

Foreign Affairs Committee

Oral evidence: The UK's relationship with the EU, HC 426

Tuesday 22 June 2021

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Members present: Tom Tugendhat (Chair); Chris Bryant; Stewart Malcolm McDonald; Andrew Rosindell; Bob Seely; Royston Smith; Henry Smith; Graham Stringer; Claudia Webbe.

Questions 1-50

Witnesses

I: Lindsay Croisdale-Appleby, Head of the UK Mission to the European Union at Foreign, Commonwealth and Development Office, Lord Frost, Minister of State at the Cabinet Office and UK Co-Chair of the UK/EU Joint Committee and Partnership Council, and Matthew Taylor, Director General, EU Secretariat at Cabinet Office.

Examination of witnesses

Witnesses: Lindsay Croisdale-Appleby, Lord Frost and Matthew Taylor.

Chair: Welcome to this morning's session of the Foreign Affairs Committee. We are lucky to have with us this morning Lord Frost and members of his team, who will be talking to us about the position he currently holds and the negotiations. Lord Frost, perhaps you could introduce yourself.

Lord Frost: Good morning, Chair and Committee. My name is David Frost—Lord Frost—and I am Minister of State in the Cabinet Office.

Matthew Taylor: I am Matthew Taylor, the Director General of the EU Secretariat in the Cabinet Office.

Lindsay Croisdale-Appleby: I am Lindsay Appleby, the UK Head of Mission to the EU.

Q1 **Chair:** Thank you to all three of you for joining us. Lord Frost, your job description covers the entire UK-EU relationship, including the Northern Ireland Protocol, and pursues domestic and international Brexit opportunities. Clearly, it has very great focus on Europe. Are you, in reality, the Minister for Europe?

Lord Frost: Just before I answer that question, can I take 30 seconds on how I exercise my scrutiny responsibilities for this Committee and others? I am sorry that we only have an hour today, but I hope we can cover a lot of ground.

As a general comment on how I exercise scrutiny responsibilities, the first point is that there is obviously lots in the TCA and the withdrawal agreement—they are very wide-ranging and it is up to Whitehall Departments and their Ministers to take that work forward, hence the scrutiny that relates to that business.

The second point is that this Committee, in particular, obviously has—as you have just said, Chair—a legitimate interest in the conduct of relations with the EU, so I am happy to appear before you as a courtesy on that basis. Finally, I want to make it clear, as I do to all Committees, that my primary scrutiny responsibility is to the European Scrutiny Committee in the Commons and the European Affairs Committee in the Lords.

Having said that, the honest answer to your question about whether I am the Europe Minister is yes and no. Clearly, a good chunk of what I do is EU responsibility and is related to our relationship with the European Union and the member states. I am not the only Minister with an interest in that, and obviously the Foreign Secretary in particular has a very large interest in how our European allies and friends conduct their foreign policy. Obviously, I have other aspects to my portfolio as well, but relationships with the EU and European states, and putting in place the internal underpinning to run that, are a big part of what I do.



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- Q2 **Chair:** You will understand then that my follow-up is to ask how you split this responsibility with the FCDO, because clearly, sitting in the Cabinet Office, you are not part of the same structure. How do you work with Minister Morton and the Foreign Secretary?

Lord Frost: We work very well together—that is the first thing to be said. The way we distinguish the role is quite a logical and natural one. The Foreign Secretary is obviously the main interlocutor with other Foreign Ministers, including European ones. He is responsible for our foreign policy relations and, hence, how other EU member states conduct their foreign policy. The work in the E3 on Iran, and the European approach to Russia and China, is the Foreign Secretary's responsibility. Resourcing, and the priorities of the relationship with the EU, is obviously for the FCDO, and there are a number of Foreign Office-specific leads—for example, overseas territories, Gibraltar and development issues—that would fall to him.

My role complements that. The thought behind this, I suppose, is that the TCA is so wide-ranging that the task of implementing, and working to implement, the TCA necessarily takes up a lot of day-to-day business with EU member states as well. My job is to make sure that all our interests with respect to a particular member state are taken into account, properly ranked and properly worked through. We try to look at everything in the round. My interlocutors, reflecting that, are the Europe leads in the Prime Minister's office, Europe Ministers and so on. That is what we feel is a natural division, and it works in practice, but obviously it requires us to work closely together, day to day, to make it work.

- Q3 **Chair:** When you were in the Foreign Service, where you had an illustrious career for many years, would you not have imagined that the Europe Minister should be a Foreign Office Minister?

Lord Frost: I think there are a number of different ways that one could structure these things. The practice that has emerged over the years across Europe is that European business tends to be done centrally, with a central role for the head of Government and the people around him. That is the way we have structured it here for now. There are obviously different ways of doing it, but at the moment we are focusing on making this one work.

- Q4 **Chair:** Mr Appleby, who do you work to?

Lindsay Croisdale-Appleby: The whole of the UK mission to the EU, along with every other post in the FCO network, is of course directly accountable to the Foreign Secretary for all our work. Within that, there are a whole range of Ministers who have a direct interest in parts of our EU work, and different parts of my team and I work to different Ministers on different issues.

- Q5 **Chair:** Does any Minister come close to approaching the amount of spectrum that Lord Frost takes up?

Lindsay Croisdale-Appleby: The Foreign Secretary has overall responsibility for the mission and the resourcing of the mission. Foreign policy, and relationships with individual member states for that foreign



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policy, takes up a very significant chunk of the work that the UK mission does, so I would say that the ministerial teams with which I am in most contact are the FCO ministerial team—both Wendy Morton and the Foreign Secretary—and Lord Frost and his team.

