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International Trade Committee

Oral evidence: The future of the global rules-based trading system, HC 1091

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Watch the meeting

Members present: Angus Brendan MacNeil (Chair); Mark Garnier; Paul Girvan; Anthony Mangnall; Lloyd Russell-Moyle; Mick Whitley.

Questions 1 - 34

Witnesses

I: David Henig, Director, UK Trade Policy Project, European Centre for International Political Economy; Dr Peter Holmes, Fellow, UK Trade Policy Observatory; Peter Ungphakorn, former Senior Information Officer, World Trade Organisation; and Sam Lowe, Partner, Flint Global.

Examination of witnesses

Witnesses: David Henig, Dr Peter Holmes, Peter Ungphakorn and Sam Lowe.

Q1 **Chair:** I welcome you all to the International Trade Committee's public evidence session on the future of the global rules-based trading system. We have four witnesses this morning—three virtually and one in person—to give us different and, at times, maybe competing perspectives. But that is all to the good because it helps us to get an overall picture. Feel free to compete, to contradict, to disagree amiably or whatever; it is all helpful.

I will ask each person to introduce themselves, starting with Mr Lowe, who is with us in the room—name, rank and serial number, sir. It is good to see you again.

Sam Lowe: Thank you for having me here. I must say that it is slightly disconcerting being the only witness in the room. I am a partner at Flint Global, where I run its trade and market access practice.

Chair: Yes, it feels like the virtual guys feel are ganging up on you. We will ask David Henig next—it is good to see you again, David.

David Henig: Good morning. I am from the European Centre for International Political Economy. I have one or two other hats as well, but today I am in the ECIPE office, as you can see from my background.

Chair: Thank you. Feel free to wear as many hats as you want or as many perspectives as you want. Peter Ungphakorn is next.

Peter Ungphakorn: Good morning. Thank you for inviting me. I am a former member of the WTO secretariat in the information and media relations division. I am now retired and a part-time journalist/blogger.

Chair: Excellent. Thank you for joining us as well; it is good to see you again. Last but by no means least, let's hear from Dr Peter Holmes.

Dr Holmes: Thank you very much for inviting me. I am officially retired but I am still a fellow of the UK Trade Policy Observatory at the University of Sussex.

Q2 **Chair:** It is good to hear Sussex mentioned. The University of Sussex has been a great support to us as a Committee, particularly in our early days, in trying to understand quite what was going on.

The first question is to Peter Ungphakorn. Generally, and for people watching, what is the global rules-based trading system and how did it come about? I know that there has been mention as well of the International Trade Organisation, which was talked about in the late 1940s, so the genesis of this, it seems, goes back a while.

Peter Ungphakorn: I will try to keep this as brief as possible. Basically, when we talk about the origins of the rules-based trading system, there are two questions. One is, "Where are we now?", and the other is, "How did we get here?"

To take those in reverse, how did we get here? The rules-based multilateral trading system was created to solve a problem, which was the chaos caused by countries going it alone and doing things unilaterally—in particular, the unilateral protectionism in the 1920s and 1930s that worsened the depression and was one of the causes of the second world war. Post-war, world leaders decided that they needed to improve co-operation and multilateralism in many fields, including economics. As you said, there was an idea of creating an International Trade Organisation to be the third Bretton Woods institution, alongside the World Bank and the IMF. While the American Administration wanted that, Congress was opposed.

One of the main reasons, to condense this, why there was opposition is a problem that continues to this day—that is, the opposition of the notion of sovereignty and freedom to have one's own policies, alongside, on the other hand, the need for multilateral co-operation for the benefit of everybody. That has always plagued this system. Sometimes one gets the upper hand. Multilateral co-operation got the upper hand at the beginning, and perhaps back in the 1980s and 1990s, and then sovereignty becomes a bigger issue, as it is now.

What we got instead of the International Trade Organisation was the general agreement on tariffs and trade—GATT—which was an agreement and not officially an institution. It was negotiated, agreed by consensus and, because it is an agreement, it signifies rules. That is why it is called the multilateral rules-based system. It has a number of principles, one of the most important being non-discrimination—the famous "most favoured nation"—but there is also something called national treatment.

GATT was created and has evolved over the decades through negotiation, through agreement by consensus, which means no one was forced to agree anything. That casts a light on the notion of whether there is an infringement of sovereignty or not, because everybody agreed by consensus.

In the 1980s, major trade problems emerged, which resonates with the situation today. The rules were becoming more out of date. There was a subsidy war between the US and the EU over agricultural support, which was largely exempt from GATT. This affected other countries, too. There was then pressure to expand the system from GATT—which only dealt with trade in goods—to include services and intellectual property. On adding services and intellectual property, it is worth noting that it was very much the private sector that was pushing for that, which is not necessarily the case these days.

Negotiations from 1986 to 1994, called the Uruguay round, brought an agreement on these. There was an agricultural subsidy ceasefire and there were new agreements on services and intellectual property. There was also agreement to create the WTO properly, with a proper legal status. So that is where we are now.

This WTO is a consensus-based, member-driven system. The WTO is its members. All decisions are taken by the member Governments. The WTO secretariat is often confused with the WTO. It is simply a secretariat, there to support the WTO. The director-general is the head of the secretariat and not legally head of the WTO. She is an unofficial figurehead, cheerleader and mediator, but has no executive power over the WTO at all. It is only the members who decide, always. She only has executive power over the secretariat.

To wrap up, there are three main functions in the WTO, and a fourth if you include development, but that is a bit confusing. Two of them are working pretty badly and are facing problems, and one is working well. The three include negotiations—there is a struggle here to reach consensus because countries are not willing to give up policy space. There is a problem with dispute settlement, which is about settling legal cases on whether agreements and commitments have been violated. The US has prevented appeals from being heard, because it is now blocking appointments to the appellate body. Various countries have devised ways around that, which we can look at later if you want.

I also emphasise that implementation, the third key role of the WTO—in other words, implementing existing agreements—is working reasonably well. It can be improved, but I think that we now have around $25 trillion of goods and services flowing globally each year, unremarked. This works through transparency and discussion. Members notify what they are doing in the WTO and they can then discuss it with each other. A key role in that is to get trade to flow smoothly and also to avoid legal disputes. A tiny minority—only a miniscule number—of issues that are raised in the committees in the WTO, which, incidentally, consist of all WTO members, end up as legal disputes.

That is where we are now. The WTO is handicapped, but part of it is working well and it is still a very important structure for trade to flow smoothly around the world.

Chair: Thank you. That is an important distinction about the secretariat, and the head of the secretariat, actually being that and not having any executive power. It is worth remembering. On your mention of sovereignty, Anthony Mangnall perked up and wanted to come in, so I presume that the baton is being passed on sovereignty.

Q3 **Anthony Mangnall:** Let me just say thank you; that was an extraordinarily good description and very helpful. Before the Committee went public, we were discussing the ITO. How does the WTO compare with what was originally proposed as the ITO in 1947?

Peter Ungphakorn: Briefly, the ITO was much broader. It was going to involve a wider range of issues. I have not looked at it very closely, but I believe that it included things like labour and various social aspects, which are not in the WTO. The WTO has a much narrower focus. When issues like labour do come up in the WTO, quite often members tell each other, "There is now an international labour organisation"—well, there was then—"and that is where labour should be discussed". People try to keep the focus of the WTO narrowly to what is defined as trade, but, as we will probably hear, there are other issues coming up, like environment and so on, which will inevitably broaden the scope.

