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INTERNATIONAL JUDICIAL WORK

The continuing need for international judicial dialogue as the UK's relationship with Europe changes

by

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1. The UK has always been good at looking beyond its own shores to meet other people. We make friends, do business or simply learn from, or try to help, others. There are countless adventurers and travellers from Scotland who are remembered in distant parts of the globe. One such character was Dr William Hamilton. He was a Scottish surgeon of the East India Company in the early 18th century. He was part of an entourage that visited the Mughal Emperor, Farrukh Siyyar, at his court of Delhi in 1715. Twice the Emperor suffered from a swelling in his groin, and twice Hamilton managed to save him. As a reward, the Emperor granted the East India Company permission to purchase 38 villages around what became Calcutta, as well as trading rights in Bengal. This was a major step in the East India Company developing its presence on that sub-continent. Hamilton was obviously a brave man because, according to a recent book I have been reading, Farrukh Siyyar came to power after

brutally killing the previous Emperor, and his own short reign ended with the brutal killing of hundreds of Sikh soldiers who had surrendered to his forces.

2. Today may be one of first occasions when the overseas work of judges in my jurisdiction has been brought together in a single speech. I am of course, speaking to you as an English judge. I will, as far as I am able to do so, refer to similar work beng done in Scotland. My understanding is that we have much in common in this realm of activity.

3. The courts of England and Wales have found that there is often much to learn from comparative law and practice. There will be occasions when we have to decide questions on which we have no case law of our own on which to draw. This happened to me recently in a case called *Dunnage v Randall.* [1] The facts were tragic. They raised a novel point of law: could a person suffering from a florid bout of schizophrenia be liable in damages to a person who was injured by his actions? The judge held that this person was not liable because he was not in control of his actions. Strangely, there was no clear domestic authority on this point. There were cases from New Zealand, Canada, Australia and the USA going either way. I eventually decided that the policy of the law was that there should be liability as the price of being able to move freely in society. I therefore held that the test of liability should be objective, which meant that the standard of care would be that of a reasonable person without the particular characteristics of the defendant.

4. That was an example of using comparative law as a source of jurisprudence. In other situations, however, we can also use it indirectly as a source of inspiration. It can act as a shot in the arm when our own law shows its age and needs to be brought up to date.

[1] [2015] EWCA 673.

1. 12 YEARS OF INTERNATIONAL JUDICIAL WORK

5. Prior to 2005, the Judiciary of England and Wales had no control over its international judicial relations. Before that date, the Lord Chancellor, or his department, decided whether a particular judge should represent the Judiciary abroad. The Constitutional Reform Act 2005 changed that. The Lord Chief Justice of England and Wales became responsible for the deployment of English and Welsh judges. So, it was only logical for the Ministry of Justice to transfer to the Judiciary a small budget for international judicial travel.

6. Before that happened, the then Lord Chief Justice, Lord Woolf, asked me to do a report on international judicial relations and to make recommendations as to how that area of activity might be organised in England and Wales for the future. I became aware of the huge number of events to which judges were invited. We could not possibly support all of them. So, I had to think about priorities. In my report, I set out a draft statement called the Lord Chief Justice's Objectives of International Judicial Relations, which, with only minor modification, was later approved by the Judges' Council in England and Wales. It has since then been displayed publicly on our website. This statement describes the purposes as follows:

- To establish links with other judiciaries in the EU or member states of the Council of Europe, with a view to facilitating co-operation and understanding on matters of mutual interest
- To participate in the work of international associations or bodies of judges, and international conferences, so far as appropriate
- To have bilateral exchanges with the jurisdictions with whom the UK judiciary has or wishes to have close links

- To participate in such projects on law reform or judicial administration, whether in the UK, EU or elsewhere, or such projects for the promotion of English law that the Lord Chief Justice thinks it appropriate to support
- To provide support for the judiciary in developing countries and other purposes authorised by the Lord Chief Justice.

