

European Scrutiny Committee

Oral evidence: The institutional framework of the UK/EU Trade and Co-operation Agreement, HC 450

Wednesday 15 December 2021

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Members present: Sir William Cash (Chair); Margaret Ferrier; Mr David Jones; Anne Marie Morris; Greg Smith.

Questions 86-115

Witnesses

I: Philip Rycroft, Former Permanent Secretary, Department for Exiting the European Union, Hege Marie Hoff, Deputy Secretary-General for Brussels, European Free Trade Association Secretariat, and Sir Jonathan Faull, Acting Co-Head of Office, Brussels, The Brunswick Group.

Examination of witnesses

Witnesses: Sir Jonathan Faull, Hege Marie Hoff and Philip Rycroft.

Q86 Chair: On behalf of the Committee, I would like to welcome you all and thank you for appearing to give evidence this afternoon. As you will be aware, we are currently looking into the governance structure of the UK-EU trade and co-operation agreement. Today, with your considerable expertise and experience, we would like to get a better understanding of how joint EU and third-country bodies such as those set up under the TCA operate in practice, as well as how the UK and the EU will likely approach the meetings of the TCA Partnership Council and specialised committees, in terms of strategy, resources and logistics, and to assess how important these bodies really are.

As you are appearing before us via video link, we will address the questions to you as a panel. Do please come in after your fellow panellists with your own answers and thoughts, as you think fit. Ms Hoff, we are really glad to have you with us today. We understand that, as a current EFTA official, you may be limited in what you can say. Please do let us know if you feel a particular question is not one that you can answer, or if you have limited experience of the area being discussed. Before we start—this is being streamed—for those watching at home, would you briefly introduce yourselves? Perhaps we could start with Mr Rycroft, followed by Sir Jonathan and then Ms Hoff. Mr Rycroft first, please.

Philip Rycroft: Thank you, Chair, and good afternoon to you and the other Committee members. My name is Philip Rycroft. I was 30 years a civil servant, variously in Scotland and Whitehall, and over those 30 years I had interactions with the EU in various policy domains, probably the most intense of which was two years working in the cabinet of the trade commissioner in the mid-1990s. I ended my career as the permanent secretary of the Department for Exiting the European Union, which I left in 2019, and I am now a specialist partner at Flint Global, among other roles.

Sir Jonathan Faull: Good afternoon. My name is Jonathan Faull. I am chair of European public affairs at the Brunswick Group. Before that, I worked in the European Commission from 1978 to 2016 in a variety of different roles. My last job was to head the taskforce on relations with the United Kingdom, which led to the agreement between the UK and the EU in 2016 before the referendum. I should perhaps also disclose that I am an adviser to Her Majesty's Government of Gibraltar in its relations with Spain and therefore with the European Union, which are currently the subject of negotiations between the UK and the EU.

Chair: Thank you very much. Ms Hoff?

Hege Marie Hoff: Thank you, and good afternoon from Brussels. My name is Hege Hoff. I am deputy secretary-general in EFTA, the European Free Trade Association. My responsibility is to oversee the secretariat's



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work related to the EEA agreement. Before I joined EFTA some three years ago, I was head of EEA and trade law in the Norwegian Ministry of Foreign Affairs, so I have been working with different aspects of the EEA agreement ever since it entered into force some 27 years ago. Thank you.

Q87 **Chair:** Thank you very much. I do not know whether others are having the same problem, but I feel it is a little quiet in here. I do not know whether it can be compensated for by people speaking up or whether it is something intrinsically wrong with the audio system—*[Interruption.]* It cannot be turned up, so my suggestion is that you speak up, because that is the easiest way of resolving it.

I will start with the first question: what are your overall views of the institutional framework of the UK-EU trade and co-operation agreement? It is a straightforward, simple question. May we start with Philip Rycroft, please?

Philip Rycroft: On my overall views of the institutional framework, in many ways there were no huge surprises there. This was a negotiation where both sides were saying that they would be guided—indeed, to some extent, driven—by the precedent, so in the structures that they put in place you can see lots of similarities with other free trade agreements and the way they are structured.

It is a comprehensive framework. There are two things to point out that distinguish this framework from others. One is that it goes beyond classic FTAs because the deal goes beyond classic FTAs, so we have the particular arrangements on fisheries, transport, energy and so on, and also the more extensive provisions on level playing field issues. But all of those are encompassed within the agreement and, obviously, the arrangements made to deal with those issues.

The second, which is in a way a more fundamental point but one that others of your witnesses have pointed out, is that normally when two parties go into an FTA it is with a view to bringing the relationship between the two parties closer together. Clearly, this deal was done about establishing a more distant relationship than the one that the two parties had hitherto, so this takes us into unique territory. I am not aware of anything similar in previous trade arrangements around the world.

Moreover, one of the parties to the deal has made it clear that it wishes over time to diverge further from the relationship that it has presently. It seems to me that that is a really important dynamic to understand, because it will drive the nature of the relationship, which in turn will test the nature of the institutional arrangements that have been put in place. Those are my overall impressions of this framework and the way it is structured.

Chair: Sir Jonathan, would you like to add something to that?

Sir Jonathan Faull: I agree with Philip Rycroft: most of the language used in the arrangements, both under the withdrawal agreement and the trade and co-operation agreement, is familiar from other EU agreements,



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but the context and the circumstances are quite unlike those of any other agreement concluded by the EU. I remember that one used to think, "Are there any precedents for this?" and the only remotely relevant precedents of territories that have changed their status in respect of the EU are Greenland, when it became independent from the Kingdom of Denmark in many respects, and one of two French overseas departments, which became overseas territories. But there has been nothing on the scale or with the proximity of the UK to the EU, so the tried and tested language is to be applied in a very different context.

Q88 Chair: Of course, it would not be terribly surprising, in a way, when you look at the context and consider the fact that, in terms of self-government, until the 1972 Act was enacted we did exactly as we chose, as we were an entirely self-governing country. Once you absorbed yourself into the increasing competences from 1972 onwards, you were creating a completely new dynamic in terms of the ability to make arrangements on your own terms. So this does not really surprise me very much. I see this very much in terms of a revolution in constitutional and self-governing constitutional arrangements. So it is not really that surprising, but, on the other hand, I very much take on board the important points you have made. Ms Hoff, what is your reaction to the question?

Hege Marie Hoff: I do not think I have much to add further to the other two panellists.

Chair: Thank you very much. You have been reading Macmillan's thoughts about EFTA in the late 1960s as well, I imagine.

Margaret Ferrier, the second question, please.

Q89 Margaret Ferrier: Do you believe that the joint UK-EU bodies established under the trade and co-operation agreement—the Partnership Council and the specialised committees—are fit for purpose in terms of supporting the implementation of the TCA?

Philip Rycroft: I am happy to lead off again. Can you hear me all right?

