

# International Trade Committee

## Oral evidence: UK-EU trading relationship, HC 1206

Thursday 24 June 2021

Ordered by the House of Commons to be published on 24 June 2021.

[Watch the meeting](#)

Members present: Angus Brendan MacNeil (Chair); Mark Garnier; Taiwo Owatemi; Martin Vickers; Mick Whitley.

Questions 143 - 178

### Witnesses

**I:** Dr Brigid Fowler, Senior Researcher, Hansard Society; Georgina Wright, Head of Europe Program, Institut Montaigne; and Professor Catherine Barnard, Professor European Union and Labour Law, Cambridge University.



## Examination of witnesses

Witnesses: Dr Brigid Fowler, Georgina Wright and Professor Catherine Barnard.

Q143 **Chair:** Thank you all for attending today's oral evidence session of the International Trade Committee. We are looking at the UK-EU trading relationship. We have a panel of three with us this morning. Thank you, panel, for coming. I will let you introduce yourselves as you wish—name, rank and serial number. The three are Professor Catherine Barnard, Dr Brigid Fowler and Georgina Wright. Starting with you, Professor Catherine Barnard.

**Professor Barnard:** Thank you for inviting me to speak to this Committee. My name is Catherine Barnard. I am professor of EU law and employment law at the University of Cambridge. I am also deputy director of UK in a Changing Europe, which is a non-partisan think tank.

**Dr Fowler:** Thank you for the opportunity. I am Brigid Fowler. I am senior researcher at the Hansard Society.

**Georgina Wright:** It is lovely to be with you from Paris. My name is Georgina Wright and I am the head of the Europe Program at the Paris-based think tank Institut Montaigne.

Q144 **Chair:** The benefits of technology—people can be in all sorts of places. I am in the House of Commons at the moment and there are two helicopters flying above us. It feels like a whole fleet of helicopters. Let's hope that they will go away fairly soon and I am wiser and in the peace of the Hebrides the next time I am doing something like this. Just to kick off this morning, Professor Catherine Barnard, could you please explain the governance mechanisms of the TCA that has been signed?

**Professor Barnard:** Thank you for this. The TCA governance mechanisms are both simple and complex in equal measure. They are simple because—this is the easy way of understanding it—at the top there is the Partnership Council, which is comprised of political representatives, with Maroš Šefčovič from the EU side and Lord Frost from the UK side, and underneath this political body are technical bodies, most importantly the Trade Partnership Committee but then a whole bunch of specialised committees and working groups, which have a remit over the sorts of areas you find under the treaty. These include customs co-operation, rules of origin, sanitary and phytosanitary measures, technical barriers to trade services, investment and digital trade, and so forth. What is interesting is that these are technical bodies. They are going to be staffed by civil servants, not politicians. At the moment they are in the process of being set up.

As you may have noticed, the Partnership Council had its first meeting on 9 June—a rather unheralded event given that it was significant that it did in fact meet. But the meeting paved the way for the organisation of these committees.



## HOUSE OF COMMONS

It is also worth noting the other two bodies in this governance structure. There is going to be a Parliamentary Partnership Assembly, which will be comprised of representatives from the European Parliament and from the Parliament in the UK, which of course raises issues about where the devolveds fit in. In addition, there will be participation of a civil society forum. Those two bodies received endorsement in the statement that was published after the Partnership Council met on 9 June.

**Q145 Chair:** The agreement was signed on 30 December; it is not gliding quickly. Could it be criticised for first meeting nearly six months later? The Parliamentary Partnership Assembly is news to many parliamentarians probably, too. When are we going to see this fully in operation? Is it not slow that it has taken six months for the Partnership Council to start meeting?

**Professor Barnard:** You are right: it is somewhat surprising. On the other hand, relationships have been somewhat bumpy between the UK and the EU for the first six months of the year. I do not think that helped. But things are looking better now, particularly since the UK has recognised the full ambassadorial status of the EU representative in the UK. Also, of course, all Governments have been preoccupied with Covid. That also might explain some of the delay.

Meanwhile, as you know, there is a separate governance mechanism under the withdrawal agreement—that is the article 50 divorce text. That is headed not by a Partnership Council but by a Joint Committee, but the structure is broadly similar. There are also working groups that sit under that Joint Committee. That Joint Committee has been meeting more regularly. It met at the same time on the same day as the Partnership Council on 9 June. The reports are all about the meeting of the Joint Committee, not about the Partnership Council.

**Q146 Chair:** On the mechanism you outlined with the Partnership Council—the Parliamentary Partnership Assembly and what have you—how does that compare to the equivalent positions or provisions that the UK or the EU has in other trade agreements that are going?

**Professor Barnard:** It is broadly similar. A lot of the governance stuff has been cut and pasted from the more modern EU free trade agreements. In respect of the civil society forum, there has been a proliferation of those. They are now characteristic of all of the free trade agreements that the EU has entered into. What we are going to see is that these bodies will start slowly to function.

What you see in the Canadian CETA—that is the EU agreement with Canada—is that the civil society forum does feed into or at least comment on certain aspects of the relationship between the EU and Canada. I would also say that while we can take inspiration from what goes on in respect of other free trade agreements, it is worth bearing in mind that our relationship with the EU has been much more proximate in respect of any other country. No other country has left the EU in recent times. The



## HOUSE OF COMMONS

governance mechanisms under the TCA are probably more important to the EU, and of course to the UK, than any of the governance mechanisms in respect of its other free trade agreements.

Just to give you an idea, the Partnership Council equivalent in the Canadian CETA meets annually. The Partnership Council under the TCA is also scheduled to meet annually but it can meet more often if it so chooses. Importantly, there is a provision in the TCA for the Partnership Council to meet online and also to do its business in writing as well. Even if there is only one physical meeting a year—it may be more—quite a lot of work can get done outside of that formal forum.

Q147 **Chair:** A final point from me before I move on to Martin Vickers. One of the great cries of Brexit was that of sovereignty. How much is this involving the pooling of sovereignty, because we know that in every trade agreement we give something to somebody, and you give something else to somebody in return almost. I can remember having Liam Fox at the Committee years ago, in a different Parliament, refusing to countenance the fact that future agreements would involve the pooling and the sharing of sovereignty and saying that Brexit was going to be the returning of sovereignty totally and that was the end of it. From your point of view, from your professional understanding, how much pooling of sovereignty is in the mechanisms you have been describing?

**Professor Barnard:** We can say that the TCA has done everything possible to try to assure the UK of its sovereignty and the EU of its sovereignty or, as it tends to call it, autonomy. That said, in the context of any agreement there is a give and take. If I sell you my car for £2,000, you get my car and I get your £2,000. I cannot just have your £2,000 and keep my car. There is always some give and take but it depends what you mean by sovereignty. If you mean parliamentary sovereignty, we are no longer formally bound by EU rules coming from Brussels except in the case of Northern Ireland in the field of goods under the Northern Ireland Protocol.

