



European Affairs Committee

Corrected oral evidence: Dynamic alignment

Tuesday 19 May 2026

12.05 pm

Watch the meeting

Members present: Lord Stirrup (The Chair); Baroness Ashton of Upholland; Lord Barrow; Lord Brennan of Canton; Lord Elliott of Mickle Fell; Lord Jackson of Peterborough; Lord Moynihan of Chelsea; Baroness Smith of Newnham; Lord Tugendhat.

Evidence Session No. 7

Heard in Public

Questions 64 - 73

Witnesses

I: Professor Emily Lydgate, Professor of Environmental Law & Co-Director, UK Trade Policy Observatory, University of Sussex; Catherine McBride OBE, CEO, Great British Business Council, former member, Trade and Agriculture Commission.

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Examination of witnesses

Professor Emily Lydgate and Catherine McBride.

Q64 The Chair: Good afternoon, and welcome back to the public evidence session of the House of Lords Select Committee on European Affairs, where we are looking at the issue of dynamic alignment. In the second phase of our session today, we are delighted to welcome as our witnesses Professor Emily Lydgate, Professor of Environmental Law, co-director of the UK Trade Policy Observatory and deputy director of the Centre for Inclusive Trade Policy at the University of Sussex. We also welcome Catherine McBride, CEO of the Great British Business Council—welcome back to the committee.

We are taking evidence in public today. There will be a transcript and a draft will be sent to you to make any amendments to errors or omissions that you notice. We are hoping to get this session done in 60 minutes so, as ever, to get everything in and cover all the ground I would be grateful if the questions and as far as possible the answers could be as concise as we can make them.

I shall get us started by asking a general question. What in your view did we learn from the list that the Government published in March—the EU legislation that it expects to be in scope of the SPS agreement? How much UK legislation would need to be changed to realign it with the current form of EU legislation that we have on the list?

Professor Emily Lydgate: Defra's list includes, I think, 77 pieces of legislation to provide a sense of scale. The Northern Ireland and Windsor Framework include more than 300. What was useful about that was that it provided a lot more certainty in terms of the scope, although these are still provisional. We knew from the common understanding that this agreement was going to go beyond a traditional SPS agreement, and include rules on labelling and animal welfare. We have a much better sense of the scope of those rules that will be likely included now.

Some things struck my attention—the inclusion of biocides, which was not listed in the common understanding, and the fact that wine compositional rules were exempted was interesting, because that was an area of divergence. There is still quite a bit that we do not know—they have not confirmed what the exceptions will be, although they have gestured at animal welfare and precision breeding as potential areas. As you alluded to in terms of which areas are going to be changed, obviously all those areas will require a formal realignment—but some of the scope of the changes will be different according to whether real regulatory change is required versus where the UK has maintained essentially de facto alignment with EU rules anyway. I would be happy to offer some further reflections on where the changes will be most meaningful.

Catherine McBride: I only counted 75 sections, but I would say that every one of these is very detailed. When Defra have written “food colourings”, or whatever, that means 1,000 changes inside one of those

regulations. So it is not only 75. Organic pet food labelling will cost companies a lot of money, because you will have to change all the laws. The food contact materials are very important, because the UK still allows certain types of plastics that have been banned in the EU, and we still allow food colourings that have been banned in the EU.¹ We still have food colourings and plastics, and we still have a lot of the things in this that we allow that the EU has changed. Although the UK has not changed a lot of its regulations since we left, the EU have changed enormously; they have introduced 15,000 new regulations and more than 10,000 directives. Even Mario Draghi has written a report saying that they have far too much regulation—they have regulated everything.

Defra also makes a very interesting point in this, because it has included all the GMO regulations. Although you were speaking to the earlier witnesses about that, you have to be very careful; the EU considers GMOs and gene editing to be the same thing.² It has talked about changing that, but it has not changed it yet. If it does as Defra has suggested here and introduces these four regulations on genetically modified organisms, that would cancel out a whole new growth area for the UK. Economically, this is a very expensive piece of legislation that people are not looking at—but it will be expensive for companies rather than for the Government.

The Chair: Could I just follow up on that? Obviously, we have had evidence saying that actually we are already aligned because we have to be to sell our products into the EU market, but you are saying that actually we are not aligned, in all sorts of areas. You mentioned food colouring, and all the rest of it. How does that square?

Catherine McBride: If you are a person who sells goods to the EU market you are aligned but also a very rare beast—up there with Conservatives in Scotland, or whatever, or pandas. Only 1.3% of UK exports are UK agricultural goods going to the EU.³ It is a tiny part of our economy—but if you are an exporter it is 100% of your life, so you will come here and say, “This is so important”. But that is what it means to them. What exporters are trying to do is to get the public to pay their costs, because that is what happened when we were members of the EU. Our membership fee meant that our exporters did not have to pay

¹ Some examples of EU regulatory amendments since the UK left the EU for Food Contact Materials (ie both processing equipment as well as wholesale and retail packaging) Regulation (EU)2023/1442, Regulation (EU)2025/351, Regulation (EU)2023/1627, Regulation (EU)2025/2240, and Commission Regulation (EC) No 2023/2006.