Chair: Yes, just about. It is a tiny bit faint, but otherwise all right.

Philip Rycroft: I will hold the mic closer. Are they fit for purpose? Absolutely. I would say they are precedent-driven. We will have to see how they work out in practice but it seems to me, reviewing the arrangements and the extent of the arrangements—you have the Partnership Council, you have the Trade Committee, you have all the specialised and sub-committees—that there is a very thorough institutional framework that has been put in place. We will doubtless talk later on in the discussion about how things appear to have gone to date.

Now, as an outside observer, it is difficult from my perspective to see where there the gaps in those arrangements. We can also talk about the procedures that have been put in place for the engagement of civic society and business, and from a parliamentary perspective as well. All of that



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seems to me to be very thorough. Doubtless, over time, people will realise that there are extra things that can be done, and that is all for the good.

I come back to the point that the key thing for the operation of these arrangements will be the political will on both sides to make them work and to make them function. You can't abstract the structures from the political will that will inform and make those structures come to life. That is going to be the key thing, and clearly it is very early days yet to see how that will work out. So, fit for purpose—yes, but it will be the political dynamic that will determine how well they work in practice.

Sir Jonathan Faull: Once again, I find myself in agreement with Philip Rycroft. They are as good, and will be as successful, as the people who belong to those bodies and the instructions they receive from their superiors turn out to be. They are fit for the purpose assigned to them, but as we have said, given the decades of close integration and the—I don't want to use the Chairman's word "revolutionary"—very comprehensive nature of the changes brought about by withdrawal from the European Union, they are going to have to deal with very complex topics, sometimes obviously in strange political climates, although I hope rarely. They will work if people want them to work.

Chair: Ms Hoff, would you like to comment?

Hege Marie Hoff: I can only echo the previous panellists. Certainly, this is the experience from working with the EEA agreement and its joint bodies. They have been working, they have been working well, and it all depends on what the contracting parties put into it and how they follow up.

Chair: Thank you very much. Anne Marie Morris, would you like to do the next question, please?

Q90 **Anne Marie Morris:** Thank you, Mr Rycroft and Sir Jonathan, for your clear analysis of the distinctions between the, if you like, comparative types of agreements. The one we have here is much more extensive than a typical trade agreement, and I think your observation was that this one was much more about parties parting ways, rather than parties coming together. In that context, when you look at the joint TCA bodies set up under FTAs that the EU has with other third countries, compared with those set up here, how would you compare them? Do you think what has been set up reflects those differences in, if you like, objective, which you set out at the start? What do you think are the strengths and weaknesses of this type of arrangement? Mr Rycroft, perhaps you would like to again give us a starter for 10.

Chair: I think we will stick to the same batting order, because that helps everybody and you do not get an unexpected request.

Philip Rycroft: I am ready to go. Don't test me on the precise detail; I am not a huge expert on all the FTAs in existence. Jonathan, with his experience from the EU side, will be able to add to this. At the start I spoke of the comparisons—the language and mechanisms used are very



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similar—but there are only so many possibilities for arranging ways in which two parties to a trade agreement can work together, and these sorts of structures are clearly well established for typical free trade agreements.

The really interesting point about this one is when we come on to the additional features of it. How will we cope with energy and transport? Fisheries will obviously be tested annually, in terms of quota-setting and so on. However, the one that I will be watching very carefully, now that I am an outsider to these processes, although others doubtless will be as well, is on the level playing field. There were clearly huge concerns from the EU side in the negotiation of the deal about what they saw as an opportunity for what they would regard as unfair competitive advantage for businesses located in the UK. By the same token, there were concerns from the UK side that it did not want its hand overly fettered in terms of creating a uniquely British regulatory environment.

I think the tension will be between those two standpoints, which will be tested in these structures. There is obviously a different dispute resolution mechanism for level playing field issues. Many of us will be watching with interest to see if, when and how they are used, if it does come to that. It may not come to that; it may be that, actually, in practice, the regulatory environments of the two sides do not part company that far. There isn't a huge appetite, as far as one can tell—certainly in terms of public opinion in the UK, for example—for a wholesale removal of environmental or labour market laws. It may indeed be that the UK wishes to get ahead of the EU in some of those things. In the current context, it may be, as I say, that there is not a huge divergence, but if that divergence does emerge, that aspect of the agreement will be thoroughly tested, one would imagine.

- Q91 **Chair:** Just before Sir Jonathan comes in on that question, I think this idea on the level playing field is perhaps somewhat exaggerated, if I may say, for these reasons. First, there is comparative strength of the economies, in terms of size. Secondly, most of the regulations and directives have been carefully conceived over the years and operate to a great extent with a limited amount of influence within the UK, with respect to the manner in which majority voting has cast the different laws and regulations that came out of the Council of Ministers. I am a little wary— in fact, I am more than wary; I am extremely sceptical, as I said many times—about the suggestion that there ever was a real level playing field. If you take on the business of running your own country and you intend to make a success of it, simply acquiescing to the existing arrangements and saying you have to keep to the same kind of level playing field rules seems to be rather disingenuous. However, that is just a political comment that I feel strongly about. Sir Jonathan?

Sir Jonathan Faull: To be fair to Philip Rycroft, I am very happy to take the first ball in the next innings if you want me to. I know that the England cricket team did that recently, so why not?

Again, I find myself in agreement. I think a lot will depend on the political framework, and therefore the political instructions, that people going to these various meetings and bodies are given. There will be summits. There



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will be, I'm afraid, ups and down in the political relationship, and perhaps more acute ups and downs than in at least some—perhaps many—of the relationships that the European Union has with countries around the world, and certainly with the EFTA partners in the European economic area, for example. A lot will depend on the mood, and a lot will depend on the politics of the moment. There will be summits at which the big problems will be aired. Some of it will always be technical and will be dealt with in the same way.

On the level playing field, I do not wish to enter into any polemics on that point. I can only confirm what Philip said, which is that it is, rightly or wrongly, an important issue in the minds of the European institutions and member states.

Chair: Ms Hoff, would you like to come in there?

Hege Marie Hoff: I have nothing to add.

Chair: We are at a break point. I will move on to Greg Smith.

Q92 **Greg Smith:** Thank you, Chairman, and good afternoon to the witnesses. I want to turn to some of the detail about the practicalities of where the joint bodies under the TCA have actually met. Can we start with your broad assessment of how successful any of the initial meetings of those joint bodies have been, and can you reflect in your answers, please, whether there is any evidence that they have contributed to the effective functioning of the agreement, or whether they are less effective? Let's mix the batting order up a bit, after the last one. Sir Jonathan, perhaps you could start.