- Q6 **Chair:** How do you balance, Lord Frost, the relationship that you need to have through Mr Appleby and the relationship that you need to have through our bilateral relationships in EU capitals?

Lord Frost: We balance it according to the demands of business. Obviously, a lot of what I do, day to day, is policy making on, and interaction with, the Commission, their teams and the people who are essentially running their side of the implementation of the TCA and the withdrawal agreement. That is a big chunk of what I do. Obviously, I talk to Europe Ministers, or approximate equivalents, around the rest of the EU as well, and some of those relationships loom larger than others.

We have a particularly large amount of business with France in different ways at the moment, so that occupies a fair amount of my time. But I am sure these things will vary as events vary.

- Q7 **Chair:** When you task embassies around the diplomatic network, do you task them directly or through the Europe Minister, when it relates to Europe?

Lord Frost: I task directly—that is understood and agreed. Embassies can report directly to me or to the FCDO, according to what the substance is.

- Q8 **Chair:** I heard your answer at the beginning when we asked you whether you were the Europe Minister, and you said, “yes and no”. I am finding it hard to see in what way you are not, at the moment.

Lord Frost: I think—I mean partly because I do have other responsibilities.

- Q9 **Chair:** So you are the Europe Minister-plus?

Lord Frost: It is part of my time. As Lindsay was saying, in practice, now that we have left the EU, various significant parts of our business with EU member states is on foreign policy in different ways, in relation to the rest of the world. That is the Foreign Secretary’s responsibility, so in that sense there is a big chunk that I do not lead on, but obviously take an interest in, just as he does in what I am doing.

- Q10 **Chair:** Okay. Thank you very much.

Just one last point. We heard earlier this year about the lack of accreditation of the EU ambassador to the United Kingdom. Now the ambassador has been accredited, and I believe, Mr Appleby, that your contact finally opened. What was the practical benefit of delaying that?

Lord Frost: I think that this was always a little bit over-interpreted in public debate. Our wish was always to find a way of ensuring that the EU delegation in London was able to do its business in a normal diplomatic



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way. We have now reached agreement on that, as you say, and it has been taken forward.

We did have some discussions with the EU about this last year, so it was slightly surprising to us that it blew up as an issue. We were never seeking to squeeze out the delegation, or treat them as a non-diplomatic mission or anything like that. We just wanted to find the right basis, and that is what happened.

- Q11 **Chair:** How does the basis under which they are now treated—as you say, the basis that they now accept—differ from their initial request?

Lord Frost: I wouldn't want to go into details on that at this point, while we are still working through the final stages of accreditation and the process, but we are both confident that we have found the right balance of interests for us both to do our jobs effectively.

Chair: Thank you very much. Chris Bryant, you wanted to come in.

- Q12 **Chris Bryant:** Good morning. It seems to me that you have basically described your job as the job that I did as the Minister for Europe 11 years ago in the Foreign Office, the only difference being that there was better co-ordination with common, foreign and defence policy in Europe.

Lord Frost: I am trying to remember whether I was at the Foreign Office—I think I was, very briefly, while you were doing that role. As I said, there are different ways of organising these things. Although I think the way we have done it is the norm across Europe, you can point to countries that do things in a different way. Wherever you do it, you have a co-ordination problem of some kind. It really rests on those involved to make it work as best they can.

I think we are making it work. I am not sure I would say we were better co-ordinated in 2010 than now; the situation is just so different that it is difficult to make that comparison.

- Q13 **Chris Bryant:** It feels terribly opaque, but you are right, of course, that you have to cut it some way or other. Downing Street—the head of Government—is bound to play a vital part in any kind of foreign policy, and that relationship between the Foreign Office and the head of Government is going to be essential.

The question, I guess, is, “Whose responsibility is it when something goes wrong?” Let me just take you to one area where a lot of people think that we are in a bit of a bad state now: British performing artists being able to travel and perform elsewhere in Europe. Whose responsibility is it to sort that out now?

Lord Frost: That is a good example of the question. Obviously, I led the negotiation that took us to this point re. the treaty. Without going into the history, obviously we put forward proposals that we believed would have dealt with this problem, but they could not be agreed, and so be it: we are where we are.



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Now, in accordance with the principle I set out at the start, in terms of implementing the TCA—which is extremely broad—it is for each Whitehall Department to take forward the work that relates to it, so in this case DCMS have the lead responsibility. They are working very closely with the FCO through the embassies in lobbying Governments to see if they are willing to change their visa processes where they are complicated, but this is a DCMS lead. My responsibility is to make sure that, for example, if we are lobbying country X, that ask of country X is seen in the context of everything else we want from that country, or anything else they want from us, and to try to maximise the trade-offs there.

- Q14 Chris Bryant:** How on earth did we end up here? Cultural assets—music, theatre, art—are a really vital part of Britain’s economy and our exports within Europe. I would argue that they are a vital part of our soft diplomacy as well, yet your line is, “Well, so be it.” It does really feel as if this industry, which is a massive earner for the UK, has been left to one side, and there seems to be no urgency about solving it.

Lord Frost: I think there is quite a lot of urgency, and embassies have been talking to their host Governments. I know that Ministers in DCMS have been engaged on this, but the clearest example, or illustration, of the fact that we could have ended up somewhere else is the fact that in our negotiation with EFTA—with Norway, Iceland and Lichtenstein—we have agreed something better. We put forward something better, and those countries were willing to agree to it, so we should not be facing the same problems for those countries.