Dr Holmes: May I make a quick observation? I did once look through the ITO text, the Havana charter, and what is very striking is that it reflects the time, 1947. The idea of a supranational legal framework with binding dispute settlement was a very long way away. It is very diplomatic. If there is a problem, the organisation, the secretariat, will bring the parties together for not even arbitration, but diplomatic consultation. It is much less rigid or much less legalistic than the WTO turned out to be.

Q4 **Chair:** Related to that point—this question is to both Peters—how tangible and significant is the difference that the rules-based system has made to the world? Can you imagine a world without GATT or the WTO? Peter Ungphakorn, you mentioned that it might have had labour rights at an ITO as well. Had the WTO been slightly different, what would the world be like without the rules, and what would the world be like had the WTO included labour rights and what have you? I am asking you to retrospectively "crystal ball-ise" with an answer, if you can.

Peter Ungphakorn: I do not know what my fellow Peter would say to that. It is almost impossible to predict. What people do look at is what happened before there was GATT, which is not necessarily a good comparison. Maybe the worst-case scenario is that when people are free to take matters into their own hands and do not believe that there is a system to constrain others, there is a battle to compete, to be protectionist—there was the famous Smoot-Hawley Act of the US. There is data that Kindleberger produced, which shows that two thirds of world trade was wiped out because of competing protectionism, plus the effects of the depression.

Chair: That is the Kindleberger spiral, isn't it, where you see that going down annually, monthly, over years?

Peter Ungphakorn: Monthly over just over three years, and about two thirds of world trade was wiped out in that period. There is a debate among economic historians about how much of that was actually because of protectionism and how much was caused by the depression. I think the general answer would be that they worked together to reduce trade in that period. That is the worst scenario—that you lose a hell of a lot.

Chair: Peter Holmes, your thoughts?

Dr Holmes: I completely agree with what the other Peter just said, but I would observe the slightly paradoxical point that it is very difficult to work out in quantitative terms what the impact of the existence of the rules-based system and the WTO have been. There have been some econometric studies attempting to measure the impact of the WTO. They come up with numbers that are much smaller than any reasonable interpretation of the history would find plausible.

The reason is that, in order to look at the impact of the WTO, you would need to have some sort of counterfactual. You would need to observe some major countries that were not in the WTO or a period like the present where the WTO rules did not apply, and there is no such observation. If anybody tries to prove or convincingly demonstrate statistically the scale of the impact of the loss of the rules-based system, it is quite tricky.

One last point to remember is that the rules-based system does not require free trade. A lot of people who criticise the WTO think that it means free trade. It means a rules-based system, and ultra-free traders look at the rules of the GATT and the WTO and say, "This is protectionist. It tells you what tariffs you may apply, and the circumstances under which you can go above the rules you have committed to". It is a rules-based system. It is not a strictly free trade system.

To answer that question, you would need to know what people would do if they were free of these rules. As I said, it is very difficult to answer the question that the Chair very intelligently asked.

Chair: It sounds like it could be a bit of a tragedy of the commons. David Henig, your hand is up. You want to come in as well.

David Henig: Yes. To add to that, obviously it is businesses that trade, and one part of the global rules-based system is not just the rules, but the confidence that it gives them that they are in place.

As one illustration of that, trade rises steadily after the formation of the GATT, but it rises spectacularly after 1990. That is when global value chains are arranged and when China really enters the global trade system, except that China was not a member of the WTO until the early 2000s. You see a huge amount of trade increase with regard to China, which was not at that point a member of the GATT and then the WTO. I think that is worth bearing in mind when we get on to the questions about what is happening today.

Chair: Thank you. Peter Ungphakorn, your hand is up again.

Peter Ungphakorn: This relates to what both Peter and David have said. Countries that were not members of the WTO, like China, Vietnam and so on, had normal trading relations, which is MFN, with the US before they joined the WTO, so to some extent the rules were extended to them.

Chair: Thank you. They are interesting points. To move matters on a little, I will turn to my colleague Anthony Mangnall.

Q5 **Anthony Mangnall:** Dr Holmes, what hope is there towards the WTO? If I was listening correctly, Peter Ungphakorn made the point about negotiations not working well and dispute settlement not working well, and, obviously, the implementing of existing arrangements is working well. Should we have any hope towards the WTO? It has not agreed any multilateral agreements. It has done a few plurilateral agreements that seem to be fracturing the system. What exactly is attractive towards the WTO at the moment?

Dr Holmes: I will try to be optimistic, as is my nature. The one thing you can draw on to be optimistic is that none of the members really want to see it collapse. We had a brief discussion before the main session about the role of the Chinese. The Chinese, I think one could say, act as if they are really committed to the system. They would like other people to apply the rules to them, and in some cases, they consider it is good for their economy to be able to force their own firms to obey the rules. The Chinese Government do not necessarily like giving vast amounts of subsidies. They would like their firms to become internationally competitive. The Chinese are quite keen to keep the system going.

The EU likes the idea of a rules-based system. That is built into its DNA. The WTO was, to some extent, fairly heavily influenced by the United States' view of the way the world system should go. Small countries know —do you remember "Butch Cassidy and the Sundance Kid"? "Let's have a conversation about the rules." "Ain't no rules in a knife fight". Smaller countries benefit from the existence of rules.

There is in some sense an ingrained desire to keep the system going. The United States has never said—well, apart from Trump, and he did not pull out. I think that there is a potential for keeping the thing going.

Q6 **Anthony Mangnall:** Can I just push you on that? You are talking about rules, the importance of these rules and that there is comfort in the international community towards them. However, what is the purpose of the rules and what is the value of the rules if there is no one there to enforce them? If the area of dispute mechanism is not working, how much confidence can there be in the rules-based system?

Dr Holmes: One of the interesting things is the way the GATT worked before 1994 when there was no effective enforcement mechanism. The big players knew that if they went too far in ignoring the rules, the whole edifice would come down. The question is: have we gone past that point of no return? It is a kind of game in which you will have multiple equilibria and we are reaching the limits of the co-operation that you feel you want to engage in with a view to extracting co-operation. It is a bit like the nuclear deterrence argument, in a way.

I don't want to say that everything is going to work, but there are certain incentives for the big players not to push the system to the point of destruction. I will not tell you that that is the definitive answer, but that is my—

Q7 **Anthony Mangnall:** Sorry, I will bring you in, Sam, but I just want to ask: how much more likely is it that you are going to see a new structure around dispute mechanisms, say, within free trade agreements, bilateral agreements and plurilateral agreements? Could you see CPTPP, for example, evolve into having its own dispute mechanism, rather than using WTO?

Dr Holmes: Most FTAs do have some sort of dispute settlement system but, in fact—the others will correct me if I am wrong here—very few free trade regional agreements have binding dispute settlement mechanisms that are as strong as the WTO. It is not a path that is easily trodden, apart, of course, from the EU.

Anthony Mangnall: Thank you. Sam, you wanted to come in.

Sam Lowe: In terms of assessing the value of the WTO in the modern era, there is probably a need for some expectations management. If you are expecting it to perform the function it did in the past, which was to facilitate large multilateral negotiations and the delivery of notable progress in respect of trade liberalisation, it is going to fall short at the moment. If you are expecting the dispute settlement mechanism and the arbitration function to work as it did in the past, that is not going to be the case.

However, on the question of whether it still has value, the negotiation function might not be working that well in delivering large gains in trade liberalisation, but there has been some progress in recent years. At the last ministerial conference, there was progress on the subject of fishery subsidies, which I am sure you are very well aware of—it has also been discussed in this forum. There were discussions on the covid vaccine waiver that were concluded. You also, in the plurilateral space, have had progress on domestic subsidy regulation, and there were discussions on e-commerce in terms of both the moratorium and the negotiations. It still serves a purpose, if not quite the same one as before.