Sir Jonathan Faull: All right. I hope our friend from EFTA understands all this cricket stuff, by the way. There have been meetings. There are agendas published. There are minutes published. The published agendas and minutes do not tell you very much, I have to say. There are disputes that do not seem to have occurred. There is a lot of practical co-operation going on beyond the headlines. I think there must be some successful co-ordination taking place and some successful discussions. I am not privy to them anymore. I am an outsider now as well. We all know the celebrated issues on which there are difficulties and disagreements, but there are many more on which there do not seem to be any. I can only assume that the system created is therefore doing what it was set up to do.

Q93 **Greg Smith:** Thank you. Mr Rycroft, what is your take on the meetings that have happened so far of these bodies?

Philip Rycroft: I think there is going to be a grave risk of Jonathan and I agreeing on everything. I share that assessment. From what I can gather, the first meetings of the Partnership Council and of the various sub-committees have been very collaborative and co-operative. I think that is reflected even in the rather dry language of the minutes, but it is worth emphasising that this is very early days. We do not know yet, in terms of the working out of the deal itself, the issues that are arising, and what is expected in terms of, for example, the additional bureaucracy at the



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border for those who are trading between the UK and the EU. There are lots of issues there, but that is baked into the fact that we now have a trade border that did not exist some months ago.

What are the expected consequences of the deal? What are teething problems that will work themselves out over the next few months? What are issues of misunderstanding that are resolvable or where, which will be the nub of it, one side or the other believes that the other side is not meeting its implementation obligations? All of that will take time, it seems to me, to emerge, but even in the first meeting of the Partnership Council you see the sorts of issues on the agenda that will be of concern moving forward—the UK worrying about the way that different member states are applying the extradition rules, for example. On the other hand, the EU was concerned about the differential in charging for visas between different member states. The EU emphasised that there is no chance of equivalence on sanitary and phytosanitary measures, despite the UK saying we are broadly in the same place, certainly at the moment, in terms of the rules and regulations. Those are the sorts of issues that will be, it seems to me, standard fare for the Partnership Council and the sub-committees as we move forward.

Now, as far as one can tell, they have embarked on that journey in good order and the system is functioning; the committees are meeting. But the relationship on the TCA itself has barely been tested. Of course we have an example of where such structures are being tested very hard at the moment, which is in respect of the Northern Ireland protocol. So far, the system—despite lots of alarms and excursions—is holding up. Discussions are going on as we speak in Brussels. So there is an example there of the institutional infrastructure, even where there is a fairly fundamental disagreement about the nature of the deal done, holding up and keeping the two parties in discourse and dialogue. Let's hope that continues.

Q94 **Greg Smith:** Thank you very much. I will just pick up on something you said there about how long it takes to bed in, if you like; how it will take time to judge whether these joint bodies will be successful. I appreciate that this is a free trade agreement that does not really have a direct comparator anywhere in the world, but in terms of other FTAs that are operational—either with the EU or indeed between third-party countries and other third-party countries—how long would you expect it to take to be able to judge the effectiveness of such bodies?

Philip Rycroft: That is, as you say, a difficult question to answer and the caveat that you put in is an important one. As the Chair has suggested—again, I probably would not use the word “revolutionary”—this is a very major change in our trading relationship with the EU. The agreement sort of accepts that by giving a timeframe—I think it is four years—for amendments and corrections to omissions or mistakes that are embedded in the agreement itself, for those to be ironed out.

If you look at the practice on trade deals around the world, you will see that they are long in the negotiation and sometimes long in the



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implementation and approval, in terms of getting them going. So these things do take time.

Therefore, it would not surprise me at all if there were still issues arising about expectations differing about how this should function a year or 18 months down the track. This is going to be a long haul; it is not a short, sharp sprint.

Sir Jonathan Faull: The other thing that has happened, of course, which nobody could have predicted, is the covid-19 pandemic. That has almost put our economies and a lot of our trade into suspended animation, and meant that it is very hard to read data at the moment to discern longer-term trends. A lot of the working out of the implications of the trade and co-operation agreement has not really started; that work will only start once economic relations get back to something like normality and one can begin to see what problems are arising, if any.

Q95 **Greg Smith:** That is very helpful; thank you. Ms Hoff, do you have anything—a viewpoint—on this? What is EFTA's view?

Hege Marie Hoff: I could not pronounce on the success or efficiency of the bodies under your TCA. Of course, what I could shed some light on, if you like, is the body set up under the EEA agreement, but I do not know whether that is relevant for you.

Q96 **Greg Smith:** I suppose that, as a comparator, it could be.

Hege Marie Hoff: Yes? Okay. Just to start off, the EEA agreement is, of course, very special, in the way that it is not a regular free trade agreement. It sets up the European Economic Area with common rules and equal conditions of competition. For that to happen, it is a dynamic agreement, which means that all new EU legislation that falls under the scope of the EEA agreement is continuously incorporated into the agreement, because the agreement extends the internal market to the three EEA EFTA states. It is a dynamic agreement and it is a homogeneous agreement, so we have to make sure that the rules are applied and enforced in the same way.

The institutional set-up of the agreement and the joint bodies set up according to the agreement are very much geared to ensuring that there is dynamic co-operation. We have the EEA Council, who meet on the political level to give political impetus to the co-operation and assess the overall functioning of the EEA agreement. They meet twice a year and include Foreign Ministers from the EEA EFTA side, the Council of the European Union—represented by the presidency—the European External Action Service and the Commission. A meeting results in conclusions, which are then made publicly available. This Council can adopt decisions, but that very rarely happens.

Of course the Council will give directions to the EEA Joint Committee. That is the most important committee set up according to the EEA agreement. It is where the contracting parties meet to take decisions on incorporation of new legal Acts into the EEA agreement. That is really the core of the



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agreement—to make that happen and in a timely way as well. The parties meet, on our side, on the ambassador level. Now, we meet with the EU's External Action Service. The parties' decisions are adopted by unanimity, so that the EFTA states speak with one voice and the EU side with one voice.

This is the core of the decision-making structure, and all decisions are public. Of course, to prepare for decisions, we have a set of sub-committees covering all the different policy areas within the internal market. This has functioned very well, I would say, over the 27 years. That is the view of the contracting parties. It is an efficient system, but of course it requires resources at all times, so that we have this dynamic and homogeneous area.

Q97 Greg Smith: That is very helpful; thank you. Let me move on to the next question, which is related and is for the whole panel. It is apparent, from what we have seen published, that some of the specialised committees have met more than once and some have not met at all. Notwithstanding the comments earlier, particularly from Philip Rycroft, about time being needed to bed in, is it typical that some committees and bodies simply would not meet at all, while others are meeting fairly frequently? In your experience—it might be interesting to get Ms Hoff's view on this, given her explanation just now—how often do equivalent bodies under other agreements, albeit different from the TCA, actually need to meet in order to facilitate those agreements in the best possible interests of both parties?

