

Committee on the Future Relationship with the European Union

Oral evidence: Progress of the negotiations on the
UK's future relationship with the EU, HC 203

Wednesday 27 May 2020

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Members present: Hilary Benn (Chair); Mr Peter Bone; Joanna Cherry; Sir Christopher Chope; Mark Eastwood; Mark Fletcher; Sally-Ann Hart; Antony Higginbotham; Dr Rupa Huq; Stephen Kinnock; Seema Malhotra; Nigel Mills; Nicola Richards; Gary Sambrook; Mr Barry Sheerman; Jane Stevenson; Matt Vickers; Dr Jamie Wallis; Dr Philippa Whitford

Questions 233 - 335

Witnesses

I: Rt Hon Michael Gove MP, Chancellor of the Duchy of Lancaster; David Frost, Prime Minister's Europe Adviser and Chief Negotiator of Task Force Europe.



Examination of witnesses

Witnesses: Michael Gove and David Frost.

Q233 **Chair:** Good afternoon, Minister. Good afternoon, Mr Frost. For the purpose of our records, could you just introduce yourselves?

Michael Gove: I am Michael Gove. I am Chancellor of the Duchy of Lancaster and Minister for the Cabinet Office.

David Frost: I am David Frost, special adviser to the Prime Minister and chief negotiator.

Q234 **Chair:** Thank you both very much for making yourselves available to the Committee today. I give particular thanks to you, Mr Frost, because this is the first time that you have appeared before us, and I would like to begin with my questions to you. Do you yet have a date for the high-level review of the negotiations next month?

David Frost: We do not yet have a date fixed. The political declaration says that this meeting has to be in June. We are talking gently to the EU about when this may be. We are expecting it to take place in June.

Q235 **Chair:** There is no doubt that it will take place in June, is there?

David Frost: There is no doubt in my mind. We simply have not fixed a firm day yet.

Q236 **Chair:** Will the Prime Minister be attending, whenever it takes place?

David Frost: The expectation on both sides is that these are done at leader level and, therefore, yes, the Prime Minister would attend.

Q237 **Chair:** That is very helpful. Was the aim of your letter to Michel Barnier to help him to get his negotiating mandate changed?

David Frost: No, it was really to mark the moment. Obviously, the letter was coincidental with the publishing of our legal texts, which went online the same day. It had been a long time since we had set out our mandate, which we did on 27 February, and a lot of things had happened since then. There had been two or three rounds of negotiations. We thought it was the right moment to set out and restate what had happened, what we were trying to do in these negotiations and what we saw as the state of play. The point of it was to address a wider audience with the approach we were taking, where we thought the negotiations had got to and what we thought might need to happen next to move them forward.

Q238 **Chair:** Perhaps I can ask you the question in another way. Would you like him to have a changed mandate?

David Frost: It depends what you mean. The EU has a formal mandate, clearly. That is the way it normally does negotiations and our view at the moment is that that mandate, at least in key areas, is not a mandate that



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is likely to produce an agreement that can be agreed with us, for reasons I am sure we will go into later on.

There is a related question as to whether the EU must formally change its mandate or not. I remember last autumn we were told often that the EU had to change its mandate if we were going to come to a different outcome on the Ireland backstop. To my knowledge, it never did formally, but nevertheless changed its position. If you are asking whether we think the EU needs to evolve its position to reach an agreement, yes, we do.

Q239 **Chair:** It may not necessarily need to change the formal mandate that Michel Barnier has based on what you have just said.

David Frost: It is their call. It is their internal process. If they think they need to rewrite it, that is up to them, but what is clear is that the policy that is enshrined in that mandate is not one that can be agreed with us.

Q240 **Chair:** Just before I turn to Mr Gove, I have one other question of detail. How important is a data adequacy decision to what you are trying to achieve on security and a number of other areas?

David Frost: A data adequacy decision is extremely important and useful. We believe that because we are operating EU law and rules on data and will be at the end of the transition period, adequacy ought to be a logical technical consequence. The EU's position is that it should be a condition for a law enforcement agreement between us. We do not see that it must necessarily be a prior condition for that, and obviously that is something that is something we are taking forward in the negotiation.

Q241 **Chair:** If that is what the EU is saying, it would be helpful to everybody if it reached a data adequacy decision as soon as possible. That would help, would it not?

David Frost: It certainly would. Our view is that the sooner we could have clarity on data adequacy, and indeed on financial services equivalence, which is the other parallel technical process, the better, but these things take the time that they take and we are entirely in the EU's hands on that.

Q242 **Chair:** That is very helpful. If I could turn to you, Mr Gove, what is the Government's estimate of the total number of additional customs declarations that UK businesses are going to have to make from 1 January next year?

Michael Gove: At the moment we are conducting work with the sector in order to determine exactly how many additional customs declarations may be required and, indeed, what additional staff may be required in order to process them. We are in discussion with business at the moment, in order to determine exactly what we think correct projections should be.

Q243 **Chair:** You will be aware that the National Audit Office think it is about



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200 million. Are you doing your own work because you do not think that is correct?

Michael Gove: We just want it to be as robust as possible. Of course, a lot depends on the way in which people may or may not repackage consignments.

Q244 **Chair:** You did not think of doing this before you announced earlier this year that everybody would have to fill in customs declarations, whether there was a deal or there was not a deal. You are only doing it now. Is that right?

Michael Gove: It is the case that, by definition, people will be filling out customs declarations, because we will have left the customs union. Whatever eventual deal we conclude with the EU, we will be outside the CU.

Q245 **Chair:** When you last appeared before us, I asked you how many of the estimated 50,000 additional customs agents needed for 1 January had been recruited so far. You said you would go away and check and you wrote to me last night and said it is not possible to put a number on it. Is that because you do not know how many customs declarations there are going to be?

Michael Gove: No, it is because we are, as I mentioned earlier, working with business, in order to ensure that they have the processes and the people in place necessary. It is in the public domain that we did conduct a survey earlier this year, and 71% of intermediaries said that they were confident that they would be able to meet at least most of the increase in demand for their services in producing additional customs declarations, and 84% of them said they were confident they would be prepared for full reciprocal controls.

It is also the case that the Government have spent some £34 million in order to ensure that capacity can be increased, and we are putting in place a series of metrics, which will be monitored by HMRC, the Treasury and, indeed, the Cabinet Officer, in order to ensure that the additional capacity required is necessary. The 50,000 figure is, as it were, a sighting shot. What we want to do is make sure that business is confident that it has the people that it needs.

Q246 **Chair:** You are still confident, as you said to Justin Madders in the House of Commons on 27 February, that it is going to be possible to train all the people who need to be trained in time for 1 January.