² See case C-528/16, July 2018, Confédération paysanne and Others v Premier ministre and Ministre de l’Agriculture, de l’Agroalimentaire et de la Forêt [2023] EUECJ C-528/16 <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:62016CJ0528>

³ [UK trade: goods and services publication tables - Office for National Statistics](https://www.ons.gov.uk/economy/nationalaccounts/balanceofpayments/datasets/uktradegoodsandservicespublicationtables), Tab 3, Annual CP, Trade in goods, Exports, SITC0 Food and live animals, EU, SHEM, £12,121 million. Total trade, Exports, All commodities, Total World, IKBH £930,600 million, <https://www.ons.gov.uk/economy/nationalaccounts/balanceofpayments/datasets/uktradegoodsandservicespublicationtables>

anything to export to the EU; they paid to export to the US and to China and to all sorts of other countries, and they did not mind that, but they seem to take umbrage with the fact that now they have to pay the same costs to export to the EU.

This is just a group of companies trying to switch their private costs into public costs and keep their private profits, if you like. So yes, I am sure that they told you that, but to coin a phrase, "They would say that, wouldn't they?" In terms of the economy as a whole, it is a tiny section.

The Chair: In terms of the economy as a whole, yes, but I am trying to understand, in the context of the rules that we would have to align an SPS agreement, what percentage of that bit of the UK economy exports to the EU as opposed to elsewhere.

Catherine McBride: Well, that is it. Our entire agricultural exports to the EU were only £12 billion last year.⁴ It is absolutely nothing. What you will find is that anyone who is exporting to the EU is already aligned—so there is no need for the rest of the country to align. If you are exporting there, you have to be aligned, and you will notice that often they align for all their products. For many drink containers now, the bottle top is connected to the bottle. That is an EU law and, if someone was exporting a lot of goods to the EU, they adopted it here as well as there. But a lot of other drink companies have now turned plastic bottles into aluminium cans, and that is a UK law—so they have aligned with a UK regulation if they have done that.⁵ It really depends on where your market is.

Most of our food is domestic: 35% of food eaten in the UK is imported. We cannot even supply our own domestic market, so the idea of us having lots of surplus food to export is not actually how it is. One of the earlier witnesses mentioned carcass balance. You will find that one of our biggest meat exports to the EU is what most people here would probably call offcuts. To make more money, they sell the prime meat to the UK market, but they will sell the legs to Italy for ossobuco, the tail might go to somewhere where they make oxtail soup and the brisket might go to some country that likes eating brisket. You can see that in the trade statistics: edible offal is a very big export. We export the tripe and the livers and all that stuff, but it is not a valuable export; we eat the prime meat ourselves.

Q65 **Lord Jackson of Peterborough:** Thank you, and welcome. What are the most significant potential provisions of the SPS agreement that we should look out for when it is published? Perhaps you could make reference to what might also be in the associated legislation, because we have not seen that yet.

Professor Emily Lydgate: Just to add a brief response to the previous point, from a legal and regulatory perspective the idea that trade

⁴ [UK trade: goods and services publication tables - Office for National Statistics](#)

⁵ [The Deposit Scheme for Drinks Containers \(England and Northern Ireland\) Regulations 2025](#)

partners will negotiate to streamline SPS checks and requirements is fairly mainstream; it is something that the UK has pursued in other FTAs as well. The depth of this agreement is unusual, in the fact that it involves the UK transposing EU rules. I would basically separate the divergence into three categories. The UK has been stricter on animal welfare in some areas since leaving, and less precautionary in its approach to plant protection products, some food additives and gene editing technology—and there has been divergence in what might be categorised as labelling and marketing standards. So this is less controversial from a public policy perspective but it none the less has important implications for businesses.

In terms of the most significant potential provisions of the SPS agreement that we should look out for, we can give a quick checklist in the categories of scope, structure, implementation and enforcement. It is very important to look at the scope of legislation that is included against the list that Defra proposed, but also in how it is defined—because debates about whether future areas are within scope are going to hinge on whether they are seen as relevant. How is the scope of inclusion defined? Is it just updates to what has already been negotiated, or is there a kind of thematic focus that would allow it to be expanded?

We know that it will be in some sense a supplementary agreement to the TCA, but how those structures are mapping on to each other is very important. For example, there is now a specialised committee on SPS, which is a kind of joint committee, but it meets only once a year. If that committee is now going to be responsible for implementing decisions on dynamic alignment, that will be a significant resource implication. There are questions about the legal interpretation of how these laws will affect the courts, et cetera, so it is important to look at the interaction with the TCA. I would look at UK access to databases, to things such as RASFF and TRACES and the role in EFSA. These are all things that are important in addressing some of the biosecurity concerns that have been raised.