Unfortunately, the EU would not agree to that solution, and that is where we are, so that is why I say, “So be it”. We would much rather be in a better position, but it takes two to agree a constructive outcome, and unfortunately we are not there.

- Q15 Chris Bryant:** What prospect do you think there is in the short to medium term—this year, for instance—of resolving any of these issues for performing artists?

Lord Frost: As, I think, the Secretary of State for Culture said last month or thereabouts, we reckon something like 17 of the 27 have a regime that is pretty relaxed for such touring artists. Ours is pretty relaxed—indeed, among the most relaxed—but there are 10 or so where the rules are more complicated. That is where we are focusing our efforts to see if we can improve access in some of those areas, but obviously we are in the hands of the member states concerned.

- Q16 Chris Bryant:** But those are the big ones, aren’t they?

Lord Frost: I do not have the list with me, I fear. I think there are big countries in both the 17 and the 10.

- Q17 Chris Bryant:** It seems a bit odd to not have that list, but let me ask you another question in a similar field. The EU is now saying that it is going to determine under its quota system for broadcast that British material, material made in Britain, does not count for the EU quota system. I am



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not a particular fan of quota systems myself—I have always been opposed to them—but none the less, this is going to cut British broadcasting out of sales across Europe, isn't it?

Lord Frost: I have only seen the media reporting of this, although obviously we are aware of discussions among the 27. As I understand it, all that has happened is that a questionnaire has gone round asking for views on this question. In terms of EU policy, there is a long way to go yet on this. We are not in favour of that; we are in favour of the free circulation of audio-visual goods, as of other goods. But, obviously, if the EU choose to harm themselves and their viewers by excluding some categories of UK content, we cannot stop them. But I am sure good sense will prevail and we will not be in that position.

Q18 **Chris Bryant:** I agree with you about quotas, but it might suggest it was not all that good a deal that was originally signed?

Lord Frost: It is a traditional position of France, which takes some shaking, that audio-visual arrangements are not part of free trade agreements. Although we started off with a more expansive position, I don't think there was ever any realistic chance of coming out of this negotiation in a different place.

Q19 **Chris Bryant:** I apologise that I will have to leave to see the Leader of the House about something. Can I ask a final question about bilateral relations between UK and individual countries? In the end, delivering a result on any particular subject in the EU quite often relies on getting key figures within each of the individual member states to help. That applies to shared foreign policy on sanctions, or whatever, as well things that matter to us on trade. This does not directly affect me, but I gather that Sweden has a deal with Canada over access for au pairs. Is that the kind of arrangement the UK will have to pursue one by one with each of the individual countries? What resources will be necessary to deliver good outcomes to the UK?

Lord Frost: There are obviously two different questions in there. Obviously, it remains a very significant part of this Government's responsibility, and my role, to maintain influencing networks with the member states on all kinds of issues. Obviously, the context for it has changed, in that, whatever the EU decides, we are not subject to legally. That changes the context of what needs to be achieved, but it obviously influences and has an effect on us, and we need to maintain those relationships. That is a very important part of what we do, of what Lindsay does in Brussels, of what the embassies do and so on. We aim to keep that up and indeed do more because, because there are no longer quite so many meetings in Brussels that we go to, so we need to find ways of meeting and staying in contact with people in other ways. So that is definitely a big part of what we do.

As to the question on Sweden's agreement with Canada, obviously I do not know the detail of that, but by and large issues about work visas and working arrangements are still within the competence of the member states, so it does not surprise me that that is the case—just as it is in our



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competence to control our immigration arrangements and who comes here to work. That is within our power, and it is something I am sure the Home Secretary or Home Office Ministers would be happy to talk further about, in accordance with my principle that Departments take forward the work that falls to them under the agreements.

- Q20 **Graham Stringer:** Morning, Minister. The Prime Minister has said repeatedly that the Northern Ireland Protocol should not impact on the indivisibility of the United Kingdom. It clearly has. What went wrong?

Lord Frost: Obviously, I have said a certain amount on this at the Northern Ireland Select Committee last week, but I am happy to repeat the salient points here. What we did with the Northern Ireland Protocol was something pretty exceptional. It was a big compromise to protect the Good Friday agreement and the peace process, and the exceptional thing was to control goods moving within our own country in that interest and to apply EU law in parts to our own country. If those arrangements are going to be sustainable, they have to operate in a pragmatic and proportionate way, and that is not what is happening.

The delicate balance in the Good Friday agreement risks being unsettled. We are implementing the Protocol as best we can and spending a lot of money on it, but there are still big problems, and this is creating a sense of difficulty for identity in Northern Ireland. We are trying to find solutions and have put forward lots of solutions. At the moment, there is not a huge amount of engagement on all of them, but we keep trying. That is the situation at the moment.

- Q21 **Graham Stringer:** You mentioned last week's Northern Ireland Committee. You told them that the way the Protocol is being implemented is not consistent with your intentions. That is quite clear, actually. What are the big differences between how you expected it to work and how it does work?

Lord Frost: We are sort of learning from experience here. The basic problem is that the chilling effect on goods moving from Great Britain to Northern Ireland is pretty strong. Until we actually began implementing the Protocol, nobody could quite know that. The Protocol says that both parties should make efforts, best endeavours, to reduce checks and processes in Northern Ireland to the minimum, and we are not convinced that is what is happening. So what we would want to see is a more pragmatic approach from the EU. If their approach is simply to say, "You must just implement the EU customs code as if this were any other external frontier of the EU," then we obviously have a problem. There has to be more pragmatism and reasonableness than that about goods that never leave the UK customs territory.