7. The objectives, therefore, contemplate overseas activities of many kinds. Some will be activities in the judiciary's own interests but some will be activities directed to assisting other judiciaries in the Commonwealth, the new democracies in Europe and elsewhere.

8. In 2004, Lord Woolf appointed me as Judge in Charge of International Judicial Relations for England and Wales. The title was subsequently changed to Head of International Judicial Relations for England and Wales. The authority for dispensing our tiny budget was delegated to me. That was meant to be the main justification for my role as Judge in Charge but, as you will see, dispensing the small travel budget is now only a minor part of my work in international judicial relations. As Head of the International Judicial Relations for England and Wales, I currently have overall oversight for international judicial relations, subject to the direction of the Lord Chief Justice. I have particular responsibility for the high level bilateral meetings which are held between the judiciary of England and Wales and other judiciaries. The field is now very large and the Judicial Executive Board has recently asked the Chancellor of the High Court of England and Wales to take on overarching responsibility for strategic direction and co-ordination, which I welcome. .

9. I do not have an opposite number in Scotland or Northern Ireland, nor, as I understand it, does the Scottish judiciary have a dedicated fund of any kind for international judicial travel.

2. INTERNATIONAL JUDICIAL DIALOGUE

A. The benefits of meeting overseas judges

10. So what are the benefits of sending judges abroad? In the old days, judges would attend conferences with public funding, and that was that. There was neither a pooling of the knowledge gained nor any attempt to measure the success of the event. Today, judges who receive public funds for travel are expected to produce a short report. This is filed on an internal database so that we can see whether that judge's attendance was worthwhile and also so that other judges who are interested in a particular subject or region can find out who has been there already and what they learnt.

11. Winston Churchill once said: "The farther back you can look, the farther forward you will see." Churchill was probably thinking about history, but the same is true, by analogy, of the need for higher perspectives in the law. The wider your perspective, the clearer you will see your own path.

12. An overseas visit by a judge may be of value for several reasons, but in my experience the principal purposes of international judicial relations are twofold: to learn from overseas judges and, where appropriate, to influence their thinking.

13. Thus, attendance at an international conference may be very beneficial for judges and give them the opportunity to learn how other jurisdictions deal with problems which they also face. Common problems may for instance arise in EU law, human rights, family law, terrorism, medical law and refugee law.

14. The other principal purpose of international judicial relations is to influence others. How does this work? It may be by giving speeches at conferences overseas, or by helping overseas judges on some specific problem. Our aim is to provide the benefit of our experience to all levels of judiciaries in developing countries, newer

democracies or other countries undertaking a programme of reform. We hope that they, too, may appreciate the importance for society of having an independent judiciary, the need for procedural reforms where needed to speed up and broaden access to justice, or a law that, like our own, respects the rights of the individual and the importance of due process. We hope that they will seek to pursue all these matters after our visit. In that way, we help to promote the rule of law in other countries. In Mexico, for example, judges from England and Wales have been helping to support trial judges following reform of Mexico's criminal justice system and the adoption for the first time of the adversarial trial process for criminal trials. And, as mentioned, learning is a two-way process.

15. Some of the discussions between judges from different jurisdictions are formal but some may be informal, such as discussions which occur in the margins of some other event. The discussions are in general confidential. Discussion before a problem develops is generally preferable to discussion which occurs afterwards. Case law can be much richer and, as a consequence, more useful to practitioners and members of the public, when it has been the subject of prior discussion between judges from different jurisdictions.

B. Bilateral meetings

16. We hold important bilateral meetings with the European supranational courts, that is, the Court of Justice of the European Union and the European Court of Human Rights ("the Strasbourg Court"), on a reasonably regular basis. I set up the first bilateral meeting between the UK judiciary and the Strasbourg Court when Lord Phillips was Lord Chief Justice of England and Wales. Bilateral meetings have served us well. They take place every 12 to 18 months or so. They have provided an excellent way for the judiciaries in private to get to know each other and to discuss where in each jurisdiction "the shoe pinches". The free flow of ideas which this facilitates has

for instance been instrumental in building up the UK judiciaries' confidence in the Convention system. It has brought the judiciaries together, and made the Strasbourg Court more sensitive to the issues which affect human rights in our society. We have found its judges to be open to real discussion and to be genuinely interested in our views. Sir Nicholas Bratza, a former President of the Strasbourg Court, confirmed in a lecture that these meetings were successful. Another recent President of the Strasbourg Court, Dean Spielmann, has explained how dialogue enables judges to get "a sounder grasp of the other's perspective."