On customs controls, is the UK expected to emulate the EU's third-country controls, or has it managed to negotiate some flexibility there? I would look at the decision-shaping mechanism—and here I think that the relevant benchmark is the Swiss agreement where, essentially, the UK will be consulted in the preparatory stage, and drafting. There will be an exchange of views on the joint committee structure, and experts will have a role in participating in the preparation of implementing Acts. It is obviously very important to check for transition periods and whether they have been successfully negotiated. It is normal for there to be transition periods in implementing a new trade agreement.

Just as important is how it will be implemented domestically because, in the UK system, if there are changes to primary legislation, they need to be implemented through domestic legislation. Obviously there will be quite a few changes to primary legislation. It appears that the European partnership Bill may be the mechanism through which this as well as future dynamic alignment arrangements are implemented—but we do not

know that. It is absolutely crucial in terms of how scrutiny takes place going forward.

Lord Jackson of Peterborough: By secondary legislation.

Professor Emily Lydgate: That seems to be the implication. I have more to say on that.

Lord Jackson of Peterborough: So non-amendable statutory instruments will be used *carte blanche*, with Henry VIII powers.

Baroness Brown of Silvertown: But that is after the European partnership Bill has gone through. I am just saying that that seems to me to be primary.

Lord Jackson of Peterborough: Well, it is not primary, because that is the whole point in having secondary legislation, is it not—obviously?

Baroness Brown of Silvertown: Secondary legislation attached to a Bill that will be primary legislation.

Lord Jackson of Peterborough: I am just asking the witness. That is how you manage the system in terms of parliamentary scrutiny and oversight.

Professor Emily Lydgate: I feel quite strongly that that would be a suboptimal way to manage the dynamic alignment implementation going forward. All I hear is the newspaper articles; I do not have a real read on how that implementation—

The Chair: We are speculating at the moment, because we do not have a Bill.

Professor Emily Lydgate: Exactly, so it is speculation. I would be happy to say more on what I see as suboptimal parliamentary procedures for implementing this. Should we go to that?

The Chair: Well, I think that we will come on it to it later.

Catherine McBride: Could you just repeat the question?

Lord Jackson of Peterborough: Yes, very quickly. What are the most significant potential provisions of the agreement and, by virtue, the associated legislation that we should look for when both are published?

Catherine McBride: We have already touched on the GMO situation. It is something that we are developing: it has become a new industry for us. It is worth more and more and we have the potential to develop new crops and export them all around the world, but we will find if we are not careful that we cannot even use them ourselves.

We also have to have a way of stopping diseased meat coming in from the EU. That is so important. It has the worst health in animals that I have ever seen. Defra publishes this stuff—this is its latest report on

African swine fever in Europe, with a very handy list of all the outbreaks over the last four years, since we left.⁶ There have already been outbreaks in 2026; there is a nice map where you can see where they are—in the pig population but also in the wild boar population. If there is no restriction on any animal coming across the channel, as is being proposed, this disease will be in the UK in nanoseconds. It is incredible that we would even consider this; you must have some kind of full stop and have the ability to stop this.⁷

There were seven outbreaks of foot and mouth in the EU last year, and there have been two so far this year, one in Greece and one in Cyprus. This is potentially incredibly dangerous to the UK's already ailing farm agricultural industry because we are a domestic producers. The other side of this is how the regulation idea is also a nonsense, because we will have zero ways of enforcing it.

How on earth will you know if a farmer is currently using a pesticide that the EU just banned, or the EU just lowered its Maximum Residue Limit (MRL) on? We do not have the ability right now to check, unless we are going to employ an army of people to run around and check farming. Unless you are exporting those goods to the EU, they are never going to be checked. It is just another example of overregulation. Just like the EU has killed itself with overregulation, it wants us to do the same thing—bring in a lot of regulations that it has no ability to enforce. That is why, despite its incredible rules on animal husbandry, it has these incredible breakouts of African swine fever and foot and mouth disease, even though, when you read their regulations, you see that those regulations are fabulous.

Lord Brennan of Canton: I slightly suggest that in your enthusiasm you might be guilty of a tad of exaggeration and hyperbole. I will read back to you what you just said: "The EU has the worst health in animals that I have ever seen". Have you ever travelled anywhere outside the UK and the European Union, and do you recall mad cow disease and outbreaks of foot and mouth in our own country from time to time? This is a parliamentary committee where you have said on the record that the EU has the worst health in animals that you have ever seen. Can you please give us evidence for that—that you have ever seen anywhere in the globe?

Catherine McBride: I am delighted and very flattered that you cannot hear my accent, but I am an Australian.