- Q22 **Graham Stringer:** Before the Protocol was agreed, what assessment did the Government or you make of the impact on the constitutional position of Northern Ireland and, in particular, of how it seems to conflict with the 1800 Act of Union?



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Lord Frost: I do not think it is for me now to comment on the internal processes of the Government and the legal advice at the time in the usual way—all the more so because, obviously, there is a court case in being which touches on some of those issues. But, obviously, the Protocol is embodied in the EU withdrawal Act that received full parliamentary approval, and those issues, I think, were debated at the time. That is probably all I can say on that issue, given the wider context here.

- Q23 **Graham Stringer:** On my final question, the outgoing leader of the DUP, Edwin Poots, has said that he expects a significant change to the benefit of Northern Ireland in the immediate future, although most of the press are reporting that negotiations are frozen and stuck. Was he right to have that expectation?

Lord Frost: Obviously, I cannot comment on private conversations and accounts of them, but we have not made a secret of the fact that we find it hard to see how, as currently operated, important elements of the Protocol are sustainable, so I do not think that is a new judgment. We have also said that we are considering all our options, and we are doing so. There is a real-world timetable to things that needs to be taken into account when we do that. So that's where we are at the moment. We are actively considering the options to deal with a situation that is hard to see as sustainable.

I would just pick up one comment you made on negotiations. I said earlier that in many areas of the negotiations there wasn't a lot of traction. That is not true of absolutely every area. Obviously, we are having lots of technical discussions with the Commission. We have put in our proposal to extend the grace period on chilled meats, which expires very soon. I know both sides are thinking very actively about that. I wouldn't want to leave the impression that nothing is happening; quite a lot is happening. In one or two areas there is engagement and in other areas it is more difficult.

- Q24 **Chair:** Lord Frost, can I just pick up on two points you made? One is that you said that no one could have predicted the chilling effect on GB to Northern Ireland trade. I seem to remember that the Northern Ireland Retail Consortium wrote about this at the time, warning that people who weren't versed in the Protocol would probably be averse to the form-filling and raising concerns about it. I am also pretty sure I read in the reports from UK in a Changing Europe by Anand Menon that this was predicted. More recently, Lord Barwell has given various interviews in which he has stated that this was exactly the reason why the former Prime Minister went for a different arrangement. Are you sure they weren't predicted?

Lord Frost: No, I am not saying that nobody suggested that such a thing could happen. What we have seen, though, is that the effect has been pretty marked. Actually, one thing that has been pretty marked, not just on GB-NI movements but in other areas of trade in and around Northern Ireland, is how rapidly companies have responded to the different incentives and the different possibilities for moving goods. That has happened pretty rapidly.



The other point I would make is that when we agreed the Protocol in 2019 a lot of these matters remained to be worked out. The whole concept of goods and risk was not properly worked through and was explicitly left until later. We had been working on the assumption that we would secure things in those negotiations in 2020 on implementation of the protocol that would be part of a pragmatic implementation, and that we would also secure things in the TCA that it turned out that we couldn't. For example, we asked for an equivalence mechanism on agrifood; that wasn't granted. We asked for co-operation among regulators, which is a normal part of FTAs, and that wasn't granted. So it turned out that we were operating in rather a different framework by the end of 2020 than the one we probably had in mind in 2019.

- Q25 **Chair:** On that basis, what was it about the negotiations since 2016 that led you to believe that the behemoth of an elephant that is the monolithic European Union would suddenly become a ballerina twirling on a sixpence, able to adapt with the flexibility that you hoped?

Lord Frost: You are right, obviously, to say that the EU isn't, possibly, characterised by its fleetness of foot in the way that it deals with third countries. But we did hope and, I think, have reason to expect—and still do have reason to expect—that in the very special context of Northern Ireland they would see things differently. After all, that was the very reason we had to agree a Protocol and special arrangements in the first place.

I think we felt that after three or four years of negotiation it was pretty clear that we were dealing with a sensitive and delicately balanced situation in Northern Ireland, and there would be some responsiveness to that. To be fair, I am not saying there has been no responsiveness, merely that we are not there yet, and we haven't found the right balance to deal with it.

- Q26 **Chair:** Your and my experience of the European Union would suggest that hope against the legalistic monster that is the Court of Justice and various other EU institutions is certainly an ambitious way to proceed.

Lord Frost: It is possibly ambitious, but we are hoping, were hoping and still hope to have a constructive relationship with the EU more broadly. We saw this as a big part of it, and we still hope we can get there. As I have said before, the EU does need to try and find a way of dealing with big third countries in its neighbourhood that is a bit more responsive and fleet of foot, and is not about a cookie-cutter approach, fitting everything into the same template.

Chair: That is very aspirational. I will hand over to Royston Smith.

- Q27 **Royston Smith:** Thank you, Chairman. You have covered a bit of what I wanted to talk about. Lord Frost, what did learn about the EU as a negotiator from your time at UKREP and as the FCDO director for Europe?

Lord Frost: Gosh, what an interesting question. I could probably give a more interesting answer if I had time to think about it. I have a couple of



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propositions, I suppose. It is different negotiating as a member state to negotiating with the EU as a third party. That is very clear. One of the problems, perhaps, with the process before this Government took over was that we had not fully internalised that difference.

