



International Agreements Committee

Corrected oral evidence: UK-Australia trade negotiations

Thursday 7 April 2022

11 am

Watch the meeting

Members present: Baroness Hayter of Kentish Town (The Chair); Lord Astor of Hever; Lord Gold; Lord Kerr of Kinlochard; Lord Lansley; Baroness Liddell of Coatdyke; Lord Morris of Aberavon; Lord Oates; Lord Udny-Lister; Lord Watts.

Evidence Session No. 5

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Questions 83 - 93

Witnesses

I: His Excellency the Honourable George Brandis QC, High Commissioner, Australian High Commission; Kieran Macdonell, Agriculture Counsellor, Australian High Commission; Kyle Naish, Head of Political and Trade Policy, Australian High Commission.

Examination of witnesses

His Excellency the Honourable George Brandis QC, Kieran Macdonell and Kyle Naish.

Q83 The Chair: Good morning and welcome. The International Agreements Committee is looking at the deal that the UK Government have done with Australia. We are therefore very privileged, and it is a great pleasure, to welcome today His Excellency the Honourable George Brandis, who is the High Commissioner. As we ask questions, we will introduce ourselves. I am Diane Hayter. Would you like to introduce your two colleagues, High Commissioner, before we start?

HE George Brandis: Yes, thank you very much indeed, Chair. Good morning, ladies and gentlemen. On my left is Kyle Naish, the Trade Minister and Counsellor at the Australian High Commission here in London. On my right is Kieran Macdonell, the Agriculture Commissioner at the Australian High Commission.

The Chair: Thank you. Before we start I should say that, as you probably know, this is being broadcast live. There will be a transcript afterwards. If we have misunderstood any of the Australian accent and do not quite get it, you will have a chance to correct it at that stage.

By way of an opener, could I ask you briefly to tell us, from the point of view of the Australian Government, what you think you have achieved in this deal? We have obviously read that there has been a lot of pleasure from your end about it. Might you also address the criticisms that you know have been made to the committee? I am sure that your people have briefed you well about the queries that have been raised from this side. You might like to respond to some of them—for example, on animal welfare or deforestation. We may come back to them, but by way of opener perhaps you could address those two points.

HE George Brandis: Thank you very much indeed, Chair. Australia welcomes the conclusion of the free trade agreement with the United Kingdom. My first point is that the free trade agreement between our two countries is a win-win for both countries. In saying that, I do not want to be glib. I am perfectly mindful of the fact that there are some sectors, in both countries by the way, that have expressed misgivings. That always happens with free trade agreements because they are economy-wide agreements.

Australia, which now conducts about 70% of its global trade with nations with which we have free trade agreements, has found, through our own lived experience, that in the long term—in most cases immediately, but certainly in the long run—free trade agreements are beneficial to everyone. We are well pleased with the agreement, and we understand why most in the United Kingdom are delighted that the agreement has been struck. We are sensitive to the concerns, for example, of elements of the agriculture sector and to other comments that have been made. We will address them with particularity in a moment. The main point I

want to emphasise to members of the committee is that the accomplishment of a free trade agreement is not to be seen as a win or a loss for either country. It is a win for both countries.

If I might address some of the remarks that have been made from the United Kingdom side, of course the free trade agreement with Australia represents for the United Kingdom not merely an ambitious, bilateral free trade agreement with a nation with which we have deep and long historical links, as well as commercial and trading links, but is a stepping-stone for the United Kingdom into the comprehensive and progressive trans-Pacific partnership—the CPTPP—which will open the Indo-Pacific region and the Pacific Rim to the United Kingdom for, in some cases, the first time and certainly more comprehensively than has ever been the case. The IndoPacific and Pacific Rim nations are, as we all know, the engine room of the world's economic growth in the 21st century.

There are two dimensions to the Australia FTA. There is the conclusion of a very satisfactory trade agreement, of which both countries and their citizens will be beneficiaries. Also, for the United Kingdom, there will be the opportunity to participate in the CPTPP, which is a massive opportunity for you.

Let me touch on a couple of the concerns that have been raised. As I said, Australia exports about 70% of our goods and services to countries with which we have free trade agreements, so we are well practised in the negotiation of free trade agreements. The first point to make is that, in any free trade agreement, inevitably the benefits will be felt by some sectors of the economy sooner than others because of the very comprehensive nature of the agreements. As I said a moment ago, they are economywide. Particularly in the agriculture sector, for example in the beef and sheepmeat sector in the United Kingdom, we understand that there are concerns about the impact that will have on producers. Let me make a couple of points about that.