That said, of course there is huge pressure from manufacturers that the UK remains aligned with EU product regulations because the EU is still its largest market. If you mean in terms rather than parliamentary sovereignty, if you mean national sovereignty, a relationship with the EU is now much more on what you might call a capital-to-capital or state-to-state basis. By that, it is not the supranational arrangements that you found under the EU treaties where there was a pooling of sovereignty. The European Commission proposed regulations, directives and these were adopted by a combination of the European Parliament and the Council.

Any agreement between the EU and the UK will be done at an intergovernmental level, so state to state or, to be precise, UK to EU, and they will be done by consent rather than by qualified majority voting. From that point of view, there has been a taking back of control, taking



## HOUSE OF COMMONS

back of sovereignty, and our relations are put much more on an intergovernmental footing rather than an EU supranational style footing.

To give you a very concrete example of what that might mean in practice, I have given you the example of legislation, that any decisions, which is the formal term under the TCA, taken by the EU and the UK under the TCA, are done by mutual consent, so no qualified majority voting. But it also means, in terms of remedies, under EU law if I do not like what the French authorities are up to I can bring proceedings myself in a French court or I can go to the Commission and hope the Commission can intervene on my behalf. All of that has been turned off. If I do not like what the French authorities are doing, I am reliant on the UK Government to take it up with the EU who, in turn, will take it up with the French authorities.

**Chair:** I might delve into some of that later and the veto of member nations of the EU as regards that capital-to-capital exchange. I have taken up enough time for now, so I will go to Martin Vickers.

Q148 **Martin Vickers:** Can I follow up what you have just been discussing with Catherine? Can I just get to the nub of things? Are there specific provisions in the TCA that allow for the agreement to change and evolve?

**Professor Barnard:** Absolutely there are. This was one of the striking features of the TCA. If you look at article 2 of the TCA, it expressly envisages what are termed supplementary agreements. One of the remarkable features of the TCA as compared with, for example, the agreement between the EU and Switzerland, is that what the EU insisted upon was what you might think of as an institutional sandwich. By that I mean, across the top you have common provisions about governance—the provisions I have just been discussing with Angus MacNeil—and across the bottom you have common provisions in respect of dispute resolution. In between—that is, the meat of the sandwich—you have the free trade agreements and the agreements on law enforcement and other matters. Those can be supplemented by the supplementary agreements but crucially they will be subject to the common provisions across the top and across the bottom.

This is what the EU does not have with Switzerland. Switzerland has 120 bilateral agreements and there is no overarching framework. To use my rather crude term, there is no overarching bread on the sandwich. That is what the EU has objected to.

Absolutely there is the possibility for supplementary agreements to be entered into, but in addition, the agreement to the TCA can be developed as a result of decisions of the Partnership Council—the political body I mentioned earlier. That is the body where Lord Frost will meet with Maroš Šefčovič. In addition to that, there are also provisions in the TCA. Take, for example, article 126 of the TCA, which allows for a review of provisions on, in that case, services and investment after five years, after the operation of the treaty.



## HOUSE OF COMMONS

That may give some room for further discussions about the mobility provisions, which are causing so much pain to the musicians that we have heard a lot about. Absolutely there is room and space for this to evolve.

**Q149 Martin Vickers:** If I could turn to Georgina now, in which areas do you think that the trading arrangements under the agreement are most likely to change or evolve in the short to medium term?

**Georgina Wright:** Catherine covered quite a lot of it, and it depends slightly on whether we are talking about change because of changes to the agreement itself or change because of divergence, which would make it more difficult for companies in the UK to export to the EU because if the EU has new rules then it might require new paperwork and all the rest of it.

We know that fisheries—there is obviously a fisheries part of the agreement—will need to be reviewed in 2030. That is something that is stated in the TCA. But you saw on 21 April the EU introducing, for example, new requirements on some agri-food imports, such as composite products, basically meaning any composite products containing products of animal origin—pre-prepared meals, for example—will now face revised paperwork, new health certificates and all the rest of it. That in itself is not a change that you would make into the agreement but it would be a natural occurrence following divergence. That is why the Joint Committee is so essential, this Joint Partnership Council, because it is a body where you can discuss those evolving rules and you can try to find ways to simplify it. It sounds dull but it plays an essential role.

**Q150 Martin Vickers:** Do you see the UK being able to improve market access by negotiating bilateral agreements with individual member states?

**Georgina Wright:** There are obviously limits to what kind of bilateral deals the UK can strike with individual member states. Member states cannot negotiate deals where the EU has exclusive competence—that is, law-making power. Where they share competence in areas like energy, for example, they probably need the EU's approval. There are limits there.

In the case of Canada and the EU, Canada has individual bilateral deals on mobility with some member states. They have this thing called the working holiday scheme, for example, that allows Canadian and, for example, French youth from 18 to 35 to come and work for a specific amount of time in Canada visa free. There are possibilities but they have to be in areas where member states have inclusive right to legislate. Generally, however, I would say a third country tries to supersede bilateral deals with member states with an EU deal and not the other way around. For example, Canada again had a few individual bilateral investment deals with individual member states but that was superseded with CETA.



## HOUSE OF COMMONS

Talking to a few contacts across the EU in preparation for this session, I found that member states are very open to close bilateral co-operation with the UK even if that means on an individual basis. The more channels of communication the better but that tends to be on foreign policy and other issues.

Then there is the question, which is slightly separate from the one that you asked, which is: does the EU want additional bilateral deals with the UK? We hear that the EU had proposed a mobility deal to the UK but the UK Government rejected it. The EU's position right now is, "We negotiated the TCA in faith, we have signed it in faith, and now it needs to be applied in faith and we need that to happen before we can consider any other bilateral deals."

Q151 **Taiwo Owatemi:** Coming back to you, Catherine. Are you able to explain the different forms of dispute resolutions in the TCA?

**Professor Barnard:** I smile because this question is going to be one that will be subject to PhD theses for years to come because there are a lot of different dispute resolution mechanisms. I am in your hands, Chair, as to how much detail you want but let me start and you can stop me when you have run out of enthusiasm for hearing what I have to say.

First, there is a general dispute resolution mechanism. The way that works is consultation, so at a political level, to try to resolve the dispute, followed by the case going to an arbitration tribunal if the matter is not sorted out at political level. Then, if the arbitration tribunal finds against the state, you get the remedies.

As far as remedies are concerned, the immediate remedy is to put right the wrong but it is unlikely the state will do that. Rather than talk in abstract terms, let's assume that it is the EU bringing a claim against the UK. The UK is unlikely to rectify their decision because often they have taken it for other reasons. They can offer compensation but that rarely happens. Then that paves the way for retaliation, so the EU can, for example, impose tariffs on goods coming into the UK. That is the basic dispute resolution mechanism.

Then there is a group of different specific dispute resolution mechanisms. In respect of law enforcement, it is almost done entirely politically, so if one side or other breaches the rules on judicial co-operation in criminal matters it will be a political resolution; it does not go to an arbitration panel.