On disputes, one point I would make is that the dispute settlement function is completely broken in respect of disputes with the United States. That is not necessarily the case for disputes between other members. For one, you have the multiparty interim arrangement, which essentially replicates the appellate body outside the WTO among certain members. Interestingly, the UK has not signed up to this; I am not quite sure why. I am sure there is a very good reason, but lots of other countries have, including the EU, China and the like.

I would also make the point that the WTO is still the preferred place to bring a dispute, because you have the secretariat, lots of resources and a process through which to do it. It is interesting that the first dispute between the UK and the European Union was not brought under the trade and co-operation agreement; it was raised under the WTO with respect to subsidies and local content requirements around onshore wind.

The WTO clearly still has a value. If you read things that I say in public, I am not evangelical about the WTO. I am very sceptical that anything will ever happen, but I still think that it has value. The revealed preference of its members for the most part is that they still want it.

Anthony Mangnall: Thank you. Peter Ungphakorn, I think you wanted to come in.

Peter Ungphakorn: I agree with a lot of what Sam said. I would like to clarify that there have been multilateral agreements in the WTO, such as the fishery subsidies one that Sam mentioned. A few years back, there was also one on trade facilitation, which is cutting red tape. That was something that, unusually these days, the private sector was pushing very hard for, and it got that. Back in the early years of the WTO, there were agreements on improving commitments on liberalisation in services. It is not that it is not working.

I would come back to a point that I made earlier on. The fact that dispute settlement is not working properly—although it is working to some extent, as Sam said—ignores the fact that a lot of the work that goes on in the WTO is designed to avoid dispute settlement, to settle things through talking. It is intangible, although you can look at the numbers of issues that have been raised in committees and the numbers that end up as disputes, and it is very small. It is not sexy, so it never gets in the headlines. The newspapers never write about it. I have alienated a number of friendly journalists by telling them that they should be writing about this from time to time, and they never do.

Q8 **Mark Garnier:** David, can I ask for opinions on China, in particular? *The Wall Street Journal* published an article last month that basically argued that China's, "authoritarian, statist economy has proved incompatible with the trading system the market-based democracies built after World War II" and then went on to say that the World Trade Organisation's, "inability to discipline China's protectionist and discriminatory practices" is lamentable. David, what do you think of that? Are you an enthusiast for China?

David Henig: I am an enthusiast for trade, as you know, including with China.

I would say, and I don't think that the Peters will contradict me—though they might—that the world trade system, the GATT, the WTO, was designed with all manner of different economies in mind. It was intended to be a basic set of principles that all economies follow. It is quite extraordinary, then, that you now come out and say that there are certain types of economies that we do not want to trade with at all or that we do not want as part of the rules. That seems to me completely different to the founding principles. Admittedly, many countries were not members of the GATT back in the days of the cold war. Very little trade was done with, say, the Soviet bloc. We have already mentioned that China was not a member.

I am not an expert on the conditions under which China joined. There are plenty of articles and commentaries on whether China met or did not meet those conditions. Normally, that would be the sort of thing that one could go to disputes on. I would add that there are plenty of countries—including the US—that also maintain certain forms of protectionism. I have spent years discussing "buy America" and "buy American" in the procurement space. America is a great lover of science-based SPS, unless it is with regard to, for example, haggis, in which case it has been banned for 50 years and no scientific justification appears, as far as I can see, ever to have been offered.

I think that making such sweeping statements is not very helpful. Within the US, this is what we see at the moment. What is the US—

Q9 **Mark Garnier:** David, I am going to come to the US in a minute. I have a few questions specifically on the US for you and Sam, but I want to keep to China for a second.

China is an incredibly important democracy—I am sorry, one thing it is not is a democracy, my apologies. It is a very important economy is what I meant to say. I have been doing business in China in one way or another—I was an investment banker before I came into politics from 1986. One of the interesting things about China is that it has developed. As it has changed the way it works as a country, it has become more and more understanding of the rules.

For example, back in 1986 if you had visited a factory in China, it would be one of the most appalling things you could possibly go to. However, after you see a company like, I think, Nike start to become a big customer of Chinese factories, it had so much influence that, at the end of it, you improved the rights of workers. You are going through this process that took us, the western world, several hundred years to get to where we are now, and we have tried to accelerate that in China.

Similarly, intellectual property rights is probably more relevant. Famously, the Chinese have been pretty lax on understanding the concept of intellectual property rights, right up until the point where their intellectual property rights get nicked and suddenly they understand why this is an important point.

China may already be—and if not now, it certainly will be—the biggest economy on the planet and it will be incredibly influential. How are we going to deal with a country like that, which has some slightly old-fashioned views on the world? If we cannot get it to engage properly with the WTO, how do we deal with it?

David Henig: The traditional UK Government view—I was a part of this 10 or 12 years ago and I was looking at exactly this—was that China might not meet all of what we consider to be the rules, but having those foundational rules is an incentive, as you say, for it to improve. That attitude towards China now seems to have slipped away in many other countries. I still would go with the idea that, yes, you need those rules, and in the event that China seems not to be following them—as I'm sure is the case in some areas—there need to be mechanisms for doing that. That is not really the story of the last few years.

When I have looked at the figures for subsidies or when you look at the figures for trade with China, it is very hard to tell exactly how much it is following the rules. I would also say that China is now the world's second largest importer. China does huge amounts of trade with its neighbours. China is the largest trading partner of, I think, 120 countries. I do not think that you can ignore China, and I think that we are far better having a rules system around China. As we discussed earlier, evidently, possibly, China would agree with that. How ones does it is another matter that we might come on to.

Sam Lowe: One observation I would make is that when you talk to people engaged in the discussions in Geneva—I think Peter Holmes might have made this point earlier—they observe that China goes out of its way to bring people together in Geneva and defend the rules-based system as it exists now. That is an important caveat, because if you talk to, say, officials in the European Union and in the US, they can accept, for the most part, that China is complying with its obligations as a WTO member. Their issue is that those obligations are not comprehensive enough to constrain China in the ways they would like it to.

For example, in the case of subsidies, it may be the case that China is compliant with the rules. That is because the rulebook does not take into account how it goes about subsidising certain industries; for example, below-market-rate loans from its financial system and the like, because they are state-backed banks. It does not quite account for that, or Chinese firms gaining market share in Europe or elsewhere through acquisitions based on favourable funding conditions—those sorts of things—and in respect of joint venture requirements, intellectual property, and theft.

This is a generally shared view. The Europeans and the US agree on that, and I am pretty confident that the UK Government do as well. The rulebook needs to be updated to take that into account, but the problem is you cannot update the rulebook if China does not want it updated, because it is a consensus-based system, so we are at an impasse.

Q10 **Mark Garnier:** Very quickly on that point, do you think that they are cynically gaming the system, or do you think it is just because they are approaching it from a different way?

Sam Lowe: I think they are complying for the most part and they have a pretty good record of abiding by the results of dispute settlement. They are abiding with the rules as they understand them and no more. I think they are, in the general consensus, gaming the system, but you also have to take into account the new wave of issues. These are old issues, but they have gained prominence more recently, and they are around the security dimension. If you look at lots of the actions of the US more recently being replicated elsewhere, a lot of that is around strategic competition or that framing, constraining China's ability to get a foothold in advanced semiconductors because of concerns about the use of artificial intelligence.