The things I took from it, from my experience, are, one, say what you mean—don't say things you don't mean or aren't prepared to deliver on. Make sure your words mean something when you say them and people can react to them. And don't restrict what you can ask for through conventional thinking. The EU is actually quite good at responding to almost any proposition if you give it time to think about it, absorb it and work through it internally. Getting people used to what you need to get as a solution is a big part of the process. I have written a bit separately about this in the past.

Being honest, being clear, and not restricting what you want, to fit in with a perception of the other side, but being clear about what is in the national interest and asking for it—those are certainly some things that I take from it, but hopefully one day I will write a book on the subject.

- Q28 **Royston Smith:** From your experience, do you find that the negotiators on the other side of the table—the EU negotiators—behave in a similar way? Do they say what they mean and ask for what they want, or are they more opaque in the way they negotiate?

Lord Frost: The EU obviously have incredibly professional and skilled negotiators. The whole EU is a kind of negotiating machine, so that is not that surprising really. The problem they have with third countries—this comes back to what I was saying earlier—is that, obviously, they have positions that are, to a large extent, set for them by the internal debate in the EU and quite often in law, not just as a political proposition. That can restrict their room for manoeuvre. It is a common experience for third countries negotiating with the EU to feel this—that there is a set of things that are, to some extent, take it or leave it. That is perhaps one of the reasons why the EU finds it harder to do free trade agreements with third countries than it would like. It sort of ties its own hands. They are very professional and, within those frameworks, I would say incredibly creative, but the backdrop is different to that of a single member state.

- Q29 **Royston Smith:** That makes sense. I have just one more, if I may, Chairman, about the Protocol dominating the recent G7 summit. What impact do you think that will have on the UK's foreign relations? How would you characterise the American position, and what are you doing to avoid a negative impact on other areas of our UK-US co-operation?

Lord Frost: On the US side of it, the Prime Minister was clear about this over the weekend at the G7. Obviously, they touched on it in their conversation—the conversation with the President—and agreed that protecting the Good Friday agreement is the most important thing. That is absolutely what we are all trying to do—I don't think there is any difference between us on that.



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We are very happy to talk about our view of the protocol to anybody who wants to talk about it with us. It obviously came up in some of the conversations with the Europeans at the G7, and the Prime Minister was very clear about how things needed to change if we are going to find the right balance. As I say, I think it is always better to be clear with people so that they can internalise it and react to it, and that is where we were.

- Q30 **Royston Smith:** Do you think that the Americans fully understand it from our position in particular, and in general? Do you think it will get in the way of our future relationship/negotiations going forward?

Lord Frost: I wouldn't comment on how another country understands—

Royston Smith: Please do.

Lord Frost: No, no. I am sure people would like me to. Obviously, Ireland is very much debated in Washington, as are many other issues. We talk honestly and frankly to the Americans as our closest ally about that and lots of other things. We don't have a problem with that. As I say, we don't have a problem with talking to anybody else either about this issue. We believe our views are well-founded and well-grounded and are very persuasive.

Royston Smith: I will have to wait for the book to get the unabridged version.

Chair: You can read the other half in French at the moment. Barnier has published his version. Henry Smith wanted to come in.

- Q31 **Henry Smith:** Thank you, Chairman. Good morning, Lord Frost. If I can get a signed copy when it is available, that would be appreciated.

Obviously, Gibraltar left the EU last year at the same time that the United Kingdom did and there are ongoing negotiations with Spain on border issues. I think you have been recently quoted as saying that in talks there are several issues yet to be fleshed out. What are those issues and how difficult do you expect negotiations with Madrid and the EU to be? What sort of timescale are we looking at?

Lord Frost: This is one of the issues where this is a Foreign Office lead, because of Foreign Office responsibilities for the overseas territories more broadly. Obviously, we are closely involved in the processes, but it is a FCDO team who takes this forward. I will ask Lindsay to comment in a moment in that spirit, as he works for both of us.

Where we are at the moment is that, as we understand it, unless something has changed very recently, we are still waiting for the formal mandate to be agreed through the EU processes, so they can begin the formal negotiations for us. Obviously, at the moment we are operating as regards Gibraltar on the basis of the sort of political understanding that was reached right at the end of last year. That now needs to be formalised.



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I think we would like it to have gone a bit quicker, possibly, than it has, but these things are often more complicated than you think and take longer, but we are ready to go when the EU is ready. I will ask Lindsay if he has more details to add on that.

Lindsay Croisdale-Appleby: I would just add that I think that the political agreement at the end of last year between us and Spain provided a very strong basis for negotiation. That was agreed between the Foreign Secretary and the Spanish Foreign Minister. What it does is provide a framework.

It is absolutely true that there is quite a lot of complexity around movement of people, and it is a special arrangement, which obviously needs to work with the EU's Schengen system for people. Similarly, there are quite complex issues around the way the goods relationship would work. Those are the two big areas of the agreement that will take working through via the mandate, which we would expect the EU to produce before the summer break, but I think that the spirit between the UK, the Government of Gibraltar and Spain on this remains extremely positive, as do the relationships that have underpinned it—in particular, the determination of all parties to build an area of shared prosperity around Gibraltar and the Campo de Gibraltar, as the Spanish call the area.

Q32 **Henry Smith:** If I may, Chair, I have one further question on this issue. Obviously, we have been speaking about issues with the implementation of the Northern Ireland Protocol. As far as EU alignment of rules is concerned in the Gibraltar context, do you see any similar issues? On the free movement of people and Schengen, has any progress been made with regards to the Cordoba corridors at Gibraltar airport being a solution to that?

Lord Frost: I will turn to Lindsay again on that, if that is okay.