Then you have the level playing field. The level playing field covers a whole range of matters—subsidies, social policy, environmental policy, taxation and so forth. If we just look at social policy, which is the area that I know best, even under social policy there are two different dispute resolution mechanisms. One at first sight looks rather like the one in the Canada deal, where there is consultation and then you go to an expert



## HOUSE OF COMMONS

panel, but crucially, at the end of that process, it goes back into the main dispute resolution mechanism and can lead to retaliation.

There is a second mechanism there, which is called rebalancing. In respect of rebalancing, that would be in the case where, for example, the EU goes much further in social policy and the UK does not broadly keep up. In respect of rebalancing it is a different approach entirely. Yes, a bit of consultation but then the retaliation hits. Only then do you go to the arbitration.

This is interesting because it flips the basic model that I described to you. Remember that the basic model was consultation, arbitration, retaliation. For rebalancing it flips it and so you get your retaliation in first and you sort it out later through an arbitration tribunal. Some people call that vigilante justice—that may be too strong, but you see it in a number of places in the treaty and, to give you another example, you can also see it in fisheries measures.

In respect of fishing, you will be delighted to know that there are four different dispute resolution mechanisms. I will not test your patience by giving you all the details but in respect of fisheries it can be the general dispute resolution mechanism. There is a different mechanism if one party withdraws access to its waters. That dispute resolution mechanism also involves this flipping, this vigilante justice, or, if you want to put it more politely, that you get the retaliation in first and sort out the difficulties later.

There is another dispute settlement mechanism for fisheries in respect of any breach of fisheries matters more generally. There is another mechanism in respect of Jersey, Guernsey and the Isle of Man if there is a dispute there. That potentially could have been engaged over the recent matters that occurred in and around the waters around Jersey.

I could give you much more detail but that headline is a standard approach and then there are specialised approaches for different areas. Within those specialised approaches you have this remarkable flipping of the order that you get your retaliation in first.

**Q152 Taiwo Owatemi:** In a situation where disputes arise through other non-trade agreements that accompany the TCA, what are the mechanisms on which either party can then decide to retaliate through trade restrictions?

**Professor Barnard:** Are you talking about, for example, a breach of the withdrawal agreement? Is that what you have in mind?

**Taiwo Owatemi:** Say for example, yes.

**Professor Barnard:** That is expressly envisaged by both the TCA and the withdrawal agreement. The TCA says if there is non-compliance under an earlier agreement—the withdrawal agreement is what they have in mind—it is possible to suspend obligations under the TCA. There are



## HOUSE OF COMMONS

equivalent provisions in the EU-UK Withdrawal Agreement article 178(2)(b) if you want to see the cross-reference.

**Q153 Taiwo Owatemi:** Georgina, are you able to explain how likely you think parties are to attempt to resolve any differences through informal political processes rather than any formal litigation please?

**Georgina Wright:** That is a good question because the EU's ambition with all these joint committees is very much to resolve it, as much as possible diplomatically. As I said before, the Joint Committee or the Joint Partnership Council sounds very dry but it plays an essential role. For starters, it is the moment where you get both sides' full attention on the deal at hand and not on other things. But to make a success of these meetings you have to do a lot of work in the run-up and also a lot of follow-up following the meeting. But all the ground work, the heavy lifting, that all happens in those committees and in those working groups. Then it is brought up to the political level.

From the EU's perspective, it is not a place where you are going to be renegotiating the deal apart from where explicitly the TCA says there are bits that need to be revised but it is a place where you look for flexibilities and simplification. If you take again the example of Canada and the EU, they have a mutual recognition standards committee, which is part of their Joint Committee structure. They do not try to renegotiate CETA but they do look at flexibilities around the existing text, so that is possible.

Again, if you look at Canada and the EU deal, you know that there have been a few issues around agriculture, for example. Canada feels it does not have enough access to the single market for its beef, and likewise EU cheese producers think that they do not have enough access to the Canadian market, but all of those discussions happen within the Joint Committee. It is a way to avoid a full-scale dispute, if possible. Before the EU and Canada had a deal in place, they had a number of disputes that went to the WTO. Since CETA, not one dispute has gone to the WTO. Of all the EU's trade agreements, only one dispute went to arbitration with a country it had a trade agreement with. That was with South Korea in 2018 and it was over the sustainability chapter. It just shows that there must be numerous disputes and those are discussed within the Joint Committee, but very rarely do they go to full arbitration.

Obviously, as Catherine said, you cannot isolate the trade deal from the wider political context, and we know that the UK and EU relationship is quite tense at the moment so we cannot just assume that there would not be any arbitration or disputes going to the tribunal, but the Joint Committee structure is very important in that regard in trying as much as possible to resolve issues diplomatically.

**Q154 Mark Garnier:** Georgina, can I carry on with you? We saw this very spectacular and very good televisual news dispute going on in Jersey with the fishermen having a go at each other. Do you think there are any other areas where we could have some sort of dispute—hopefully not



quite so visual but none the less potential flashpoints that might blow up?

**Georgina Wright:** Absolutely. It was quite interesting following that blow-up from France because the view here was very much that there is a process in place and our fishermen and our authorities were not told that there were additional requirements in terms of paperwork for our fishermen. Therefore, we felt like we had to raise it and it became a political dispute. But had the Jersey authorities followed the process—that is, alerted the French authorities and alerted the European Commission—perhaps it might not have come to that scale. We could debate the political reaction and whether some of the things said were necessary, but either way it shows how essential process is.

Coming back to your question—obviously Catherine mentioned this—what happens with the Northern Ireland protocol will in some way affect the broader discussions around the TCA. It is very difficult right now to pinpoint which of these is are going to be the next disputes because a lot of it depends on how the UK but also the EU evolve their rules. At the moment they share broadly the same rulebook but the EU has introduced some new rules. The UK has introduced subsidies to replace the common agricultural policy. There are ways that those new rules mean further divergence and might affect just the trading relationship. Again, those are issues that can be raised in the Joint Committee but—and I am sure that Whitehall and the Government are doing this—the debates in the EU need to be followed closely, to see how the evolution of rules could potentially impact trade between the UK and the EU.

Q155 **Mark Garnier:** I am very keen to come back to the divergence views in a few minutes, if I may, and perhaps we can concentrate on that a little bit later. In the meantime, I was very interested to know whether the disagreements—the Northern Ireland protocol is obviously a very important one—are holding up progress in negotiations elsewhere, such as those on the emissions trading systems, the Lugano convention, competition and, importantly, financial services. Will financial services lose out ultimately because of these potential disagreements or existing disagreements?

**Georgina Wright:** It depends again, when you talk about financial services, what you mean. If you mean a dialogue, just this week the commissioner for financial services said that at the technical level we have agreed a dialogue but obviously any further access would be dependent on the broader relationship and then—AKA, I think the hint was—the application, the implementation of the deals on the table.