Mark Garnier: Is that the 5G argument?

Sam Lowe: Exactly, all that as well. You also have the discussion in green tech where the concern is that China is going to steal a march on the rest of the world and dominate that industry. That will have security ramifications in the case of semiconductors—in green tech, it is slightly different, with more economic-based arguments.

To conclude, these issues are not going away. Of course, China does not think that it is doing anything wrong, which is why you have an impasse on the negotiation of these issues at the WTO. The US, the European Union, the UK and others have legitimate concerns that need to be addressed, so the question is how, and I don't have an answer.

Mark Garnier: The two Peters are putting their hands up. Peter Ungphakorn, we will start with you.

Peter Ungphakorn: I would say two things. First, when you talk about people gaming the system, everybody games the system. That is how it works. They look at the rules. They say, "What can we do?" and sometimes they say, "Where can we bend them?" I do not think that anybody is innocent of that. Therefore, it is not just China, although I am not denying that there are issues with China.

Secondly, I do not think that the problem with negotiations is all that much to do with China. It is a lot more to do with India and South Africa and, in some cases, even the US and the EU themselves on some issues. On the way that China has agreed to certain things in the WTO—for example, on issues where it would be exempt from certain rights, such as on the waiver on intellectual property for Covid vaccines—when people tried to name China and say that China is excluded, China said, "No, we are not going to do that". They found another way of doing it by saying, "Your export proportion, or if you hit a certain limit, you will be excluded". Then China said, "Okay, we can live with that". A lot of the way of dealing with China or getting China on board is to do with that.

One of the problems that the negotiations in the WTO face is the difficulty in having consensus. You get these plurilateral negotiations, which is among smaller groups or subsets of the membership of the WTO. China is involved in those; India is not. We should not get the impression that China is an obstacle to agreement in the WTO.

Dr Holmes: I agree with what my friends just said. I am not an expert on China in the WTO, I have to say, but I had an interesting experience in 2006. I was invited to give some talks in China at the Central Party Academy, as it used to be called—the China National School of

Administration, an interesting place to be in. I was trying to explain how I thought the WTO worked and one of the people put their hand up and said, "Why does the WTO keep telling us to do this, telling us to do that?" I said, "I think what you will find is that the agreement that the Chinese reached with the WTO was what the party wanted". I cannot remember who it was who said that the Chinese had much of the market access that other members of the WTO had with each other, but it was not entirely subject to all the rules. The party was quite keen to introduce a rules-based system into China. When I said that this is what the party wanted, naturally nobody could object, but I think it is true.

I once asked a Chinese student, whose father was a fairly wealthy businessman in a particular provincial town, how the party and the Government had sold the concept of going into the WTO to the private business community in that area. He said that what happened was the party officials came along and said, "We want to reduce subsidies to state-owned enterprises and that will give you guys, the private sector, more openings, so we have signed this up and that will put you in a better position".

It is a long time since any of us have been to China, probably—well, since I and some of the others have. I have delivered online teaching to students in China over the last two or three years but that is all. It is possible that the great power expectations and nationalism of the Xi Jinping regime may have taken the Chinese strategy a little bit further away, or may be taking it further away, from the technocratic, "Let's do everything to make the economy grow fast—put that before everything else". Things may have changed a little, but I would still feel that, on the whole, the Chinese think that the rules, as they have signed up to them, are more or less in their interest and they would rather keep to them than have a knife fight.

Perhaps we could just look back to the US thing and the subsidy issue. As Sam was saying, the subsidy rules in the WTO had some ambiguity. One of the big complaints that the US has against the dispute settlement system and the appellate body of the WTO is that the appellate body was ruling that certain support for Chinese industry should not be considered subsidies and, therefore, a violation by the Chinese Government of the anti-subsidy rules because of the wording of the text. The Americans think that the appellate body went way beyond its remit in saying that. There is also a technical point about the appellate body insisting on sticking to its own precedent. There is a symbiosis or parasitism between the US position and the Chinese position, with the Chinese at the moment, as Sam said, thinking, "We signed up to these rules. Let's all stick to them," because they suit them.

Chair: I am wondering how long it was between the line "blame the party" and your flight taking off.

Dr Holmes: I said the party was right.

Chair: Very good.

Q11 **Mark Garnier:** We keep drifting towards America, so this is probably quite a good point to go back to Sam and look at some recent protracted, bitterly fought disputes that have been taking place with the WTO. I probably ought to declare a bit of an interest: when I was a Minister at DIT, I was involved in what I am about to talk about, the Airbus and the Boeing subsidies. Those came under my brief. We had big arguments about those subsidies, and then the US national security tariffs on steel and aluminium. Given the fact that the US is possibly playing fast and loose with the rules, what does that tell us? What does what the Americans are doing tell us about the health of this rules-based trading system and the WTO as an institution, Sam?

Sam Lowe: I suppose I would differentiate Boeing and Airbus slightly from the more recent disputes, in that that was such a long-running dispute. You could argue that it was evidence of either the rules-based system working, in that it was a dispute brought under the existing provisions, or of the rules-based system not being able to accommodate the national interests of the Europeans and the UK and the US, because both of them were going to subsidise their airlines. My view is that lawyers did very well out of that dispute.

Mark Garnier: If I remember, we were having a go at the Americans for doing what we were doing with our own people and vice versa.

Sam Lowe: Yes, it was one of those things where you think that, early on, if people had just taken a step back and said, "Can we just ignore this?", it might have led to a slightly better outcome. However, that is just my opinion.

I pull that aside slightly, because the more recent issue is unique in a sense, in that Trump's steel and aluminium tariffs, which were justified as national security, levied on China and allies—the UK, the Europeans, the Japanese, the South Koreans—and then used as leverage in bilateral negotiations, were, I think, universally considered as being in breach of at least the spirit of US obligations. The national security justification made it tricky. Just before Christmas, the US has since had a ruling go against it on this and told everyone that it doesn't care. There is that sense—

Q12 **Mark Garnier:** On that particular point, you talked about it being Donald Trump who brought in these tariffs. He is a fairly aggressive person who does not seem to think that there are any rules for anything at whatever level you want to talk about, but he is a businessman as well, so he would clearly be doing it for the benefit of his own businesses. On that basis, you can argue that, if you have a less than brilliant leader of a country, you are going to get a less than brilliant contribution to this. Biden is a better—

Sam Lowe: I would say it is more systemic than that. This is not my quote; I believe I should attribute it to the person who first used it. I think it was Hosuk Lee-Makiyama—David's colleague at ECIPE—who described Biden as Trump with better "table manners" in respect of trade policy insofar as there are some fundamental differences. For example, Biden resolved the Boeing-Airbus dispute with the EU temporarily and with the UK on a slightly firmer basis. Trump was going to do that but then didn't when his election did not look so good. The steel and aluminium tariff Biden has resolved with the EU—again, with the EU temporarily and the UK more longer term. There are some differences, but the drivers of this—for example, the desire to protect American workers in certain industries from competition to win an industrial race in terms of new technology, so green tech in particular with the Biden Administration—remain.

This now feeds through into discussions around the US IRA—the Inflation Reduction Act—and what the US is doing there. It is putting together a huge pot of money, ostensibly to deal with inflation—no one knows quite how that would work—and the environment. It is largely just to buy off and create advantage for certain domestic industries. It is conditioning a lot of that money on local content provision. I have not found anyone who thinks that this is not in breach of US WTO obligations, but everyone also knows that the US does not care.

