HOUSE OF LORDS

International Agreements Committee

Corrected oral evidence: UK-NZ trade negotiations

Wednesday 24 November 2021

4 pm

Watch the meeting

Members present: Baroness Hayter of Kentish Town (The Chair); Lord Astor of Hever; Lord Gold; Lord Kerr of Kinlochard; Lord Lansley; Baroness Liddell of Coatdyke; Lord Morris of Aberavon; Lord Razzall; Earl of Sandwich; Lord Watts.

Evidence Session No. 3 Heard in Public Questions 26 - 42

Witnesses

I: Professor Emily Jones, Blavatnik School of Government, University of Oxford; Professor Michael Gasiorek, UK Trade Policy Observatory, University of Sussex.

Examination of witnesses

Professor Emily Jones and Professor Michael Gasiorek.

Q26 **The Chair:** Welcome to this session of the International Agreements Committee. We are very pleased to have two very helpful witnesses with us today. Professor Emily Jones is the associate professor of public policy at the Blavatnik School of Government in Oxford. Welcome. Professor Michael Gasiorek—I hope I have got that right—is from the UK Trade Policy Observatory in Sussex. Welcome to you, too. This session is being broadcast, and there will be a transcript, which you will be able to make minor changes to to ensure that we have caught the essence of what you have said. My colleagues will ask various questions. I am sure that if they have any interest to declare they will do so at that stage.

Today we are taking evidence from both of you about the agreement in principle with New Zealand. As I think you know, this will lead to a report by the committee that will go to the House of Lords to influence its debate. It will also go to the Minister concerned and hopefully will lead to a dialogue with the Minister, so we are very much looking forward to your evidence to help us to formulate that report.

I will start with a general question. Could you both give an overview of the key aspects of the agreement in principle that we should be considering, and in particular what you think the main gains for businesses and for consumers would be? Professor Jones, could you start?

Professor Emily Jones: Thank you very much. It is a real privilege to be with you all this afternoon. Let me just preface my comments by saying that the focus of what I have been working on is very much on the digital trade; I know that Michael has kindly offered to focus on many of the other areas, so you will forgive me if my comments focus on that.

With regard to the agreement in principle, it is important to note that we have only limited oversight as to what will be in the final agreement. It gives us a broad-brush idea of the type of content but, as with many trade agreements, the devil is in the details. At this point, we have a sense of the topics that will be addressed, but it will only be when we see the final legal text that we will know exactly what the advantages and disadvantages are of the agreement.

Obviously, New Zealand is a relatively small trading partner for us as the UK. We should be aware that what we negotiate with New Zealand is essentially about market access, and of course there are sensitivities there with regard to agriculture. Like many contemporary trade agreements it is also about regulatory co-operation and regulatory harmonisation. What we agree with New Zealand will, of course, set a precedent for what we negotiate in other trade agreements, so we need to see the significance of this particular agreement in the wider context of what we are negotiating as the UK. The type of commitments we make in the New Zealand agreement will shape what we commit to in our ongoing negotiations with many countries—Mexico, Canada and Singapore. This is

really about what kind of economic regulation we want to be setting in key areas of public policy. I will speak later on the specifics of digital, but I just want to mention the importance of this agreement and seeing it in that light.

On digital, I am happy to come back to questions and specifics about the advantages for businesses and consumers, but I am aware that there are many other topics. On that note, let me hand to Michael, and we can come back to the digital later.

The Chair: Thank you. We will certainly do that. Could we move on to Professor Gasiorek?

Professor Michael Gasiorek: Thank you all so much for the opportunity to give evidence to this committee. I very much welcome that. Let me concur with much of what Emily has just said. In particular—I am sure the committee is aware of this—this is an agreement in principle. Much detail is lacking and the devil will be in the detail. Secondly, let me reinforce something that Emily said about the relatively small size of New Zealand as a trading partner of the UK. Basically, it is the 52nd most significant export destination if you take both goods and services and 57th most important import supplier, so it is not an important market economically for the UK and therefore one should not expect too much from the agreement.

It is worth thinking about the agreement in terms of three different areas. There are areas where there is some clarity about improved market access. With regard to tariffs and the trade in goods, for example, we more or less know what is going to be in the agreement. Then there are areas that are also concerned with agreeing more market access but where more information is needed in order to be able to assess what this might mean for UK businesses with UK consumers. I am thinking of services trade in particular here, which is much, much harder to assess because it depends on the actual commitments made.

There is a third set of categories in the agreement in principle and increasingly in modern, deeper, broader free-trade agreements. Broadly speaking, these are, in the first instance, to do with non-trade policy objectives. There are likely to be chapters on labour, trade and development, SMEs, environment and the climate and—Emily's area of expertise—digital trade.

There are those three areas, so there is some scope for improved access to UK businesses into the New Zealand market. There will be some improvements for UK consumers, such as offering improved access to New Zealand exports to the UK, which might lead to more variety and lower prices. I will stop there for now.

Q27 **Lord Astor:** My question is addressed in the first instance to Professor Gasiorek. New Zealand already applies zero, or very low, tariffs on most of its goods. What additional benefits would this agreement provide for goods trade?

Professor Michael Gasiorek: It is true that New Zealand applies low tariffs on many of its goods, but that does not mean that it applies low tariffs on all its goods. In particular, for many items of textiles and clothing, for example, its tariffs are around 10%. You might think that the UK does not export very much in textiles and clothing to New Zealand, but actually it does export some. Depending on the level of aggregation, between 2% and 4% of our exports to New Zealand are in textiles and clothing goods. There will be some benefits from lower tariffs. There are tariffs on vehicle exports to New Zealand—admittedly they are generally low, but there still are tariffs—which constitute a substantial part of our goods exports to New Zealand, so let us not completely underestimate the tariff levels.