First of all, we are sensitive to it, which is why we have built protective mechanisms into this agreement, including safeguards and transition periods that go on for as long as 15 years in relation to beef and sheepmeat, which is an unusually long time, to facilitate a period of adjustment for sectors that may feel exposed.

Secondly, I have travelled the length and breadth of this country. For example, only last month I was in Wales, speaking to Welsh sheep farmers. I think the concerns that they have are a product of fear that the UK market may be flooded by quantities of Australian product, to which the answer is that that simply is not going to happen. It simply will not because of the economics. The Australian beef and sheepmeat sectors are significant exporters. Australian beef and sheepmeat exports are already fully subscribed by contracts with our near north, where the transport costs are much lower.

The simple economics means that although there will be opportunities for Australian producers in that market, especially given the counterseasonal nature of the market, the idea I detected in the minds of some of the Welsh farmers I spoke to that there might be a flood of Australian product is simply fanciful. Even if I were wrong about that, the length of the transition period protects them.

Thirdly, I think it is a mistake to regard the agriculture sector as if it were an undifferentiated whole. There are different elements of the agriculture sector, some of which will be the immediate beneficiaries of a free trade agreement with Australia—for example, the processed food sector. The United Kingdom already has a net surplus balance of trade with Australia in the processed food sector—for example, cheese. The free trade agreement will be of benefit not only to food processors but to the primary producers from whom they take product.

When I was in Wales a month ago, I visited on Anglesey a company called Mona Dairy. At Mona Dairy, they are developing a state-of-the-art cheese production facility. They are extremely excited about the opportunities for them of the free trade agreement with Australia, which is one of their target markets. They told me that all the dairy products, all the milk from which they make their cheese, will be sourced from Welsh dairy farmers. We must always be mindful that, even in a sector that has been more voluble than others in expressing concerns about the free trade agreement, there are immediate beneficiaries. I am not going to say that there are winners and losers because, in the long run, there will be no losers, but there are immediate beneficiaries in the agriculture sector.

I do not want to go on for too long, so, lastly, as I said earlier, the Australia deal is the stepping-stone for this country into the CPTPP. In my respectful view, the debate in all sectors, including in the agriculture sector, has focused too much on concerns and not sufficiently on opportunities to build markets in the fastest-growing region of the world.

I think there is a cultural issue too, relating to the extent to which some British farmers have thought about the global opportunities. I do not want to get into the debate, but perhaps it is a function of being a member of a European-wide trading bloc for so long. There are global opportunities for Britain, which of course is one of the policy justifications that the Government see in conducting trade agreements beyond the Euro-Atlantic. The free trade agreement with Australia is a perfect example, with the opportunities that go with it, of the opportunity for Britain to expand its trade globally. Many of the people in the agriculture sector who express concerns are the very people who, in the long run, will be the beneficiaries.

Baroness Hayter, perhaps I should stop there. If there are questions about other specific criticisms—for example, animal welfare standards or forestry and so on—we are certainly in a position to answer them. We will

wait until the committee finds it convenient to ask us more specific questions about those issues.

The Chair: Thank you. I am sure we will. Although I am from south Wales, I lived in Anglesey for a long time. I think you may be the first High Commissioner who has visited there.

HE George Brandis: I was told that I was, and a very beautiful part of the world it is too.

Q84 **Lord Oates:** Good morning, High Commissioner. My apologies. I will have to leave early to do a Question later.

High Commissioner, as you know, there has been some controversy, certainly in the UK, about the fact that the UK Government were not successful in getting a reference specifically to the Paris temperature goals in the agreement. Could you tell us why it was important for Australia not to have specific temperature goals included? Does that suggest that Australia does not want to be bound by them?

HE George Brandis: Absolutely not. Perhaps I could direct you, Lord Oates, to Article 22.5 of the free trade agreement treaty text. Australia affirms its commitments in this treaty to its Paris targets. I note that when this committee met on 26 May last year you pursued this line of questioning, but a lot has happened since 26 May last year.

Australia has the same level of climate policy ambition and emissions abatement ambition as the United Kingdom. We are both committed to net zero by 2050. When you last addressed the issue in this committee, Australia had not made that commitment. It had not published its commitment. It published that commitment in advance of the Glasgow summit in November. With its commitment, with its NDC communication, it also published a document, a copy of which I am happy to table, which set out not only the commitment but the manner in which Australia intended to honour the net-zero commitment by 2050.