That gets to your fundamental point: what do you do about it? This is one of the big questions in Europe right now. Today, the EU will have von der Leyen releasing some of the EU's response to the Inflation Reduction Act. That will be focused on not doing exactly what the US is doing but making the subsidy acquisition process simpler, slightly discussing the plans on the trade side and also trying to ensure that it is not discriminatory so that, for example, it does not breach the terms of the trade and co-operation agreement with the UK. The UK has to work out how it positions itself between the US and the European Union because, if I am blunt, it cannot outspend either, so it has to be more strategic.

This is the world we live in now. To bring it back to the WTO, there is a question as to whether the EU, the UK, Japan, China and others bring a WTO dispute against the US. We know what the result will be. The US will say it does not care, will ignore whatever that says and will appeal it into the void. It is strategic, because we are pretty confident that we will win that dispute, but does it actually deliver an outcome we want? Does it bring the US back into thinking the rules-based system works for it? Ultimately, in my view, the system is entirely dependent on the US wanting it to work. Without them, lots of it starts to break.

Q13 **Mark Garnier:** David, you have your hand up. In December, when the US rejected the WTO panel report regarding America's national security tariffs on steel and aluminium, you said it was "momentous", with "the US declaring WTO rules dead as far as they're concerned", which is what we have been talking about, and "the end of multilateralism". Is this different from previous WTO disputes and, if so, why?

David Henig: Yes. As Sam knows, on steel and aluminium, there is a point to add. Trump imposed steel and aluminium tariffs. Whether the tariffs themselves were against WTO rules, the dispute has said that they were. In fact, the way they have been resolved is also almost certainly against WTO rules because individual countries negotiate them. The US and EU arrangement on steel and aluminium looks completely contrary to what Peter Ungphakorn started with: most favoured nation, treat everybody equally, non-discrimination, the EU and the US doing a deal on steel and aluminium. That is a sign of the way things are going.

However, as Sam said on the initial response of the US, the finding in that case was, "We do not care. It is our national security". There has always been a national security exemption to trade rules, but the US has now defined the national security exemption as "whatever we feel like". If you define the national security exemption as "whatever we feel like" and you say that that cannot be challenged, I believe you are effectively saying, if you are the US, "Therefore, the rules do not apply if we say they do not apply". That is driving a coach and horses through the notion of the rules.

I find interesting the way that the US is playing this. You get strong statements like that, but then they go back and have dialogues again, with the EU particularly, but sometimes with the UK and with others. I sense that, although some statements of the US are so strong that they imply that they do not care about the WTO anymore, they do not have that as their definite objective. I am not sure that the US knows quite what its objective is with regard to the WTO and to China. That makes it hard for the EU and for the UK to work out how to respond. Are we responding to a US that is prepared to have a world trade system and is prepared to follow some rules, even if they do not quite work for the US, or are we not? How do we play that? I am sure we will come on to that.

But yes, it seems to me that these are momentous statements. Is the US definitely sure that it wants to cut off the WTO? It has not as yet.

Mark Garnier: Brilliant. That is helpful. Thank you all very much.

Chair: Thank you. To pick up the pace now, Anthony Mangnall.

Q14 **Anthony Mangnall:** I am not sure I will pick up the pace at all. Peter Ungphakorn, can I come back to you a bit on the China stuff? There is a view that it is following the rules and broadly playing by them, but I am interested in the Singapore issues, which I understand are investment, competition policy, transparency, government procurement and trade facilitation. Surely the whole development of the World Trade Organisation is to evolve to increase rules and measures around some of the things that are the order of the day. Digital trade, for instance, might not have been a point of consideration when GATT or the WTO was set up.

How much is China blocking the progression and preventing the rules from evolving with what modern trade and these agreements are looking at?

Peter Ungphakorn: I am not sure that I am the best person to answer that. On the Singapore issues, do not forget that trade facilitation was concluded. The reason I cannot answer that closely is because things like digital trade are new. China is not overtly blocking any negotiations on that, as far as I know, but others may know better than me. It does not seem to be emerging as a country that blocks those. There may be bigger issues where China is heavily involved—for example, in fisheries subsidies or whatever—where certain issues have not been concluded, but that also remains to be seen.

Q15 **Anthony Mangnall:** Sorry, to be clear on this—this is my ignorance here—have the Singapore issues now been concluded, as in they are included or the rules of the WTO have been updated?

Peter Ungphakorn: Three of the Singapore issues were dropped, but trade facilitation remained and an agreement was reached in—I cannot remember—2015 or 2017, or something. Trade facilitation has been concluded.

Q16 **Anthony Mangnall:** That is my point. I open this up to the rest of the panel. The exclusion of investment, competition policy and government procurement is clearly a bit of an issue. Surely these are becoming more important in trade agreements that we sign. As I understand it, China, Brazil and India have all stood in the way of this. I presume China is the most vocal on it. Is there no cause for concern that that restricts the evolution of the WTO?

Peter Ungphakorn: For those other three issues, China was not the most vocal. When it first came up, China was not even a member of the WTO. India was certainly the most vocal on the Singapore issues back in 2001 at the Doha ministerial conference, which was when China was accepted. By then, India was the most vocal. I am not sure that China is necessarily the most vocal on these.

Q17 **Anthony Mangnall:** Understood. Remaining with you, Peter, the WTO's appellate body ceased to function in December 2019. You said, "There will be two tests to judge the effect of the appellate body crisis. Will countries slow down filing new disputes or even appeals? And will the normal work of the WTO weaken?" What has happened since then?

Peter Ungphakorn: I am not aware. Again, if you are looking for a numerical measurement of whether things have slowed down or not, there is no evidence that disputes have slowed down and there is no evidence that the normal working of the WTO has slowed down either. It is very much a long-run thing. If members find that dispute settlement is not working and negotiations are not working—in other words, new rule-making is not working—in the long run, they may lose confidence in the

WTO and that would then weaken the WTO itself. That is not necessarily happening yet and I do not see any evidence that that is the case.

I also emphasise on dispute settlement that, while it is an important part, again, the number of issues that do not go to dispute settlement is pretty crucial. At the moment, that seems to work well. Discussions to avoid going to dispute settlement seem to work well.

Q18 **Anthony Mangnall:** Thank you. David, did you want to come in?

David Henig: Yes. I wanted to raise companies again. I was speaking to one of the UK's best-known trade lobby groups a few weeks ago. These are the sorts of people who want these processes in the WTO to work. They do not want to go to disputes, so they raise things that should go through the committee. For example, if there is an issue with technical barriers to trade or SPS, what do these business do? They raise those issues with the Government and the Government raise them in the WTO committee.

There is no reason why that process should slow down at this stage. Certainly, UK stakeholders very much want that to continue. They very much want the UK Government to raise them. As far as I can tell, that happens.

Q19 **Anthony Mangnall:** Fair enough. In that case, can I come back to Peter Ungphakorn? You have also mentioned the idea that the WTO needs reform. Could you give us an idea of what that actually means? What was agreed at the ministerial conference in June last year says next to nothing. What should be on the agenda for WTO reform?

Peter Ungphakorn: Oh my goodness. "WTO reform" is the catchphrase that everybody uses, and everybody says that the WTO needs to be reformed, but there is a huge range of differences about what that means.

If you talk to the Americans, they may focus on a couple of things: the appellate body, how the rules are interpreted, precedent and all of those legal issues. The Americans also have concrete proposals on improving transparency in the WTO, which were originally—let's say—outrageous because they would punish countries that were behindhand. They have weakened that considerably now and got a lot of countries on board. Even the current workings in the WTO can be reformed, including transparency, notifications and all of that stuff.