Michael Gove: Yes, in response to Justin's question and subsequent questions, as this session gives me the opportunity to clarify, the Government stand behind the need to ensure that we increase capacity. 50,000 is, as I say, a sighting shot or an estimate. There are different ways in which businesses will necessarily adjust, but it is the case that, of the £34 million, £31 million has been allocated in grants to support



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training, and it is the case that we have seen more than 20,000 training courses being undertaken.

Q247 **Chair:** Given the optimism that you have outlined, why do you think that the director-general of the British International Freight Association says that the country is falling “many thousands short” of the 50,000 target, while the chief executive of the Road Haulage Association says, “It is impossible to think we can train this number of people, get them ready and processes in place to be ready on 1 January”, and the chief executive of the Cold Chain Federation says that we are “hopelessly ill-prepared”? These are all organisations that move stuff for a living, and they do not seem to share your optimism at all. Why do you think that is?

Michael Gove: It is naturally the case that any organisation preparing for the change that will occur on 31 December will want to do everything possible. I know from my experience in Government that organisations that would like to see a greater degree of attention to their needs necessarily amplify their requests in a way to make Government listen and to make sure that Select Committee Chairs can put their points with effect. It is part of the general to and fro in which organisations seek to articulate with a particular degree of force the request that Government respond to their demands.

Q248 **Chair:** Would it be fair to say you do not take their warnings and expressions of concern terribly seriously?

Michael Gove: No, I take them very seriously, but, as you probably know by now, while I think it is vitally important to act quickly, I think it is also important to make sure that we are calm, focused and temperate when it comes to delivery.

Q249 **Chair:** We will find out at the end of the year. There is a final question from me. You published the first paper from the Government on what is going to happen for goods that are moving from GB to Northern Ireland. Given that we are seven months away and businesses really have no idea exactly how it is going to work in practice, whereas the other crossings we have been talking about have had an idea since February, when are they going to know what it is they actually have to do?

Michael Gove: It is the case that the Secretary of State for Northern Ireland has been leading engagement with Northern Ireland’s businesses and with, in particular, its farmers and its agri-food sector, in order to explain the processes that we are putting in place. As the Command Paper on the protocol made clear, there will be unfettered access for goods from Northern Ireland into Great Britain. There will be some new checks, of course, on products of animal origin, but it is already the case that the Committee knows that there are existing checks on live animals.

Q250 **Chair:** I do not want to interrupt, Mr Gove. I have read the paper and I know that is what it says. My question was about when businesses that are sending goods and, indeed, animals, animal products and livestock from GB to Northern Ireland will know what exactly it is they are meant



to be doing?

Michael Gove: It is relatively clear for products of animal origin, because those sorts of checks that are in place that the EU applies are well understood. It is also the case that the process by which, if necessary, customs declarations are made when goods move from Great Britain to Northern Ireland is something that HMRC and, as I mentioned, the Northern Ireland Office are working with Northern Ireland's businesses on.

I do not want to put words into anyone's mouth, but the general reaction from Northern Ireland's businesses, some of whom welcomed the protocol and some of whom were less enthusiastic about it, was welcoming of the publication of the Command Paper. As you quite rightly pointed out, there is a desire for greater detail, but we are now working with both the Commission and business to ensure that that great detail is provided.

Q251 **Mr Bone:** My questions are directed to Mr Frost. Could you tell the Committee what your role is in Government? I understand that you are a special adviser, but how does that work within Government?

David Frost: I am a special adviser, appointed by the Prime Minister in the same way as every other special adviser. He has additionally asked me to take on this particular role of being chief negotiator for the future relationship, and I report to him on that. As you know, CDL is responsible for the other side of this sphere of activity, in terms of the withdrawal agreement and readiness at the end of the transition period. That is my responsibility. To be clear, I advise on the policy within which I work, but the policy is set by the Prime Minister and by the relevant Cabinet committee. I work within the framework that they have set for these negotiations.

Q252 **Mr Bone:** That is very clear, except in the past we have always had a DExEU Minister and a civil servant, and the DExEU Minister did the accountability and the civil servant got on with implementing the policy, but you seem to be single-handedly doing this. If there is a political decision to be made, who do you ask?

David Frost: As I say, the decisions are taken by the Cabinet committee and by the Prime Minister, so I work within that framework. It is the same answer. It is very easy to distinguish between a political decision and a negotiating decision in this context. They are all part of the same operation.

Q253 **Mr Bone:** From what you are saying, you basically report directly to the Prime Minister. Is that correct?

David Frost: I report to the Prime Minister on the conduct of the negotiations, yes. He has asked me to undertake this task. I also report to the Cabinet committee that he chairs, the XS Committee, which discusses and agrees the main elements of policy.



Q254 **Mr Bone:** How often do you have those meetings?

David Frost: It varies according to events, but in principle we aim to have them every two weeks or so. The recent crisis had disrupted the rhythm, but we can have them and have had them when we need to, if the state of the negotiations requires it.

Q255 **Mr Bone:** You raise a point there. What happened when the Prime Minister was incapacitated? Who were you reporting to then?

David Frost: The Prime Minister delegated certain tasks to the First Secretary of State while he was incapacitated and, with that proviso, the machinery continued as before. It is fair to say, although there were some things happening in the negotiations at that time, there was not a huge amount going on that I needed to trouble very senior Ministers with at that point.

Q256 **Mr Bone:** That is interesting, because there are media reports that at that very moment the Cabinet Secretary was trying to extend the transition period and it was only the intervention of Dominic Cummings that stopped that. What is your relationship with Dominic Cummings? Do you have to report to him, because he seemed to say this weekend that he was the gatekeeper to the Prime Minister and he decided who spoke to the Prime Minister about what? Are you more senior to him or do you have to go through him?

David Frost: I am not sure I can say more than I have said already, in the sense that I report to the Prime Minister and to the committee on the conduct of these negotiations. I can say I have never had an instruction on these negotiations from Mr Cummings and he would not expect to give me one. He regards me as responsible for these negotiations, because the Prime Minister has given me that task.

Q257 **Mr Bone:** You speak to the Prime Minister once every two weeks or so. How often do you speak to Dominic Cummings?

David Frost: I speak to the Prime Minister probably more often than once every two weeks, to keep him up to date with what is going on. I would speak to Mr Cummings relatively frequently, though with the proviso that normal business is being undertaken in an unusual way at the moment because of the needs of social distancing.

Q258 **Mr Bone:** I am sorry to interrupt, but I am running out of time. Could I just put the final point? I apologise in advance for what seems a silly question, but do you think the whole of the Brexit policy would collapse if Mr Cummings was not there?

Chair: "Yes" or "no" will suffice.

David Frost: The Brexit policy is set by the Prime Minister and by the committee, so I am quite confident that, whatever the arrangements for special advisers, it would continue.