But again, this UK-EU financial co-operation dialogue is a way to discuss evolving rules but it is not the equivalence decision that many were hoping for before, which would of course allow UK firms or UK-based firms greater access to the EU market. Looking at the ETS, there was a decision on 25 May for the EU and the UK to link up their systems but there is no real roadmap there. On the competition dialogue—that is a regulatory dialogue—to again look at how rules align or how they diverge



## HOUSE OF COMMONS

and how they can prevent that from being a disruption to trade, again that is going ahead, but it is a dialogue and there is no legally binding precondition to do that.

Those dialogues are happening but if you wanted to make changes to the agreement and you wanted to improve market access, then you would be looking at the deal itself, and that is separate. You would have to either revisit the deal or establish a bilateral deal and those are not going to happen, I suspect, from the EU's perspective until they see implementation of the withdrawal agreement—in particular the Northern Ireland protocol—and more implementation on the TCA.

Q156 **Mark Garnier:** From what you have said, it sounds like the fact that the dialogues are going on and people are taking them seriously means that that is a way of preventing a flashpoint from happening—it is going to stop confrontation.

**Georgina Wright:** It certainly reduces the chances of a blow-up. I was struck in my conversations with member state diplomats who said, "We are all ears about having as many channels of communication as possible, but ultimately, on the TCA, the main communicator, the main interlocutor, is the European Commission and that needs to happen." This again is why the Joint Partnership Council is so essential, and working in the run-up to it and follow-up and having regular dialogues is important.

Q157 **Mark Garnier:** There are obviously some other trading partners with the EU, such as Switzerland and EEA and EFTA. Is there anything we can learn from those relationships about how we can potentially head off things? We are inventing this and learning as we go along. Is there best practice elsewhere that we should be taking an example from?

**Georgina Wright:** I guess the biggest one is to take the Joint Committee, Joint Partnership Council, seriously. That would be my number one recommendation. Obviously it depends slightly on the deal. So Switzerland, as Catherine said, has a very different trading arrangement with the EU than the UK does. Like the UK, it is not an EU member state but in many respects it comes quite close to that—so, a member of Schengen closely integrated with the EU in areas such as transport, for example, or research and stuff like that.

Just take the recent bust-up that happened between the EU and Switzerland. They have been negotiating this common framework for five years. To take Catherine's analogy—the sandwich—they were trying to set a sandwich structure and the Swiss decided not to endorse it and moved away from it. That will have a direct repercussion for Switzerland's access to the single market.

I was doing some digging in terms of research and on 26 May, Switzerland lost access to the EU market for new medical devices, for example, because the EU-Swiss mutual recognition agreement was not updated. Avenir Suisse, which is a Swiss think tank, modelled what this



## HOUSE OF COMMONS

divergence will look like as a consequence of rejecting this framework agreement and the inability to move forward in market integration and said if the EU and Switzerland decoupled in electricity, in health, in manufacturing chemicals, this could cost Switzerland up to €1.2 billion a year. These are not insignificant sums and it shows again the importance of the Joint Committee but also, if the wider relationship is tense, if you move away from a framework agreement, it will limit your ability to access the EU market.

Finally, Swiss universities are out of Horizon Europe. They say it was because Switzerland was holding up financial contribution but it must also be linked to this rejection of the framework agreement. Again, that shows that it is important. Also, to return very briefly to Canada and South Korea, I remind everyone that the EU has never had a dispute go all the way to arbitration—apart from once with South Korea—when it has a trade agreement in place, and that is because it tries as much as possible to resolve those disagreements and disputes, which are numerous, within the confines of the Joint Committee and diplomatically.

**Mark Garnier:** That is helpful, thank you. I am going to come back to you on the regulatory divergence in a minute, but in the meantime I will hand back to our esteemed Chairman, Mr Angus Brendan MacNeil.

**Chair:** Thank you. I will now go to our esteemed colleague, Mr Mick Whitley.

Q158 **Mick Whitley:** Welcome to our panel today. My first question is to Georgina. To what extent is the TCA insulated from disputes over the withdrawal agreement?

**Georgina Wright:** Catherine partly responded to that. There is a link between the withdrawal agreement and the TCA, which is that failure to comply with the ruling relating to the withdrawal agreement could, for example, lead to retaliation under the TCA. They are not completely distinct. Also, just politically, under the Joint Committee structure, which is the body overseeing the withdrawal agreement and the Northern Ireland protocol, and the Joint Partnership Council, you have the same UK chair, Lord Frost, and the same EU chair, Maroš Šefčovič, so there are inevitable links going on there.

But cross-retaliation is in no-one's interest. It is better to resolve things diplomatically, but obviously, as I said before, the UK-EU relationship may prove different from the way in which the EU has tried to resolve disputes with its other trading partners, given the scope of obligations, the extent of the trading relationship and just the fractiousness of politics at present.

The short answer is that it is not completely insulated. Again, try to privilege diplomatic channels as much as possible and, obviously, trust is essential—Catherine has talked about that—including granting the EU ambassador full diplomatic immunity. Also, the fact that the recent



## HOUSE OF COMMONS

request to extend the grace period and the Northern Ireland protocol was made within the Joint Committee was very well received in the EU.

Q159 **Mick Whitley:** Catherine, in which areas is cross-retaliation possible if at all, and what form could this take, if any?

**Professor Barnard:** *[Inaudible.]*

**Mick Whitley:** You are on mute.

**Chair:** Mutations are a problem of the pandemic.

**Professor Barnard:** I feared that was going to happen once I had all my papers lined up in front of me.

**Mick Whitley:** I love saying that.

**Professor Barnard:** You would have thought that after all this time on Zoom, we might have mastered this low-level technology but I have obviously not.

In answer to your question, I would like to say it depends which dispute resolution provision you are under. As I explained to Taiwo, there are different dispute resolution mechanisms, but just to give you a flavour—you need to hold on to your hats here because it is not simple or clear—the TCA is divided up into parts. The part that is probably the most interesting for this purpose is part 2, and part 2 is divided up into headings. There is a heading on trade, on aviation, on road transport, and then those headings are subdivided into titles. You might wonder why I am giving you all this information. This is where the retaliation issue comes in. If you are looking at the general dispute resolution mechanism, you can have a suspension of tariffs in respect of another title of the same heading. What does that mean? If the dispute is over trade, which is in heading one, and it is a dispute over trading goods, you could have retaliation in respect of any of the other titles in respect of heading one, which would include fisheries and services. That is stage one.

If it is thought that it is not practicable or effective to suspend obligations in the same heading—and remember we are talking about the heading of trade—if the violation is serious enough you can suspend obligations in respect of other provisions, which would include, for example, other aspects of the whole TCA.

To give you an example, if it was a dispute over trade at a lower level, you could have retaliation in respect of services and you could have retaliation in respect of energy. All of that is possible. If it is considered serious enough, you could have retaliation in respect of, for example, fisheries as well.