You then have problems in negotiations. To keep the answer short, what is needed is not WTO reform, but reform of how capitals and Governments regard the WTO, because you will not get changes in the WTO unless members can agree on what needs to be changed. If countries have problems with certain aspects of the negotiations, they need to get together and discuss how we will do this, how we will improve the chances of getting consensus, how we deal with subsidies and how we bring in environmental issues. But it is also an approach.

My view may be wrong; it may be too optimistic. My view on how the WTO goes is that it is cyclical. You have periods when there are problems and countries want to co-operate and resolve those problems. They then get back to the sovereignty issue—"We want to do things our own way and stop interfering with how we do it"—which is where we are now, to a large extent. Everybody is defensive of the WTO—most people, not everybody—but there needs to be some kind of getting together again and saying, "Hang on a minute. We need to get together and resolve this". That can be done only in the capitals and only if Washington says, "Hang on a minute. This is not healthy", or if Beijing or Brussels or the various members states say, "This is not healthy". It has to come from the capitals.

Q20 **Anthony Mangnall:** Thank you. How much do you feel that new trading blocs like the CPTPP have an opportunity to try to do that? You are bringing together capitals and countries and having a conversation about like-minded areas. Does that offer an opportunity for us to join the CPTPP and then see if we can push it through that way?

Peter Ungphakorn: The way that the free trade or trade liberalisation blocs help the WTO is by building confidence. If you have done something in those blocs and you can then do it somewhere else, you feel, "Okay, maybe we can spread this to the rest of the WTO".

The problem with something like the CPTPP is that it does not have China or India in it. Unless you have them on board, you will not resolve the many multilateral issues.

I was talking about cyclical things. Also, if right now there is an issue with green subsidies and violations of MFN, non-discrimination and all of that, at some stage you may get back to the situation from the 1980s when competing agricultural subsidies were seen as a problem. They then realised, "We have to settle this globally rather than just between us", because you cannot deal with subsidies bilaterally, or it is difficult. It may take 10 or 20 years to get back to that situation, so I do not know.

The short answer to your question is that it needs the capitals of the main players to see that reform is needed and agree on what reform means.

Q21 **Anthony Mangnall:** As ever, I suspect that sounds like it is in the too-difficult box. Sam, you wanted to come in.

Sam Lowe: I agree with Peter's fundamental point that, if you want WTO reform and want to agree what that looks like, you need to get the US, China, India, Brazil, Indonesia, Japan, Canada and South Africa to agree on something. If you can get that critical mass, you can do something, but you have to start there in working out what it would be.

On your point about precedent setting, in the absence of global agreement, is it possible for smaller groups to demonstrate the art of the possible and, in doing so, perhaps build some benefits between themselves and some additional resilience? Yes.

You mentioned the CPTPP, but this is the theory behind some of the WTO plurilaterals. You even have old ones—government procurement agreements—but you have the e-commerce discussions where the aim is not only to improve the terms of trade between the members, but to, hopefully, set a template for membership-wide negotiation with all of the WTO members or to make it at least something that everyone can join. You had the information technology agreement back in the day, which had the removal of tariffs on information technology products.

That is a route towards perhaps incentivising improvement in certain areas, but when we talk about fundamentally overhauling the entire structure, you are back to the points Peter was making.

Anthony Mangnall: Thank you. Back to you, Chair.

Chair: Thank you very much. I have the great pleasure now to turn to Lloyd Russell-Moyle.

Q22 **Lloyd Russell-Moyle:** David, why has the US Inflation Reduction Act been accused of violating the WTO rules and how justified is that accusation?

David Henig: In my opinion, the measures in there—I will come on to what they are—will violate WTO rules. As we have heard, one has to be a little cautious about the way a dispute panel would judge that.

It appears that, in particular, the US wants to subsidise the purchase of vehicles, a substantial amount of which have been made in the US. That distorts trade. It distorts businesses' decisions. Prima facie, it appears to be a breach, but one could not be sure until it goes through a panel.

The following question is: would other countries take this to a dispute? Sam has mentioned that once or twice in the past with regard to UK actions. When a country does something that might violate WTO rules, would another country feel that their interests were being sufficiently damaged to take this case?

In the case of the US Inflation Reduction Act, the answer to that is fairly clearly yes. The EU has been concerned about it. South Korea has been concerned about it. Apparently, even the UK Government was concerned about this and realised that perhaps the US was not the beacon of free trade. Other countries would want to take a WTO case and, in a way, that is one of the reasons why the US Administration have been slightly cautious about the implementation. They have put out the first notes on how they will implement it, which suggest that they will perhaps not be quite so discriminatory after all.

There is reference to "free trade agreement" in lower-case letters. There was some suggestion that maybe we could interpret that in a liberal fashion to mean that the EU is okay and the UK is okay, even though we do not have a free trade agreement. The US has been sensitive but most analysts would say that the Inflation Reduction Act does breach WTO rules. Someone would take a case on it and the US, although we are saying that it does not care about the WTO rules, as I said earlier, is taking note of that and is seeing whether it can do something about it. It is a test of the evolving system.

We have spent a lot of time saying that the system is breaking down. One question is: what is taking its place? What would seem to take its place is some element of WTO rule continuation and then some element of negotiation between major powers and other countries. It feels like we are getting into that with the Inflation Reduction Act.

Q23 **Lloyd Russell-Moyle:** Sam, the EU has proposed countermeasures on this stuff as well. What are they likely to be and will the EU proceed with them or, as David says, are they likely to proceed with the case first of all before taking action?

Sam Lowe: I should clarify: it is still unknown whether the EU will bring this case or not. I referenced earlier that there are some optical issues to it as well. You would probably end up having China also interested in the case. Do you want to bring a case alongside China against the US at this time? This is a discussion that the UK also has to think about.

As for the other measures that the EU is considering, one is a big pot of money, loosening its own subsidy rules. In terms of how it will portray this, it will be careful to try to ensure that it is coherent with its international obligations and coherent with the obligations under the trade and co-operation agreement, so you probably would not find any specific local content requirements as part of those proposals.

It is then also discussing, outside of a WTO dispute, what possible countermeasures could be taken. For example, the EU is introducing a new foreign subsidies rule, which would allow it to penalise firms operating in the single market if they are in receipt of what is deemed to be unfair Government subsidy elsewhere, which could have implications.

This discussion around the Inflation Reduction Act exposes, in a way, why having some constraints is important. If you were to take a step back, lots of people might look at what the US is doing, in terms of investment in the green economy to create local jobs and to bolster bits of the economy that need to transition to the new, and say, "That sounds great. Why can we not do that here as well?" I imagine the Biden trade policy is quite appealing from a labour perspective in some respects, for example.

The problem you have here is the question of whether it is replicable. If the US is doing this and the EU will do something similar, can the UK credibly do the same and have its own big pot of money contingent on local jobs? The answer is: probably not. We probably cannot outspend the US. We would probably struggle to collectively outspend the

European Union. I should say, though, that the EU measures will have to be discussed internally for a long time because there are lots of concerns about the internal market as well, whom the subsidies would benefit and what relaxation of the rules means.

On the surface, from a certain perspective you could say, "The IRA sounds great. We should do this. WTO rules do not matter. Why is everyone not going about this?" but wait a second. The US approach will probably be bad for UK industry. It will make it less attractive to invest in the United Kingdom, so it is bad for the United Kingdom. It also creates second-order effects where those US companies will be more competitive when selling into the UK or the European Union, again potentially displacing activity here. If the answer is that we need to try to outspend them, we cannot.