Q259 **Jane Stevenson:** Good afternoon, Mr Gove and Mr Frost. My questions



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are mainly to Mr Frost and deal with the mechanics of each round of meetings. People will be interested. Can you just describe how you prepare for each round, what actually happens in them and then what happens after the round finishes?

David Frost: I am happy to. We have tried in these virtual meetings to mimic the structure of a real-life round as far as we can. What normally happens is that there is an opening plenary session, where each lead negotiator, of which there are a dozen or so on each side, sets out where they think the negotiations have reached. We then spend two or three days in detailed discussions and, as you will see from the agenda we publish, there are 11 or 12 different workstreams, working roughly in parallel. That goes on for two or three days and then we have a plenary session to wrap up at the end of each round, so those are the formal mechanics.

We have, as you would expect, an internal process before that to establish how we wish to take forward each workstream, what issues are going to be discussed, what ground we wish to cover and then, within the round, at the end of each day we have a reporting system, both on paper and orally, that captures what is going on. I myself do not lead any of the individual workstreams. I simply dip into those workstreams as seems best.

Q260 **Jane Stevenson:** Who attends each of the different workstreams? Does that vary? Are they civil servants or people from your team? Do you ever invite any other people to attend those?

David Frost: There is a lead negotiator for each workstream, most of which are in my team. There are a few who are not, from elsewhere in Whitehall Departments. They are supported by a mix of people from my team and from the relevant Whitehall Departments. If you are thinking of a physical meeting, in those meetings there could be anything from, for example, five people on our side to as many as 15 to 20, depending on what the ground being covered was and the level of detail.

Q261 **Jane Stevenson:** I want to move on to the latitude that you are given in each of these workstreams and in the negotiations. How much latitude are you given and at what point do you have to consult back to Government and, if that happens, how do you achieve that and on what timescale?

David Frost: We are still at a relatively early stage of the negotiation. It is extremely accelerated compared to a normal one, but we are still nevertheless at the stage of setting out positions, explaining each other's positions and identifying areas of convergence and divergence.

We have a very clear mandate that was set out in the UK approach document we published on 27 February, and, for now, that is all we need. We are at the stage of setting out our position, explaining it, trying to land it and persuading the EU of its merits. We would like to be in it already, but we do not seem to be quite there yet. I would like soon to be



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in discussions where we are genuinely seeing if we can move forward. At that point I would need to consult back on anything significant, but we are not quite at that stage yet probably in this process.

Q262 Jane Stevenson: I would like to ask about you and the EU chief negotiator. Do you dip in and out of these streams, or will you when it becomes slightly more detailed? Do you have the chance to meet Mr Barnier one to one and do you have those informal conversations that possibly you would have if negotiations were not being online?

David Frost: Yes, we try to. During each round he and I will talk to each other from time to time. We have small meetings to take stock and compare notes of what we see as happening. Usually, but not always, we will have a meeting before and after each round to check that we have the same understanding of where we got to. On video that is basically all you can do. It is not as good as going for a coffee with somebody, but it accomplishes the purpose for the stage of the negotiations we are in.

Q263 Mark Eastwood: Good afternoon, Mr Gove and Mr Frost. Mr Frost, how has COVID-19 affected the talks?

David Frost: Principally, by causing a pause. When the crisis first hit us in a major way during March, we lost the second round that had been planned for the middle of March. As illness hit various members of the team, there was a pause for a time. We then picked it up, so we have had rounds since then, done by video.

The main difficulty we have had is the one that we have commented on a little before, which is just the difficulty of mimicking via video what happens in a real meeting. You can do it to some extent, but there are some things you cannot necessarily read or discuss in a way that you would normally. So far I would say it has paused slightly. We are perhaps a little bit behind where we would like to have been otherwise, but only by a week or two.

Q264 Mark Eastwood: In terms of the number of people in your team, has it affected those who can attend and make contributions in a big way?

David Frost: No, I would say not. We have been impressed by what we can do via video-conferencing. In the plenary meetings, for example, we have had 100-plus people on the video-conferencing system, so 50 from either side; that accommodates anybody who wants to. No, we have been able to make it work in the same way that everybody is making things work at the moment.

Q265 Mark Eastwood: Has COVID-19 led to any changes in areas of priority for the negotiations? If so, where?

David Frost: No, I would not say it had. We set out our approach in the UK approach document on 27 February and that is still valid. We both know what ground needs to be covered. We are both pretty ambitious for it. It has not changed anything.



Q266 **Mark Eastwood:** To a wider point, in light of COVID-19 some people have called for an extension to the transition period, whereas others have said that there would be detrimental economic consequences of extending. What is your view?

David Frost: As I say, I do not make policy; I only advise on it. The policy is set by the Prime Minister and by XS, and it is the firm policy of the Government that we will not extend the transition period and, if asked, we would not agree to it. I take that as a given. I can see why that position has been taken. We have always put a lot of emphasis on economic and political freedom at the end of this year and on avoiding ongoing significant payments into the EU budget. Those things are accomplished by ending the transition period at the end of the year, so I work within that and it is my job to get an agreement in the time that is available.

Q267 **Mark Eastwood:** In terms of the timescales, do you expect to be able to conduct face-to-face negotiations in the time that remains? If so, when?

David Frost: We are in the hands of others on how easy it is to travel. The picture changes and we wait to see how that evolves. I would very much like to be able to do face-to-face discussions. If it turns out we cannot, we will work within that, but I have no doubt it would be somewhat more dynamic if we could.

Q268 **Mark Eastwood:** I would like to move on from COVID-19. You recently wrote to Mr Barnier and he wrote back. What was your objective in writing to him and what did you learn from his response?

David Frost: As I said, we thought it was just the right moment to set out what we were trying to achieve and what the state of play in the negotiations was, and also to make clear to wider observers how we saw things. Obviously, Michael Barnier knows the state of play of the negotiations—we talk about that all the time—but we have a structural difficulty in that other member states and other actors in Brussels hear about what is going on in the negotiations via the Commission and those who are in it, whereas when they are talking to us they are talking directly to the UK Government.

Although we have made a point, as I said in the letter, of not seeking to divide and rule, as some people say, or going directly to member states, which we do not think would help, we nevertheless from time to time want everyone who has an interest in these negotiations to know properly how we see them and where they stand. That was the point of this letter. The letter back from Michel was courteous and forceful, just as mine was, and set out some familiar views about what is important to the EU. There we are.

Q269 **Dr Huq:** My questions are also for David Frost. Given that any extension to transition has been repeatedly ruled out, these questions are going to be about how well resourced Government are to deal with the twin contingencies of coronavirus, which was completely unforeseen, and the



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possibility of what might be no trade deal, in terms of civil service capability.