To give you an example of what that retaliation might look like, it might be that the EU says we are going to hit them where it hurts, which is, for example, Scottish smoked salmon because it is a relatively small



industry—of course very important for those involved—and furthermore it will also cause real upset in Scotland, which will also make life more difficult internally within the Union. You might see tariffs imposed on Scottish smoked salmon that is being imported to the EU, which is both proportionate and also politically very effective. The EU is good at that because they know where they can hit other countries where it hurts, and that is what they would try to do.

I have talked about the general mechanism. If you talk specifically about disputes in respect of fisheries, again there is a tiered mechanism. If you talk about disputes in respect of general fishing matters, the first level is to suspend access to waters and also to suspend preferential tariffs. That would be level one. If that is not effective enough or not commensurate to the economic and societal impact of the failure, you can suspend tariffs in respect of any other goods—not fish—under article 21 of the TCA. If that is not good enough, if that is not commensurate to the harm that, for example, the EU thinks it has suffered, it can suspend any of the obligations in respect of heading one. Heading one, just to remind you, is anything to do with trading goods, services, energy and so forth.

It is a long-winded answer to your question because it is not straightforward but that is how the retaliation works. You start with retaliation and then you can even have cross-retaliation across different parts of the treaty.

Q160 **Chair:** Mutations are the blight of this pandemic definitely. Before we go back to Mark Garnier, I would like to pick up something with Georgina, who mentioned the EU-Swiss access to new medical devices. What does that mean in practice for people in Switzerland when they lose access to new medical devices? Is that stuff you cannot buy? What does it mean?

**Georgina Wright:** There are obviously existing trade links there but there was a willingness on behalf of the EU and Switzerland to increase Swiss firms' access to the single market in that particular area. That was for Swiss firms being able to sell and also to buy. Basically, the more integrated the markets, the lower the cost for producing, as you have less paperwork, fewer certifications to fill in, and all the rest of it. It is not a complete ending of it but that hope to integrate further to reduce cost for producers, and therefore consumers, has now been halted.

Q161 **Chair:** There is a higher hurdle and more hassle?

**Georgina Wright:** I like to say that tariff free is not hassle free. You can export something tariff free but you still need to fill in paperwork to make sure that it meets the EU's demands, and it takes time, it costs money, you are looking at the border checks. This was a real attempt for the EU and Switzerland to reduce some of those non-tariff barriers to be able to reduce costs. It is a clear example of how the lack of a framework agreement can be detrimental to your market access.

**Chair:** That clears up my understanding of it.



Q162 **Mark Garnier:** Georgina, if I can keep with you, we obviously started to cover the regulation divergence piece a little bit earlier but I want to expand a bit more on that. Again, my particular interest is in financial services because of course this is incredibly important to our economy. Potentially there is an interesting debate about the prize that could be won by mainland Europe if they could seize part of our financial wholesale markets and so on. The main question I want to ask is how much regulatory divergence you expect between the EU and the UK in the short to medium term. More importantly, what do you think the reaction of the EU is going to be on this? Are they going to see it as an opportunity to steal our lunch, basically?

**Georgina Wright:** That is a great question. It is multifaceted because there are lots of bits to it. To a certain extent, where they thought they could steal our lunch, they already have. You saw the big move to Amsterdam for clearing of derivatives, for example. There is a lot in the City of London that it is very difficult for EU member states to replicate. That is important. The EU is thinking of ways of trying to build banks across the EU and thinking of ways to use the City of London.

In terms of divergence, the UK is carrying out a number of reviews at the moment about how it can become more competitive in the financial services sector. We are talking not only vis-à-vis the EU but also globally. There is the Hill listings review, the Kalifa review, and the focus is very much on the FinTech sector as well. Those are all very welcome and are important. It does make it hard to predict exactly how that would impact access to the single market. We know that generally the TCA is quite limited in terms of services and access to the single market and that was a deliberate choice. For the EU there is also a careful kind of balancing act in saying that if they grant an equivalence decision—and by the way it doesn't look like it is going to be one equivalence decision; it is going to be very much specific within the sector—they have to think carefully about what other third countries might be asking as well in terms of access to their financial services. Financial firms in the UK offer services that are very difficult to replicate, so there will be a willingness to try as much as possible to grant those firms access or greater access to the single market, but we are just not there yet.

In terms of the equivalence decision, you will know this: the EU can grant it but it can easily remove it and that is why it is not completely insulated from the broader political context. The EU says, and I hear this over and over again, "We negotiated in faith and we signed the TCA in faith, and that needs to be applied in faith before we can start talking about other ways to facilitate single market access."

Q163 **Mark Garnier:** You raised a very interesting point during that answer when you mentioned that the other countries would be looking at what comes into all of these agreements. We have been having a debate internally, among ourselves, about the level to which a trade deal is a standalone negotiation or whether it sets a precedent for subsequent



trade deals. Given the fact that we are a services-dominated economy, this is incredibly important to us. How do you see it? The argument is going on in the whole of this meat market thing and what is going to happen to farmers and the NFU. In a subsequent trade deal with another partner, is part of that negotiation process one where you look at previous trade deals to see what the precedent is and what the appetite for openness is, based on previous trade deals and agreements?

**Georgina Wright:** Services are notoriously difficult to include in a trade agreement. The best way to trade your services is by being part of the same market, and that is just a fact. That being said, there is nothing preventing the UK from trying to be ambitious in that respect, in trying to put forward a new form of trade agreement that would be more and would have a greater services component.

My recommendation is always that the UK is already active in international financial forums—I am thinking the Basel Committee on Banking Supervision but also lots of other international forums—and it really needs to be active in there because a lot of the recommendations that come out of those committees do inform financial regulations in the EU but also sometimes the United States. So, in a sense, if you are active in those forums and you are able to shape some of those rules to your advantage, and they in turn try to influence the EU's financial regulations, that is a good thing.

There is another question, which is the one you are posing, which is about the extent to which we can expect financial services to be included in trade agreements. That depends on who we are negotiating with. South Korea, for example, is a formidable trade negotiator and not always that easy to negotiate with on greater inclusion in financial services. I think it will be a case-by-case basis, but that comes with a warning that they are very difficult to include generally speaking.

Q164 **Mark Garnier:** A quick final question. You mentioned that, in terms of TCA, the EU was expecting the UK to implement in good faith. If it does not work, do you think the TCA's institutions are going to be helpful in terms of making sure that if we do have regulatory divergence, it works smoothly? Are they up to the job?

**Georgina Wright:** They are very helpful, for all the reasons I have raised before, but they are not sufficient. The UK's mission to the EU is going to have to play a huge role in monitoring the kind of evolution of EU decision-making, basically tracking how those new EU rules may or may not impact trade with the UK.

I wrote a report, and I know UK in a Changing Europe has written a report as well, on how you try to influence the EU after Brexit, how you monitor the sometimes very complex policymaking process in Brussels. Our mission in the EU but also our embassies across Europe and in the WTO and the UN, are going to play a vital role in trying to monitor and track how EU regulations are evolving. You discuss them in the Joint



## HOUSE OF COMMONS

Partnership Council, but you need to do a lot of work outside the Joint Partnership Council to make sure that those meetings are productive and that you are able to see, if there is massive divergence, how you can limit the disruption to trade.