The Australian Government take the view that we will only make commitments when we are certain that we can honour them. There are a lot of countries—the United Kingdom is not one of them, of course—which have glibly said, “We commit to net zero by 2050”, without having the faintest idea how they are going to get there. We delayed our announcement of our net zero by 2050 commitment until we had developed a long-term emissions reduction strategy that identified, sector by sector, the way in which we could get there, in scientifically verifiable and supportable terms. We have disaggregated the various sectors in which we would achieve those goals in clean hydrogen, low-cost solar, green steel, green aluminium, carbon capture and storage, soil carbon sequestration and energy storage.

That document is available for all to see. I am at pains to make this point: Australia is as committed as the United Kingdom is to this goal and, unlike most countries, we have shown how we will get there.

Furthermore, Australia has demonstrated that when it makes a commitment it will either meet or exceed it. We committed to the FCCC 26% to 28% emissions reduction on a 2005 baseline by 2030. We already know, from the projections that have been made by the Australian agency that audits emissions reduction, that we are on target to achieve more than, or at least, a 35% reduction by 2030. At the rate at which the abatement is occurring, we expect significantly to exceed what we committed to do on a 2005 baseline by 2030. In other words, our commitments, when we make them, are credible, and we meet them and we exceed them.

In relation to the FTA, in the article of the treaty to which I drew your attention we reiterated our commitment to our Paris target. We did not put a number on it. The number would be irrelevant. The number would merely express a minimum had we done so. The point is that we have committed in treaty form, and we have reiterated that commitment.

Lord Oates: Thank you very much. First, I recognise the progress that Australia has made on many of these issues. In fact, I was talking with your former Prime Minister, Malcolm Turnbull, about the hydrogen issues only a couple of weeks ago. For clarity, are you saying, first of all, that if the FTA was being negotiated now the temperature goals would be in there?

HE George Brandis: No, I did not say that.

Lord Oates: Okay. You are not saying that. You said that you think the actual specific temperature goals are irrelevant. Surely, they must have some relevance if Australia was keen to have them out.

HE George Brandis: We were not keen to have them out. I have directed you to Article 22.5 in which we bind ourselves in another international instrument—the free trade agreement—to our Paris targets. Those targets are published. Do not misunderstand. When I say irrelevant, I mean that they add nothing because the commitment is already in being. Australia has made that commitment through its NDC as part of the UNFCCC process.

Lord Oates: Am I right in saying that the United Kingdom had wanted very specific temperature goals in the agreement, and Australia did not want them and that is why they are not there?

HE George Brandis: I know that has been asserted, but I am not aware that it is the case. I was not one of those who negotiated the agreement. In a negotiation, no doubt there is a lot of to and fro, but I am not in a position to tell you whether that was the United Kingdom's position or, indeed, whether it was Australia's position. What we are dealing with, though, is the treaty that was the result of that negotiation and agreed to by the Governments of both nations in which for the first time in a trade agreement Australia recommits, or additionally commits, in the FTA itself to its Paris targets.

Lord Oates: Thank you.

Q85 **Lord Astor of Hever:** Your Excellency, I ask this question as a great friend of Australia. I had two daughters who worked there for a number of years and loved your country.

At the outset of negotiations, did you expect that Australia would be this successful in gaining access to the UK's agricultural market?

HE George Brandis: When Australia negotiates free trade agreements we try to make them as pure and as ambitious as possible. We are a free trade nation. Our lived experience over the last 30 years is that free trade agreements have worked well for Australia, so we are ambitious for the free trade agreements we enter to be as comprehensive as possible—a view, by the way, shared by both sides of the aisle in Australian politics.

In its end state, this is effectively as pure a free trade agreement as you will find, with zero tariffs and zero quotas across the whole economy on all goods, and equivalently liberal provisions in relation to services. We do not think that is an Australian win. We think it is a win-win in the long run for both countries.

To come directly to your question, we hope the agreement will be comprehensive. We thought it would be good for both countries, and it was and it is.

Q86 **Lord Morris of Aberavon:** Good morning, Your Excellency. We have heard very detailed criticisms from the National Farmers' Union about the effects on British livestock production. I take your point about Anglesey. I am very familiar with the county myself. How have the TRQs been achieved, particularly with the lack of clarity as regard their bases?

It has been suggested that the tariff rate quotas across the marketing year should be allocated into quarters or months in order not to disrupt trade. From my knowledge and experience, one additional buyer or one additional seller can have a disproportionate effect on the market. Has that been discussed?