Sir Jonathan Faull: First, given the circumstances in which we are all living, it is not surprising that the pattern is a little unclear to start with. I would not read anything—I was about to say too much, but anything—into the fact that certain committees have not met. It means that neither side has felt the need that they should. It could be because things are going swimmingly, that no problems have arisen. They can of course meet virtually, so the pandemic cannot take the blame for everything.

But how often they meet, when you look across the entire range of the European Union's foreign relations, which are reduced to agreements that contain such mechanism—I mean, EFTA is a permanent non-stop negotiation, or the EEA is, between the EFTA countries that belong to the EEA and the European Union institutions. Even above—or below, depends how you look at it—the level of the institutional bodies, there are daily contacts between officials on issues of concern, and some will be of more concern to some countries than others. You can imagine Norway being very interested in fish, and I imagine slightly less interested in wine growing near the Mediterranean—something like that. It depends very much.

That is the EFTA-EEA relationship, and there is the relationship with Switzerland, for obvious geographical reasons, which is different. Switzerland is not in the EEA, but it is linked to the EU by stuff, individual agreements, and it is a member of the Schengen area to boot. There are endless discussions with the Swiss on all sorts of things.



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The further away you get from Europe, the less frequent such meetings have to be. There is quite often a set-piece summit sometime in the year for which preparations have to be made. Occasionally, problems arise that need to be discussed in bilateral relations, and the bodies are there to do it. But it can indeed be the case that quite some time can go by without those meetings taking place.

Greg Smith: Fair enough. Mr Rycroft?

Philip Rycroft: I have just one or two things to add to that. Baked into the agreement is an expectation that the Partnership Council should meet at least once a year, and that the committees should meet at least once a year. For some of them, in the short term, medium term or even long term, that may be sufficient. For others, there will be a different dynamic to it: we always come back to fisheries—given the nature of the management of fish stocks—and that committee, I suspect, will meet more frequently than, for example, the committee on energy. We will have to see what sort of routine they get into.

Two things to note: first, the fact that the committees are not meeting formally does not mean to say that there is no contact between the relevant officials. That contact will be frequent, and there will be plenty of exchanges of views over the course of any given year. Secondly, building on that, if one party feels that they need to escalate an issue to a formal committee or to the top of the heap, in the Partnership Council itself, to get that political engagement, it is of course their right to call a full meeting.

Meetings will happen if required, but in the nature of these things, committees will not meet if there is no formal business to be transacted. My personal view of this is that we have not yet seen the rhythm that will be established for the medium term. I have no real concerns about what has happened hitherto. I think it is just going to get going. If the Committee comes back to this in a year's time, for example, you will have a lot more data to assess for just what the longer-term rhythm might look like.

Greg Smith: Thank you. Anything to add, Ms Hoff?

Hege Marie Hoff: Given that the EEA agreement entails participation in, and taking forward all legislation pertaining to, the internal market, the agreement would not function if we did not meet often and regularly. Of course, also, there is contact every day outside the regularly set meetings. Since the agreement entered into force, we have incorporated some 14,000 legal Acts into the agreement. Apart from that, there are discussions at all levels. We have 50 working and expert groups that meet. Some meet more regularly than others. It depends on the EU agenda and the legislation at hand. Also, during covid, we have had the same regularity in meetings. The whole machinery has been running, but online.

Greg Smith: Thank you very much. Back to you, Chairman.



Chair: Thank you very much. David Jones, please.

Q98 **Mr Jones:** I would like to ask the witnesses what their assessment is of the obligations as to the transparency provided for under the trade and co-operation agreement with respect to the publication of the agendas and the meeting minutes of the Partnership Council and specialised committees. Mr Rycroft, would you like to start?

Philip Rycroft: Clearly, the commitments are there on transparency. We have seen that functioning. As somebody pointed out earlier on, you don't necessarily learn a huge amount from the agendas or the minutes, but this is fairly standard practice. As an unreconstructed bureaucrat, I recognise the need for negotiations to have some space in which to negotiate and do the deals. This is the sort of transparency in terms of the functioning of the bodies themselves that one would expect. Of course, this is an agreed transparency, because there has to be an agreed set of minutes and agendas and so on.

There is in some respects a more interesting question for both sides unilaterally to think about, which is the transparency around the way in which they arrive at their negotiating objectives. It is transparency linked to engagement, linked ultimately to the influence of third parties in the UK context—so business, devolved Governments, civic society and indeed Parliament itself. How transparent that process is is something that I think is hugely important. The EU will obviously have its own procedures with that, and has to get agreement across the member states as well, which is an additional set of processes they have to go through.

Transparency is very important. It needs to be looked at not just from the perspective of the functioning of the institutions, but also from the way in which both sides bring positions into those debates.

Mr Jones: Thank you. Sir Jonathan, do you have anything to add?

Sir Jonathan Faull: Not really. I think this is following well-established precedent. The only people who could push for more transparency are yourselves and your counterparts, in parliamentary scrutiny in the UK and the European Union, by asking questions. What we have got at the moment is a fairly standard set of agenda items and a fairly standard set of minutes on each of those items, which tell us what has been discussed, sometimes in rather general terms, but very little about how whatever was agreed or not agreed came about. That is par for the course. If people think it is unsatisfactory, there are ways of trying to shine lights on to it.

There are also leaks, of course. Some of these issues, it so happens, are of great public interest, or at least of great interest to the media. Therefore, unlike the daily grind of EU-EFTA discussions on the EEA, there is more interest, at least at the moment, than usual. That is not necessarily a bad thing at all, so perhaps more sees the light than would otherwise be the case, but the way it is handled so far is very much the way in which these things are usually handled.

Q99 **Mr Jones:** Thank you. Ms Hoff, are these obligations reflective of the



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similar obligations in respect of the EEA agreement?

Hege Marie Hoff: I should think so. We publish the agendas for all our meetings, and we also keep a public journal here in EFTA where all the documents are listed. Some are directly accessible; for others, you have to ask for access. Of course, by reading the agenda, you know what has been discussed and can follow up on that by asking for more access. The Joint Committee decisions are always publicly available, but as has been said already, we do not get that many requests for access. I think most of them are directed towards the member states. For transparency reasons, it is important for us. We take it very seriously and try to cater for it but, for the public, what happens in the member states and the processes there is most important, and that depends on the policy adopted by the member states. But certainly, as regards Norway, it strives towards transparency in its daily work, and I think Iceland is the same.

Mr Jones: Thank you.

Chair: I should just mention the fact, for the benefit of those who are being interviewed, that we are taking an active role in trying to ensure greater transparency, and we have made that clear. We know the House of Lords takes a similar view. We will be reporting in early January on the question of transparency—I thought I would just put that on the record. Anne Marie, would you like to take the next question?