With regard to goods trade, additional benefits could be to do with rules of origin and the way those are agreed between New Zealand and the UK. Choice of origin rules work to simplify bureaucratic procedures, but we have a lack of information about this. There may be a question later about rules of origins, so we can go back to this. Two other areas where there might be benefits on trading goods are agriculture and food. The agreement in principle talks about the principle of SPS equivalents—greater recognition of SPS measures based on scientific principles between the UK and New Zealand that might improve agriculture access for the UK into the New Zealand market, but equally also in the reverse direction.

There is a clause in the agreement in principle on technical barriers to trade where there is a commitment to positively consider accepting technical regulations of the other country where they are found to be equivalent. So, again, this is about equivalence and standards. If the actual agreement itself leads to greater equivalence or acceptance of equivalence and standards, that might be a benefit to UK exporters. But, as we will probably say repeatedly this afternoon, the devil will be in the detail.

Q28 **Lord Morris:** My question in the first instance is to Professor Gasiorek, and I want to concentrate on agriculture. We have heard Australian comments that they hope to increase beef exports, and under scenario 2 of the DIT scoping assessment for New Zealand imports are expected to rise by 40.3% and our exports by 7.3%. To be equally specific of Australian expectations for beef, what are your estimates, if you can, of lamb imports to the UK? What would you expect in each year, one to 15, and what would be the impact assessment on British farmers?

Professor Michael Gasiorek: The scenario that DIT estimated in its scoping assessment leads to an increase in UK exports by 7.3% and an increase of imports by 40%, as you rightly said. If you take those numbers as given, exports to New Zealand in 2019 were of the order of £1.20 billion to £1.25 billion. If they increase by 7.3%, our exports might increase by about £90 million. Correspondingly, the increase in imports from New Zealand is predicted to be much higher, because the goods that New Zealand primarily exports to the UK face higher tariff and non-

tariff barriers. So there will be a bigger reduction in barriers, which leads to a bigger increase.

To your specific question regarding meat imports, I am sure the committee is aware that at the moment there are quotas for imports, and under the agreement there will be a liberalisation of imports, of both lamb and beef from New Zealand. To my knowledge, the lamb quota is not being filled. Even now, the extent to which New Zealand could export lamb duty free to the UK is not nearly fulfilled to its maximum. That is not true of beef exports by New Zealand to the UK. My understanding is that the beef export quota is filled, so the expansion of that quota will probably lead to an increase in beef imports and the lowering of prices of beef imports into the UK market. Does that answer the question?

Lord Morris: My question was about lamb, but you concentrated on beef, which is perhaps a minor part of the trade. On lamb, the tariff will be lifted from years one to five, five to 10 and 10 to 15. Can you be helpful as regards what kind of increase we would expect of lamb imports to the United Kingdom and what the effect will be on British farmers?

Professor Michael Gasiorek: On the face of it, I am not sure that I would necessarily expect an increase in lamb imports, because New Zealand exporters are not filling their quota even now. They could export more to the UK with no tariffs now, but they are choosing not to do so. So although there is a liberalisation in the agreement in principle, the levels at which they could export duty free to the UK are not being used even currently.

Lord Morris: Is it because the transport costs to the markets of the Far East and their appetite for lamb and beef are growing?

Professor Michael Gasiorek: I do not know the precise reason, but I suspect that, yes, the New Zealand exporters are choosing to export elsewhere and where presumably they can make higher profits.

Q29 **Lord Lansley:** Can I follow up on the rules of origin point? We have of course heard in this context and in the CPTPP context of the importance of the ability to cumulate, or the difficulties associated with not being able to cumulate, EU content in the production of automobiles in the United Kingdom for export to other countries. What do you see in the agreement in principle so far, in terms of what is referred to as the alternate regional value content, and maybe the threshold at which that is set, and what that might offer to UK automotive exports? Also, to what extent can the trade and co-operation agreement with the EU be regarded as a free trade agreement for these purposes, and EU content cumulated, recognised and allowed to cumulate with UK content for export to New Zealand under this agreement?

Professor Michael Gasiorek: My reading of the agreement in principle is that there is little in it that is explicitly on diagonal cumulation provisions, be that on EU content or on other content provision. Of course, it might be in the agreement that is actually signed. There might

be some regional diagonal cumulation provisions, but at the moment in the agreement there is a generic phrase—I cannot remember exactly what it is—about discussing the possibility of extending cumulation arrangements, but the agreement itself does not say very much about cumulation provisions. Of course, were it to be possible to agree on forms of extended diagonal cumulation, that could benefit UK exporters to New Zealand and, vice versa, possibly New Zealand exporters to the UK. But, once again, the devil will be in the detail, and currently there is little on this in the agreement in principle.

Lord Lansley: Would you have said that this is rather an important negotiating objective for the United Kingdom, given the importance of automotive exports to New Zealand as part of our export activity and the way in which our supply chains are structured? Would one not look for the possibility of cumulation to be locked in at this stage?

Professor Michael Gasiorek: It is potentially of importance. One would need more information on the precise nature of the vehicles and the companies that are exporting from the UK to New Zealand, which I am afraid I do not have. For some companies, these regional cumulation provisions will prove extremely important; for others, less so. On balance, I would agree with you that, allowing for diagonal cumulation—or extended cumulation; different terms are sometimes used in this context—using EU input deemed as originating in the exports to New Zealand from the UK is potentially of value to UK exporters.

Lord Lansley: Do you have any sense that the United Kingdom Government were looking for it and did not get it, or did not ask?

Professor Michael Gasiorek: The honest answer is that I do not know. My guess is that because this is a bilateral negotiation it was not considered a high priority. But, honestly, I do not know the answer to that question.