First of all, following up from Peter Bone's question, are we now in an era where we have seen the rise of the special adviser, possibly even the supremacy of the special adviser? You are an appointment at Boris Johnson's pleasure, whereas your predecessor, Olly Robbins, was on a civil service contract. We saw the whole Dominic Cummings Rose Garden press conference this weekend.

Just specifically, I wanted to ask what you made of the odd incident at the weekend when the official UK Civil Service account tweeted the words, "arrogant and offensive...truth twisters", in relation to the Government? Did it symbolise a wider malaise of these traditional mandarin-type people, who feel they are being side-lined? We also saw Philip Rutnam's unusual public comments earlier. I just wondered about the relationship between the two.

Michael Gove: That is really a question for me, Rupa, because it is a question about the political direction that is given—

Q270 **Dr Huq:** I did think that, because he is head of a team of civil servants, it would be interesting to hear from David. We also have you often at this Committee and less so David Frost, so I would like to hear his as well. If we could have him first and then, if there is time at the end, you can answer, because we are on a very strict time limit and I have a few questions.

Michael Gove: Quite, but it is also the case that the questions you ask are not David's responsibility. David is not in charge of the Cabinet Office or UK Civil Service Twitter feed. He is not responsible for the appointment of special advisers. He is not responsible for setting Government policy. All of those are decisions for Ministers.

Q271 **Dr Huq:** Sir David, I just wondered what you thought of the relationship between the traditional and the new.

Michael Gove: Again, it is a very interesting question but it is not a matter for David. If we talk about traditional and new, we could look back at different parallels, where different people have been appointed as political advisers at different times in the past. To what extent was the role of Bernard Donoghue—

Q272 **Dr Huq:** They do not usually become household names in the way this generation has or give Rose Garden press conferences. That is quite unusual.

Michael Gove: Political historians would certainly say that someone like Lady Marcia Falkender was a household name.

Dr Huq: I do not remember her doing a press conference in that way with the world's media, keeping everyone waiting half an hour as well.



Michael Gove: I do not know much about Lady Marcia Falkender's timekeeping, but it was certainly the case that she was a figure of some controversy at the time.

Q273 **Dr Huq:** I will go on to the more civil service ones, if Sir David is not able to answer that one. We heard the other week from Mr Gove that there are 47 British civil servants who were redeployed from future relationship talks to COVID planning, and I asked Mr Gove what staff absences there have been. I did not get an answer to that. I just wondered if David Frost knew, in terms of staff members of the civil service falling ill, shielding and looking after others. Do we know those?

David Frost: The 47, as I remember, was from both our teams, so from mine and from the wider transition awareness preparation team. Indeed, it must have been, because I only have 40 or so in my team. A small number of people from my team were detached to work on COVID during the crisis. Mostly, they have come back and we are able to proceed as we could before, with a largely full complement. I would just add, though, that the negotiating effort is much wider than those 40 to 45 people in my team. It is many more people across Whitehall who are engaged in helping and supporting.

Q274 **Dr Huq:** It was at an earlier stage that I asked you, Mr Gove. Do we know how many of those people that, at an earlier stage, went into COVID planning have now moved back to the transition taskforce, to Task Force Europe and to other units that are planning our future relationship with the EU?

Michael Gove: A number have come back.

Q275 **Dr Huq:** A number. Do we have any specificity?

Michael Gove: We are in the process of rejigging the committee structure within the Government overall and there are some people who are in the process of being redeployed at the moment, so there are bodies in motion.

Q276 **Chair:** We need to move on. It would be very helpful if you could write to the Committee, Mr Gove, with that information. That would be helpful.

Michael Gove: When it is settled, I would be delighted to.

Q277 **Antony Higginbotham:** Good afternoon, Mr Gove and Mr Frost. It is very good to have you. I want to talk about the draft legal text to start with. This is probably one for you, Mr Frost. We spoke about precedent quite a lot. The Government negotiating objectives make clear that we are basing the negotiations on precedent, so I wondered what the starting point was when the UK's draft legal text was created? Was it a blank sheet of paper that the team started with, or was it an existing agreement that we then tweaked to read what the UK was trying to see?

David Frost: No, it was not a blank piece of paper. It was based on free trade agreements that the EU has already agreed or is in the process of



negotiating with other third countries, so we have drawn extensively from those. Principally, I would say our text is drawn from the Canada free trade agreement. There is language in it drawn from the Japan agreement and in other cases we have drawn on the kind of offer that the EU has made to Australia and New Zealand, so we have not drawn rigidly from any one source. The reason for that is that practice in free trade agreements has evolved quite a lot over the last 10 years. The level of ambition and the level of scope has moved on and each one has, by and large, become a bit more ambitious than its predecessor, and they are all tailored to particular circumstances.

It would not have been right to just take the Canada one, cross out the word "Canada" and write in "UK". We have been quite a lot more sophisticated than that, but we have drawn on recognisable free trade precedents in all cases.

Q278 Antony Higginbotham: Presumably you were also trying to make it match UK economic needs, which are different to Canada-EU trade.

David Frost: Yes, exactly. For example, in most free trade agreements, areas such as mutual recognition agreements, rules of origin and so on are quite specific and tailored to the individual needs, and that is how we have tried to take this forward in this case too.

Q279 Antony Higginbotham: What about the fisheries draft text? Where was that drawn from?

David Frost: That text is drawn quite a lot from the EU-Norway fisheries agreement. It has been modernised in a couple of areas, for example to bring in a forum for consultation on fisheries, which was not in the Norway text. It is certainly quite an old one now, but it is very much drawn from it and recognisably the same kind of agreement.

Q280 Antony Higginbotham: I did a little bit of digging on the different types of agreements the EU has with third countries on fisheries. It looks like they have 22. Norway's is clearly the most extensive. Norway is not the country that has the closest proximity to the EU; look at somewhere like Morocco, which is 14 kilometres away. I am wondering where the EU's intransigence comes from. Have you had a sense of where that comes from, because it is clearly not geographic?

David Frost: No. Michel Barnier has to work within the mandate that is given to him by member states and they, in their wisdom, decided that their opening pitch for this should be that, as far as possible, the common fisheries policy should continue after we left, just as it did while we were a member. We find that a bit unusual, because in many other areas they tell us, "Nothing can be the same after you have left the EU", rightly so. It is different, but fisheries seem to be the one exception to that.

To be fair to him, Mr Barnier has given a few public signals that he thinks this may not be a completely realistic position. We will have to see if they



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can move forward on that. Clearly, it is not a runner for us. It just is not, so we will have to find a way forward.

If I could just make one other point on that, it is worth noting that every other fisheries agreement the EU has is a free-standing agreement. It is not connected to anything else or part of anything else. Uniquely, the EU said that the fisheries agreement for us must be part of a wider agreement with all the dispute settlement and other process that goes with it. Again, that is not borne out by any of the other precedents they have.