Q100 **Anne Marie Morris:** Yes, I will, but I suspect it may already have been answered in response to Mr Jones's question. Mine was a much broader question. I think Mr Jones was trying to tease out minutes and agendas, but my question was going to be much more around the specialised committees, their overall approach to transparency and whether you felt that both sides had adopted the right approach and attitude, particularly as some of them have only met once or not at all. Do you have any further comments on that broader front?

Philip Rycroft: Not particularly, other than to reiterate the importance of those with an interest in what is being discussed in those committees having been engaged prior to those committees meeting. I have looked a little bit at what the UK side is doing on that in terms of engagement with business and the devolved Governments. It is good to see that the devolved Governments get to send a representative, as I understand it, to the Partnership Council meetings. I think you have had, as a Committee, broad commitments about transparency to Parliament.

But when you get to the technical committees, it is just worth remembering that some of this stuff—they are called technical committees for a reason—will be deeply technical, and some of it will be deeply dull to the vast majority of citizens. But for some people and businesses, it will be of huge importance. The expertise will often reside with those businesses or, in some contexts, with civic society, so it is hugely important that the UK Government consults those interests but is also responsive to their points of view as it formulates its negotiating position.



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You had Mike Cherry—this is an example among many hundreds of examples that one could choose—from the Federation of Small Businesses talk to you about the one-stop shop on VAT and whether that would be accessible to British businesses. He talked about achieving mutual recognition between the UKCA mark—the conformity assessment mark—and the EUCE mark. Here is an example of where our leaving the EU has caused divergence in the regulatory environment and where a business group is arguing for that to be brought together again. So one of the tests, it seems to me, of the transparency will be not just whether the Government is listening to people, but whether it takes account of those views. Again, it's early days, but we will see how that plays out over the months and years ahead.

Chair: Thank you very much. Jonathan Faull, do you have any further points on that?

Sir Jonathan Faull: No, I agree with what Philip has just said.

Q101 **Chair:** And I rather think you have covered the points already, Ms Hoff. Moving on, therefore, to the next question, I am going to ask about the Partnership Council. How important will the Partnership Council and specialised committees be for managing the UK and the EU's new relationship? Will they be front and centre, do you think, in the UK's dealings with the EU or, in practice, are they likely to be used only for more technical concerns relating to implementation of the TCA itself? What is your sense of that? I will ask Jonathan Faull to begin. I suppose it's a slightly political question.

Sir Jonathan Faull: It is, with respect; I will tread cautiously. I think it will wax and wane, depending on the subject at hand, the interest and the political investment that the leaders want to make. One can think of circumstances in which the really difficult, important and, perhaps, attractive issues are dealt with by the British Prime Minister on the one hand and the leaders of the Brussels institutions and perhaps some of the member states on the other, and one finds that a Franco-British summit in Paris, a meeting with the German Chancellor or a G7 meeting becomes the forum at which issues that might otherwise have been discussed in the Partnership Council are dealt with. If that happens, and if that happens often, there is indeed a risk that the Partnership Council will be left with the more technical issues. However, if the politics is clear, if the political direction given on both sides—on all sides—is both clear and generally coherent, then, within that setting, I would expect the Partnership Council to play a fuller role. My guess is that it won't always be one or the other; it will, from time to time, vary, depending on the traditions that are set in this early period perhaps, the personal relationships between the leaders and the sensitivity or otherwise of the issues.

Chair: Thank you very much. I think, Ms Hoff, that that is probably a question better left to the other two; it's a bit outside the scope of EFTA probably. David Jones, would you like to follow up with the next couple of questions?



Q102 **Mr Jones:** Yes, I am interested to know what you think will be the role of the national Governments and embassies post the new arrangements. You have indicated, Sir Jonathan, that the more political questions will probably be left to politicians, but I am interested to know how the embassies will interface with Governments. Will their roles be subsumed entirely, do you think, or partially? I don't know whether Sir Jonathan wants to deal with that one first.

Sir Jonathan Faull: Since the advent of the mobile phone, instant messaging and all of that, we have all seen that leaders are in more regular contact with each other than they used to be when they had to take a plane or a train and have a formal meeting, or write each other letters or, in emergencies, telegrams. That has all changed, and the role of embassies has therefore changed, but they remain extremely important. Within the EU, first of all, the permanent representations to the European Union of its member states are much more than traditional embassies. In fact, they are not traditional embassies at all: they are part of the decision-making system, in close contact with Governments back at home—and Parliaments too, no doubt—and in an endless daily round of networks with their counterparts from other countries and third countries.

For third countries, which the United Kingdom now is, to engage in the Brussels process, you need—as the UK has—a permanent mission with highly trained men and women who know the way the EU works, who know the quirks, the traditions, the jargon and the languages, and can slot into what is another great merry-go-round of diplomatic discussions. The closer the country is to the EU, politically and geographically, the more intense all of that is, so it is certainly not receptions and Ferrero Rocher and all of that. It is much more similar, frankly, to the work of a senior civil servant: interacting with colleagues, reporting back to Ministers, and in the case of the ambassadors—the permanent representatives and the permanent heads of mission—interacting often with Prime Ministers themselves. It is changing all over the world. In Europe, it is of a different quality altogether, because the European Union is one great big negotiating machine—a permanent negotiating machine—and whether you are a member state or a recently departed ex-member state, you have to be part of that.

Q103 **Mr Jones:** Presumably, the interactions that you have just been outlining will be used to inform, possibly, the agendas of the Partnership Council and so on, and what actions will be taken after the councils have been held. Would that be fair to say?

Sir Jonathan Faull: I am sure it's very fair to say, absolutely. I think your permanent mission, with its ears to the ground, will be picking up issues that are arising, views that are being taken, gathering intelligence, reporting back intelligence and seeking instructions, and then after the formal meeting—way beyond what the outsiders can read in the formal minutes—giving life to what has been agreed, and so it goes on until the next time.



Philip Rycroft: That sounds very familiar, if you like, from the way things worked in the old world and will continue to work in the new world.

Just to pick up a couple of points, in terms of bilateral relationships with individual member states, the proposition that the UK is going to have put more effort in through its embassies to sustain those relationships is, I think, true. I think the UK Government of the time will find that it has to adequately resource those embassies in order to achieve that. That will not, however, be a substitute for the deals that will need to be done at EU27 level. Anything that is formal through the TCA will have to be transacted through the EU mechanisms. We all know that: we saw what happened through the withdrawal agreement negotiations. You cannot divide and rule in this context. If it is about the UK-EU relationship, that will ultimately have to be transacted with the EU, and of course the TCA mechanisms are there to support that, not exclusively—as Jonathan has outlined—but nevertheless, hugely important.

In that context, it is just worth saying that the UK mission to the EU plays an extremely important role. When we were looking at this when I was in Government, my working assumption was—slightly paradoxically—that the resources required for the UK in Brussels to operate once outside of the institutions would actually be greater than as a member state, because the job of influencing from outside is more complicated: it requires different skills, and I suspect that, over time, we will find that it requires more resource.