Q30 **Lord Kerr:** My interest is really whether the rules of origin in relation to motor cars with New Zealand might become a useful precedent for our attempt, which I hope we will make, to achieve rather more liberal diagonal cumulation rules when we accede to the CPTPP.

In addition, I have a more general point about rules of origin. We know that we will be negotiating with the Canadians and the Mexicans for a replacement of the rollover agreements. The rollover agreements are pretty good on rules of origin. Will this agreement with New Zealand be useful as a precedent for the maintenance, which I hope we will be negotiating for, of generous rules of origin cumulation terms with Mexico, Canada and South Korea?

Professor Michael Gasiorek: There is the issue of cumulation as stated in the agreement in principle, and there are other areas to do with the bureaucratic procedures—the types of rules of origin that are used and the fact that the agreement appears to want to go down the route of offering—produces a choice of rules as opposed to having a single route. You could have the change in the tariff classification rule or the value-

added rule, for example. Those are all positive areas of flexibility. Are all these issues a precedent for what the UK might agree with other countries? I think they potentially set a precedent for what the UK might be prepared to agree to, but not necessarily what the other partners might agree to.

It shows part of the UK's hand and position on rules of origin, wanting and trying to drive forward that flexibility. Whether the other partners would wish to agree to that is a slightly different question. I suspect that Mexico, Canada, South Korea and so on would be keen on maintaining market access and not using the rules of origin to constrain market access and therefore, in general, on liberal rules of origin. The CPTPP is slightly different, because that is not a negotiation. The UK will have to accept the diagonal cumulation provisions that already exist in the CPTPP. We are not negotiating what those rules of origin provisions will be; we are negotiating accession to an existing agreement, which is quite different.

The Chair: Professor Jones, you mentioned precedent earlier. Did you want to add anything that is different from what has been said?

Professor Emily Jones: No. I would just underscore that, as Michael said, the CPTPP is a different beast, and in acceding to it we essentially have to take it as a fait accompli. We might be able to have the odd derogation, but we will have to use a lot of political capital to get the odd change or derogation specifically for us. I think the question will become whether that is one particular area that becomes a UK priority. But I very much defer to Michael on the vehicles point

The Chair: Professor Kerr, did you want to come in on another issue? Sorry, I mean Lord Kerr. I have just made you a professor. I do not know whether it is a promotion or a demotion. I apologise.

Q31 **Lord Kerr:** I am stunned. I have an elementary question, which I suppose is really for Professor Gasiorek. Supposing you are the British negotiator negotiating with Mexico, Argentina, Uruguay, Canada or Brazil—I will not mention America, because I do not think there will be much negotiation with America. If, as you have said to Lord Morris, access for agricultural producers in Australia and New Zealand will be considerably greater as a result of these agreements if they choose to take up what will be available to them in the future, how would you manage to resist the argument that we will have what Australia and New Zealand are having, please, on agricultural access?

Assuming that you wanted to resist—you might not; you might put the consumer interest in lower prices here ahead of the producer interest here—what arguments would you manage to produce to resist the precedential argument based on what the Australians and New Zealanders are getting?

Professor Michael Gasiorek: Any free-trade agreement is obviously a negotiation with a balance of offensive and defensive interests on both

sides. Just because the UK has given improved access in certain products, say to Australia and New Zealand, does not necessarily mean that it has to give the same degree of access in future negotiations with other countries. There will always be a trade-off where each country has its offensive interests and its defensive interests. If you did not want to liberalise product X with, say, Brazil or with Argentina, you would negotiate this by making it quite clear that you are not going to liberalise that product but in return will offer something else. It is a trade-off, and it is down to the negotiators to choose those trade-offs.

Lord Kerr: You will have put yourself at a slight disadvantage. You will have to concede something else if you refuse to extend to one trading partner what you have agreed with another partner. There is a downside to this. Surely, Professor, the precedents are not irrelevant?

Professor Michael Gasiorek: No. I agree that precedents are not irrelevant, but they do not result in a certain outcome in one direction or the other. Clearly, the signal that the UK Government are sending in their negotiations with Australia and New Zealand is that they are indeed prepared to liberalise very widely, including in the agricultural sector. Therefore, it would not be surprising if they took the same position in other negotiations.

Q32 **Lord Gold:** I want to move on to services. What are the key service trade commitments in the agreement in principle, and how could they help businesses in the UK services sector? An example that Professor Jones might be happy to deal with is how useful the financial services commitments are, including those facilitating the transfer of data and the ban on the localisation of financial data.

Professor Emily Jones: I am happy to come in on the last point about financial services. Relating to the conversation that we have just had, we are a services-dominated economy. Although services often do not get a huge amount of airtime when looking for our export sector, it is where we are looking for gains a lot of the time.

On the provision of the financial services data, we have seen similar provisions in the UK-Japan agreement. Essentially, it is the commitment to allow financial services firms to move data around relatively easily so that they are not required to localise it in-country. As far as I am aware, that has not been a particular issue for New Zealand. More broadly, the financial services sector is looking for this type of commitment in trade agreements so that they can move the data around very readily. I will talk more to this when we get to the data section.

There is a question for us as a country about our policy on sensitive data, be that financial services data, health data or personal data. Many countries are choosing to require some form of data to be retained in-country, including sometimes financial services data for regulatory purposes. The point here, I think, is that we want to be absolutely sure that the FCA—the Financial Conduct Authority—and others are absolutely happy with the devil in the detail. The US Treasury was very concerned,

when these types of agreement started coming in, that by allowing financial services firms to move data around freely they would lose some prudential oversight of the financial sector.