Q281 Mark Fletcher: Can I just pick up where we left off on that particular question and pick up on something the Chair started with? It seems like there is a level of intransigence and a non-moving element of the EU's position. Is this the negotiating mandate, or is this the negotiator that is causing the difficulties?

David Frost: It is the job of the negotiator to try to deliver the mandate. That is the task Mr Barnier has been given and he is going about it very seriously and professionally. This is a personal view, though I said it before in that lecture I gave back in February: sometimes the EU is still coming to terms with the fact that there is a large country in Europe that does not want to be part of the EU's structure in some way or to work on EU norms or to relate to the EU as the centre of its reference point of its activity. Some member states and some parts of the EU system have come to terms with that reality more quickly than others, but it is the reality and, if we are going to get an agreement, it will have to be understood on the EU side.

Q282 Mark Fletcher: Would it be your take-away that Mr Barnier is more aware of the modern reality? He is more practical and willing to move, and is just being bound by the current position.

David Frost: I would not want to comment on how he personally sees things or his contacts with member states. I simply do not know about that, but it is the job of a good negotiator—and he is one—to assess reality, the genuine positions of the other side and the genuine ability to move. If you do not assess reality in a cold way, then you do not get agreement. I would expect that he would be doing that, and I am sure he is.

Q283 Mark Fletcher: Do you think the involvement of senior politicians and greater co-operation between the various politicians involved will help to shift things along as well?

David Frost: The EU collectively has quite a lot on its plate at the moment, as we all do, but it has its financing negotiation to conduct and it has its plans for economic reform and so on in 2021. It is important that it keeps enough focus on these negotiations as well and does not relegate them to something that can be done when it gets round to it, as it were. Political attention on the very serious points we raised in my letter is going to be an important part of coming to an agreement.



Q284 **Mark Fletcher:** I wanted to pick up on his press statement on 24 April. There was a mention of governance and he said, "As a basis for our co-operation, we need to refer to common values, such as democracy, rule of law, human rights, counterterrorism or the fight against climate change as an essential principle". These do not seem like things that the UK would be against. Is there an alternative way in which the UK would like to see these involved in this agreement? Could you just outline that to the Committee?

David Frost: The EU's familiar position with all free trade or similar agreements is that it has a list of essential elements, so-called, for co-operation and, if it does not believe the other side is obeying them, then the agreement can be suspended. It has just added climate change to the traditional list, so there are now six rather than five, and we are the first country with whom it is negotiating where climate is on the list.

They are, it is fair to say, always quite controversial in these negotiations, not because of the substance but because not every country thinks it is necessary to write these things into trade agreements when a country regards itself as a very responsible international actor. For example, with the Canada negotiation they turned out to be extremely controversial, though nobody doubts Canada's commitment to internationalism, democracy and so on. We will have to find a way of accommodating these points of principle. As you say, we do not disagree on them. It is simply a way of finding the right way of expressing them.

Q285 **Stephen Kinnock:** I just wanted to pick up on a point that you, Mr Frost, made in your letter to Michel Barnier, where you opened up the possibility of not being committed to a 100% tariff-free negotiation. Have you done a time estimate of how much time it would take your negotiating team and, indeed, the EU's negotiating team to pivot away from a zero-tariff approach to line-by-line negotiations, given that we are six months away from ending the transition period?

David Frost: To be honest, I am sceptical about drawing any sort of precedent from how long it has taken in the past to do a trade agreement. We are already operating well beyond precedent in every element of this, looking at the timescale, and, luckily, we are also operating on the basis of textual precedent that enables us to draw on things that already exist, and so accelerate that timescale. Simply because it has taken months or years in other negotiations to achieve a tariffs negotiation, it does not mean that it will in this case. There are many things we have to do in this negotiation that normally take time and we will have to do very fast. I am confident we can do that, so I do not regard it as a practical difficulty. Clearly, there is a policy issue involved there that is significant.

Q286 **Stephen Kinnock:** It seems like a pretty big issue to throw into the middle of the negotiations six months before they are due to finish—that you are shifting away from this commitment to zero tariffs. What about business? Have you had conversations with business about the impact of



shifting away from a zero-tariff approach? What feedback have you had from the business community?

David Frost: We all want a zero-tariff, zero-quota agreement. That is what we said we wanted in the political declaration and we still hope to get it. Every business that is observing this negotiation will prefer to have that, as would we.

The point I was making in my letter was more as a matter of logic. The EU says that zero tariffs and zero quotas are unprecedented and, therefore, need to have unprecedented level playing field provisions. We are saying, "Okay. Go back to precedent then. Then you will not need level playing field agreements perhaps", and so far the answer from the EU has been, "Actually, we do. We still need them, even then". I guess it leaves me sceptical that level playing field provisions, in the EU's eyes, are much to do with access; they are more about control.

Q287 **Stephen Kinnock:** It is also the risk of sounding like you are making empty threats, because I guess the EU knows that, given there are only six months left and there does not seem to have been much consultation with our business community, we would not actually be able to push through on getting a line-by-line negotiation on tariffs, but that is maybe a conversation for another day.

I just wanted to turn to you, Mr Gove, if I may. Relating to Northern Ireland, on 8 November the Prime Minister told a group of Northern Irish businesses that there would categorically be absolutely no checks on trade crossing the Irish Sea. He even told them that, if anyone asked for them to fill in such paperwork, they should just throw it in the bin, but last week you confirmed that checks would indeed be required in two airports and at two major ports. Did the Prime Minister knowingly mislead the British people in November 2019?

Michael Gove: No.

Q288 **Stephen Kinnock:** Can you explain the massive disparity then between "throw all paperwork in the bin" on 8 November 2019 to yourself saying last week there will be checks and significant paperwork going forward? You have turned on a sixpence there.

Michael Gove: The first thing I would say is that we have always been clear—indeed it was the Prime Minister who outlined this in the course of the negotiations leading up to the signing of the withdrawal agreement—that we would extend the understanding that Northern Ireland is a single epidemiological zone to make sure that it was a single SPS zone. It was always the case that there would be additional processes that those who were exporting products of animal origin or other agri-food goods would have to face.

It is also the case that the protocol requires us to ensure that goods at risk of going into the EU's single market are identified, and that is why we have a light-touch electronic process, which will ensure that those



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companies that are doing trade from Great Britain into Northern Ireland can be monitored in an appropriate way, but there would not be the need for infrastructure of checks of the kind that are commonly understood.

Q289 Nicola Richards: My question is to Mr Frost. We have seen Mr Barnier's letter, but how does Michel Barnier respond in the negotiations when you explain to him the UK's difficulty with the EU's position on the level playing field?

David Frost: It is fair to say that we have a fundamental disagreement at the moment on most aspects of the level playing field. There are one or two areas that are slightly less controversial and problematic, but in most of the important areas there is a big gap. He is delivering the mandate he was given. Member states regarded the level playing field as very important.