This is mirrored in the way that civil service numbers within the UK as a whole have grown since Brexit. The latest figures I saw are up by more than 20%. Some of that may be down to covid, but a good part of that will be because we have onshored a lot of the regulatory systems that used to be managed as part of the EU, which has required a commensurate increase in resource. It is not just numbers but skills and aptitudes. This is a different game from the one we were playing when we were a member state. It is very interesting, and it will be fascinating to see how this unfolds over the next five or six years.

Q104 **Mr Jones:** Ms Hoff, to what extent are the procedures we just heard described reflective of those that the EFTA states go through in their dealings with the European Union?

Hege Marie Hoff: I think they are very much reflective of what Mr Rycroft explained just now. Our missions are crucial to the running of the EEA agreement and to the interests of the member states. When it comes to serving and participation in the joint bodies, the ambassadors are the ones who participate in the Joint Committee. The deputies prepare all the work. The same goes for the EEA Council. The meeting takes place on a political level, but it will be our missions that prepare those. Of course, the missions—Norway, for instance—would have specific councillors following each and every policy area covered by the EEA agreement, so there will be extensive contact with the EU institutions, which is crucial, and very close contact with the Governments back in capitals, and they of course also follow instructions.



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Chair: We now move to a series questions that are basically on the practical operations of the TCA joint bodies and equivalent structures in other FTAs. I think many of the answers will be fairly brief because it is a question of what you understand actually goes on in practice, rather than in opinion.

Q105 **Anne Marie Morris:** We heard a little bit from your responses to Mr Jones how the, if you like, interactions with other bodies, parties, Governments, the G7 and so on are all fed into the preparation for these meetings, but I think we would find helpful a broader description of what typically are the sort of issues that are considered when look at preparing for a meeting. How are the agendas put together? Who is consulted on what is on that agenda? Do parties get the opportunity to quiz, if you like, and ask for additional things to be added or removed? Do they have enough time to view the agenda to be able to contribute? Ultimately, who is responsible for driving the setting of the agenda, politicians or officials? That is quite a lot, but it seemed to me sensible to explain the shape of the overall question to enable you to answer it in one. Sir Jonathan, do you want to have a crack at this?

Sir Jonathan Faull: Certainly. From the Brussels end, which is what I know about, you would have a process where a date has been set—for example, on Wednesday week there will be a meeting of the specialised committee on public procurement or public contracts. The responsible body somewhere in the Commission would first of all ask its colleagues in the various other Commission departments for ideas, problems and issues that need raising. They would talk to dates through the Representations in Brussels, from which the message would go back to Paris, Berlin, Copenhagen and everywhere else, and a trawl of the issues would be conducted. All the while, they would be talking to their British counterparts about the sorts of things that they would put on the agenda. The agenda is set together.

Presumably, the British counterparts are doing something similar in the UK with the devolved Administrations and communities, and of course talking to their political bosses about what they wanted the focus to be on. At the end of the day, the sign-off on the agenda proposed to the other side would be endorsed by a Minister or Commissioner if the meeting were to take place on matters of anything other than purely technical importance.

Even the question of what is technical is a political judgment sometimes. Through the interplay between Commissioners' private offices and Ministers' Department, there would be political endorsement. Something that looks terribly technical, like rules of origin for parts of a car, could provoke massive interest in the car industry and indeed in the politics of both sides as well, for obvious reasons.

I said Wednesday week, but the planning has to be longer than that, because there are widespread consultations and of course—let us be honest—the sensitivities of the overall relationship mean that more care will be taken today about a forthcoming meeting with the UK than with,



say, Fiji, because of the importance of the relationship in the early stages of this new phase.

Anne Marie Morris: Mr Rycroft, what are your observations?

Philip Rycroft: If I could do the counterpart to that, as to how this might operate on the UK side, it is worth pointing out that as this whole process gets established, the sorts of issues that will be discussed will rarely come out of a blue sky. Issues will appear to need discussion over time and will come back again, so on both sides there will be well-established networks of those who have an interest in those issues feeding into the stance taken, in the context of what I am describing, by the UK Government.

You asked whether, ultimately, this is under political control. Of course it is. What the civil service does, the instructions it takes into those meetings, will ultimately be signed off by Ministers. The level of political engagement by Ministers will of course vary hugely depending on the issue. If it is a detailed or technical question, Ministers will have signed off the overall direction of travel, will have set the parameters within which the team may negotiate, will expect the reports back and will expect to be informed if it looks like the negotiations are going off in an unexpected direction, but a lot of the heft and the hard work will be done by civil servants meeting their Commission counterparts in deeply technical meetings.

There are of course escalation mechanisms within the UK Government. I used to co-chair something called Barrow-Rycroft, which was the last emanation of a long-standing committee that was jointly chaired by the permanent representation, UKRep, on the one hand, and the head of the Cabinet Office arrangements on the other. Tim Barrow and I were the last in that long lineage.

Barrow-Rycroft was a meeting of officials that brought together under the auspices of the Cabinet Office and UKRep all interested Departments to ensure that all issues that needed to be registered, particularly ultimately with the Prime Minister, were registered, that there was political clearance for negotiating lines and that priorities had been determined. That became very intense around European Councils.

Similar mechanisms right through the system are hugely important to ensure proper co-ordination of positions. That is not just within single dossiers because, of course, there may be read across from one dossier to another.

I am obviously out of the system now, so I am not party to precisely how the Cabinet Office works those things out these days, but I understand that they have similar sorts of arrangements in place. It is very obvious and very natural that you need that, particularly for the point that you make about the importance, ultimately, of political line of sight on what is going on—at the top level, but also right the way through, even into the more technical discussions.



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Q106 **Anne Marie Morris:** Ms Hoff, do you have any particular observations on agenda setting?

Hege Marie Hoff: I concur with what has been said. Now, of course, when it comes to the EEA agreement, we have 27 years of practice and well-established procedures. It is a smooth-running operation and, as has been said, it is ultimately all under political control, but the level of political attention depends on the body.

Of course, we have one political body, the EEA Council, and there is more political engagement. In other committees, it would be more on a technical level, but of course positions and negotiations have already taken place under political instruction.

Anne Marie Morris: Thank you. That is very helpful.

Q107 **Mr Jones:** I am interested to know what these meetings look like. It is practical question. I suppose it depends on the sort of meeting and what is being discussed, but how many people would typically make up each delegation from each side? What sort of cross section of positions, skills and responsibilities are usually reflected in these meetings? Mr Rycroft, you've got extensive experience of this.