Lord Brennan of Canton: I can hear your accent. I am just holding you

⁶ Department for Environment, Food and Rural Affairs, Updated Outbreak Assessment #40, African swine fever in Europe, 16 April 2026, https://assets.publishing.service.gov.uk/media/69e7506a47e9787c2d71ffc2/ASF_in_Europe_40_April_2026.pdf

⁷ It is currently against UK law for individuals to bring dairy products or pork, beef, sheep or goat meat, or venison from the EU into the UK due to diseases in the EU – [Bringing food into Great Britain: Meat, dairy, fish and animal products - GOV.UK](#)

to account for what you say to a parliamentary committee.

Catherine McBride: I remember BSE but I also remember the UK going to great lengths to destroy its beef industry.

Lord Brennan of Canton: I am sorry, but you are not really answering my question. Is there nowhere else in the world that has worse health in animals than the EU, which is what you said on the record to this committee?

Catherine McBride: Yes, I will stand by that. I will say that in the developed world, Australia or New Zealand are incredibly—

Lord Brennan of Canton: I think you have just qualified your statement. That is fine. Back to you, Chair.

Catherine McBride: Yes, any country that relies on agriculture—

Lord Brennan of Canton: You said “in the developed world”. You have qualified your statement.

The Chair: I just want to remind everyone that this is an inquiry into dynamic alignment and that we are looking at SPS because that is a crucial context for dynamic alignment. I do not want us to get too far down the rabbit hole of the specifics of SPS because that is a whole other issue. This is all about the context for dynamic alignment. With that in mind, we move on to Baroness Smith’s question.

Q66 **Baroness Smith of Newnham:** We have already begun to touch on the next question, which is about how far the EU is moving on SPS at the moment and what factors are driving that but also the extent to which the UK and the EU are diverging. When we had foot and mouth disease in this country in 2001, at that point we were still part of the EU. How far have we begun to diverge?

Catherine McBride: We have diverged a lot in farming. We got rid of some really crazy rules, like the three-crop rule, which affected the UK more than any other European nation because we had larger farms. The three-crop rule kicked in only if you had a farm over 30 hectares, and the average farm in the UK is 81 hectares while the average arable farm growing crops is much bigger than that, so that really affected us. It meant that at maximum only 75% of your land could be used for the most profitable crop, and most farmers like to always grow the most profitable crop. So we got rid of that one the moment we left, and even the EU has now changed it, but it has changed it in a different way from the way that we have changed it. That has happened in quite a few areas, but in general, the EU has just increased its amount of regulation, while we have not to the same extent.

We have changed a few things but in general we have stood still, if you like, so we still have the regulation we had when we left, and they are the ones that are moving away from us. That is why they are enthusiastic that we should join them, because introducing these rules would really be

a country introducing rules to protect its suppliers. We would be protecting our import suppliers rather than protecting our domestic producers or our domestic consumers. That is very strange. I will also put this on record: I cannot think of any country, developed or undeveloped, that has ever made rules to protect its suppliers rather than protecting its producers. That is what we would be doing here.

Professor Emily Lydgate: It might be useful to draw a distinction between regulation that is in scope of alignment in the SPS common area and broader food regulation. From the time of Brexit up until maybe around 2023, the trends were clear: the EU was tightening its regulation in the areas that I mentioned earlier, adopting a more precautionary approach on pesticides, food additives and so on, whereas the UK was loosening those areas. The EU, outside this scope but also more broadly, launched a number of ambitious regulatory initiatives affecting food, such as the deforestation-free products regulation.

I would say that the mood in the EU has very much changed. There is quite a lot of pressure from member states and from the European Parliament to move away from this ever-increasing regulation and to revisit the direction of travel. That is coming in some of the areas that are in scope of the SPS agreement, including plant protection products. That means two things. First, there is more uncertainty about what dynamic alignment might look like for the UK. Secondly, it is possible that the gap between the two may close a bit.

Q67 **Lord Barrow:** We have touched on this question, and you have heard some comments from previous witnesses, but I want to go back to a particular bit of our conversation about how likely it is that participation in EU decision-shaping will actually make the UK influential in a real and useful way over future SPS regulation. What would make UK influence effective as an arrangement, as opposed to less so?

Catherine McBride: The most effective thing we have to influence EU regulation is our purchasing power. We are a very big market for various EU countries. EU statistics as a whole show that we do not buy that much from all of them, but we buy 50% of all the beef that Ireland produces. We are a much bigger customer than its domestic market. We are Lurpak butter's biggest customer. Denmark provides us with butter and pork and the Netherlands provides us with vegetables, so there are three or four countries that are hugely dependent on us buying their goods. If we were to change our regulation then they would change as well if they could, but they cannot because their regulations are made by the EU rather than domestically, so they would prefer us to change to those. That would lock in their market share, which is obviously what anyone would do if they had the power to do it.