To recall, we are not saying that there can be no level playing field provisions. We are simply saying that there must be provisions that are appropriate to a free trade agreement, like those found in the Canada or Japan agreement, and that is what we have put forward, but there is a big gap between those and where the EU is. That will be one of the biggest issues we have to resolve in the next few months.

Q290 Nicola Richards: Do you think that the fundamental barrier for the UK is that the level playing field involves concepts of EU law, or is it that the UK Government do not think they should be bound by commitments in these areas?

David Frost: The fundamental issue for us is about setting our own laws. Brexit was about the right of the British people to set their own laws and have those adjudicated in their own courts. That is the point of principle that we bring to this process. As I said, there are some commitments in the Canada agreement and others that we have been willing to make in return for a trade agreement, but they are a long way from where the EU wants to go, so this fundamental disagreement is a line of principle that at the moment seems quite difficult to find a way through.

Q291 Nicola Richards: What is the difference in the UK's and the EU's respective positions on state aid?

David Frost: On state aid, the EU's view is that we should continue to apply its state aid rules at the point at which we leave, that if there are changes to them subsequently we should apply them as well, and that, if we do not do so, it would have the right to take measures, i.e. impose tariffs on us. We, in its vision, would not have the same right to impose tariffs on it if we regarded it as doing something different.

We are looking for something that is much more like the Canada agreement, which is fundamentally based on WTO rules plus a clear requirement to transparency and consultation, so to tell the other side what subsidies you are giving, to give them an opportunity to complain



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about it and to try to resolve issues through dialogue and discussion, rather than imposing one side's laws on the other.

Q292 Seema Malhotra: I want to thank Mr Frost and Mr Gove for giving evidence today. I wanted to draw your attention back to the political declaration, which talked about an ambitious wide-ranging and balanced economic partnership, part of that being ensuring open and fair competition and encompassing robust commitments to a level playing field. It also talked about the scope and depth of the future relationship and the economic connectedness of the parties. Could I ask whether you expect us to have the same, more, or less connectedness to the EU economically than we do now?

Michael Gove: Gosh. Is it a question for David, or would you like us both to reply?

Seema Malhotra: Start with David, please.

David Frost: The honest answer is we do not know. That decision will be in the hands of private-sector actors, insofar as you are looking at supply chains, trade patterns and so on. We will develop our own legal regimes in various areas as things go forward after the end of this year, and that will influence the decisions they take. I would note that we are already, as I said in my letter to Mr Barnier, somewhat less integrated than many other countries in the continent of Europe to the EU, so we are already in a slightly different position compared to others.

Q293 Seema Malhotra: You must have done some assessment, I would have thought, about whether there will be a loosening or tightening of economic connectedness. Mr Gove, has there been any recent assessment and has there been any review of whether there is any change that you might expect from new trade relationships?

Michael Gove: I very much agree with David that the degree of economic connectedness depends sometimes on decisions that Governments make but also on the decisions of hundreds of thousands of private-sector actors. It would be the case that, even with the ambitious free trade agreement that we hope to secure, there will be new processes that some businesses will think about if they are looking at how they organise their supply chains. It will also be the case that we hope there will be new openings with free trade agreements with America, Japan and others.

There is a third and a very big factor, which is that, both because of COVID-19 but also because of other changes that were happening technologically anyway, we have seen a phenomenon of reshoring and we are seeing how countries have to value increased resilience. Without wanting to run away from the question, it is impossible to state precisely, but the shape of the UK economy, like the shape of member states' economies in the EU, is going to change.

Q294 Seema Malhotra: It sounds like you do not have a view on that, which



surprises me. I would have thought by now the Government would have been looking at what the impact could be of what is being proposed. You are looking to decide whether you want to go ahead with a deal in June, and we would have thought you would have been a bit further forward on that and on the potential impact on unemployment, particularly as the challenges are now also coming with COVID-19.

Perhaps I can move on to another point, which is just following on from the discussions around state aid, fair rules and competition. Enforcing this will need standards and mechanisms for the implementation of the new rules, as well as how there might be enforcement of those rules. Is the enforcement mechanism for state aid in the UK proposals similar or different to that proposed by the EU, and would that be the same enforcement mechanisms for labour, social and environmental conditions?

David Frost: They are different. On state aid, the EU would like us to set up a so-called independent authority, I guess a bit like the Commission, which would rule on state aid measures. There would, in its view, be independent enforcement, rather like now, which is logical because it wants us to operate the EU system. I can see the logic of that, even though we do not agree with it.

On labour environment and so on, it varies slightly in the EU view. In some of those areas it would also like us to set up an independent body. In labour and social affairs, it simply requires us to have domestic measures for enforcement, as we already do. In some areas, it is pushing the boundary a lot further than we would want. We regard ourselves as compliant with high standards in all areas already, so the problem with which its level playing field provisions try to deal does not, in our view, exist.

Q295 **Sir Christopher Chope:** Thank you both for the principled approach you are taking to the negotiations on fisheries. Can I ask Mr Frost in what respects he thinks the EU negotiating position is going to be more realistic in the next round of negotiations?

David Frost: I do not know. I am not sure that it necessarily will be in the short run. We have a negotiating round next week and we will have to see. There have been one or two signals that it, as I said, would like to evolve the position on fisheries. We will have to see about that. We supplied the EU with a lot of detailed information about how our proposed fisheries agreement would work. We have not had anything back, though it has been promised. If we get it back before next week, perhaps this is an area where it can get a bit more constructive. At the moment, it seems very difficult to move on these issues of principle, but we will keep trying.

Q296 **Sir Christopher Chope:** Did the political declaration not say that all this had to be resolved by July? Are you saying it is not going to be resolved by July?



David Frost: On fisheries, it sets as an aspiration that we should try to reach a fisheries agreement by July. Obviously, negotiations for 2021 need to begin soon. Ideally, you would want to know what the framework for those negotiations was. It is not an absolute requirement and I am beginning to think we might not make it by 30 June. We will keep trying.

Q297 **Sir Christopher Chope:** Are you arguing now for severance of negotiations about fisheries from the rest of the negotiation? As you pointed out earlier, that is something that has happened in the past.

David Frost: We always regard fisheries as an area on its own. Every other country does freestanding fisheries agreements that are not parts of wider agreements of any kind. We do not regard fisheries as something that can be traded for any other bit of negotiation. There is something very important happening at the end of the year, which is that we get back control of our own waters and the right to determine who fishes in them. Any agreement simply has to accommodate that reality.

Q298 **Sir Christopher Chope:** On 1 January, if there is not an agreement by then, we will take back control of our waters and the EU will have to beg borrow or steal.