What is the answer? The constraints we had before and the rules we were abiding by were probably quite good, even if they did sometimes stop us from doing some of the things we wanted. It will be interesting to see. We are probably at the beginning of that cycle, but I wonder if we will come back down.

Q24 **Lloyd Russell-Moyle:** There is some argument about the Inflation Reduction Act. I will keep saying the full name because I do not want to end up being clipped saying something about the IRA. I would not trust social media people at all not to do that.

There are some claims that it is good for the environment and it has a lot of environmental measures stuffed in it. Although we might be concerned about some bits of it, the greater good for the planet might trump that. Is that a legitimate claim or is that just a cover to try to make it politically harder for people to take cases against the US on this?

Sam Lowe: I do not believe, from a US perspective, that the purpose of the Act is to combat environmental issues and climate change. It is a happy by-product. However, we then have to evaluate whether that happy by-product is still beneficial to the world as a whole. Doing stuff to combat climate change helps everyone. You could even argue—as Martin Sandbu did in the *Financial Times*—that starting a global green subsidy race would be great for the environment. You would have a lot of wastage but we would get to where we need to get to quicker. Those claims are worth interrogating.

Also, you can argue that if the Inflation Reduction Act were designed differently, it would be more effective for the environment. If it did not have the local content provisions, you could spend the money more efficiently and use the best providers rather than having to use the US, but that is not on the table.

The question actually is: is this flawed Inflation Reduction Act, which most people think is against US WTO obligations, better for the environment than not having it at all? The modelling I have seen on that—and they are all estimates—is that the Inflation Reduction Act, even in its flawed state, will be good for the environment but perhaps not as good as people might expect.

These are worthwhile discussions. We are talking narrowly in the trade policy space. There are lots of other reasons why Governments do things and we can discuss that. Yes, I have landed on this. It probably will be good for the environment, but the US is definitely overstating the impact.

Q25 **Chair:** David, do you want to come in? I am starting to get jittery about time now. If you see me fidgeting about, it means I am jittery.

David Henig: This is a short but important point. We also see that the car industry is regarded in both Europe and North America as almost so central to industry, to manufacturing and to bringing back jobs, that there is almost a sense that WTO rules better not apply to the car industry. You start getting to the point of wondering whether we will get back to, either tacitly or formally, an agreement between countries on environmental issues as they pertain to electric vehicles, perhaps.

There are ways you can come out of this with some sort of agreement. Again, you see this in the EU, and you see it in the US—the UK could nudge people along about this as well. How would we get to a solution for all of this, formally or informally? If we cannot do something for the whole membership, what can we do that keeps some kind of control on it, maximises the benefits, accepts that this is not how we thought the car industry was going to be but that the politics demands it at the moment? Sorry, I hope that was quick enough, Chair.

Chair: Yes, absolutely. We have two caveats now. We have whatever we feel on national security and then we have the car industry generally.

Q26 **Paul Girvan:** This question is to Peter Holmes. The idea of a carbon border adjustment mechanism involving charges on imported goods proportionate to the carbon content has been much talked about. Can you explain this and say what issues it poses for compliance with WTO rules?

My view is that if we go too far down this route, we will drive manufacturing out of an area totally and end up probably destroying your own economy because of that, but I am asking for your opinion on this.

Dr Holmes: Sam is much more up to speed on the latest developments, but I can say that I used to work on this about 10 years ago and there was a number of points of agreement among people who wrote about border carbon adjustments.

First, there is an issue. We know that Britain has reduced its carbon footprint in some sense. One reason for that is that much of what we consume is produced elsewhere in places where carbon emissions are going up. This has a couple of effects that border carbon adjustments are designed to deal with.

The border carbon adjustments proposed by the EU are actually rather complicated. Sam can say more about it. They are not simply a tax on the amount of carbon in a product. They are attempts to ensure that equivalent standards are used on imports and domestic goods. The problem is that there are two entirely separate arguments for these border carbon checks.

One argument is that we are losing jobs to China. Steel is being produced in China and they are not obeying the rules. Again, there is some question about whether the Chinese really are ignoring emissions controls. The second thing is that we are concerned about the environment, so border carbon adjustments are a policy that has two effects. One is competitiveness. The second is genuinely to affect global environmental problems. There was a consensus about 10 years ago that the impact of these things on the global environment was not as great as the advocates were hoping.

This thing has come back quite recently and it is not entirely clear whether the economics and environmental issues have changed or whether the policies have changed. In order to get more emissions reductions in Europe, you have to say, "We are doing it to stop unfair competition from abroad". It is designed to do two things: to prevent dirty jobs leaving because we are imposing restrictions, which we need to do; and to make the world environment better.

I wonder if I could throw this over to Sam to clarify the way the present position is going.

Q27 **Paul Girvan:** Just before Sam comes in, perhaps he could mention what we know so far about the EU, US and UK plans to implement carbon border adjustment mechanisms and how WTO-compliant would they be.

Sam Lowe: I will start with the first one. This is one of those areas where, on the question of WTO compliance, it is untested. The EU is the centre of this discussion because its own proposals are just so much more far advanced. They are going to come into effect, at least on an administrative basis, from September. The EU would argue that its proposals are fully WTO-compliant. We will find out the answer to that if and when it is challenged.

I would also make the point, however, that it being challenged and the EU losing the dispute does not necessarily mean it will then scrap its carbon border adjustment mechanism. It is more likely that that would just lead to it being tweaked or changed in some event.

As for other proposals, the UK is waiting for a consultation on this. It was meant to come at the end of last year. I imagine it will come this year. I will get on to the US in a second. In terms of the global sense, my view is that the EU going ahead unilaterally—there was a hope at one point that this could be dealt with through some sort of carbon club or the like—would probably start a domino effect and lead to the introduction of carbon border adjustment mechanisms elsewhere, probably including in the UK.

There is one main reason for this but it is twofold, in that you have direct exposure to the carbon border adjustment mechanisms. Exports of steel and iron from the UK into the European Union will probably not be hit with an additional carbon price, but there will be new administrative requirements, which will have a cost.

The reason why we might end up introducing our own as a result—this will apply to other countries—is diversion. Carbon-intensive steel, cement and iron that would have otherwise gone into the European Union could end up being dumped on the UK market instead, which will lead to industry calls for our own form of protection. It might look exactly the same as the EU's. It might look slightly different, but the impact will be the same, and I imagine that that will translate elsewhere as well.

There is also a whole Northern Ireland dimension to the EU carbon border adjustment mechanism, which we will not get into here because that gets very complicated. We can do that another time.

The EU-US is an interesting one, because there are discussions linked to the pause on the steel and aluminium tariffs that require the EU to discuss with the US measures in relation to the co-operation on climate, so green steel, aluminium and in relation to imports from elsewhere. The EU and US—I don't know if it is public—have been discussing proposals around essentially agreeing a tariff with the EU on steel entering from elsewhere. These are early-stage proposals. The EU will say, "We already have the CBAM". I am not sure how it is going to resolve this.

The US's issue is that it wants to penalise imports of steel that is produced carbon intensively, but it does not have its own domestic carbon price. If the US does anything in this space it will absolutely be WTO-incompliant but, again, I don't know if it cares. Sorry, that was as quick as I could be.

Q28 **Lloyd Russell-Moyle:** David, you mentioned a second ago that cars may end up being an opt-out. You have argued for a "trade and climate change conversation between allies, to attempt to turn friend-shoring into something more substantial", and to provide some impetus towards finding multilateral solutions. Are there any actual chances of any of that succeeding, or is it on our list of wishful thinking but probably too hard to achieve at the moment?