Lord Barrow: To take a step back, if we have an agreement—and I have heard your commentary on it—and there is talk of the decision-making potential within such an agreement, do you think it is possible to exert real influence under the sort of agreement that we are talking about, which would preclude the sort of thing you have just been saying?

Catherine McBride: No. The whole point of this agreement is to give away our influence. The whole point of aligning dynamically is that we will no longer be able to influence any decision, so it is silly to then ask for it. If you search on AI and say, "Find me an example of when Norway or one of the EEA countries has been able to exert any influence", you will discover that the only one it can come up with is that the Norwegians managed to get some truck legislation changed because it does not make trucks. It was for heavy goods vehicles that were meant to be made in the country, so Norway had "made in the country" taken out of the legislation. That is not what I call influence; it is just someone saying, "Oh, sorry, this law doesn't apply to us because we don't make trucks". You may get that kind of influence if you are lucky.

Switzerland has almost no influence because it is a landlocked country. Food cannot get to Switzerland other than by driving through an EU nation. It is also a major highway for food going from Italy to Germany, Germany back to Italy and France to Austria. If Switzerland was not to align with EU rules, there would be traffic jams across the whole of Europe with trucks trying to get through it—in fact, I suppose it would be quicker to drive around it—so it has aligned. But there is no reason for us to do so because, though we provide a land bridge between Ireland and France, most Irish food stops in England. It never gets to France. You can also see that in the trade statistics.

Professor Emily Lydgate: I think it has been fairly well established, including by our previous panel and throughout other evidence to this inquiry, that the best prospect for influencing EU legislation is at the preparatory stage. At this stage, third countries, especially those with specialist knowledge in a particular area, can have an influence. That could be felt in a way that is not as concrete as saying "We changed this rule", but rather in shaping the direction of legislation. A key point in recommendations is to think through the resource implications for the UK of essentially investing the time and energy into tracking forthcoming legislative developments and having a more intensive level of what you might describe as regulatory diplomacy—what the structures, the missions and the heavy lifting are that the Cabinet Office and Defra will need to do. There is also the engagement, for example, in the UK-EU Parliamentary Partnership Assembly. There are structures in place that will need to be much more heavily resourced.

The Chair: Can I probe that for a second? We need to be as realistic as we can, accepting that we are guessing because we do not know what all the agreements will say. But if the EU is proposing to change some legislation in this area because of considerable pressure, let us say, from French farmers or German producers, would it not be very difficult for the UK, if it took a contrary view, to have any real influence over the direction of EU travel? It is just *realpolitik*, is it not? If the significant players in the EU want things to move in a significant direction, the chances of us being able to affect that are pretty minimal. If there is something a bit more amorphous—general theoretical thinking within the EU about the direction things could go—I can see how we might input

into that. Would that be a fair assessment of the situation we are likely to face? I am trying to tease this out because I think we have to be realistic in our expectations.

Professor Emily Lydgate: That certainly seems like a fair assessment. It then moves to the question of what happens next if the EU passes a bit of legislation that is in scope of the SPS common area that the UK does not want to align with.

The Chair: Yes, that is a whole other question.

Catherine McBride: We have a great example, because we were a member for a long time and can look at various examples where we had no influence. One was brought up earlier on the BSE crisis in the UK; the EU refused to allow the UK to export beef for about 10 years after the crisis had ended. We had completely decimated our beef herd and restocked, and it still would not allow the beef to be exported into any EU country. We have some really good examples of when we had zero influence and we were a member.

The Chair: Lord Barrow, are you content?

Lord Barrow: Well, I have my answer.

Q68 **Lord Moynihan of Chelsea:** Thank you both for coming here and for your very interesting testimony on many points. I think we have covered a lot of this already, but we said we would get back to it. We can probably be quite brief. What should the key requirements be of a system for parliamentary scrutiny of dynamic alignment?

Catherine McBride: I think I have said already that there is really no scrutiny of dynamic alignment. That is the point. You are dynamically aligning, so whatever they do, you are going to do, and you are going to do it when they do it. If you were going to have any scrutiny, you really need to scrutinise something before it comes into place. You need to be able to look at it before you accept it. You have to have a kill switch, so you can scrutinise it after they have agreed it, but before you adopt it in the UK. I do not think that will be on the table. I think the Government are presently agreeing to us having no scrutiny powers and just adopting whatever they do when they do it. If you are going to scrutinise something, you must look at it before you adopt it, otherwise there is really no point.

Professor Emily Lydgate: I think I would slightly reframe the question as: how does the UK decide when to dynamically align and what parliamentary and consultative structures are involved in that? Because of long-standing concerns about rule taking from Brussels and because these are devolved areas, it is important that this not be an automatic process governed solely by secondary legislation that is basically implemented by the central UK Government.