It is therefore vital to make sure that our regulators from the financial services side are very happy with the type of provision and that it still gives them sufficient regulatory oversight, because then you have a win both on the business side and on the prudential regulation side. Again, the devil will be in the detail in terms of the actual provisions that we see, but I think it is more a question of precedent setting for future agreements.

Lord Gold: In trying to agree the detail, do we know whether proper consultation is taking place with the regulators?

Professor Emily Jones: That is a question that I suggest you put to government in many of these different areas, making sure that all the key players, such as the Information Commissioner's Office, are very closely involved on data generally as well as on the financial regulation. In the past, we have moved a bit too fast, and we have not always done our due diligence in consulting with all the regulatory bodies.

We have a consultation out at the moment on our new data regulation; the Department for Digital, Culture, Media and Sport has put a consultation out on what our future data regulation should look like. But we are already, of course, negotiating commitments in the New Zealand agreement and other trade agreements on the type of regulation, which will at least constrain our regulatory scope with regards to data.

Lord Gold: Thank you. Professor Gasiorek, perhaps you could deal with the earlier part of the question about what benefit is generally being provided or will be provided in this agreement in principle.

Professor Michael Gasiorek: I hate to sound like a stuck record, but once again this is where the devil will be in the detail, because we do not actually know what degree of services liberalisation there will be in the agreement. There are indications in the agreement in principle about which areas we expect there to be further liberalisation in, such as: air services; maritime transport; financial services, which we have just been discussing; and telecoms. We can expect it to be there, but it will all depend on what is actually agreed and what the reservations are when it comes to the agreement itself.

There are a few other areas to mention. There is a discussion about the mutual recognition of professional qualifications and that this will be encouraged. Clearly the more it is encouraged, the more one can go down the route of mutual recognition of professional qualifications, the more substantial the positive impact will be on services trade in areas where that mutual recognition of professional qualifications is achieved.

There is also a chapter on the temporary movement of workers for business purposes. This is to be welcomed. It will facilitate business

travel, and there is considerable evidence to suggest that that face-to-face interaction has a positive impact on services trade. Delivery of services makes a difference. There are supposedly going to be improved investment provisions to make it easier for New Zealand to invest in the UK and vice versa. That should help services traded as well. But we do not actually have enough detail to assess this much more than that.

Lord Gold: In the world that I know, which is legal services, there is already a strong movement of New Zealand lawyers to the City. I do not think the movement goes the other way, which is no surprise. Could there be resistance from New Zealand to making this easier, because there is already something of a brain drain?

Professor Michael Gasiorek: One would have to discuss this with the New Zealand experts, as it were, which I am not, but there is always the potential for some resistance. This mutual recognition of professional qualifications requires each professional body or agency to determine whether to give that mutual recognition. There will always be some sectors that have a greater incentive or desire to protect their domestic market in that space and in other sectors. A lot will depend on whether there is a shortage of labour supply in those particular areas or not. So, yes, that is entirely possible. Whether it would actually happen in practise when it comes to legal services, I could not possibly comment.

The Chair: Lord Kerr, does that answer the question, or do you want to pursue the question you were going to ask about professional qualifications?

Q33 **Lord Kerr:** The bit I am left in doubt about is the easier access for temporary business visitors. I was very struck by evidence from the Royal Institute of British Architects, which told us that there were expedited visa issuing arrangements for Chinese and various other nationalities' professionals who wanted to go temporarily to New Zealand, but they did not extend to the United Kingdom. That surprised me. Is some liberalisation of that on the New Zealand side likely to be useful to British services? It sounds to me as though there might have been a genuine obstacle there until now that might be cleared away.

Professor Michael Gasiorek: I think there is a genuine potential for some benefit there for certain sectors and businesses, to the extent that that is agreed. The agreement in principle suggests that there will be clauses allowing the temporary movement of workers for business purposes. As I said earlier, I think that is to be welcomed.

Q34 **Lord Watts:** My question is directed to Professor Jones. I know that my colleagues want to drill down into more detail on this issue, but I have a general question: what is your assessment, Professor Jones, of the digital trade commitments in the agreement in principle?

Professor Emily Jones: Thank you very much. By way of introduction, I think it is worth noting that this is an area of strategic priority for the UK Government, who have said that they want the UK to be a leader in digital trade and the world's most attractive data marketplace. We now

have a 10-year plan in place to make us a global superpower in artificial intelligence. I think it is worth focusing on this, because while New Zealand is not a particularly important market for this, again, what we are negotiating with New Zealand really sets a precedent—sorry for the repeated use of the term—for our other trade agreements.

What we see in the agreement in principle, of course, is relatively broad. As you well know, the UK is currently grappling with a lot of big questions about how best to regulate the digital economy and about data privacy, anti-competitive effects of platform companies, online harms, the regulation of new technologies and AI. These issues are all affected by what we agree with New Zealand and other trading partners. We are gradually seeing provisions creeping into trade agreements that are precisely on these areas, including in the agreement in principle. I think the language on AI in the UK-New Zealand agreement is relatively welcome, in the sense that not only is there a focus on innovation and growth, but there is recognition of wider public policy objectives to do with privacy, consumer protection and cybersecurity. We are yet to see what that will look like in detail.

I think we need to scrutinise this in particular because, from my perspective, previous trade agreements have prioritised the interests of the expanding trade at the cost of some of the other public policy objectives. There are four areas that I wanted to highlight. I do not know if now would be a good time to go into them, but perhaps I could give you a bit more of a concrete sense of what I am talking about.

Lord Watts: Can we really read so much into an agreement with New Zealand, bearing in mind the scale of the country? We are talking about a population of 5 million, which is equivalent to Greater Manchester and Liverpool, so it is very small and I should not imagine that there is much activity there in relative terms. Can we read too much into this trade deal?