David Henig: I think if you listen to a lot of this conversation, a lot of things are in the "too hard" category. Given that we are saying that WTO reform is definitely under "too hard" at the moment, working with allies is not in the "too hard" category. The question is: what can we work on our allies with? Sam has just given one example, which is a demonstration about the leadership of that. The EU introduces carbon prices, CBAM. The UK is going to follow, not least because that is going to make the administration in Northern Ireland a whole heap easier. I am waving at Paul—sorry, I am missing you in the room, Paul.

Will there be wider deals? When I wrote previously about would the US and EU deal come into force, I had people from South Korea and Japan very interested saying, "Do you think that will happen and can we be part of it as well?" and I think the US is interested in this. Can it actually come to anything? Again, I think a lot of it is going to come down to: does the US really want this to happen? Can US allies—by the way, I very much include the UK in this. If the UK, Japan and others who would be the closest of US allies go to the US and say, "Here is a way we think it could work", would the US listen? I think they might, so there is an onus on the UK perhaps to work with others to try to come up with an idea that might work. It is in the "very hard but maybe just about doable" category that friends could actually work together and at least make some progress in environment and trade provisions.

Lloyd Russell-Moyle: Therefore, Japan might be key to that. Thank you.

David Henig: Do not underestimate that we have some influence.

Lloyd Russell-Moyle: Yes.

Q29 **Mark Garnier:** I am very conscious of time, so if I could ask all of you your opinions on something, but if you could keep your answers to about 30 seconds that will be fantastic. I know you will overrun but try for 30 seconds.

We have had a long discussion today and I think we all agree that the rules-based trading system is in danger of coming unravelled, at the very least. Can all of you give us your idea of what role the UK can play in a world where we are seeing all this system unravelling? David, let's start with you: what is the UK's leadership role in this?

David Henig: I prefer to use the word "facilitator". I prefer to think of the UK in a role that we have been comfortable playing before, which is that we are not trying to lead. We are not going to be a leader. We are not the free trade lead of the world. We are someone who can facilitate and work with others. We genuinely want there to be rules in place. We want the US and Europe to be following them. We know we have friends on that score—the likes of Japan, Australia and New Zealand. We should be working in that way in a practical manner to say, "Right, can we find something to do with it?"

"Leadership" is absolutely the wrong word. I do not want us to lead. I want us to be part of a group that uses influence to try to push the US and EU into a more positive space. That would be my answer.

Q30 **Mark Garnier:** Peter, you were the first to nod when David said facilitator rather than leader—expand.

Peter Ungphakorn: I agree entirely with what David just said. If you want me to expand, there is a group called the Ottawa Group, set up by Canada with other people in it. If the UK was to join a group like that, and other groups, rather than lead, that would be very helpful.

If I may, I would like to make two quick factual points, because I think we are about to close. One is a fact on China and e-commerce that I have managed to look up. China is part of a plurilateral negotiation on e-commerce, so it is not a sinner there necessarily. On dispute settlement compliance, the US has failed to comply with a dispute ruling that is now 20 years old, which is about royalties for music played in bars. Therefore, China is not necessarily a sinner and the US is not necessarily a saint, historically in the WTO, just to give balance. As for the UK, I would agree totally with what David just said.

Dr Holmes: I very much agree with what has just been said. We are not in a position to be a leader. We have our own issues to deal with and we have a lot of dogs in the fight, so to speak. If we are lucky, we could be as influential as New Zealand.

Q31 **Mark Garnier:** As influential as New Zealand. Okay, Sam.

Sam Lowe: I would be more optimistic than that. I think we would be more influential on New Zealand—I mean, New Zealand only cares about agriculture. We have something to sell: financial services and other things. I appreciate Peter's point because New Zealand is far more influential than it should be in the global trading system, because it is very strategic in how it wields influence and how it facilitates and the like, so that is an important point.

In terms of where I would go on this, I think it is more about how to be influential. Some of that is that if we are going to be the bastion of the rules-based trading system—because it is in our interest to advocate for this—I think we need to get our own house in order. Some of this will come naturally over the next few years, as we extricate ourselves from the EU and some of the issues that remain there with trade remedies, and there have been issues around the Northern Ireland Protocol, just in terms of how it is perceived internationally.

We will never be squeaky clean. We will always be in breach of something or other but, if we can be as close to that as possible, it does at least give us a bit more credibility when we are talking about this externally. We then do not have the fear that someone is just going to turn around and go, "Well, your entire trade remedy regime is probably in breach of your commitments, or at least you have not justified it"—that sort of thing. So how do you become influential? If this is the route we are going down, we have to be very careful about what we do at home.

Mark Garnier: Fantastic, brilliant—with 30 seconds to go, I will hand back to you, Chair.

Q32 **Chair:** Thank you. A minor point towards the end here. There is surely a tension at the heart of the likes of the WTO and what-have-you. We can look back over history—I am thinking particularly about the book on economics by Ha-Joon Chang, who mentions the idea of the infant industry and protectionism. The UK being the first to industrialise was the first to do protectionism. Alexander Hamilton was then being complained about to the United States, because he copied what Walpole had done in the UK, and on we go to Germany, Japan, Korea and whatever.

Isn't there a tension in that, if countries want to change their industrial profile, the infant industry theory requires a bit of protectionism but that then runs up against the ideas of the WTO? I know we are short of time, but I have four experts here who might do something to answer that question in my mind. Does anybody want to tackle it? Is Peter Holmes giving it a go, or is Peter Ungphakorn?

Dr Holmes: I think it is one of these things where, if you can do it properly, the infant industry solution could work. Many years ago, in 1987, there was a very good article by Paul Krugman, "Is Free Trade Passé?" His argument was that, under certain circumstances, you could make lots of cases for where infant industry solutions might work. They are so easy to be captured by Governments and by firms and lobbies and so on. He said that we now have a sadder but wiser case for free trade "in a world whose politics are as imperfect as its markets". When you depend on exports, it is so hard to make these things work.

Q33 **Chair:** It sounds like those who are not so in favour of infant industry theories are past the time of needing industry support. That might be the counterargument to some of that.

Dr Holmes: It depends on whether you can make it work. I am saying that you can point to specific examples. You can say how the GSM mobile phone system was a good example of bringing in industry—particularly in Europe—from nothing. Others who did not do the same thing did not get it, but you can point to so many examples where it has not worked. It is very difficult to know when you can make it work and when you cannot—I think that is the fundamental problem—even if the rules were not stacked against you.

Q34 **Chair:** Thank you very much. "There ain't no rules in a knife fight"—we have had quotes today from "Butch Cassidy and the Sundance Kid" and a number of other things. We had some idea from Sam Lowe that the green deal industrial plan has been leaked about in Europe as some sort of response to the Inflation Reduction Act, as opposed to going to the WTO and fighting about it there.

Sam Lowe: I do not think that will be part of it. They are still considering whether to go to the WTO. The EU responded in a very EU way. What the EU is publishing today, it is not going to mention the US Inflation Reduction Act. It will talk about unfair subsidisation in India and China as well. It is universal but obviously it is being—

Chair: It is not being mentioned.

Sam Lowe: Because of the US.

Chair: Very good. I think we have learned a lot this morning. I thank our four guests for joining us: Sam Lowe, David Henig, Peter Ungphakorn and Dr Peter Holmes as well, from the great University of Sussex. Thank you all very much. I am sure this will not be the last time we will have your brilliant minds at our Committee. Thank you all.