There are a number of different models for managing this. One, for example, would be Scotland's continuity Act, which contains a list of positive criteria which have to be met to align. That is periodically

reviewed by Parliament. There is the Stormont brake, which you might describe as a negative criterion which then essentially triggers escalation and review. The European partnership Bill will apparently refer the national interest. This suggests a criterion, but of course it is very vague. It would need to be more specific and there would need to be a trigger or brake—this has come up a lot of times. That could be written in or the UK could advocate for this mechanism, for example if a particular number of MPs or a devolved nation objected.

It is also very important that the UK negotiates to implement dynamic alignment decisions only on a provisional basis and then undertakes what the common understanding allows for as our domestic “constitutional and parliamentary procedures”. We can formulate those as we see fit. It seems to me that we also want to avoid burdening Parliament with a huge volume of essentially technical updates to EU law in the covered areas, so some sorting mechanism for what is significant would be important. For example, if the EU wants to introduce a new directive or regulation that it considers to be in scope of the SPS agreement, the UK can then have its own full parliamentary consultation, considering it as a new Bill—and/or there could be a new delegated legislation committee that scrutinises these decisions. Select Committees could support this process as well. There are a number of different models for concluding that dynamic alignment is not an automatic process.

Q69 The Chair: Could we just home in on that point, because it is crucial to this inquiry? If Parliament passes a piece of primary legislation saying that we will dynamically align with EU law in these areas, then that is the decision Parliament has taken and we will dynamically align. If you are going to have primary legislation for each piece of realignment then you are not dynamically aligning. The whole thing is rather pointless.

On the other hand, if you accept that everything is just going to be done through secondary legislation with very little scrutiny, that is fine for the majority of businesses because, as you say, lots of technical stuff that will have to be done will be coming through. However, there is always the risk that something people did not envisage when they passed the Act in the first place will slip through. So there has to be a balanced mechanism somewhere that allows the process to operate efficiently without burdening Parliament, as you say, but nevertheless providing a backstop in order to catch those things that one did not foresee. What happens then is an interesting question, of course. Does that mean the collapse of the whole system, or is there a mechanism for allowing some kind of dispute resolution?

I have tried to encapsulate what I think you just said. Is that fair?

Professor Emily Lydgate: That is an excellent encapsulation. May I add something on the point about dispute settlement? Another important thing to look out for is whether there is scope for the UK to negotiate future exceptions or whether it is locked into the exceptions it already has. What would potentially trigger a dispute is either the EU thinking that the UK is not adequately implementing one of its legislative

requirements or the UK simply saying, “We’re not going to do this”, with the consultation failing and independent arbitration finding, for example, that the UK should comply and that the regulation is in scope. The EU could then enact proportionate compensatory measures.

This is another area of negotiation for the UK in terms of what the proportionality assessment there is. As Catherine said, the optics for the UK are very different because, unlike with Switzerland, the border controls we are talking about are very narrow. The infrastructure for border checks is still in place. The corollary of that is that the risk to the EU’s internal market of allowing an exception or divergence is lower. I would suggest that, for the UK, there is a strong argument that this can be a more flexible framework: “We accept a market access barrier in exchange for regulatory independence in this area”.

The Chair: These are very important but quite complex issues. Going back to the discussions we had in an earlier evidence session, would you agree that these need to be nailed down in advance of an agreement and not just be left for people to sweep up after some much vaguer agreement has been signed up to?

Professor Emily Lydgate: By “these”, do you mean “areas of dynamic alignment”?

The Chair: No. I am talking about what we have just been discussing: the processes—

Catherine McBride: Preventing dynamic alignment?

The Chair: I am talking about the processes for scrutiny, what happens if there is a disagreement, and so on. It seems to me that there will be a lot of detail here, which will take a lot of negotiating. There is, perhaps, a fear that the Government might want just to get a general agreement and leave all of the detailed, nitty-gritty stuff for the staff to sort out afterwards. I do not know how other members feel but this seems to me to be a crucial aspect of the entire agreement.

Q70 Baroness Ashton of Upholland: I want to add to that. It is about agreeing on whether the principles by which exceptions or further negotiations take place—as well as some, though not all, of the specifics—need to be nailed down so that you know exactly how you are doing it, how disputes will be resolved, and so on. This goes to the point about leaving things open, because the fact is that things will change and we will need to have the capability to negotiate extra things.

Catherine McBride: May I add something to that? If you read the EU’s documentation on this point, rather than the UK’s, the EU is very specific: we will follow their laws and they will adjudicate. Any dispute will be under the auspices of the ECJ.

I was not introduced as such, but I was on the Trade and Agriculture Commission’s trade agreement scrutiny committee. In every agreement the UK has signed since Brexit, you have had an independent adjudicator

in any disputes. This is one of the very rare instances—in fact, I would suggest that it is probably the only instance—in not only the developed world but the whole world where you have allowed one side of the arrangement to legislate in any dispute. It is a very peculiar idea: we are joining in the EU's regulation but we are not going to get a say. The EU has written this. It is published. It is not a secret. The EU is not hiding it.