David Frost: We will definitely get control of our waters. If it looks like we are not going to get a fisheries agreement of any kind, there will have to be negotiation *inaudible* the fisheries agreement. We will set the terms because we control access.

Q299 **Sally-Ann Hart:** Thank you to Messrs Gove and Frost for coming to talk to us this afternoon. I wanted to have a follow-up question on the fisheries point. Michel Barnier has said he will not accept cherry-picking from our past agreements and the EU is looking to the future, not to the past, in these negotiations. I wondered whether you could tell me why you think the EU looks to the past on fisheries, to around 1970, as part of a future agreement.

David Frost: Some of the European Union member states have significant fisheries industries and do not want to lose the very good access they have to our waters. In one sense, I understand that. They hope to keep some of it, but, unfortunately, that is not the reality of what leaving the European Union means. They have to accept that reality and we can have a genuine negotiation. We cannot have a negotiation that is about continuing access that only applies to EU members.

Q300 **Sally-Ann Hart:** Mr Gove, did you want to add anything to that?

Michael Gove: No, I think your question exactly exemplifies the issue.

Q301 **Sally-Ann Hart:** The EU cannot cherry-pick either, can it? Let us go over to governance. On governance arrangements, the EU proposes a structure that is not replicated in other EU agreements with third countries, except those that aspire to join the EU. Perhaps you can tell me, Mr Frost—and Mr Gove might want to come in on this—whether the



EU is ignoring their own third-country-status rules in respect of the UK.

David Frost: You could make a case that is happening. Probably what is happening is that it is looking at the models of agreements with other countries in the continent of Europe and drawing from those. Those tend to be the countries that either want a close relationship without being members or hope one day to be members and are willing to make commitments that we are not. Its proposal for governance and dispute settlement is one single agreement with a very tough dispute settlement mechanism within it, which would require any issue of EU law to go to the European Court. Obviously, we cannot accept that, because it is not an equal process.

As you know, we have proposed a suite of agreements, many of which are well precedented elsewhere, for civil nuclear, air transport and air safety. All these have their own well-understood dispute settlement mechanisms and governance in many other similar agreements around the world. We are simply drawing on those, which we know work well in other contexts. Although the EU represents its system as simpler because it is one agreement, we think ours is simpler because we are just drawing on models that already exist.

Q302 **Sally-Ann Hart:** Do you expect the EU position to be more pragmatic on governance in the next negotiating round?

David Frost: I do not particularly expect it, no. I think it is an area where it is possible to have a genuine discussion. I do not think we have got there yet. Wherever we go has to reflect the fundamental that we are not having the European Court involved in arbitration of disputes involving this country.

Q303 **Sally-Ann Hart:** It might be resolved, but it might not be.

David Frost: If we are to find an agreement overall, we will have to find a way through this. At the moment, there is a long way between us.

Q304 **Sally-Ann Hart:** Would it be in the UK's interest to have an overarching governance framework so that it could apply pressure on the EU, or even withdraw access in one area if the EU was causing difficulties in an unrelated one, or would it not be in our interest to have an overarching governance framework?

David Frost: That is the risk of an overarching framework: that dispute in one area allows retaliation in an area that is completely unrelated and totally irrelevant to it. I like to think that that would not be our practice anyway, as a country, because we like good order in these international agreements and would behave accordingly. I do not think it is in our interest to allow cross-retaliation in totally unconnected sectors, no.

Chair: That is very helpful. Thank you very much.

Q305 **Joanna Cherry:** Mr Gove, my Scottish Government colleague, Mike Russell, tells me that on Thursday of last week, at the Joint Ministerial



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Committee, you agreed to his suggestion, which was supported by the other devolved Administrations, that proper consultation should involve a ministerial quadrilateral with all three devolved Administrations before the next round of negotiations. Can you confirm that you will abide by that agreement?

Michael Gove: I said to Mike, who put forward a very constructive suggestion, that I would go away and talk to other Government colleagues. It is my aim certainly to ensure that we can have a ministerial quadrilateral beforehand, yes.

Q306 **Joanna Cherry:** That will be before next Monday, 1 June.

Michael Gove: We want to have it at an appropriate point.

Q307 **Joanna Cherry:** Mr Frost, looking to your recent correspondence with Mr Barnier, and in particular the heading of "law enforcement and judicial co-operation in criminal matters", you referred to the EU seeking what you said were "exceptional and intrusive safeguards" in this area. What do you mean by that, and why are these so unacceptable to the United Kingdom?

David Frost: We have touched on data adequacy already at the start, so let me mention a couple of others. One area that presents us problems is their view of our obligations under the ECHR. As CDL said in previous hearings, we are members of the ECHR and members in good order and committed to that. The EU is suggesting that our internal implementation of those commitments should also be subject to their jurisdiction and that we should not be able to change it in any way.

Q308 **Joanna Cherry:** I wonder if I could interrupt you there as time is so short, because the ECHR is what I want to ask you about. The EU's negotiation text guillotine clause indicates that, if the UK were to denounce the ECHR or abrogate domestic law giving effect to the ECHR, the co-operation in law enforcement and judicial co-operation in criminal matters would be terminated. Mr Gove gave us an assurance last time that the United Kingdom has no plans to leave the ECHR.

What makes the ECHR accessible to British citizens is the Human Rights Act. That is what allows individuals in the UK to invoke the rights contained in the ECHR in our domestic courts. The Conservative manifesto last year promised to update the Human Rights Act. What I am keen to find out today is this: is the reason you are so reluctant to agree to the guillotine clause, the safeguard in Article 136, because the Conservative Government's plan to update the Human Rights Act may remove from British citizens the ability to realise their rights under the ECHR in Britain's domestic courts? Of course, that would trigger the guillotine clause because that would mean that we would have abrogated the ability to enforce. Can I get some clarification from you? Are your political instructions not to agree to that because of the Government's plans to water down the direct effect of the ECHR under the Human Rights Act?



Michael Gove: No.

Q309 **Joanna Cherry:** What is the reason then? If you are planning to keep the Human Rights Act as it is and have no intention of leaving the ECHR, having agreed in the political declaration to these matters, why are you so reluctant to agree to article 136? What is it? If it is not your plans to update the Human Rights Act, what is it that makes you so reluctant to agree to adherence to domestic effect of the ECHR?

Michael Gove: It is a question of sovereignty and the EU determining whether or not our own legislation is sufficient to give effect to the rights of citizens to ensure their position under the ECHR is safeguarded.

Q310 **Joanna Cherry:** It is not really a question of sovereignty, is it? It is just a question of preserving the status quo. The status quo is that we are signed up to the convention and have a Human Rights Act, which gives it direct effect. If you are not planning on changing that, why are you so worried about signing up to this clause?