17. When we meet with these courts, we will usually discuss their recent jurisprudence with them. We do not discuss current cases. We need to know the supranational courts' direction of travel and, where we can do so, to contribute our views on it.

18. Eleanor Sharpston, the UK's Advocate General in Luxembourg has written that national courts and supranational courts patrol their own area. I understand her to mean that supranational courts want to ensure that national courts are not trespassing in their sphere. That is no doubt so, but it is not always a trouble-free activity. There are inevitably some differences of approach, or emphasis, about the location of the boundary between their respective areas, and about other matters. National courts are likely to know best whether a particular outcome will cause difficulties for their legal system or, which is serious, have an adverse impact on their own country's constitution or legal order.

19. Judicial dialogue is the obvious answer to this second problem. It is always good to talk. As Winston Churchill is said to have said, "To jaw-jaw is always better than to war-war." Dialogue can achieve greater understanding than can open conflict. Judgments are a means of written communication from a court to the world, but judgments are not always, on their own, the best way to make a point. Important legal developments often have to be accompanied by discussion.

20. We hold similar high level meetings with other judiciaries. In the case of European courts, we face similar issues especially because of our shared relationship with the European supranational courts. We need where possible to understand how other courts grapple with issues that we have in common, and, where appropriate, to contribute to their thinking on these matters.

21. When we sit down to discuss matters with overseas judges in the course of bilateral meetings between judiciaries, there is plenty of goodwill but we do not just exchange pleasantries. Our discussions at these bilateral meetings are generally intense and informative. Participation in these discussions requires a firm grasp of one's own law and an ability to piece together and analyse concepts in the other delegation's legal order. You also need to be intellectually curious about other systems, and willing to take on board a diversity of ideas.

22. We have had the good fortune to have established bilateral meetings with a wide range of judiciaries over the years, not only European judiciaries. Events also take place between the judiciary of the UK and judges from non-European jurisdictions, such as the USA. Here the principal benefit is that of learning from comparative law. Discussion with judges from other jurisdictions may awaken in judges the potential latent in their own law. In any event, there is today much more international law in national courts and it is obviously useful to discuss with other jurisdictions how they are approaching issues of international law. There are many reasons for this development. One reason is that, for many international conventions, for example the Convention relating to Refugees (the Refugee Convention of 1951), there is no international court charged with interpretation of the convention. The domestic courts must therefore give their view about the meaning of the convention in question. In that situation, domestic courts may be able to draw on decisions by the courts of other countries which are party to the same convention.

23. When we arrange bilateral meetings between the judiciary of the UK and the judiciary of some other country, we do so in consultation with Northern Ireland, Scotland and the Supreme Court, and their judiciaries participate whenever they can. Co-operation in international judicial relations between the UK jurisdictions is very like the co-operation that exists between our respective law commissions. I was privileged to be the Chair of our own Law Commission of England and Wales for three years before my appointment to the Court of Appeal, and this gave me valuable experience of working in combination with my colleagues in Scotland and Northern Ireland.

24. Long may the high level bilateral meetings between the judiciaries of the UK and overseas judiciaries continue.

C: Franco-British-Irish Judicial Colloque

25. Another event in which UK judges participate is the Franco-British-Irish Judicial Colloque. This Colloque, originally known as the Franco-British Judicial Co-operation Committee, was formed in about 1995 by Lord Phillips and M. Guy Canivet, then President of the Cour de Cassation in Paris, to encourage co-operation and mutual understanding between the British and French judiciaries. The Irish judiciary joined the Colloque in about 2005. In recent years, the chair was Lord Brodie, and his predecessor was Lord Reed. Lady Justice Gloster, Vice President of the Court of Appeal, Civil Division, is now the chair. Conferences are held biennially on a topic of mutual interest, and attended by members of the judiciaries of all three countries. The conferences are held in rotation in each of the three countries, and, when in the UK, they are held in rotation in each of the three UK jurisdictions. Conferences have recently been held in Dublin, Paris and Edinburgh. It is the turn of England and Wales to organise the conference in 2019.