**Mark Garnier:** It sounds like positive engagement is the answer to absolutely everything. Thank you very much, I am going to hand back to Angus, who is twitchy over that mute button.

**Chair:** Thank you very much. I have unmuted, so that's fine, but continuing what is the Mark and Mick show this morning, I am going to go back to Mick Whitley, who is indeed unmuted.

Q165 **Mick Whitley:** My question is to Brigid. How can Parliament ensure democratic oversight of the governance mechanisms of the TCA?

**Dr Fowler:** My top line answer would be routinely getting enough information from Government about what they are doing with respect to the TCA sufficiently in advance for it to be useful to Parliament. There are three elements. There is the routineness of it, there is the quantity and quality of the information, and there is the timeliness of it. That would be the top line.

As Catherine has already mentioned, there has only been one meeting of the Partnership Council so far, on 9 June, so, in as much as that is a test case, there was a written ministerial statement two days in advance of the Partnership Council meeting and it consisted of simply a list of agenda items. There was a second WMS immediately after the meeting of the Partnership Council, which was simply a list of what they had discussed, pretty much. I think there is an issue there about the quantity and quality of information that was published or made available to Parliament by the UK side, and there is also obviously an issue about timeliness. Obviously, using written ministerial statements is problematic because they can only be made when the House is sitting. The fact that the Partnership Council met on a Wednesday meant that the statement was only made on a Monday. I think Parliament would want to be thinking about engaging, with respect to the Partnership Council much earlier before meetings.

Under the TCA, the two Governments or the two sides can put in their requests for agenda items up to 15 days before Partnership Council meetings, so that is one hook into the process that Parliament could think about. One obvious problem there is that we do not know at the moment how often the Partnership Council is going to meet. If it only meets once a year then clearly that is not going to be the main vehicle through which Parliament is going to want to engage.

The Partnership Council can take decisions between meetings, so its first decision was taken by written procedure in April to extend the period of provisional application of the TCA. As Catherine and Georgina have made clear, the Partnership Council sits at the top of this very substantial architecture of other bodies and it is going to be important for Parliament



## HOUSE OF COMMONS

to try to get some handle on what is going on in those other bodies, too. It may be something that needs some kind of regular reporting requirement from Government, a statement once a quarter or once every six months, about what is going on in all these bodies.

The opportunity to make that a statutory requirement was probably lost when the future relationship Bill went through in a day on 30 December. In terms of how these arrangements are going to work in future, as I am sure members of the Committee probably know better than me, there are ongoing negotiations primarily between the new European Affairs Committee in the Lords and the European Scrutiny Committee in the Commons about what exactly the Government is going to do, what documents it is going to make available and when.

This is all very early days at the moment. One point I would add to the Chair's question at the beginning about why all of this did not happen any earlier is that the UK Government did not want to engage in the setting up of all the governance mechanisms and the institutions under the TCA until it had come into force, which only happened on 1 May. This is less than two months old. It is very early days and I would expect these new processes to take a good while to shake down. I do think it would be helpful if there was transparency about the process and if some opportunity were built in for the House or both Houses, but particularly the Commons because it has been less engaged on this so far, to be able to take a view about whether it is happy with the scrutiny arrangements that are evolving.

I do not know what would be a reasonable timeframe to do that in, whether you say when the TCA has been in force for six months or perhaps a year or something. I do think this is clearly evolving.

A couple of more general points, if I may. It may be helpful to think about this, to pull back a bit and think about this not just with respect to the TCA. This is now a trade agreement that is in force, so this is a wider question about what this Parliament does with trade agreements that are in force, how it engages with them and how it scrutinises them. What has happened is that a large share of those agreements has gone from falling under the European scrutiny system to falling under the UK default treaty system and there isn't one for systematic parliamentary engagement on treaties once they are in force. That is obviously of direct interest to this Committee because it applies to the UK's new FTAs.

A second point I would like to throw in is that we have been talking about needing to monitor what is going on in the EU in terms of its potential impact on the TCA, but, as you would expect from the Hansard Society, we would like to throw in a note about delegated legislation and the discussion you have been having with Georgina about regulatory divergence. Quite a lot of the decisions about future regulation by the UK using its new freedoms are going to be made through delegated legislation and we do have a concern that that delegated legislation



system is not hooked up to the consideration of the new relationship with the EU. We are not clear that that linkage is there yet, so we have a concern that Parliament should be alerted when delegated legislation may be making changes that may impact the TCA going forward.

**Q166 Mick Whitley:** I will ask a supplementary question to that. How does the role of the European Parliament to scrutinise the implementation of the TCA compare with that of this Parliament?

**Dr Fowler:** On both sides this is still very new and we do not have a lot of experience yet. That said, the European Commission put out a statement in late April at the time when the European Parliament gave its consent to the conclusion of the TCA setting out its commitments in terms of information sharing with the EP and, on paper at least, it looks pretty extensive in terms of keeping the European Parliament informed on an ongoing basis about activity decisions within the whole TCA governance structures.

I am always cautious about reading across directly from what the EP does to what should be done here. The EU has a different kind of political system, it is a different relationship between the legislature and the Executive in the EU than it is here. Where it does impact is partly a shaming or embarrassment mechanism whereby parliamentarians here can say, "The European Parliament gets this, so why can't we?"

There is also a very practical implication, in that if the European Commission is sharing documents and information with the EP that the UK Government is not sharing with this Parliament, they will get into the public domain. The UK Government is effectively constrained, or its ability to prevent information getting out is constrained, by what goes on between the Commission and the EP. Again, I would make the point that this does not just apply to the TCA but applies to other free trade agreements. What the Australian Government is going to share with the Australian Parliament about the Australia FTA may be different from what the UK Government wants to share with this Parliament. That is a wider consideration for this Committee.

**Q167 Mick Whitley:** In your view, what are the biggest areas of concern in the current approach?

**Dr Fowler:** My biggest area of concern at the moment is something of a lack of transparency about the process going forward. I think it is quite telling in a way that when the UK was in the EU, this Parliament had long-running negotiations with the Government about how much information it was going to share and how transparent it was going to be. Now we are out of the EU we are still having exactly the same sort of tussle with the Executive about how much it is going to share.

Internally it has not been entirely clear what the process was going to be whereby the whole House could have a say on how it wished to scrutinise this relationship going forward. In that context I welcome very much the



fact that the European Scrutiny Committee has just launched an inquiry this week into this issue. I know that there may be worries about duplication but at least the European Scrutiny Committee has now formally launched an inquiry, which I assume will produce a report that might be a basis for other parliamentary bodies—the Liaison Committee, the Procedure Committee possibly—to get involved in an ongoing process. Another issue is raised by the fact that the ministerial ownership for this relationship is now in the Cabinet Office, which is not necessarily a bad thing but it does raise particular issues for Select Committee scrutiny in this House, given that the Cabinet Office does not have a departmental Select Committee in exactly the same way as other Departments do.