HE George Brandis: Certainly, the TRQs for any trade agreement that Australia enters have never been denominated other than on an annualised basis. The administrative difficulties and burdens of having a shorter time of denomination, whether quarterly or even monthly, as has been suggested by some, would be administratively impossible, particularly in a trade agreement between countries that are counterseasonal.

The TRQ lifts have been annualised. That is the ordinary custom and is certainly the case with all the FTAs that Australia has been party to. We think that is inevitable, and it would be extraordinarily administratively burdensome to do it otherwise.

Lord Morris of Aberavon: I take your point, but the volumes are so great that even in year one they could have a disproportionate effect on

the market. Certainly, an Australian Minister commented that the market would be enhanced tenfold. Is that what you have in mind?

HE George Brandis: It was not an Australian Minister who said that. The man who said that was called Hugh Killen. He made the remark, and I would not regard it as higher than a remark, to a newspaper, and it received a lot of coverage here. He is the chief executive of the Australian Agricultural Company. He said, I think last May, that beef exports from Australia to the United Kingdom would increase tenfold.

At the moment, beef exports from Australia to the United Kingdom are negligible. In the last year for which we have figures, which I think is calendar year 2021, total beef exports from Australia to the United Kingdom were 1,027 tonnes. That is about a tenth of 1% of the beef that Australia exports. Even if they increased tenfold, that would be 10,270 tonnes, which would take you from 0.1% to 1% of Australia's beef exports.

As I am sure the members of the committee well know, most of your beef imports—something like 70%—come from the EU, so a tenfold increase in Australian beef exports to the UK would still be one-seventieth of what you import from the EU.

Lord Morris of Aberavon: The Chinese market has fallen by 38% because of diplomatic problems. You have preferred the Chinese market to the Far East market generally, I suspect because of transport costs. Do you envisage an increase in the Chinese and Asian market?

HE George Brandis: We certainly envisage an increase in the Asian market in aggregate. That, by the way, is also of course an opportunity for your farmers. In relation to the state of dealings between Australia and China, it is well known that there is a difficult and choppy relationship at the moment, which is reflected in Chinese Government decisions targeted at very narrowly confined areas of the Australian economy. Some agricultural exports like barley are among them.

Even in that difficult diplomatic environment, China remains Australia's principal trading partner. We have a free trade agreement with China. Last calendar year, Australian exports to China increased by 21% to AU\$179.3 billion, notwithstanding the fact that in some defined sectors targeted by the Chinese they actually reduced.

The other point I am at pains to make is this. When it comes to beef and sheepmeat, the demands of different markets differ. I might invite Mr Macdonell to comment, if I may. He is the agriculture counsellor and can speak with much more authority on this than I can. The cuts of beef and lamb that we sell into this market are generally very different from the cuts that we sell into the Chinese market, so a reduction of Chinese demand for Australian beef is not going to increase the appetite of the British consumer for cuts of meat that they do not buy. Mr Macdonell, can you add to what I have to say?

Kieran Macdonell: High Commissioner, you have pretty much answered the question. I am happy to elaborate further if needed.

Lord Morris of Aberavon: Thank you very much, Your Excellency.

Q87 **Baroness Liddell of Coatdyke:** High Commissioner, you said a couple of minutes ago that Australia wants free trade agreements that are as ambitious as possible. If Australia wants to work with the UK to raise global animal welfare standards through this agreement, why did it not agree more ambitious provisions on animal welfare? You talked about the CPTPP and the opportunities that could be there for us. If there had been or there

are to be changes in animal welfare, a lot of European countries would open up to Australia. Where was that ambition in discussing animal welfare?

HE George Brandis: First, let me make the point that Australia concedes nothing to the United Kingdom or any European nation when it comes to animal welfare standards. Our animal welfare standards are among the highest in the world, and that has been certified by the World Organisation for Animal Health, which in 2015 most recently audited Australia's animal welfare practices and gave Australia the highest rating on a five-point scale, level 5, for animal welfare standards and practices. The international auditor agrees that Australia has among the highest animal welfare standards in the world.

Secondly, those who negotiated the free trade agreement took the opportunity to establish within it structures whereby the Australian side and the UK side can learn from one another's practices by establishing a working group on animal welfare. The fact is, as I think all would appreciate, that herd management practices in the United Kingdom and Australia are, needs must, very different because of the different climate, the different topography and the different farming methods.