26. The organising committee of the Franco-British-Irish Colloque includes members of the judiciaries of all three UK jurisdictions. The current members comprise (from Scotland) a judge from the Court of Session, and a Scottish sheriff, (from Northern Ireland) a circuit judge, and (from England and Wales) two members of the Court of Appeal, two circuit judges, an Upper Tribunal judge and two district judges. So all levels of the judiciary are represented. There is also a geographical spread across England and Wales, with members who sit in the south-east, the south-west and Wales.

27. Participants use their own language, and there are no interpreters, so participants have to be conversant with English and French.

28. The same committee also organises a programme of exchanges, enabling British judges to spend a fortnight at a French court, with reciprocal arrangements for French judges wishing to spend time at British courts. Similar exchanges are now also run under the auspices of the European Judges Training Network.

D. Scope for further multilateral dialogue

29. One day, there may indeed be a call for the UK to organise a different form of meeting, namely a multilateral meeting involving the judges from a number of key jurisdictions in Europe. We held such a meeting in 2009 when the UK Supreme Court was set up. It drew distinguished senior judges from around the world and it brought the then newly-created Supreme Court of the United Kingdom to the attention of many jurisdictions who were unaware of, or knew little about, its creation.

E. Overall benefit

30. Overall, we learn to do a better job at home when we have this international interaction with judges from other jurisdictions.

3. EDINBURGH GREATLY APPRECIATED BY OVERSEAS JUDGES

31. In 2006, Edinburgh was the location of the Indo-British Legal Forum. This Forum was established in about 1992. It is run by the judiciaries of UK and India, and conventionally the delegation includes law officers and members of the legal professions drawn from the two countries. The Indian delegation loved Edinburgh on their visit here in 2006. They were particularly impressed when they saw the Honours of Scotland and heard the bagpipes being played in their honour after a dinner at Edinburgh Castle. The visitors went to see Dolly the Sheep in recognition of the huge contribution that Scotland makes, and has made, to science. We discussed a wide range of issues, including terrorism, human rights and privacy.

32. A South Africa/UK Judicial Exchange was held in Edinburgh in 2009, thanks again to the generosity of the Scottish ministers, including Alex Salmond MSP, First Minister of Scotland. The South African participants were judges from the two apex Courts in South Africa, namely the Constitutional Court of South Africa, which is based in Johannesburg, and the Supreme Court of Appeal of South Africa, which is based in Bloemfontein. It became apparent that it was the first time that those two courts had ever sat down together to discuss some fairly fundamental judicial issues. We had the advantage of learning much about the wealth of jurisprudence in South Africa, in both constitutional matters and in civil law, which, of course, is Roman-Dutch law.

33. These events took place rather a long time ago now, but it would be wonderful to have such a meeting in Edinburgh again. It would give visiting delegations the chance to meet those who live and work in Scotland and it would provide a forum for Scottish judges and lawyers to build up their own international networks.

4. AREAS OF SPECIAL FOCUS: INCOMING VISITS, INTERNATIONAL FAMILY LAW, EUROPE, TRAINING, THE COMMONWEALTH AND CHINA

Introduction - need to identify priorities

34. Bilateral meetings and other events abroad with overseas judges are only part of our international judicial work. We cannot take up all the opportunities for involvement. We have to identify priorities, as international activities have to be carefully balanced against the need for judges to satisfy the significant demands of our own courts. Judicial time and the use of public money must be subjected to the strictest controls. In practice, judges often give up part of their leave time to assist in international judicial relations work. There are nonetheless some areas of special focus that we have identified, and which we pursue, and I will describe these next.