Professor Emily Jones: Last year, New Zealand, Chile and Singapore negotiated the world's first digital economy agreement, which is 63 pages long. It is the only freestanding agreement we have on digital, and it is by far the most comprehensive. The UK is now negotiating a similar agreement with Singapore. Essentially, that is setting out a view on what international rules will look like on the global digital economy. So it is less about New Zealand being an important market and more about the type of commitment that we make with regard to the free flow of data. Our agreements with Japan, Australia and New Zealand, for example, will all have similar ones. When we are defining a new set of regulations on data, it is very hard to segment them by market. Setting separate rules for a tiny bit of data that will flow with New Zealand, and then a whole different set for Japan or the US, is very difficult, which is why we talk about this type of regulation. Often it is the first moves we make that set the benchmark for future agreements.

I would love to explain a bit about the data flow. We have seen in the UK-Japan agreement that we are making a general commitment to let

data flow freely, which is vital for business. The key issue here is to what extent we can do that without compromising the GDPR and our ability to uphold data privacy. When it comes to exceptions, as Michael has said, the devil is in the detail. What we saw in the Japan agreement was a relatively weak data privacy exception. We cannot tell from the agreement in principle, but I hope we will see more robust language on data protection and privacy than we have seen in the Japan agreement, because there is a credible argument that it will be hard for us to uphold the UK's GDPR with the type of commitments that we have made, at least in previous agreements.

The Chair: You mentioned four points that you wanted to raise. That is presumably one of them.

Professor Emily Jones: That is one of them. Another was the regulation of AI and digital technologies. Again, we have seen in recent trade agreements a commitment by government not to force companies to disclose their algorithms and source codes. If you are a technology company, this is important, because you do not want your latest innovation being shared.

At the same time, from a regulatory point of view we also need to be able to hold those algorithms accountable, so we need to know how they are being used. We have seen concerns about bias in the use of algorithmic decision-making, such as in the exam scandal last year. The trade agreements have clauses that essentially say, "We will not ask companies to disclose their algorithms and source code, except for … ", and then you have quite a narrow set of circumstances in which regulators can then open the black box of that algorithm. The apt question is whether those clauses are sufficiently broad for our regulation of these new technologies. They have been quite widely criticised by a lot of people who are looking at AI regulations, so we have to be incredibly careful about how we couch those particular exceptions.

Another point I wanted to raise is about competition and labour rights in the gig economy. At the moment, we hardly see any language in the AiP on these two areas, but the Competition and Markets Authority is doing brilliant work looking at new and innovative ways to ensure that digital markets remain competitive. We have all seen the challenges of market concentration and market power. The trade agreements with New Zealand and Singapore are a really important opportunity for competition authorities in our various jurisdictions to come together and think quite innovatively about how we strengthen competition and digital markets.

Similarly, there is a chapter in the AiP on labour standards, as Michael mentioned, but it makes no mention of labour rights in the gig economy. Another really important area for us to pay attention to and which, again, I hope we will see the New Zealand and other agreements really thinking about is how we strengthen and address the concerns of workers in the gig economy. To my mind, those are two areas that I would hope to see the UK Government perhaps going further on than they have so far.

Q35 **Lord Razzall:** I move to a more specific area, which is intellectual property. The agreement in principle includes specific commitments on intellectual property, in particular requiring New Zealand to extend its copyright term by 20 years and to adopt or maintain artist resale rights schemes. How helpful do you think these measures will be for the UK creative industries, and do you agree with the Alliance for Intellectual Property that the UK should press New Zealand before the final agreement to introduce reciprocal artist resale rights law?

The Chair: Who is your question directed to?

Lord Razzall: Whoever would like to answer.

Professor Michael Gasiorek: If I am honest, this is not something that I know very much about at all, so my answer is speculative here. You would imagine that increasing the length of copyrights and increasing intellectual protection would help creative industries in the general sense. How important the New Zealand market is for the UK creative industry I honestly do not know. You would think that in principle the idea of having reciprocal rights in each other's markets would sound sensible, but, honestly, this is not an area that I am remotely an expert in.

Lord Razzall: No, I think that tends to be the issue.

Professor Michael Gasiorek: Sorry.

The Chair: Professor Jones, did you want to respond?

Professor Emily Jones: No, it is not my area of my expertise either. So many issues are covered in these trade agreements, but it is hard to cover all of them.

Lord Razzall: I suspect that the answer to your question is that the potential impact for the UK industry is actually not very large. On the other hand, the rest clearly is important.

Lord Watts: Are our two guests surprised that this issue has not been given more attention, given that the creative industries are one of our major industries in the UK? It seems to me that if we are talking about setting precedents, this is a precedent that we would want to set around the world because it is in our big interest financially to do so. Are they surprised that this is not a bigger issue?

Professor Michael Gasiorek: Once again, this is beyond my area of expertise. It is potentially a big issue, but, as I say, it is just out of my area.

Q36 **The Earl of Sandwich:** You will be pleased to hear that I have a much easier question. I read with some enthusiasm the chapters in the AiP on environment and climate, consumer protection, trade and development. I know that Professor Gasiorek focuses on developing countries, and I think it was Professor Jones who mentioned labour rights earlier. Are these just symbolic chapters that you put in anywhere? I was impressed

by the detail, but would you think that they were meaningful? Also, how do you see New Zealand? Is it a sort of star pupil of the DIT? Is it a special case? I would be interested to hear what either, or both, of you think about that.

Professor Michael Gasiorek: I guess my answer to your question is yes and no. Some of these chapters and clauses are symbolic in the sense that they are what might be described as best endeavour clauses. There is no commitment there. No actual binding action is required by either party subject to that particular chapter, be that in trade development or something else. But there is an acknowledgement of the importance of the issue and an acknowledgement that it needs to be thought through, discussed and co-operated on. In that sense, you could argue that it is symbolic because it does not lead to any action.