Let me give you an example. In the United Kingdom, you have laws that stipulate how long animals can be kept indoors or on concrete. That is because for a lot of the year it rains in the United Kingdom, and your farming practices accommodate that by housing your animals in sheltered environments for a large proportion of the year. We do not do that in Australia because we do not need to. The lands on which our herds and flocks pasture are generally not as frequently afflicted by inclement weather, so we always have outdoor farming practices. Therefore, Australia does not regulate the amount of time animals can be kept indoors.

That is not a deficiency in Australia's animal welfare practices or laws. It reflects the fact that there is no need for such regulation in Australia because climatically and topographically we are different. I could quote example after example of differences in the manner in which we regulate animal welfare, but that does not produce the conclusion that our

standards are lower. It produces the conclusion that our circumstances are different and therefore call for different regulatory methods.

Baroness Liddell of Coatdyke: If I could perhaps come back on the regulatory methods, how far do they go on things like hot-iron branding, mulesing, battery hen cages, and animal movements? Those are issues that our farming community has raised with us, and it is quite difficult to get answers on them.

HE George Brandis: I can give you some answers, and I will ask Mr Macdonell to add to what I have to say. Let me deal with one of the issues you have raised, and that is animal transportation. It is true that in Australia we have a greater number of hours permissible for animal transportation than in the United Kingdom, but what is often omitted from attention in that discussion are two things. First, the vast majority of Australia's herds are located near regional abattoirs, especially in Queensland, the part of Australia I come from and with which I have a lot of familiarity.

The concern that some express about beasts being transported for 48 hours in cattle trucks hardly ever happens, because most of the industry is located proximately to regional abattoirs. However, there are some parts in the very north of Australia, in the Northern Territory and in far north Queensland, where that observation does not apply, but, as you would expect, the cattle that are bred in those hot, dry areas in the far north of Australia are extremely hardy beasts. They are much hardier because of the environmental circumstances in which they are bred, than beasts in the United Kingdom, so it has been deemed appropriate by the veterinary authorities that in those cases there should be a longer transportation time.

It is another illustration of the fact that animal welfare standards and practices inevitably have to be a function of differences between topography and climate, and it is a false comparison to assume that what is, from a veterinary and welfare point of view, the appropriate practice in a country as vast as Australia is the same in a country as relatively small and much less dry as the United Kingdom. Mr Macdonell, would you care to address some of the issues that Baroness Liddell raised?

Kieran Macdonell: Thank you. I am happy to talk about the issue of mulesing, because I know it has come up repeatedly. From the outset, I would make the point that mulesing is an animal welfare practice in Australia that only relates to Merino wool sheep; it does not relate to specific sheepmeat breeds of sheep. It is quite a small proportion of the Australian wool flock. It was an animal welfare practice that had to develop over time to manage a specific animal welfare risk, which is the risk of flystrike or maggot infestation of the breech of a Merino animal. The Merino animal is specifically susceptible to that, because folds have been bred into the skin to increase wool yield. It is a particular risk to Australia because of the generally warm and dry climate there, which makes the risk of fly infestation of the breech area more of a risk.

The Australian industry knows that it is a problem, and the need for continual reform of animal welfare practices is something that the Australian industry continually embraces. The industry has invested a lot to try to phase out mulesing, and that requires other techniques to manage the flystrike risk or to breed out some of the folds in the skin that create the risk, or, where that is not possible at the moment, the use of pain relief in animals that still need to be mulesed. At the moment, for almost 90% of animals that still need to be mulesed it is done with pain relief, and that number continues to grow.

The Chair: Thank you.

Q88 Lord Watts: We have heard that deforestation in Australia has been driven by the need for more grazing land. Could any increases in farming exports to the UK lead to further deforestation?

HE George Brandis: The answer is no. Once again, most of the deforestation debate has taken place over recent years has been about the part of Australia from which I hail, the state of Queensland. The purpose of that deforestation in far north Queensland has not been to expand the carrying capacity of land. The premise of those who assert that there is some causative relationship between deforestation and expansion of carrying capacity is essentially wrong. However, it is also, with respect to those who make the point, a somewhat dated point, because Australia in recent years has expanded its forest capacity.

There was a period in which, on balance, there was net deforestation of the Australian landmass. Remember, the Australian landmass is vast; it is about the size of the continental United States. The FAO in its forestation and deforestation audit, published last year, listed Australia second among all the nations as the one that had engaged most in the last decade in reforestation, with—I quote FAO figures—“an average net gain in forest area between 2010 and 2020 of 446,000 hectares a year”.