Lindsay Croisdale-Appleby: On the—[Inaudible.]—it is actually rather a different context, and rather a different solution than was envisaged originally in the Cordoba agreement, because the context has changed with it being an external EU frontier. We are instead looking at a solution that fully opens the whole of the border area, rather than just having a corridor through the airport. In terms of whether there are parallels with other situations, whether in Northern Ireland or elsewhere, I would say that the EU recognises that the situation in Gibraltar is rather distinctive, as other situations where we have found agreements—[Inaudible.]

Chair: I am afraid the connection to Brussels seems to be as poor as some of the negotiations. Henry, have you concluded?

Henry Smith: For the purposes of time and technology, I have.

Chair: Thank you. Bob, over to you, and then we will go straight to Stuart afterwards.

Bob Seely: Thanks. Have we got the connection back, or is Lindsay no longer with us?



Lord Frost: We are trying to get him back, but he is out for now.

- Q33 **Bob Seely:** I suppose it is not a political question. Hello, Lord Frost. I am going to develop what Chris and Royston were talking about. Clearly, if you read the newspapers in this country, there is a debate in the European Union about individual countries' attitudes towards us. The French, according to some of the media, still want to punish us and seem to have learned nothing from the last 100 years of European history. The Germans and the Dutch seem to be keener to move on and develop a positive relationship. How does the division between EU nations over how to treat us help or hinder your negotiations, and how does the Commission balance these competing interests—whether to be hostile to us on principle because of Brexit, to punish us, or whether to move on and to provide a useful working relationship for the nations and peoples of the European Union and the UK?

Lord Frost: I could probably talk on that subject for hours but will not do so. It is probably too simplistic to say that some want to punish us and some want to move on; it is more complicated than that. I actually think that a lot of what we are seeing is not quite teething troubles; it is definitely settling down. There has been a big change in the relationship, and lots and lots of things have changed very rapidly. Everybody is adjusting to that, and so are businesses, stakeholders and so on. Obviously, that impacts more on some countries than on others, and we are seeing that play out. We have just got to let that play out, to some extent, and manage it as responsible international actors should. We are seeing that happen, but it is reasonable to think it will be a little bumpy for some time because of that. I said last week in a speech at another event that those who campaigned for leave would have been surprised to think that the relationship was as relatively difficult as it is now. It is not something that we want. We think that the sooner we can move beyond the settling-down process, the better, but we probably have to let it work through.

To respond to your question about the internal workings of the EU on that, they obviously have to balance the different interests. Its job is to be the guardian of the treaties that it has agreed to. It pursues that in an appropriately prioritised way, just as we do.

- Q34 **Bob Seely:** I understand the complexities, and clearly one could talk forever about it. Which nation or entity is the biggest stumbling block to that better relationship? Is it what we see in the papers—the French? Or is it the Commission because it is having to interpret and keep the rules of the EU that it has developed? Where is that stumbling block? Is the Commission—arguably, much maligned in this country—not necessarily the biggest problem?

Lord Frost: Again, I think it is hard to generalise. The issue with France is that we have a huge amount of interest with France because of where it is and because it is the EU's other main global player. We have lots of positive interests with France: a lot of goods move through the customs border at French ports, fishing, the question of small boats—there is a lot.



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The issue with France is not good will or ill will; I would like to think there is good will, but there are a lot of things in the relationship, and some of them are quite difficult to manage day to day. That plays itself out. The Commission is managing that constructively, by and large, and doing what it must to implement the treaties. If I had one criticism, perhaps it would be that, as I have said before, sometimes it feels like the resort to threats is a bit quick. We do not make threats in quite the same way as some players in the EU do. If you could dial that down a bit, that would help.

- Q35 **Bob Seely:** A final question. Would you like us to be less dependent on French ports for import and export? Does that give the French undue influence with which to threaten us, either seriously or to play silly political games in the run-up to the presidential elections next year?

Lord Frost: This isn't really a question about—this is only in part about France. This country should maximise the benefits of the assets it has got—a large coastline, a big maritime interest, lots of ports that are not Dover and Eurotunnel. Obviously, there is a particular framework around Eurotunnel and Dover, which we respect. Strategically, this country should be a global country and should try to develop a ports infrastructure and exports and imports arrangements that reflect that.

Bob Seely: So slightly less reliance on the Frenchies.

Lord Frost: We would want to look at the consequences of such a policy.

Chair: We will move on from that, acknowledging my declared interest of having a wife working in the French embassy at the moment. Stewart, you are on.

- Q36 **Stewart Malcolm McDonald:** Thanks, Chair. There is a lot I would love to come back to, Lord Frost, perhaps when you come back to the Committee in future. I want to focus on two issues. The first is about how the UK helps to shape the rules. I am particularly thinking about emerging technologies, cryptocurrencies, artificial intelligence and disruptive technologies, where the EU is a major rule-setter on our doorstep. It is working closer and closer, if not in concert, with the US on a lot of the rules and regulations around that. What is your strategy for ensuring that the UK can help to shape those rules, and is not left to one side?

Lord Frost: Obviously, we are just beginning that process. There are two things I would say. First, the traditional influencing task remains very important, via UKMIS, embassies in the member states and our own contacts as Ministers. It is really important, particularly at the technical level, that we spot things that are happening upstream and shape and influence as best we can. That is a very traditional diplomatic task. The FCDO and its embassies are very good at doing it. It is obviously different when you are outside the setup from when you are in it, but equally, you are not bound by the result.

- Q37 **Stewart Malcolm McDonald:** It is harder, is it not? It is not just different: it is more difficult.