I think the chapters on the environment and climate are more than symbolic, and potentially meaningful. Let me put this slightly differently. You could interpret meaningful in two different ways. You can think of it in the way I alluded to a minute ago, which is, "Do they involve any binding commitments by either party?" If they involve some form of binding commitment that one or both parties have to do X, Y and Z, you could argue that they are meaningful. It is not clear to me that the actual agreement with New Zealand will necessarily lead to binding commitments on environment and climate. That might suggest that it is not meaningful.

Let me turn to my second approach to meaningful, which is that it is very unusual for a free-trade agreement to have the sorts of clauses that it looks like we are likely to have in the agreement with New Zealand. One comparison here might be with the Australia agreement, or, I should say, the AiP, because we do not yet know what is in the agreement. That AiP talks about provisions to encourage trade and investment in environmental goods. In contrast, the AiP with New Zealand explicitly says that it will include the most comprehensive list of environmental goods agreed to date, with tariff elimination at entry into force of the FTA. That is much more explicit, and it seems much more meaningful.

The AiP with New Zealand also has commitments on environmentally harmful subsidies, eliminating fossil fuel subsidies and the transition away from fossil fuels. Those might prove to be best endeavour clauses. In that agreement, what might be agreed is trying to move away from environmentally harmful subsidies and trying to eliminate fossil fuel subsidies without any explicit commitment of how that will be achieved. However, even the fact that there is this language in the agreement is, I think, a step forward, and I would argue makes it more meaningful.

Finally, on environment and climate, it is interesting that in the general exceptions clause towards the end of the agreement in principle there is the interesting statement that under the general exceptions, "New Zealand and the UK confirm their understanding that measures taken by governments to mitigate climate change could fall within these exceptions". I am not entirely clear what that clause is meant to say. I

read it as saying that either or both parties are retaining the option to use border carbon adjustment in the future. Note that, in contrast, the Australian agreement in principle has the curious phrase under environment provisions that any new areas proposed by the UK that are not already in the CPTPP environment text will not contain any new substantive commitments. So the AiP with Australia is saying much more, "You cannot go beyond what already was in the CPTPP". The New Zealand agreement is saying, "Actually, we could go a bit further". I think that is meaningful. Sorry if that was a long answer.

Earl of Sandwich: Thank you so much. That was very fluent and more than healthy scepticism, if I may put it like that. I do not know whether Professor Jones would like to say any more.

Professor Emily Jones: I think Michael said most of the things I would have said. We need to use trade agreements to help us to engineer a green economy. The language that we are seeing in the New Zealand AiP is new in some respects and exciting. Again, the devil in the detail. We will look closely at it and scrutinise it, but the more we can use these agreements essentially to help us to catalyse that green transition, the better, and to create the space for Governments to align on it.

I am excited, as you are, by some of the language there, but I also share Michael's scepticism that the devil will absolutely be in the detail as to how this will be implemented. As Michael said, most of the environmental provisions that we have seen in previous trade agreements are best endeavour. However, I note from the wording that we see in the New Zealand AiP that it seems as though we will have some form of binding commitments and that there will be dispute resolution on those environmental commitments. So it could break new ground. We should be trying to encourage the Government to use the last few months of negotiation with New Zealand, which also promotes the green economy globally, to see whether they can really push the boundary here and let us have new language that would shape other trade agreements with other parts of the world.

Professor Michael Gasiorek: Given the UK's presidency of COP 26 and New Zealand's approach to climate change and trade through the agreement on climate change, trade and sustainability, this is potentially an area where there is a window of opportunity to take a step forward.

Q37 **Lord Lansley:** I am glad that Professor Gasiorek just referred to that, because I was a bit confused when the British Government, as COP presidents a couple of weeks ago, said that they were not going to join the agreement on climate change, trade and sustainability. I therefore look at the agreement in principle and wonder whether it illustrates where the difference lies and whether it is in the territory of the language about the elimination of subsidies on fossil fuels. Is that where the problem is? I am not quite sure that I know what the problem is, because it would have been one way for this agreement and COP 26 to show the UK Government going firmly in that direction.

Professor Michael Gasiorek: I share that view and your confusion about the Government's position on this. I would say that the agreement with New Zealand is potentially a step forward in that direction, but quite why UK is resisting signing up to the ACCTS I am not entirely sure.

The Chair: It appears to be a common view, I think.

Q38 **Baroness Liddell:** I think the phrase of the day is the devil is in the detail, which is so true. The exchange that you have just had with Lord Lansley brings to mind that one person's detail that is good for them may not be another person's detail, and it could be very bad for them. I am interested in how both of you, with your extensive knowledge of trade policy, would rate the UK Government's approach to engagement and openness with key stakeholders and the public throughout the negotiations. Could we learn anything from the New Zealanders about how that process of consultation could be undertaken, given that we are embarking now on a whole new field which for 30 or 40 years we did not think too much about? I would like to start with Professor Jones.

Professor Emily Jones: We could do a lot better. We are improving, and the Government have set up more structures for consultation. About a year ago, I wrote a paper looking at different jurisdictions and the extent to which they scrutinise trade agreements. I think that here we have a fairly similar approach to New Zealand, Australia, Canada and the other parliamentary systems, and that actually we have perhaps less to learn from them than we do from the EU and the US. There is interesting practice in the EU and US that we might learn from.