Lord Watts: I do not know if you are able to answer this question. You said that in the last 10 years there has been a big drive to deal with this issue. Ten years before, how much forest land was lost, and has it been replaced in the last 10 years?

HE George Brandis: I am not sure that I have that figure with me. Can I take that question on notice and get those figures to you?

The Chair: That would be helpful if you could. Thank you.

Q89 Lord Gold: Good morning, High Commissioner. It is very good to see you. My question relates to services. Restrictions on the movement of personnel are being eased by the agreement, but could you kindly outline how you believe this agreement will further benefit the provision of services from the UK to Australia, particularly professional and financial services?

HE George Brandis: Thank you for the question. There are professional services and financial services chapters. The agreement will now enable the UK financial services industry much readier access to the burgeoning Australian financial services market. It will allow professionals in both our countries much more easily to live and work in our respective countries through mutual recognition of each other's professional standards and mutual recognition of admission to the professions. Mr Naish might expand on this, because it is a very wide topic.

The broad answer to your question is that we have expanded British access to our services sector very significantly; it was, by the way, a very big British piece of advocacy in the negotiations, I am told. Another area is in government procurement at both the national and sub-national levels. Government procurement was hedged by restrictions that applied to British businesses, and they have been removed. The tender market for government services and equipment has been relaxed to open up opportunities for UK businesses. That was, as I say, one of the points that Britain was at pains to emphasise in the negotiation, and it is something

on which the United Kingdom side, as I understand it anecdotally, essentially got its way. I make that point not to be silly but because it was said that there are sectors of the British economy that are not happy about this, such as elements of the agriculture sector.

There are other elements—larger elements by value—of the British economy that are delighted with this agreement, even more so than the standard mean of delight, and the financial services sector, and the services sectors more generally, are among them. Mr Naish, can you expand with other illustrations?

Kyle Naish: Yes, of course. Thank you, High Commissioner. You have rightly identified services as a crucial element to this free trade agreement. The UK economy is, give or take, 80% services and the Australian economy is, give or take, 70% services, so this is a fundamental part of the outcome that the FTA provides. The High Commissioner and you, Lord Gold, have already alluded to the gains in mutual recognition of professional services qualifications. There are commitments in relation to the temporary movement of professionals between the countries with respect to things like intra-corporate transferees. Those are combined with commitments we have made with relation to investment.

The investment screening threshold has been increased for Australia. We have a monetary investment screening threshold. For non-sensitive sectors, it has been increased to 1.25 billion Australian dollars, which is the same as we provide to our CPTPP partners. The combination means that companies can establish businesses in another jurisdiction, and then bring their skilled personnel across to allow those businesses to get a toehold in the other market. You are generating economic activity and the jobs that go with it.

The commitments on government procurement are the most comprehensive treaty-level commitments we have made, and they are commitments at national, state and territory level, which is obviously important in a federal jurisdiction such as Australia. On digital trade, we have made detailed commitments to ensure that contracts that are concluded by electronic means are treated the same as paper contracts. There are commitments in relation to data localisation, which sounds like a technical issue but which, again, make it easier for innovative businesses, which are the economy of the future, to run their business in other jurisdictions.

We have agreed a chapter on innovation. It is our first-ever innovation chapter in a free trade agreement, because we recognise that both Australian and UK businesses are at the cutting edge of the future economy. That is building on things that we have already such as the fintech bridge that Australia and the UK agreed prior to the execution of this free trade agreement. Those are a number of the things we have agreed. We can go into more detail as and when it is required.

Lord Gold: Thank you both very much indeed.

The Chair: Because of the bit that you just mentioned on services, Mr Naish, I should have declared at the beginning that I am on the board of the Association of British Insurers.

Kyle Naish: There are insurance provisions in the FTA as well that go as far as we have gone.

The Chair: I should have declared my interest, and I apologise for not having done so earlier.

Lord Gold: I should declare that I have an interest in a legal funder called Balance Legal Capital, which is in the newspapers in Australia today because of a case against Toyota, which I am pleased to say was successfully brought.

The Chair: We have a little more time, so we have a couple more questions if we may take your time.

Q90 **Lord Kerr of Kinlochard:** If we have time, can I briefly take you back, High Commissioner, to your answer to Lord Oates's question and ask you two hypothetical questions? You are heading into an election period. If Mr Morrison were to be replaced by Mr Albanese, would you expect Australia to be less reluctant to see Paris Agreement commitments reflected in concrete terms in international agreements, and would you expect the British Government to want to find out by reopening the agreement we are looking at today?