Incoming visits

35. We receive a considerable number of requests by judges overseas at all levels either individually or in group to make an official visit to meet judges, and see courts, in England and Wales. In the legal year 2016 to 2017, officials arranged some 41 incoming visits for approximately 222 international delegates from 23 different countries. This comprised four delegations from Africa, five from the Americas, 11 from Asia, six from Europe, and one from Australasia. I am immensely grateful to the staff of the international team at the Judicial Office for their work, particularly in organising these incoming visits.

International family law

36. My colleague, Moylan LJ, is the Head of International Family Justice. His role is very different from my own. It falls into three parts:

(i) requests for assistance with individual cases. The requests mostly concern children and are often urgent. Information and practical help are sought on a wide range of matters. The requests come from, amongst others, judges, practitioners, litigants, local authorities and charities within the

UK and in many other countries. A significant proportion of family cases in England and Wales now involve a foreign element and it seems that there may have been, in particular, an increase in the number of public law (that is, care) cases involving foreign nationals.

(ii) work, in concert with the Foreign and Commonwealth Office, to create a domestic system for collecting and making available the necessary information about contacts and processes here and abroad and a centralised unit capable of processing individual cases. The creation of this system will take time. It involves regular meetings with various government departments.

(iii) oversight of a number of other areas: (a) judicial diplomacy abroad (notably in relation to other states signing the Hague Convention 1980); (b) the development of working relations with judges abroad (to enable the more effective processing of individual cases and also generate improvements in systems worldwide); (c) contributing to consultation on international family law instruments; (d) receiving foreign judges who wish to observe our system, and (e) providing input into training of judges at home. Moylan LJ chairs an International Family Justice committee, which meets regularly and brings together those who practise in this field in England and Wales, such as lawyers, government representatives and judges.

37. The family judges have their own international conferences with other family law judges across the world to help iron out practical difficulties and discuss common problems. The Judiciary of England and Wales has a strong working relationship with specialist family judges in Scotland, especially Lord Brailsford and Lady Wise.

Europe

38. Another area of special focus is Europe. This area of activity is carried out by the European Committee of Judges' Council, and this Committee is currently chaired by my colleague, Hamblen LJ. The work of the European Committee includes:

(1) participation in European and EU associations of judges.

(2) development of relationships with EU institutions.

(3) participation in the European Judicial Training Network's training and judicial exchange activities within Europe and the EU.

(4) Judicial contact at all levels with the Strasbourg Court of Human Rights and the Court of Justice of the European Union and with European judges generally. This work complements that of organising bilateral meetings, which I have already described. .

39. The objectives of judicial participation in Europe include: influencing the technical aspects of the development of European criminal, civil, family, administrative, labour and competition law and legislation; improving justice systems in the EU and in Candidate States; and enhancing our own judiciary's understanding of EU law, institutions and legislation.

Training for overseas judges

40. A further area of international activity on which the Judiciary of England and Wales focuses is that of training for judges overseas. This work is carried out by the International Committee of the Judicial College, chaired by Knowles J. This Committee's primary objective is to enable the Judicial College to carry out and participate in judicial training projects which strengthen judicial independence and the rule of law, and to reinforce the standing of the judiciary of England and Wales as a key institution of democratic governance within the UK, across Europe and

internationally. It provides judicial training overseas and allows judges from abroad to participate in Judicial College courses. In the last few years, the Judicial College has received visitors from jurisdictions such as Pakistan, Rwanda, Saudi Arabia, South Africa and Zimbabwe. It delivers training in judge craft, judicial ethics, judgment writing and sentencing. The Committee also oversees the contribution which the Judicial College makes to the European Judicial Training Network (including its exchange programmes and training programmes), and ensures that the courts and tribunals judiciary receive appropriate training in international law and procedure, EU law and international conventions.