One of them, as we are rapidly discussing and finding out here, is that if we do not have oversight of a trade agreement and the details early on, it can be incredibly hard to provide effective scrutiny and make sure that we have effective consultation. What tends to happen in parliamentary systems is that it comes before Parliament when it is essentially all agreed, and if you have not had parliamentary oversight of the text in real time, if you like, it is very hard to influence the end game. In some jurisdictions, parliamentarians have confidential access to oversight of the legal negotiating text, which might be an interesting thing for us to emulate. There is no harm in us as a parliamentary democracy inventing an extra scrutiny mechanism, if you like.

I would encourage us to think about ways in which this committee and your colleagues in the House of Commons on the International Trade Committee might have oversight and access to the text, perhaps in secure reading rooms and in a secure way to make sure that you have insight and input in the negotiating objectives themselves, right upstream when we are discussing what the negotiating objectives will be. We should also perhaps think about something that I know has been much debated and which you have certainly done excellent work on towards the end of the agreement, which is whether to have a substantive vote in the House, again just to make sure that that scrutiny happens.

Regarding stakeholder consultation, I think we could do better at making sure that the devolved Administrations, the devolved legislatures, are at least fully involved as stakeholders. The specific area that I have been looking at is digital trade. We have a trade advisory group at the moment that looks specifically at telecoms and digital services, but it is completely business. There is another mechanism for discussing with trade unions and other stakeholders. We do not have a strong multi-stakeholder advisory committee on digital, yet we urgently need it. There are opportunities to learn from other jurisdictions and strengthen the way in which we do consultation.

Finally, we are doing a lot of consultations and requiring all our stakeholders to sign confidentiality agreements, non-disclosure agreements, which makes it very hard for them to have an open, informed discussion. There are always issues with confidentiality and making sure that we are not sharing negotiating texts widely. At the same time, we could have a much more open dialogue to bring in different stakeholders.

Lord Watts: We took evidence that demonstrated that New Zealand tends to involve people at a very early stage on the objectives and the aims of objectives. That is not something that we have seen in the UK Government. Is that difference the experience of Professor Jones? In the early stages we did not know what the aims of the UK Government were, but in the case of New Zealand they did.

Professor Emily Jones: I am not sufficiently close to the New Zealand process to be able to know how substantive that engagement is. To be fair to our Government, they have opened up and said, "What do you want?" at a very early stage. They have consulted on the objectives. The issue is that they have not shared the draft negotiating objectives with anybody. You can ask UK business, you can ask the financial services sector, "What would you like?", but, again, it is more detailed consultation: "Do these provisions look good to you?"

It is that level of really detailed engagement right at the upstream stage, as well as during the negotiations, that we really need. That is the area where I think we could be doing more, and I am not sure quite how open New Zealand is. They certainly talk a lot about consultation, but I am not sure how substantive and detailed it is, and I would like to know. To my understanding, consultation with stakeholders is much more detailed in the EU and the US than it is in New Zealand or in the UK.

Q39 **The Chair:** I have one general question for the two of you. It is less about this agreement and more general, and it arises in a sense out of Lord Morris' question about agriculture.

I am curious about whether there are any trade instruments or tools that can be deployed in a free-trade agreement to safeguard the rights of certain groups. This agreement does not look at gender or other issues like that, but I wonder whether a trade agreement could safeguard the rights of certain groups or communities. In a way, this arises specifically

with regard to agriculture in Wales in this agreement in principle and in the Australia agreement, looking beyond the farmers concerned to all that goes with that, such as culture and heritage—or, in the case of Wales, the Welsh language? Are there tools that negotiators can use to protect those sorts of interests?

Professor Michael Gasiorek: I will go first, if I may, but may I also take the liberty of quickly going back to the earlier question, which I did not get a chance to respond to? I wanted to say, first, that I agree wholeheartedly with pretty much everything that Emily said about the consultation process. I would highlight three areas. The first is that, as Emily said, we could do better on consultation. The DIT does try to do quite a lot of engagement and consultation, but it tends to focus much more on the business community than on broader stakeholders. If you look at the way the questions on its online consultation process are often phrased, it seems more focused on businesses and less on broader stakeholders.

Secondly, there is clearly much more need for parliamentary scrutiny of the strategic objectives—what is being negotiated and what has been agreed. Throughout the process, there is a clear need for more parliamentary scrutiny, including the parliamentary committees and more involvement of devolved Administrations. In a sense, I agree with what Emily said.

The third point is different. Not surprisingly in all our deliberations and discussions, such as now, we are talking about what the agreement might do, what has been negotiated, what we want to be negotiated and so on. But we should not forget that we also need clear processes in place, which we do not have, for the experts monitoring and evaluating the agreements. Other countries, such as the United States, publish an annual report on the operation of their existing free-trade agreements. How have they progressed, what are the issues, what are the problem areas, and so on? It is really important that clear process is introduced into the UK process, partly to deal with existing agreement but partly to provide information for future agreements, so we also need a robust, transparent monitoring and evaluation process. That is what I wanted to add to that.

Regarding the last question that was raised, I do not know of any agreements that have specific chapters on protecting certain groups within society. Strictly speaking, that is not correct, because obviously in the New Zealand AiP there is a chapter on indigenous people and indigenous trades, so in some sense that is dealing with a group within society. However, those clauses are relatively rare.

What is not clear, even in the AiP with New Zealand, is quite what that clause will entail and what the degree of "bindingness", of commitments, to protecting those communities will be. What is much more typical is that communities are often associated with specific industries. A classic example that springs to mind is fisheries, so there might be provisions in the agreement to deal with sensitivities around fisheries. There might be

safeguard clauses and so on, although there might be safeguard clauses on particular products, as there are in the AiP with regard to beef imports. Those sorts of safeguard areas are typically, in my experience, associated with sectors as opposed to with groups. I do not know if Emily has anything to add to that.

Professor Emily Jones: Just to build on that, which I fully agree with, you have bilateral safeguard clauses that say, "If there is injury or potential harm to a sector, you have a recourse". With lamb, for example, there will be bilateral safeguards built into our liberalisation commitments.