HE George Brandis: It is not for me to speculate on what the Opposition might do if it was to be elected in the Australian elections, which are expected to take place in May, but I can tell you that, in general terms, the Australian Labor Party, which is the opposition party in Australia at the moment, has expressed its general support for the free trade

agreement. Beyond making you aware of that fact, I do not think it would be either appropriate or fair for me to go.

The second point depends on the first point, so I do not think I can go there at all. The agreement has been concluded. Nothing is agreed until everything is agreed, and once everything is agreed we have a deal. That is the way it works, subject, of course, in both countries to parliamentary scrutiny. Within the various chapters of the agreement many review mechanisms are established.

On the main point that Lord Oates made, and which you have come back to, in Chapter 22 of the free trade agreement we reiterate and reaffirm our Paris commitment. Our Paris commitment itself is a commitment that has the status of an international agreement, which Australia has not only observed—we have made the same commitment that your Government of the United Kingdom have made; we have also illustrated in a technical and scientifically credible way how we will get there, and we have, in fact, exceeded earlier commitments that we made. If one nation commits to make a commitment in one international instrument, it does not add anything from a legal point of view to repeat that commitment in another international legal instrument, but actually we have done that in the FTA.

Lord Kerr of Kinlochard: Not only is that a brilliant legal answer, it is also a very diplomatic answer, High Commissioner, although I would expect it to be both coming from you.

The Chair: Coming from him, that is a very high compliment.

HE George Brandis: Thank you.

Q91 **Lord Kerr of Kinlochard:** Could I ask you briefly about the digital provisions in the agreement? Your regime for protection of personal data is not wholly compatible with ours at the moment. There is also the problem of the triangular relationship. For us, maintaining data adequacy arrangements with the EU will continue to be very important, and possibly more important than the desirable relationship with Australia on data protection. How do you think that problem will be resolved? Is Australia seeking, and does it expect to get, a data adequacy agreement with the European Union?

HE George Brandis: The state of our dealings with the EU in relation to data adequacy is not something I am in a position to advise you on. We will take that on notice. Do you know, Kyle?

Kyle Naish: No, but what I can say is that we are in negotiations with the European Union on a free trade agreement in any event. We would dispute the proposition that, because we have different standards that do not exactly follow each other, there is somehow a difference in the adequacy or level of those standards.

We are currently in discussions with the UK regarding adequacy under the UK GDPR. I can certainly assure you of that. We believe that our privacy laws, if that is the element you are going to, are comparable with the UK

GDPR. We can speak at some length if you would like about our domestic legislation, which is the 1988 Privacy Act and the Australian privacy principles that underpin it. Certainly, they give effect to our obligations under the International Covenant on Civil and Political Rights, and they provide a principles-based framework for protecting the personal information of individuals.

Digital trade elements can be slightly different. As I said, we have provisions on data localisation. There is room for some restrictions on that in the treaty, and that is on the basis of the protection of private information as and when that is required as a public measure, consistent with our data and privacy protection for certain health data or protection of government data, et cetera.

HE George Brandis: This is another example of the proposition that just because we do things slightly differently does not mean that our standards are lower; it just means that sometimes our methods and approach may differ. We have in Australia the consumer data right, which was an initiative of Mr Turnbull's Government; he was mentioned before. I do not think there is anything comparable in your privacy legislation, but it is an example of where we can learn from one another. Through the Privacy Act 1988, which embodies a set of principles—the Australian privacy principles that Mr Naish referred to—we give effect to our Article 17 obligations under the ICCPR.

The Chair: Thank you.

Q92 **Lord Lansley:** Good morning, Your Excellency. I know my relatives living on Anglesey will be delighted that you enjoyed your visit there. They might ask if you had the opportunity to go and see Anglesey Sea Salt, which is one of 79 geographical indications that were part of the UK Government's list.

Could you explain why it was not felt appropriate for Australia to proceed with a GI scheme now as part of the FTA since we have a liberalisation of agriculture and food and related products generally? GIs tend to be a benefit not only to producers—an important one in the UK point of view—but to consumers who get more access to quality products.

HE George Brandis: I did not, in fact, visit Anglesey Sea Salt. The Member for Anglesey, Ms Crosbie, took me to a number of local businesses, but I am sorry that Anglesey Sea Salt was not one of them.