Baroness Ashton of Upholland: I used to be a vice-president of the European Commission and I was the EU Trade Commissioner, so I understand how the EU writes things. However, I also understand how the EU negotiates things beyond the writing, so I can give you a tiny bit of comfort: do not despair, because there is always room for manoeuvrability within that. You are right that the ECJ is important because, this being a bloc of so many countries, laws and borders, who controls what is critical. However, I believe that there is potential for some flexibility. We shall see. I could be wrong, but we need to keep that in mind.

What I am interested in is making sure that, if we go into this, we have given ourselves room for manoeuvre for what will happen in future as we develop more things. As we heard in our previous session, there are many areas, from genetic modification to all kinds of scientific breakthrough, that we would want not only to keep but, in a sense, to rule the world in. That is really important in this context.

Q71 **Lord Barrow:** I have a quick question. Professor, you spoke about narrow areas of additional flexibility. In my experience, even if you start by having a fairly narrow area, it can have quite a wide impact on what happens at borders because of either mixed consignments or concerns. Do you think that it is possible to keep narrow, precise definitions—meaning that, if we started to diverge in one area or another, in addition to the carve-outs we will get initially, we would not see quite a lot of infrastructure back in place?

Professor Emily Lydgate: Yes, that is a very real risk. If you think about infant food, for example, that is something by which a huge number of the regulations in scope of this SPS common area are affected. One change can have a large cross-cutting effect.

However, that is part of the trade-off we are discussing. The idea is that the Government make a determination that they want to pursue a reduction in border checks and requirements but, if they then decide that they want to reintroduce those checks in order to pursue another goal, that is the calculus that has to be made.

Lord Barrow: But you agree that a narrow deviation can lead to a much broader implementation problem?

Professor Emily Lydgate: Definitely.

Q72 **Lord Jackson of Peterborough:** I am quite interested in your use of the word “trade-off” because we will potentially be paying significant amounts of money to support foreign markets in an organisation of which

we are not a member while, at the same time, hobbling any exceptionalism that we have in key areas—and asking us taxpayers to pay for the privilege, which is a bit strange.

Would you agree—I am at variance with my experienced colleague Baroness Ashton—that the EU does not really do “in principle”? It is a rules-based organisation that does treaties. It has very clear negotiating mandates, which are supported by all the strata in the EU. Is not the inference from that, therefore, that we have to have a very specific piece of legislation on the partnership Bill and the SPS agreement because, if we are not going to be in that position, we will inevitably, through incrementalism and accretion, end up under the legal remit of the ECJ unless we have a really specific agreement that covers all the areas right at the beginning? Will we not also, perhaps, have to have secondary legislation in place for all of these key controversial areas?

The Chair: A very brief comment, please, because we have another question to get to and we are running short on time.

Professor Emily Lydgate: We know from the EU that it wants to use the structures of the TCA to implement this agreement. As far as I can guess, that means that its independent arbitration model will be maintained, but that it has reference to the Court of Justice on issues of EU law. It is one step removed, in that sense, which is important to clarify. However, if the scope of the SPS agreement expands and expands, the ECJ will gain more influence by proxy.

That comes back precisely to the point about the importance of defining the scope carefully in the initial agreement. I also completely agree with the point that much of the thinking-through of the governance of this and of future alignment decisions has to be done and thought through now, with clear recommendations made about how those processes need to happen. That can be written into the European partnership Act, assuming that that is what will implement all this. That is also very important.

The Chair: We have another very important issue to cover. You have been very patient, Lord Elliott.

Q73 **Lord Elliott of Mickle Fell:** Thank you. I turn to the GDP impact. What is your view of the various assessments that have been made of the economic and GDP impact of the SPS agreement? That is the first part of the question. The Government have suggested that the benefit of the SPS agreement will be roughly £5 billion—that is the figure talked about. In your view, how does that compare to the potential costs of the agreement? I am thinking of things like the contribution to the EU’s social cohesion fund of £1 billion, the potentially adverse impact on the UK’s growing GMO and precision breeding sector and the wider impact on sectors that follow SPS rules. Perhaps we can start with Professor Lydgate.

Professor Emily Lydgate: You should go first.

Catherine McBride: Actually, this is my area. This is not law; this is just money and this is why I am here: I am an economist. There are two lots of costs.

You have a public cost. If we have to pay as much as Norway, we will be paying the same proportion, not as much but more than them, as it is proportionate. All EU charges—and I am sure I will be supported here—are done on your GDP. If it is a proportion of our GDP, we will pay at least £700 million a year for the pleasure of being part of the SPS agreement.