The broader question for all of us, I think, is that trade agreements always create winners and losers. In order to get market access in another country, we will in turn have to open up sectors of our own economy. That always gives rise to the question: which sectors are we going to open up? We could keep Welsh lamb completely off the negotiating table. We could say, "We're not going to negotiate lamb, and we actually want to keep it protected. We're never going to open it up". Then, of course, we have less to offer in a negotiation. Our service exporters are likely to get less market access, because we are keeping certain things off the table.

The bigger question then is what we want the future of the economy to look like. If we are opening up our agricultural sector, what is the future for those Welsh hill farmers if, in the event that we get an increase in lamb imports, they are no longer competitive? What does the future look like? Many countries and Governments have tripped up by not really thinking about supporting declining industries and thinking about their future. We have seen some quite poor attempts—again, the US and the EU are the ones I know about—to provide compensation and skills that have not always worked very well.

We need to be thinking about supporting communities, such as is it sustainable tourism that they are going to move into or the guardianship of the countryside? What does that look like? It is about working with the losers from a trade agreement, and we are not always good at doing that. Essentially you have the option of keeping that community, that sector, off the table and not opening it up. If you are opening it up and it is going to decline, you really need to think about the future of those communities and working with them to find a new and viable set of livelihoods.

Q40 **Lord Gold:** We have talked a lot today about the detail that we do not yet have. It has crossed my mind to ask you this. Do we have any knowledge as to how far negotiation of the detail of this agreement has gone? Is this well advanced? If the answer is no and that there is still a lot of time to go—I suppose this is more a question for the rest of my committee—in whatever report we now write, following the meetings that we have had with you and the farming community last week, we should give some indication as to what we expect the detail to show and to provide. Would that be helpful, or am I opening Pandora's box?

Professor Michael Gasiorek: My understanding is that the detail is very well advanced and that most aspects of the agreement have been agreed. This goes back to Emily's point earlier, which I thoroughly concur with, which is that it should be possible for committees such as yours to have access to considerably more detail as to what is being negotiated, of course with appropriate degrees of confidentiality and so on. Earlier today, the Secretary of State gave evidence precisely on this agreement in principle to the ITC in the House of Commons. It was quite clear that the ITC also had no sight of any more detail. Indeed, the AiP was released to journalists almost before it was released to the committees. So in a sense this goes back to the point about the need to deepen parliamentary scrutiny and that there ought to be a better parliamentary scrutiny of what is taking place and what is being negotiated.

The Chair: A couple of my colleagues want to come in, but I am sure we are all just thinking about the report that we did on working practices, which we will shortly need to discuss with the DIT when it has responded to that.

Q41 **Lord Morris:** I am trying to follow the very helpful remarks of Professor Gasiorek regarding the way the machinery would operate. This treaty is fixed for 15 years-plus. If things are going wrong for any particular part of the economy, could any machinery conceivably be devised to correct things when things are going wrong for one part of the economy?

Professor Michael Gasiorek: It is certainly possible in an agreement to have review clauses and safeguard clauses. If there is a sudden surge of imports in a very short space of time—beef imports, for example—which is causing an immediate dramatic impact on Welsh beef farmers and so on, there is the opportunity to introduce safeguard clauses in such agreements.

Q42 **Lord Kerr:** I would just like to say how much I agree with what Professor Gasiorek said about the need to deepen parliamentary scrutiny and to add that, for our part, we are trying. We have put forward some proposals in a report on our working methods, which we hope the Government will respond to constructively. I was struck by how much more we learned about the process of negotiation with the New Zealanders from the New Zealand public statements than from the British public statements.

To end on a less weighty note, one thing that worries me about British Government statements is the degree of boosting that goes on, the way everything is written up. I would like to ask a question, perhaps of Professor Jones, about intellectual property, in which I am a complete amateur. Did your heart leap when you saw under the heading, "This will support our vibrant economy", that the New Zealanders had committed to extending copyright terms for authors, performers and producers, and to implement the extension within 15 years of the entry into force of the free trade agreement? Fifteen years. Is it standard in trade agreements when they touch on intellectual property? It seems to me to be pretty farcical. If I was an author, I would not be too thrilled.

Professor Emily Jones: My short answer is that, where you see a commitment that is hard for a Government to make, they will often have a long phase-in period. For our lamb commitments, for example, I think we have agreed to a similar 15-year staging of liberalisation, so there might be some sort of pairing there.

The broader point, and perhaps the final point to end on, is that really good quality impact assessments is what we need, and when we look at what comes before us they are often in quite narrow terms economically. The Government are improving on this, but issues such as copyright, which you just mentioned—the digital services areas—have big implications for public policy and are not necessarily addressed in an impact assessment. The UK-Japan agreement, for example, had quite extensive digital provisions, but there was no mention of it in the impact assessment.[1] It was really about the net gains to the economy.

We need much more depth and analysis of the type of provision you are talking about. What does it mean for our creative services sectors? Again, I would encourage us to ask the Government for more evidence, and for higher-quality impact assessments, on these regulatory issues, as well as the narrower economic impact assessments that we have.

The Chair: We have probably taken a lot of your time and certainly an awful lot of your brain power and experience. Thank you both enormously for that. Given that you have heard the sort of questions we are asking, if there are things that come to mind afterwards and you would like to send us any other information, we will be very happy to receive that. You warned, as my colleague Baroness Liddell picked up, that the devil will be in the detail. It sounds as if we have a lot more work coming, and again we would probably welcome your input at that point as well. For the moment, can I thank you both very much for your time and your input today.

[1] Post-meeting witness correction: "there was little mention of it in the impact assessment".