The Commonwealth

41. Many visiting judges come from Commonwealth countries, and we try to fit in with their requirements, which extends sometimes to finding them textbooks and law reports which are no longer used by us. Some training assistance for Commonwealth judges is given through the International Committee of the Judicial College but it is also given by the Commonwealth Magistrates' and Judges' Association (the CMJA), which does tremendous work in running conferences for the judiciary throughout the Commonwealth. We support the CMJA as much as we can, and I would recommend that other judicial office-holders do likewise.

42. Senior judges also attend the biennial Commonwealth Law Conference, which is organised by a different body, the Commonwealth Law Association.

43. 2018 will be a special year for the Commonwealth in UK public life because the Commonwealth Summit for the Commonwealth Heads of Government will be held here in April 2018. This meeting rotates between different parts of the Commonwealth and has not been held in the UK since 1997.

China

44. The Judiciary of England and Wales has a special focus on building relationships with their Chinese counterparts, in view of the importance of China in the world today. A second UK-China Judicial Roundtable took place in October 2015 with the theme of "Judiciary and the media", organised by the UK Supreme Court and the Great Britain China Centre. In addition, China hosted a delegation of UK judges in May 2016. And, in June 2016, Justices of the Supreme Court and judges from England and Wales hosted a high-level delegation from China. The Chinese delegation was led by the President of the People's Supreme Court, and a Letter of Exchange, setting out a framework for more in-depth exchange between the two judiciaries, was signed as part of the visit. International judicial relations with China is now headed by Lord Hodge SCJ, to whom we are very grateful. The fact that a Supreme Court Justice leads the relevant team of judges here may provide a template we can build on in the future to ensure more judicial collaboration across the whole of the UK.

5. A NEW PRIORITY: COMMERCIAL COURTS

45. In the important area of commercial law, the Judiciary of England and Wales has established a Standing International Forum of Commercial Courts (SIFOCC). The inaugural meeting was convened under the aegis of the last Lord Chief Justice of England and Wales, Lord Thomas of Cymgiedd, and held in London in May 2017. Those attending included the Lord President, Lord Carloway, and Lord Tyre from Scotland. This Forum brought together commercial courts from across the world. It aims to ensure that court users, that is, businesses and markets, are best served through the sharing of best practice between courts, and that courts work together to keep pace with rapid commercial change. Such collaboration also allows for courts acting together to make a stronger contribution to the rule of law than they can separately, and indirectly to contribute to stability and prosperity worldwide. The Forum also acts as a means of supporting developing countries and of enhancing

their attractiveness to investors by offering effective means for resolving commercial disputes. The meeting was an unequivocal success. The secretariat of the Standing International Forum of Commercial Courts is being established within the City of London. As Lord Thomas said:

> The Commercial Courts of the world are not unconnected islands, but have a common duty working together to innovate and lead.

46. There is considerable competition these days between jurisdictions that can handle international commercial litigation, and one of the reasons for the SIFOCC is to ensure that the commercial courts that are part of it can deal with litigation to the highest standards.

47. The inaugural meeting resulted in some interesting and useful decisions. The Forum decided that it would produce a multi-jurisdictional memorandum to explain how, under current rules, judgments of one commercial court may most efficiently be enforced in the country of another. For example, it may be desired to enforce a judgment of the Singapore courts in the courts of England and Wales. The Forum resolved to establish a working party to examine how best practices could be identified with a view to making litigation more efficient. It agreed to set up a structure for judges of the commercial court of one country to be able to spend short periods of time as observers in the commercial court of another. In addition, it decided to consider issues such as practical arrangements for liaison with other bodies, including arbitral bodies, to identify and resolve areas of common concern or difficulty.

6. REORGANISATION OF OUR BUSINESS AND PROPERTY COURTS

48. There is a related development I would like to mention. It does not emanate from the work of international judicial relations, but it has international implications. In July

2017, the specialist civil jurisdictions of England and Wales, comprising the Commercial Court, the Technology and Construction Court, and the courts of the Chancery Division, became known together as the Business and Property Courts. From 2 October 2017, the Business and Property Courts will operate on the basis of the following courts or lists: (1) Admiralty Court; (2) Business List; (3) Commercial Court; (4) Competition List; (5) Financial List; (6) Intellectual Property List; (7) Insolvency and Company List; (8) Property, Trusts & Probate List; (9) Revenue List; and (10) Technology & Construction Court.