There are obviously also the issues about the fact that the current holder of that ministerial lead is a Minister in the Lords rather than in the Commons. There are issues about MP's ability to question him directly in the Chamber.

**Mick Whitley:** Thank you very much.

Q168 **Taiwo Owatemi:** Catherine, in your expert opinion, what role do you think that civil society should have in the implementation of the TCA and why?

**Professor Barnard:** That is a very interesting question. To build on what Brigid has just been saying, the first thing is how much information is going to be available in the public domain and how timely it is. If I may, just before I directly answer your question, could I just draw the Committee's attention to annex 1 of the TCA, which lays down the procedures for the Partnership Council and the committees, and draw to your attention specifically to rule 10, which is on transparency? Rule 10 says the co-chairs may agree that the Partnership Council should meet in public and may decide on the publication of decisions and recommendations. There is no mandatory obligation on transparency. Rule 13 applies that equally to the committees as well.

We have the Civil Society Forum in articles 12, 13 and 14 of the TCA and this is a common feature now of all of the modern free trade agreements that the EU has. Indeed, there has been some quite interesting research done on the role of these various committees by a Belgian outfit—which I can send you the link to if you are interested—but the bottom line is there is such a proliferation of them, it is difficult to know how effective they are. There is some cynicism that they do make a difference. What is interesting is if you have a look at what is being done under the Canadian CETA, there the focus of these Civil Society Forums is on trade sustainability and development and specifically on environmental matters and labour rights issues. They are working at the moment on an issue about gender and there is a recommendation on that. They are doing something.



## HOUSE OF COMMONS

The question is in terms of sequencing, and this also builds on what Brigid was saying: how does the Civil Society Forum know what it is going on, to actually make an impact? What seems likely to happen with all of these committees is that if there is going to be an annual physical Partnership Council meeting, it is likely to be in the latter half of the year. All the big committees should be meeting before that so that they feed into the Partnership Council.

Then the question is: where does the Civil Society Forum fit in? Presumably they would piggyback on the back of the relevant committee, particularly if their focus is going to be on trade, sustainability and development. They should be having some sort of engagement with the relevant committee.

The question then is: who is on that committee and will there be any transparency about what those relevant committees are doing? That is why I take you to Annex 1, which says there may be transparency—but, of course, there may not be transparency. If you look at the minutes that are published under the various CETA governance mechanisms, they are pretty, dare I say it, motherhood and apple pie, saying that social policy is a good thing, which I think we would all agree with at a very high level, but of course the devil is always in the detail. The one large piece of research that I have seen conducted on this area does tend to sit on the fence and say that the Civil Society Forums are quite nice to have but they do not seem to have a huge impact, while some people say it is merely window dressing and is the acceptable side of trade or trying to give a human face to trade, but they have not been able to show that there is a direct impact on policy change as a result of the role of the Civil Society Forum.

Q169 **Taiwo Owatemi:** How clear is it for stakeholders to know exactly how they can seek to engage and influence TCA bodies—for example, the specialised committee?

**Professor Barnard:** You are absolutely right that it is crucial for them to know what is going on, and that presupposes that there is quite a lot of transparency. What little we know at the moment is that there is not a huge push for transparency, particularly with the technical bodies. If you remember what I said at the beginning, the Partnership Council is the political body at the top and then underneath you have all of these technical bodies staffed by civil servants. Of course, the civil servants would say they are used to operating essentially under the cover of anonymity and they are working as civil servants—they are not representing a particular political interest. They would prefer to get on with this very technocratic, technical stuff. Of course, what civil society wants to know is that Civil Society Forums might have something to say about some of the technical stuff. Take, for example, modern slavery and supply chains. Supply chains do not sound very exciting—they sound very technical—but in fact may be a way of dealing with modern slavery.

Q170 **Taiwo Owatemi:** Looking at other international agreements, what lesson



do you think we can learn from civil society engagement processes?

**Professor Barnard:** First of all, there needs to be a genuine commitment on both sides to the importance of the role of civil society. I think it is somewhat encouraging that at the first Partnership Council that met on 9 June they expressly stated a commitment to the role of the Parliamentary Partnership Assembly and Civil Society Forum. That is a start. Again, it depends on how much access the Civil Society Fora will have, how much information is given in advance, and they will also be looking to see what Parliament is getting, so to see if they can get some access through that way, too.

There are three articles in the TCA on the role of the civil society and one model that is quite common in the other free trade agreements that the EU has is to draw on domestic advisory groups—so, existing fora—and building on those and getting them to feed into the Civil Society Forum. At the moment we know nothing more about which civil society groups will have a say or how they will be involved. All you have in article 14 of the TCA is that the Partnership Council shall adopt operational guidelines for the conduct of the forum and the forum will meet once a year. Those guidelines have not been adopted.

**Taiwo Owatemi:** Thank you for your answers, Catherine.

Q171 **Chair:** We are talking about the mechanism and the structures around this, but there is also the governance of trade and what is happening generally. This morning some figures have come out that the Irish Republic has had a trade surplus with the UK for the first time as the value of trade has plunged €2 billion, or 47.6%, from UK exports to Ireland, which is quite phenomenal. According to this, Irish exports are only 2.6% down and trade is holding between Northern Ireland and the Republic, with exports to the north at 22.4% and imports from the north to the Republic 44% up. This is against the bigger picture EU-UK trade, which is 25% down in the last four months. The reason I am mentioning all of that is that we have been talking about the structures that have been governing history but these are the numbers coming out at the moment and I think they are probably worth keeping in mind.

Brigid, what role do you feel the Parliamentary Partnership Assembly might have in the implementation of the TCA and why?

**Dr Fowler:** “Might” is the operative word in your question at the moment. As with several aspects of this session, there is not much transparency at the moment about what exactly is going on with the PPA. My understanding is that discussions are underway in the background about the establishment of this body; certainly some relevant committees and parliamentarians here have been engaged. My understanding is that the Speakers of the two Houses have been engaged by the President of the EP, but we are not entirely sure when this new body is going to have its first meeting; quite possibly in the autumn.

Q172 **Chair:** I have to confess here that while my two colleagues, Mick and



Taiwo, are much engaged or much aware of this Assembly, I am not. How big is this Assembly planning to be?

**Dr Fowler:** This is the thing. There are two paragraphs about it in the TCA and it just says that the two Parliaments—the EP and this Parliament—“may establish a Parliamentary Partnership Assembly...as a forum to exchange views on the partnership”, and that it “may request relevant information...from the Partnership Council, which shall then supply” that information. That is a “shall”. That is one treaty obligation in terms of the provision of information. It also says that the PPA, “shall be informed of the decisions and recommendations of the Partnership Council”, and “may make recommendations to the Partnership Council.” That is all we have. Things like how big this body is going to be, how often it is going to meet, what its powers are going to be, what its rules of procedure are going to be—all of this is not yet known.