Lord Frost: You have to use different tools, I would say. Equally, we are not bound by the results, so the trade-off is a different one.

- Q38 **Stewart Malcolm McDonald:** When you say, Lord Frost, that we are not bound by the results, do you mean by that that if the EU sets new standards on data policy or whatever it might be, somehow we are not going to be impacted or bound by whatever those rules are? I mean, that is surely an absurd view.

Lord Frost: I do not think it is absurd. We are not part of the EU legal framework, so we are not bound by those rules. Clearly, everything that happens in the world has some influence on us in some way, so we are all connected in that sense, but some things influence us more than others, and not being part of the legal framework is clearly a different situation. The other answer I would like to give to your question is that another way we are going to influence is by acting ourselves. It is commonly said that the EU is quite slow at responding to new technologies, changing its rules, and learning from mistakes that it has made.

- Q39 **Stewart Malcolm McDonald:** Who benefits if we act by ourselves and not in concert with major rule-setters—other like-minded liberal democracies like those on the European continent—China? Russia?

Lord Frost: It depends what the policy area you are talking about is. Sometimes it will make sense for us to go with the European rules; sometimes it will make sense for us to go with American rules; sometimes it will make sense for us to act ourselves, because we are the fifth or sixth biggest economy in the world and what we do matters. If we set up better regulatory frameworks faster than the EU in new, emerging areas, then I would expect that would influence the EU as well. I very much believe in regulatory competition and learning from each other as a way forward, and one of the problems with the EU is that it has squeezed that out over the years. That is why we have often said that the UK not being part of the EU legal structure could actually be an advantage for the EU in some ways, as it is forced to compete and challenge itself.

- Q40 **Stewart Malcolm McDonald:** I would love to challenge some of that, but I am very conscious of the time. I do want very quickly to ask you about defence and security co-operation. You were almost the National Security Adviser. Why do we not have a comprehensive security and defence treaty with the EU?

Lord Frost: There obviously is a comprehensive defence alliance that includes most, if not all, of the EU member states and others, which is NATO. That is the fundamental arrangement for our security—that is the cornerstone—and obviously it has just been renewed at the summit last week. It is our view that we can have extremely close co-operation with the EU in all kinds of foreign policy, security and defence areas without having a formal treaty relationship with it. I think that so far, that has been borne out. Obviously, we look at areas such as EDF, PESCO and EDA, but at the moment, the terms for third-country membership do not seem quite right.



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- Q41 **Stewart Malcolm McDonald:** The terms for PESCO seem to be okay for the US; they seem to be okay for Canada. What does the UK not like about the terms?

Lord Frost: Again, this is an issue that is perhaps more for other Ministers than me, but we have some concerns about the rules for third countries: restrictions on the use of IP and export controls, for example. Every country takes its own view about the right trade-offs in agreements like that, and some countries may come to different views about that, but at the moment we think the trade-offs do not quite suit us. We keep all these things under review. I do not think we have an ideological position about this as a third country: as you say, some third countries do have relations. It is a question of whether the benefits outweigh the potential costs.

- Q42 **Stewart Malcolm McDonald:** Finally, the Government have ruled out notifying Parliament in advance if they choose to join any PESCO projects. Who made that decision, what is the thinking behind it, and how on earth does that help to make Parliament more sovereign?

Lord Frost: I would not want to comment on that. That particular aspect is not my direct responsibility. I personally find it difficult to imagine that we could take decisions like that without quite a lot of debate around it. I think that is just a reality of the situation, but as I say it is not my direct responsibility and I want to be correct about that.

- Q43 **Stewart Malcolm McDonald:** It might have been if you had become the national security adviser, so would you have advised the Government to tell Parliament if they were going to join a PESCO project on, say, military mobility?

Lord Frost: I would not like to answer—

Stewart Malcolm McDonald: I would like you to.

Lord Frost: I would not like to answer hypothetical questions about my evanescent tenure as national security adviser.

- Q44 **Andrew Rosindell:** Good morning, Lord Frost. There are two or three very short points that I would like to make and ask for your reaction to. First, the Foreign Secretary, Dominic Raab, said at the time of the signing of the Northern Ireland Protocol agreement that it was a “cracking deal” for Northern Ireland. You may remember him saying that. Was that correct in the light of what has happened since?

Lord Frost: I think it was a deal that could have been cracking, as it were, when that statement was made. I do not remember precisely when it was made, but we felt that we had a deal that balanced the different requirements, supported the Good Friday agreement, respected the sensitivities and delicacies in Northern Ireland and, crucially, brought an element of consent and voting into whether it was sustained in the future. As we say, we do not feel that the balance that we hoped for is quite there in real life, but there is time to do something about that.

- Q45 **Andrew Rosindell:** You say that there is time to do something about



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that, but surely all British people—all British citizens—are entitled to be treated the same and to be equal within Her Majesty's realm, and that is not happening. You have a difference in the way you are treating the people of Northern Ireland compared with the rest of the United Kingdom. How is that sustainable for a Conservative and Unionist party Government?

Lord Frost: As I said, I think we did something pretty exceptional with this Protocol. We recognised that it was quite an unusual situation and that is why we did what the previous negotiating team had not, which was to bring an element of democracy into the arrangements and make the whole thing sustainable with a vote in the Assembly. That is why we continue to say that we feel that such an unusual arrangement can only work if there is general consent and it is accepted as legitimate by everybody in Northern Ireland. Obviously, the problem at the moment is that that does not appear to be the situation that prevails, and that is why we have some of these problems.