Philip Rycroft: I have some experience in different contexts. I detect a civil servant manqué there, Mr Jones, since you're interested in the precise working out of these things. The answer is whatever is proportionate and fit for purpose. You need the folk in the room who can deal with the issues that are under consideration, but if you allow these things to get too big, it obviously becomes difficult to have the sorts of discussions that might lead to constructive conclusions. In my experience, there is no one easy or straightforward answer to that; it clearly depends.

The important point is the one that you alluded to when you were asking the question. It is about knowing that you have the folk in the room, from either side, who have the understanding of the issue, so that they can actually have the appropriate discussion. It may be that there are some people in the anteroom who can be asked a question offline, as it were—although, indeed, they do not need to be physically present these days either—but within the room itself, you need sufficient expertise to be able to conduct the discussion without swamping the room with so many people that you can't actually have a negotiation. That is the sort of balance that you need to strike, and that will differ depending on the issue under consideration, the context, and how politically difficult—or otherwise—that the issue might be.

Q108 **Mr Jones:** What sort of size of delegation would you expect at a full Partnership Council meeting—both those in the room and those in the anterooms?

Philip Rycroft: I genuinely don't know the answer to that. That is a question you might ask of those who were at the first Partnership Council meeting. However, if you put in a Minister, devolved Government representation, support for the Minister, PSs and special advisers, you are



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heading towards 10 to 12 or so on the UK side of the table. I would have thought was manageable. If it goes over 15 and up to 20, then you are looking at an audience rather than a negotiating team. Instinctively, that is where I would say your cut-off point would be.

When I worked in the coalition context, I used to look after one side of the coalition's interests in the entourage of David Cameron when he went off to Council meetings. That is clearly a very different context because in the actual meeting, that was just the principals, but in the UK delegation room, there would be maybe 10 or 12 of us there to support the Prime Minister in what he was seeking to achieve. That will give you a flavour of how these things operate. As I say, that is very *sui generis* to the occasion, but hopefully that gives you some indication.

Q109 **Chair:** Sir Jonathan, anything to add to that?

Sir Jonathan Faull: It is exponentially more complicated for the EU. The Commission's tendency, which will not surprise you, is to say, "Well, we will deal with it. We are the one voice speaking for the whole European Union", but when the United Kingdom was a member, it was far from being the only member state which would not have taken kindly to that. You have most, if not all, member states in the room or outside it and, depending on the interests of what is being discussed, people from the capital, people from the permanent representation, civil servants, private office members and so on.

You obviously need some representative geographical coverage. You need experts in whatever is being discussed. If it is origin of goods, you need customs people there who know what the rules are, how they apply and what the implications of a 0.25% and 1% on steering wheels is going to be. You need lawyers, I am afraid—I speak as one myself. Life might be easier without them, but this is ultimately all about rules and their interpretation, and what might or might not be acceptable to judges one day, so you are going to need a lawyer on your team.

With the EU being what it is, you will have the cabins of the interpreters around the room, because people will want to speak their own language, and they are perfectly entitled to. It very rapidly becomes a rather large room, which, of course, is not necessarily conducive to the finesses of negotiation and trade-offs, if that is what the agenda leads to—it does not have to, of course.

There is an unfortunate tendency, and it is very hard to know what to do about it, for the formal meetings to be rather formal, and for lots of work of detail to be carried out next door or somewhere else and brought in only when it is ready for formal agreement. That is not necessarily the way it should be done, and either side can, at any time, say, "No, I want this aired. This is the meeting"—or the council or group, or whatever it is—"where it needs to be discussed".

They will develop their own habits of work. Again, the precedents are there because they are modelled on things that already exist, but the



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relationship is a different one, so it will take a different course. They will take a different course. The influence of the chairs will be important, as will, once again, the delicate sensitivity or otherwise of whatever is being discussed.

Q110 **Chair:** It struck me, listening to this dissertation, what would Winston Churchill, Margaret Thatcher or De Gaulle make of the back-up? They clearly would not always have had that in the same way, whether that would be advantageous or otherwise. I think De Gaulle would have the word, “Non” at the ready quite often, as well as Winston Churchill and Thatcher.

In other words, regarding the importance of the decision-making process at the highest level, do you get the sense that their views would cut through this, and they would not want to get too involved in some of the detailed discussions that a large delegation of this kind would involve?

Some of the issues are much more clearcut to what I call “the great statesman”. They just know what they believe to be in the interests of their country. What is your feeling on that? I don’t want to deprecate the important work done by civil servants in any way—heaven forbid. However, I remember John Kerr was supposed to have been under the table at one stage, trying to keep the Prime Minister, who was floundering around, on the straight and narrow. Can you give an insight into the extent to which the big political questions remain the bottom line for people?

Philip Rycroft: I am happy to start on that one. In a sense, you answer your own question. The big political issues remain the big political issues. As we saw through the negotiations for the withdrawal agreement and the TCA, the ultimate settlement requires intervention at the highest political level. That intervention should come at the end of a process where, if that has worked, the issues will have been winnowed out under political instruction from both sides: where there is agreement, it is politically signed off on both sides; where there is disagreement, the negotiators will—if they have done their job well—understand precisely what the nature of the disagreement is, and they will then be able to provide the principals with the opportunity to make the compromises necessary to get an agreement over the line.

You do not need to go back as far as Winston Churchill to see that happening—or, indeed, to Mrs Thatcher—in the context of the European Council. That is slightly different: the UK, as one member state, deployed its instruments as best it could in that context. You have also seen it happening in the negotiations for the withdrawal agreement and the TCA, as I said, and in negotiations for other FTAs as well; signing off a deal with Australia may not be at prime ministerial level, but if that comes over the next few days, ultimately it will be a political sign-off, with the last remaining issues having been sorted out by the political principals. Ultimately, only the political principals can make the necessary compromises to secure those agreements.

Chair: Jonathan?



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Sir Jonathan Faull: I agree completely, Sir William. The great statesmen and women with properly run and functioning civil services will identify the political issues that the leaders need to decide on. "Are we going to let Turkey join the European Union?" "What are we going to do when the Berlin wall comes down?" "Are we going to have the euro or not?" Anybody can see that those are big issues, and they have to be dealt with at the top level.

The leaders have to be properly prepared, and the systems under them need to be able to look into the daily morass of thousands of apparently technical issues and discern what will actually be political for one or more of their leaders. Again, the rules of origin of some obscure car part could create a lot of fuss.

Churchill did what he did, and he sent Beaverbrook out to do what he had to do; he had an entire machine under him. I am sure that is true of De Gaulle, Margaret Thatcher and other leaders too.