As I say, my understanding is that there is some thinking that it might meet for the first time in the autumn. My issue then would be that we need to get a move on because we are less than a month until the summer break. The European Parliament only has one more session before the summer and then only meets once in September.

Q173 **Chair:** I suppose one of the big risks is that this becomes a sort of talking shop. Is there anything that you think Parliament and parliamentarians could or should be doing to prevent that and to make it meaningful?

**Dr Fowler:** On the talking shop point, in a way I would not completely dismiss the value of parliamentarians getting together and talking, particularly given—

**Chair:** Which in a way is what they are meant to do. That is the job partly, isn't it, of course?

**Dr Fowler:** That is the job, but particularly given the scratchiness of the UK-EU relationship since Brexit, I think that there would be some value in parliamentarians chatting informally and building up networks and relationships so that you can get to the point where you can just pick up the phone to an opposite number in the EP and find out what is going on, as an information exchange. I would not completely dismiss that, but at the same time you do not want it to be seen as purely a talking shop, first because that is not good for PR, and secondly because you want good Members to want to go. If it is simply seen as a talking shop, then good Members of this Parliament won't want to spend their time on it.

Q174 **Chair:** It could be quite the spectator sport, of course, if the Members who are sent are the more—I would not say rabidly Eurosceptic, sitting in the Chair, but perhaps the most Eurosceptic of the Members. This could be potentially quite a firecracker in a way.

**Dr Fowler:** This is where the question of how the UK members of this body are selected is obviously pretty critical. I think there may be an assumption that the UK element of this body might be effectively



appointed in the same way as UK delegations to other parliamentary assemblies, such as the NATO PA, the Council of Europe and the OSCE, but we don't know that. It might make more sense, for example—there are arguments for involving as many Members as possible and spreading knowledge and information and contact with the EP through the Houses, but there might also be arguments for focusing the UK membership on members of the most directly engaged Committees, such as this one and foreign affairs. You could make that argument also, but until we have some idea of how big this body is going to be, it is a bit difficult to have discussions.

My understanding is that discussions are underway, but they are not happening in public. I do think that it would be valuable to try to get some kind of public statement of where we are and what the process is on this before the summer recess, simply so that people know where we are.

Q175 **Chair:** If I recall correctly from stories I have heard during my time in my party, when Winnie Ewing first started at the European Parliament, she was a Member at Westminster first and was then appointed to a body consisting of parliamentarians from Europe, which later became the European Parliament. It almost seems like we have gone full circle and are almost going back to that again, certainly from a UK angle at least.

**Dr Fowler:** Yes, in the sense that it involves parliamentarians here. It is not the same sort of thing, though. This is not a new Parliament or anything; this is an inter-parliamentary body of the sort that the EP has with many other third countries already. I think that it will be relevant to the setting up of this body that the EP already has a directly relevant template and a lot of experience. There might be a tendency in the EP to say, "This is how we always do it", and that could potentially be problematic if this Parliament wants to do things rather differently.

As I say, until we have a little bit more sight of what the process is on this side, it is a bit difficult to know how that is all going to play out. That is my experience.

Q176 **Chair:** Just how many—actually, I will take Georgina first, who has been anxious to make a point for a few moments.

**Georgina Wright:** Very quickly, to go back to something that Catherine said, I wanted to raise awareness that on 9 June DG Trade—the European Commission's department for trade—launched a call for expressions to participate in the EU domestic advisory group on the EU-UK trade and co-operation agreement. That is a direct attempt to involve civil society in discussing the implementation of the TCA, what some of the issues are and so on. It is a direct attempt from the European Commission to engage more broadly, and that would include civil society but also think tanks, NGOs, business groups, et cetera. That is one thing that on the EU side they are mobilising.



## HOUSE OF COMMONS

I couldn't agree more with what Brigid has just said, but it is interesting that the Norwegian Parliament, for example, has appointed a representative to the European Parliament. That representative plays a crucial role in communicating what is going on in the EU, the mood, the inter-institutional dynamics, the policy discussions, translating that in a way that is comprehensive to Members of Parliament who do not follow the ins and outs of the EU on an everyday basis. Not only is co-operation and dialogue with Members of Parliament important, but so is potentially having a representative who can play that role of conveying what is going on in Brussels. I believe that the representative was based full-time in Brussels and now is in between.

**Q177 Chair:** Fascinating. Thank you for that. Brigid, I want to come back to you anyway, but I also want to ask you: in the existing structures of the UK Parliament, how might this work?

**Dr Fowler:** I think that there is a discussion about whether or not you want to follow the template of existing UK parliamentary delegations to international assemblies or whether you want to try something different. It very much fits in with the broader discussion about how this Parliament wants to engage in this relationship going forward and wants to scrutinise what the two sides are doing in this relationship under the TCA and more broadly.

It is relevant that the House of Lords has already reformed its Committee structure. It has a new European Affairs Committee, which is clearly in the lead on all these questions, whereas in this House, for perfectly understandable historical reasons, you have more of a dispersal of engagement between this Committee and the European Scrutiny Committee in particular. There might be a role for the Liaison Committee, for example, to get involved, and possibly the Procedure Committee.

One critical decision is whether the Government are going to take this forward as Government business, or whether they are going to stand back and say, "This is up to the House", in which case you get into a problem that I have been around when I worked here, where it is a "you go first" kind of problem when the Government do not want to be seen to be taking decisions for the House but the House does not have obvious channels and vehicles by which it can take decisions itself. You end up going around in circles.

It would be helpful to get some kind of statement of where we are out of either the Leader of the House or the European Scrutiny Committee or Lord Frost's unit—out of somebody, just to find out where we are. I am sorry, I am not sighted because I am outside the discussions.

**Q178 Chair:** What we can do from this Committee, and I am sure that Members will agree, is that we can write as a Committee to the Leader of the House on the terms you have just laid out and ask these open-ended questions and see what is in the Leader of the House's mind and the Government's mind around this, to see where at least one of the "you go



## HOUSE OF COMMONS

first” bodies is and is thinking of going.

**Dr Fowler:** To come back very briefly on Georgina’s point about the Norwegian parliamentary representative, as I am sure you know both Houses here had representatives to the EU. My understanding is that they both still have one—certainly, the Commons still does—but he or she is no longer physically based in Brussels; they are back now, based here. That work is still ongoing in terms of trying to track what is going on at the Brussels end of things and feeding it into Parliament, but it is now physically based here rather than in Brussels, in my understanding.

**Chair:** Fascinating, thank you. Thank you all very much for your time this morning. The work of Parliament continues; we have a debate shortly on the comprehensive and progressive agreement for trans-pacific partnership, so it is quite a trade day today. It is a great pleasure seeing you all. I think that we have seen some of you in the past and I hope we will see you again in the future. You carry an awful lot of information. For MPs who are generalists and trying to become specialists, it is always a pleasure to pick your brains and learn something. I have certainly learned a lot this morning and I am sure that my colleagues have also. Thank you.