- Q46 **Andrew Rosindell:** Surely you are not intending to wait four or five years to have this looked at again by the Northern Ireland Assembly. Surely the Government—our own British Government—need to pre-empt this more urgently and find an alternative way forward, perhaps ending the Protocol completely and opening what most countries in the world have, which is bilateral relations with their neighbour—so intensify the bilateral relations with Dublin and work closely with our friends in Ireland, rather than persisting with this failed protocol, which is treating one group of British people differently from another and dividing our United Kingdom.

Lord Frost: As I say, we are considering all our options. The current situation is not satisfactory, and it's hard to see how it can be sustained. As I said, some of the timetables are now relatively short—a lot shorter than the four years, as you say. Nevertheless, the fact of a treaty commitment to a vote in four years—indeed, the Protocol ends, unless sustained, in four years' time—changes the politics around it hugely. It makes it very clear that, even if that formal event only happens in four years, the whole thing is based on consent. If it isn't acceptable to all communities in Northern Ireland, it's very difficult to make it work; and unfortunately, that's the situation that we're in at the moment. That is why we keep saying that, as currently operated, it's hard to see how you can sustain it.

- Q47 **Andrew Rosindell:** Lord Frost, the United Kingdom has a responsibility not just to the people of the United Kingdom, but to the people of the overseas territories and the Crown dependencies. We seem to have pretty much failed to ensure that they were all fully included, as equal parts of the British family, during these negotiations. We now have the situation whereby the Falkland Islands fisheries are not treated in the same way as they were before. We're having issues with France in which they are making threats against Jersey. Gibraltar has already been referred to by one of my colleagues, Henry Smith. Again, they seem to have been hung out to dry, instead of this all being resolved at the same



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time as the rest of the UK. Surely we have a responsibility to them to stand by them and include them fully in any agreement. Why wasn't that done? Why was this all left with so many loose ends when really we had a responsibility to defend and look after those territories and dependencies?

Lord Frost: Mr Rosindell, that deserves a full answer, for which there isn't time because we are already running over time a bit, but I will just answer it very briefly. Gibraltar we have talked about. Overseas territories obviously were not part of the EU in the first place, but did have access to the EU for trade. The EU would not extend those arrangements, unfortunately, and that is why we are in the situation that we are in. Obviously, we are supporting the OTs on whom this has an effect—notably, the Falkland Islands because of the squid trade—in a very supportive way. So that is the situation there. Crown dependencies are covered in the treaty to some extent, where it is of direct interest to them—most obviously, on goods and fisheries. I think the action that we took in May shows that we are standing by them. We support their right to regulate their fishing territories as set out in the treaty and we will continue to do so. So we are doing our level best to be as supportive as we possibly can of those territories.

Chair, I will have to go in a few minutes—

Q48 **Chair:** I do understand. Can we wrap up very quickly? First, may I just ask a very quick question? As somebody who has been negotiating on behalf of Her Majesty's Government in various different guises now for well over 30 years, if I'm not ageing you too much—it's probably about that, isn't it?

Lord Frost: Yes.

Chair: Have you ever heard of any other trade negotiation that has negotiated away control of a sovereign part of a kingdom?

Lord Frost: I could not say that I am familiar with absolutely every negotiation that has been done by every country. I don't agree that's what we did in this negotiation. If you are referring to Northern Ireland, the Protocol is very clear about the territorial integrity of the UK and Northern Ireland's position as part of the customs union and the single market of the UK. I don't deny that we did something very special and unusual. We did it for good reasons and we hoped that it would work, but at the moment it is not working particularly well.

Chair: Okay. May I just follow up with a couple of bilateral questions? Very briefly, the—

Claudia Webbe: Shall I come in on those?

Chair: We're really just closing, Claudia, so go on: ask one question if you want to, but very quickly.

Q49 **Claudia Webbe:** I know we have run out of time, but I just want to ask



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this question. The Government is clearly seeking bilateral agreements with individual EU countries to build on the arrangements in the UK-EU deal. What are its priorities, and with which countries, in that regard?

Lord Frost: Again, the question requires a fuller answer, probably. Obviously, despite the reach of the EU treaties over the years, there is still bilateral competence left to member states in various areas. Areas such as visas, aviation, aspects of law enforcement, returns agreements for refugees and so on are some areas of close interest to us. We talked about the musicians and touring performers earlier. Those are the sort of areas we would like to pursue and see what can be done. We think that is reasonable. I do not think it distracts from the overriding task of making the main agreements work. It simply reflects the fact that the EU itself is an organisation of multi-layered competences, and we have to work with that if we are going to achieve what we want to achieve.

Q50 **Chair:** May I first of all thank you, Mr Appleby and Mr Taylor? Finally, I thank you, Lord Frost, for the generosity with your time. I understand that we have overrun very slightly, for which I apologise. You have been extremely gracious in coming forward with your answers. However, as you yourself admitted, you are pretty much the Europe Minister, covering such an important relationship at such an important time, which really does, as you know from your time in Carbis Bay only recently, fundamentally affect other relationships, such as those with Australia, the United States and Japan. If I may, I will press you to return to the Committee, because you are so influential in British foreign policy today; your decisions really are shaping foreign policy beyond the continent of Europe, so I urge you to come back as your importance knows no limits.

Lord Frost: You are overly gracious, Chair, if I may say so. I certainly do not exclude returning. You make some good points. Lots of Select Committees would like to see me, and I have to be realistic about that, but your points were well made.

Chair: Thank you very much indeed. On that note, I thank everybody for supporting this session.