I would add that this was obviously the case in the European Union. It invented an entirely new institution with the confusing name of the European Council, which is neither the Council of Europe nor the Council of the European Union. It started off as a fireside chat somewhere in the Caribbean, in the French Antilles, under Giscard, where leaders got together to talk things over—there were fewer of them in those days. It is now a regular and, indeed, the supreme political institution of the European Union, because it was realised that, given the degree of integration in the EU in the intervening years, more and more things were of leader importance; what the Germans call *Chefsache*—literally, a leader thing. Only the leaders are sufficiently empowered and legitimate to take those big, fundamental decisions. The civil service job is to make sure that nothing escapes that process—that something is not missed that turns into a row later on.

Q111 **Margaret Ferrier:** I have a couple of questions. The first is really off the back of what the Chair has already asked, but maybe a yes or no answer. Are these meetings used as a forum for live negotiation between politicians, or do they typically just serve to rubber stamp conclusions that have already been pre-negotiated between teams of officials? Secondly, can you provide a high-profile example of when the work of a joint body helped to resolve a difficult free trade agreement issue, and offer thoughts on why that was?

Sir Jonathan Faull: I think the short answer is both. Some of what they do will be simply to endorse agreements that their officials have found, briefed them on, and followed their instructions on, but that there is no need further to discuss. Secondly, they will have to negotiate themselves, which is why people end up staying longer than they expected to, planes are left ticking over on runways, people have to find hotel rooms at three in the morning, and sandwiches are brought in—there is also a tactic, of course, of starving people into submission in these things—because nobody could decide but the bosses and the bosses find it hard to decide.



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But they do not want to fail, so they do not leave wherever they happen to be until they have found some agreement.

One live example that comes to mind was between the European Union and Canada about a Canadian speciality called ice wine, which is apparently—I say apparently; I have drunk it from time to time—a sweet white wine, made from grapes that are just beginning to prune. It is in Europe a speciality known in Germany and Austria, and I think in Switzerland too, under the German name Eiswein. This was brought to Canada by German settlers in Canada. They carried on—there is lots of ice in Canada too—making this ice wine stuff until the EU and Canada had an agreement, and the Germans and Austrians, and no doubt the Swiss badgering from outside, said, “We have to tell the Canadians that they can call this something else, but they can’t call it Eiswein because that is the traditional appellation in the German, Austrian and Swiss Alps.” I may get some of the details of the story wrong, but you get the general picture.

Surprisingly, because you would think that this could be sorted out by the officials, all sorts of ideas and trade-offs were floated and tried, and it eventually went to the very top of an EU-Canada summit. I happened to be present. It was in Canada. The Canadians rather cheekily served this beverage at the meals, of course. Can I open parentheses? In my very young days in the Commission, and some of you will remember, something called British sherry, which the Spaniards complained bitterly about. In similar circumstances, I brought some bottles of it into a meeting in the Commission once where this was being discussed, and most people tried it. The Spaniards, of course, refused even to taste it.

Anyway, the deal was done, but the deal was done at the highest level by the leaders. It involved various trade-offs, and the obvious solution was that, since German is not an official language of Canada, they would not use the German word, but they could call it ice wine in English, or vin de glace in French, which are the official languages of Canada, and everybody lived happily ever after. But—a failure, perhaps, on the part of the civil servants—the deal was not possible until the Prime Minister of Canada and the other leaders were in the room. That is a minor, anecdotal, not very serious example, but it sometimes happens.

Q112 **Chair:** Thank you very much. Ms Hoff, do you have any thoughts on that one?

Hege Marie Hoff: As regards the EEA Council, on a political level, they adopt conclusions and the conclusions are negotiated and agreed on beforehand. Nevertheless, the parties attach great importance to those conclusions and take them with them in their co-operation.

I have one example of a recent issue that was brought up in the EEA Joint Committee, where the EFTA state called for a urgent meeting. The EU, during covid-19, adopted export restrictions on medical protective equipment. On the EFTA side, we found that to be in conflict with the EEA agreement itself. It was brought up in the Joint Committee, discussed, and the matter was solved and we were exempted from those restrictions



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following the discussions in the Joint Committee. That is a concrete example.

Q113 **Chair:** Thank you very much. Last question: if you could make one recommendation to the UK and EU officials working on these joint bodies on how to try to get the best possible outcome of the TCA, what would it be and why? I am going to ask Philip first and then move to Jonathan. What is the answer that you would give? What is the best recommendation?

Philip Rycroft: I have to caveat my answer by saying that the really important stuff in these sorts of contexts is ultimately political, so as a civil servant, I would not be expecting to take, if you like, quasi-political initiatives in these contexts—I would be expecting to do the will of the Ministers that I work for, and that is reflecting not just their wishes in terms of the precise negotiating details of the issues under consideration, but also ultimately the tone of the relationship. If Ministers want this to work, then I would put my back into it as a civil servant to make it work and to deliver the best outcome for Ministers.

That is not to say of course that you cannot develop good relationships with your counterparts because through those good relationships, even if times are quite difficult, you get intelligence about what the other side is thinking, which is useful to your Ministers.

If I put my old hat on, what would I be saying to Ministers in this context? I will keep this brief. It seems to me that the risk of friction in this relationship, given its starting point and where it might go, is in that whole question of divergence. So, if I was advising UK Ministers at this point, I would be saying, "If you wish to diverge further, think very carefully, do the cost-benefit analysis of what that might mean in terms of the impact on the relationship and what would be the countervailing economic advantage to the UK and businesses located in the UK, and if that comes up with a negative, think very carefully before stepping into that space." That is the advice I would give as a good official, because that is ultimately about the benefit to the UK economy. Whether I would be listened to is a very different thing, but I will leave it at that.

Q114 **Chair:** Jonathan, what is your final thought?

Sir Jonathan Faull: You will not be surprised that it is not terribly different. Leave the politics to the politicians, do your professional best, your utmost, to consider all the implications of what you are doing. Indeed, impact assessments should be more than a box-ticking operation. Everything that is done, particularly in this early phase of post-Brexit relations, will have an impact on both sides, and we are doing it at a pretty unprecedented time in the world economy. Let us hope that the fog of the pandemic lifts and then we get down to the—rather short now—21st century. My own view, it will not surprise you, is that there is a lot more in common between Britain and the rest of Europe than there is that divides them. They should seek together to respond to the challenges facing all of



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us, which are pretty similar because of our common history and geography.

Civil servants should be honest and professional—upwards, downwards, sideways—in all their dealings. The political judgments—there will be very big ones—should be taken by the elected politicians responsible to Parliament.

Q115 **Chair:** Thank you very much. Ms Hoff, do you have an external EFTA viewpoint to offer advice to the EU and UK officials, apart from joining EFTA?

Hege Marie Hoff: I would say to my fellow civil servants, “Use the mechanism, respect the system, prepare well, be professional, engage, and certainly develop good relations. You will need them.”

Chair: That is very helpful advice, I am sure. Thank you all very much indeed for participating. It has been very interesting to listen to what you have had to say. I will bring the meeting to an end at that point. Thank you very much indeed.