Can I make a general point about GIs? GIs are a form of protection of intellectual property. They are a way, in an international agreement, of protecting intellectual property whose brand identity is associated with a locality. They are not the only way of protecting intellectual property.

At the moment, under Australian law, a number of important UK GIs such as Scotch whisky, Stilton and various others are protected already, but they are protected by trademarks. Australia's law of intellectual property was essentially inherited from the United Kingdom's law of intellectual

property, and its broad schema are the same. The protection of geographical indicators through the trademark system is the way we in Australia prefer to acknowledge such protections. That was a point of difference between the negotiators, I acknowledge.

As a result, if that issue has not been resolved within two years of entry into force, there is a provision of the agreement that commits the parties to revisiting and re-discussing the issue. After entry into force, there will be a period of two years during which we will see whether the Australian position, which is the existing law of intellectual property, particularly the law of trademarks, is a sufficient protection of GIs. If after two years the UK is of the view that it is not, there is a structure in the agreement, because it is a dynamic agreement, to enable that issue to be revisited.

Lord Lansley: Thank you. It is a dynamic agreement, but clearly one of the UK's objectives was to have a GI scheme, not only to protect intellectual property but to benefit consumer choice.

One of the other provisions of Chapter 15 in this respect is if a non-party to the agreement were to secure a GI scheme—presumably, a reference to the European Union. Can I put it to you frankly? Since we have achieved an agreement that is essentially a liberalising one, and we have reached that agreement, why, in this respect, should UK access to a GI scheme in

Australia appear to be dependent on the progress of further negotiations between Australia and the European Union? We are out of the European Union. Why should we be waiting to see how it turns out between you and the EU scheme?

HE George Brandis: The short answer to your question is that it is not. It is dependent on what future negotiation may take place between Australia and the United Kingdom in what we both agree is a dynamic agreement. However, that is a belt-and-braces protective provision, as I understand it, which gives the United Kingdom yet another basis beyond the structure that the agreement creates to reaffirm its position in relation to GIs. Do you want to add anything, Mr Naish?

Kyle Naish: It is reasonably common in free trade agreements in certain provisions to have what is called forward-looking MFN. That is usually expressed in slightly different terms from this particular schema because Australia does not have a geographical indications mechanism at all at the moment.

It is not uncommon in free trade agreements to say that if some other country gets better terms, however so defined, depending on the provision, there will be provision for the country that is negotiating the treaty at present to take advantage of those in some way, shape or form. This is obviously expressed in a novel way. Part of the benefit of free trade agreements as living agreements is that they can look forward to potential future benefits or different mechanisms as they arise. This treaty is replete with co-operation mechanisms, review mechanisms and

committee mechanisms, so that future trade between Australia and the UK can develop over time.

Lord Lansley: Thank you for that. In the context of the EU scheme, IP Australia had a consultation in relation to the long list of GI products from across Europe back in 2020. Is there any plan on the part of the Australian Government or IP Australia to move towards legislative action that would enable such a GI scheme to be implemented in pursuance of those forwardlooking agreements?

Kyle Naish: I cannot speak to that consultation because it was carried out in the context of the Australia-EU FTA negotiations that are currently ongoing. I will take that on notice, and then we can answer, to the extent we can, within the framework of what is an ongoing and confidential negotiation.

Lord Lansley: I would be grateful for that. Thank you.

Q93 **The Chair:** We are out of time, High Commissioner, and we have gone beyond what we said we would take of your time, but I have one question I would like to put to you. Could you answer fairly briefly because I know that you too are pressed for time?

Right at the beginning, you stressed two things about this deal. One was that it was what you called a win-win for both sides, but you also very strongly said that this agreement, from the point of view of the UK, was almost a door into the CPTPP. The implication is that we would not get into that if we had not signed this deal.

HE George Brandis: No, I was not saying that at all, Chair. Australia, being one of the lead voices within the CPTPP and a vigorous supporter of the United Kingdom's accession application, would have been in a strange position to be championing the UK's accession into the CPTPP if we had not been able to do an FTA with you ourselves. It would have been, from an advocacy point of view, a disadvantage for us as your champion and, therefore, for you. That is what I am saying.

The Chair: That clarification is helpful. We owe you a lot, Your Excellency, and your two colleagues, Mr Macdonell and Mr Naish, for coming along today and helping us at this stage of our deliberations. On behalf of the committee, thank you very much.

HE George Brandis: Thank you, Chair, and members of the committee.