However, there is another cost. There will be a huge cost to our businesses, as I mentioned in my first answer, because all our businesses will have to change everything from their packaging, to where they put their nutrition values, to how they measure their nutrition values, to the pesticides that they use and cannot use. Even if they do not export to the EU, they will have to change that. The idea that it will increase our exports to the EU or increase our GDP by £5 billion is made up. It is fake. The original assessment by the Prime Minister's Office was £9 billion by 2040, and the popular press has just dropped the "by 2040". If you divide the £9 billion by 2040 by 15 years—because this was published last year, about a year ago today—it is about £600 million a year. So it will actually cost us more to join than we would actually get back, according to the calculations of the Prime Minister's Office. However, that does not take into account the cost to business.

It also does not take into account the cost to our farmers, because everyone seems to have forgotten that all EU farmers are still subsidised. Our farmers stopped being subsidised, and Defra now actually subsidises farmers for taking land out of production. So we are paying farmers to produce less, which has pushed up the price for the farmers who are still producing. They will suddenly have to compete freely with EU farmers who are being subsidised, which will have astronomical effects on our agricultural markets.

The costs come in all sorts of directions, and most people are looking just at the public cost. As you are part of the Government, I understand that you are most interested in the use of public money, but you really have to look at the private costs. The private costs, rather than increasing GDP by £5 billion, are much more likely to decrease GDP by £5 billion, because these are big costs. We have just asked our manufacturers of food to repackage to include things like "not for EU". If they export anything to Northern Ireland, it needs to have a "not for EU" sticker on it.

We have asked them to change all their packaging to compete with the way we are doing recycling, which is with a cost for the weight, so that the amount you pay for your packaging tax depends on how easily it is recycled and how much it weighs. This has encouraged a lot of people who used to make drinks in glass bottles to convert them to aluminium cans. A lot of plastic bottles are also being converted to aluminium cans, because plastic is more expensive to recycle. If you do the calculations, the aluminium can becomes the best way to package a drink. This has

cost companies a lot of money; they have had to change their whole mechanism for how it fills up in the factory. Cans are smaller than bottles, so the packaging of transporting those cans to the supermarkets, the supermarket shelving and everything have to change to get around this rule. It has cost a lot of money and it is a one-off hit, so people have done it.

But now the Government will sign this and the EU would like us to change all our packaging again to meet EU rules, which are completely different because they have introduced packaging that still uses plastic, but the types of plastic that you are allowed to use have changed; the amount of recyclable plastic that you use must be over 30%.⁸ All of this adds costs to businesses. It is kind of incredible that the Government seem uninterested in how many times they ask businesses to change things, when every change is a massive cost. That is the cost that we should be worried about, rather than the £700 million a year, but we will be asked to pay £700 million a year and no one seems to be mentioning that.

Professor Emily Lydgate: On a point of clarification, I am pretty sure that the single-use plastic and packaging waste rules are not included in Defra's list of covered legislation.

Catherine McBride: Yes, they are.⁹

Professor Emily Lydgate: The point about the change and transition being costly is absolutely something that I agree with. The lack of certainty about the direction of travel has been very difficult. I guess I would offer a kind of qualitative statement, as I am not an economist, that the effects of this are clearly heterogeneous. We have seen that in the different impact assessments out there. Most are broadly similar, but I will not get into the assumptions there, because this is not my area.

I think the question is whether it makes sense to align with a big nearby trade partner, even if the direction of their legislation is not necessarily what we would have chosen. An interesting observation here is Defra's impact assessment for the introduction of its gene-editing legislation in 2022, in which it concluded that diverging from the EU would result in non-tariff barriers with the EU that could result in a reduction in over £8 billion of exports to the EU. It said that that would potentially outweigh the scale of direct benefits for business. That is a really useful example of the dual dynamic here: ideally, the UK would want to do something, but is it simply more expensive to do that, because of the costs from our nearest and biggest trade partner?

⁸ Packaging and Packaging Waste Regulation (PPWR), Regulation (EU) 2025/40. Article 7 requires that any plastic packaging contain a specified minimum percentage of recycled plastic waste of between 10% and 35%.

⁹ The witness later clarified that she was talking about packaging in general, adding that: "Packaging is definitely in scope. Food-contact material is the larger sector, and single-use packaging is a subset of it".

Catherine McBride: Can I just clarify that we buy from them? They are our trading partner, but we import three times more food from them than we export to them.

Lord Elliott of Mickle Fell: I have another quick point: are the plastic rules part of the Defra list?

Catherine McBride: Yes, they are. It is here; I can hand it out to the committee if you have not read it.

The Chair: On one point of correction, please do not associate us with the Government. We are here to hold the Government to account. But thank you very much indeed for your evidence. Inevitably, there are a huge range of views on this subject. It is a controversial subject, which is one of the reasons that we are conducting this inquiry. Your evidence to us today has been most helpful and we are very grateful to you for coming. Thank you so much.