in common. Both countries are strong democracies. The ministers are part of and accountable to the parliament and the committees in both parliaments play an active oversight role to hold the government to account. Therefore, it is logical for the two parliaments to collaborate, share good practices and learn from each other.

During the two-day programme, participants from both sides discussed, deliberated on and explored several topics related to parliamentary procedures and practices and highlighted associated challenges, particularly those relevant to the functions of parliamentary committees. While UK participants were keen to learn how the South African Parliamentary Trade Committee functions, the South Africa participants showed interest in UK Select Committee inquiries. Based on the discussions summarised in this report, both sides agreed to work together on the following areas:

- 1) Strengthening support to Committee Staff
 - a. HR benchmarking
 - b. Training
 - c. Talent management
- 2) Research
 - a. Impact assessment
 - b. Monitoring and evaluation
- 3) Strengthening Committee's oversight function
 - a. Committee inquiries
 - b. Evidence gathering
 - c. External stakeholder engagement
 - d. Report writing
- 4) Sharing trade scrutiny best practice
 - a. Pre-negotiation/trade treaty scrutiny/implementation (RSA)
 - b. Thematic/strategic issues and Departmental oversight (UK)
- 5) Sharing best practice to enhance public participation
 - a. Public education
 - b. Public engagement
- 6) Technology and ICT
 - a. Online broadcasts
 - b. Internal ICT (e.g. apps for members)
- 7) Members continuous onboarding: sharing information and publications
- 8) Strengthening bilateral ties between the two parliaments through peer-to-peer interaction

To collaborate on the areas highlighted above, we recommend the following:

1. Both Parliaments should agree to a bi-annual engagement on the areas of collaboration identified. Each Parliament should identify one focus area, relevant to their parliament, to be dealt each year.
2. To ensure peer-to-peer learnings at all levels, the engagements should involve both staff and members of the Parliament (Both UK and RSA).
3. The engagements could take place in the form of benchmarking exercises, study visits, staff secondments or attachments, and peer-to-peer visits. Both Parliaments should agree to the nature of the engagement after consulting internally and with each other.
4. The next engagements will take place in the second (April – June) and fourth quarter (Oct-Dec) of 2020 respectively.
5. These engagements will be hosted on a rotational basis with the next engagement being in the UK.
6. Each parliament will cover their travel and accommodation costs. However, both parliaments can explore other funding opportunities, as necessary.
7. The parties agree to keep the Secretary/ Clerk informed of all matters pertaining to this scoping arrangement.
8. Both Parliaments will conclude a Memorandum of Understanding (MoU) to capture the terms of the collaboration. From the UK side, the agreement will be concluded by the Overseas Office and the Commonwealth Parliamentary Association (CPA) of the UK Parliament. CPA UK will implement the programmes on behalf of the Overseas Office of the UK Parliament. From the South African side, the agreement will be concluded by the CPA of RSA Parliament.
9. Before any commitments being made, the respective Secretary/ Clerk of the Parliament will brief the respective Speaker and Chairperson of each Parliament on the proposed programme to be embarked on to further cement the scoping visit.

Besides, the British Consul General in Cape Town has agreed to provide more information about the Chevening scholarship. The parliamentary staff members seeking to do a master's degree will be able to apply in the next financial year. Staff members, eligible to apply, should fall within the future leader's group with 3-5 years of post-grad work experience. The scholarship is fully funded by the British Government.



KEY SPEAKERS

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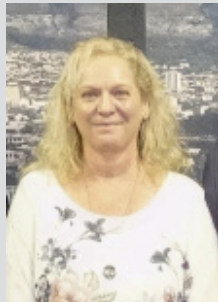
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ENDNOTES

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A world map with several countries highlighted in a dark purple color. The highlighted countries include Canada, the United Kingdom, India, and several countries in Africa and South America. The rest of the map is in a light grey color.

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