49. Presenting these courts under a single umbrella displays the strength of the Judiciary of England and Wales, while retaining the choice that comes from each of the courts or lists within it. This reform stems from the recognition that the judiciary and legal services contribute significantly to the UK economy. It is, therefore, seen to be important that the domestic and international commercial communities are able easily to identify the wide scope of dispute resolution that is provided by the English and Welsh courts.

50. The strength of the Business and Property Courts comes not just from a combination of the distinct jurisdictions, but also from the tightening of the link that exists between the work of these courts in London, and that of their counterparts in the civil justice centres in the regions of England and Wales. Transfers between the courts in London and those in the English regions and in Wales are being facilitated through a Business and Property Courts Practice Direction; and judges of the right level of expertise will be deployed more flexibly across all the courts. The courts will also be linked by a modern technology system that will facilitate judicial access to court files and documents. The aim is to support the principle that no case is too large to be tried in the English regions or in Wales with increased resources and improved infrastructure.

7. THE IMPORTANCE OF INTERNATIONAL JUDICIAL RELATIONS AS THE UK'S RELATIONSHIP WITH EUROPE CHANGES

51. Before I finish, I want to take a look at what lies ahead but without making any comment of a partisan or political nature. I must assume that the Westminster Parliament will approve some form of withdrawal of the UK from the EU but that the UK and the EU will remain close and enjoy a special partnership.

52. The Judiciary of England and Wales has sought to address misconceptions and legal issues that arise in connection with withdrawal. The Judiciary, in conjunction with members of a committee known as the Brexit Law Committee and others, produced and disseminated a booklet called *The Strength of English law and the UK jurisdiction*.[2] This sets out the strengths of the legal system and gives a strong message that English contract and commercial law is unaffected by any withdrawal. A second, more detailed booklet entitled *English law, UK courts and UK legal services after Brexit – The view beyond 2019* [3] was also produced.

53. As yet, the legal framework for the future is unclear and uncertain. But the law is accustomed to dealing with situations in which the law is unclear. Sometimes, when a long trial concludes in which the advocates have been strenuously making points on behalf of their clients, the judge retires to his or her room and sits down to think about the arguments calmly. The way forward generally becomes clear and the fog lifts.

54. What do I see happening when the fog lifts? As I see it, if and when withdrawal comes to pass, it will be even more necessary to carry on our international judicial relations. There will, in my view, be a strong continuing need to ensure that the legal developments in our respective jurisdictions in the UK are known and understood by

[2] https://www.judiciary.gov.uk/wp-content/uploads/2017/08/legaluk-strength-of-english-law-draft-4-FINAL.pdf.

[3] http://www.chba.org.uk/news/brexit-memo.

a number of other jurisdictions outside the UK. We should not allow any difficulties of the moment to translate into a situation associated with the phrase: "Fog in Channel, Continent cut off."

55. The laws and judiciaries of the UK will continue to have much to contribute to the rule of law across the world. They will also continue to have an important role (in commercial and other fields of law) in transactions which take place in Europe and around the globe. It will continue to be necessary for the judiciaries of the UK, wherever possible, to act with regard to international judicial relations in co-operation with each other.

56. As I have explained, the bilateral meetings that took place in Scotland between the UK judiciary and other judiciaries were immensely successful. They gave the Scottish practising profession, the Scottish government and the Scottish judges the opportunity to meet our visitors. These events are also instances of inter-jurisdictional co-operation in the UK, which we greatly value. I recognise that Scotland and Northern Ireland will have their own international interests, but I hope that there will in future be more events involving all the UK judiciaries, particularly meetings with the supranational courts. It is worth reiterating once more that the law of our respective jurisdictions has much to contribute to the rule of law in today's world.