Michael Gove: It is a question of sovereignty. To say that one particular legislative mechanism is pristine, perfect and cannot be changed unless you secure the permission of another sovereign entity is an infringement of sovereignty. Some people might argue that it was justified, but it is nevertheless an infringement.

Q311 **Joanna Cherry:** You want to leave open the possibility of interfering with the Human Rights Act. That is the case, is it not?

Michael Gove: We might enhance it in all sorts of ways.

Q312 **Dr Whitford:** Coming to you, Mr Gove, on 19 May you said that the UK wants access to all the crime-fighting, law enforcement and criminal justice tools of the EU, but cannot accept the jurisdiction of the ECJ as a precondition for so doing. The security of data flows is central to many sectors, including financial services and healthcare. Is it not that the UK wants all the benefits but is not willing to accept the obligations and citizen protections?

Michael Gove: No. As David pointed out earlier, we believe that it is a matter for the EU to decide that data adequacy is something that we meet and should enjoy. On that basis, the data flows to which you just referred would be uninterrupted.

Q313 **Dr Whitford:** Was the UK not criticised in 2018 for sharing data from the SIS system with US companies? People's own data is a critical issue. We see a lot of discussion at the moment regarding the COVID app.

Michael Gove: Yes, there is. I cannot remember all of the toing and froing that was required given the position with the United States. In essence, we apply EU law in this country through GDPR. That should ensure adequacy unless and until there is some rupture with that, and that should be adequate, for the reasons we outlined. You are right, of course, that there are broad questions about data standards and data



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protection, but I think it is fair to say that the UK is a world leader in making the case for the highest possible standards of data protection.

Q314 **Dr Whitford:** I would point out that you just said that that is until something like GDPR is changed. That is exactly the concern that people have.

Coming to you, Mr Frost, some parts of the draft legal text seem to have placeholders, including on protected geographical indicators, which is very critical for premium food and drink producers, such as here in Scotland. It suggests there that Article 54.2 of the legally binding withdrawal agreement may be changed. Can you tell me what the Commission view of this is? Does it not just create more security for businesses and, particularly, for those that are food and drink producers?

David Frost: The problem with the withdrawal agreement, which obviously we are committed to, is that it requires us to protect EU GIs in this country in perpetuity but does not place any such obligation on the EU to protect ours. That is the reality of where we are. That particular article in the withdrawal agreement explicitly envisages that it might be replaced by something else in the future. It says that it lasts until replaced; I cannot remember the precise words. We would like to have something that is a bit more balanced and makes sure that our GIs are properly protected. That is the approach we are seeking to take. We are hoping to begin discussions with the EU on this quite soon now.

Q315 **Dr Whitford:** One of the first demands of the US trade papers was to get rid of the protected geographical indicator on Scotch, as in Scotch whisky. Is there not going to be a clash between trying to protect UK protected geographical indicators and pressure from States, where they want to be able to sell their whisky under the title of Scotch? Around the issue of protected geographical indicators, which are very important for many Scottish food and drink businesses, we are aware of some of the American asks. Is that not going to undermine trying to get protection for them within Europe and indeed the rest of the world?

David Frost: Obviously, there is an interrelationship between where we go with the US trade agreement and where we go with the EU trade agreement. I do not think anybody is suggesting—in fact, I am confident they are not—that we would change existing rules on existing UK geographical indications. I happen to know about the Scotch whisky one and the debate between Scotch and US whisky producers. I do not think it is likely that we would wish to go to US standards on Scotch whisky.

Q316 **Dr Whitford:** Mr Frost, you say quite often that you are asking for a very standard free trade agreement. On transport, security, data and financial services, is it not that actually the UK is asking for an unprecedented deal?

David Frost: Quickly, on air transport, no. We are asking for pretty standard stuff in aviation. On land transport, to some extent it is



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unprecedented because there is no real precedent for a country next to the European Union.

Q317 **Dr Whitford:** You say geography does not matter, but in that it does.

David Frost: Canada does not have a land border with the EU that a lorry needs to go over. In that sense, we have to tailor the text.

Dr Whitford: Geography is important after all.

David Frost: It is if you need to drive over a border, yes.

Q318 **Mr Sheerman:** As a new boy on the Committee, forgive me if I am asking Michael Gove and Mr Frost a naïve question. They are skilled operators, but do they not see that part of their job is communicating what they are doing to the Great British public, my constituents and yours? The fact is that the press and media coverage is not very good on this. Is this not part of the team's mandate, in this vastly important process, to communicate in language that people understand where we are and where we are going?

Michael Gove: That is my responsibility, as much as anyone else; it is certainly a ministerial responsibility. We try to communicate the approach we are taking in clear and simple language. For example, I had the opportunity, when asked about the negotiations on the TV, on BBC and Sky, 10 days ago, to sum it up. I said that the EU wants us to obey the rules of the club even though we have left and it wants to have the same access to our fish as it has always had, even though it is restricting our access to its markets. Some people might think that is an oversimplification but I was simply trying to sum up the UK Government position, with which reasonable folk, if they want to, can disagree.

Q319 **Mr Sheerman:** Perhaps I am again being naïve. I check *The Week*; it is a news digest every week that I check. I had to go time after time, week after week, to find any mention of what was going on in the negotiations, and they cover a very broad range. Many people think the typical town in Britain is Huddersfield, but it is atypical in the sense we are a big exporting town. My businesspeople and my people who export to Europe do not understand the rules and think the jargon about "the level playing field" and "non-tariff agreement" is gobbledegook that they do not understand. Why can you not reach out better, telling them exactly what is going on?

Michael Gove: As soon I can and it is safe to do so, I will come to Huddersfield and talk to a group of local businesspeople with you chairing the meeting, Barry.

Q320 **Mr Sheerman:** Thank you very much for that. The last little bit of this is it took eight years to get the trade deal with Canada. What hope is there of us delivering this in the short time we have left?

Michael Gove: My judgment is that it is perfectly possible to do so. The letters that David and Michel Barnier wrote made clear that the principal



difficulty is not a difficulty of technical detail. The technical detail on both sides is well understood. It is a difference of political position. I hope we can break that impasse.

Q321 **Nigel Mills:** Mr Gove, can I return to the issue of goods moving between Northern Ireland and Great Britain? The Government's proposal is to give those goods unfettered access. Can you explain that "unfettered" means absolutely unfettered, with no need for paperwork, declarations or anything, or will there be some admin requirements on that?

Michael Gove: That is correct.

Q322 **Nigel Mills:** There is no requirement from the EU to know what goods have left the island of Ireland for their customs purposes.

Michael Gove: Our interpretation in the Command Paper is that there is no requirement for that, and there has not been any pushback against that. There are a tiny set of exceptions, which are under CITES—the convention on trade in endangered species—and the Kimberley Process, which is there to interdict the flow of blood diamonds; those are tiny examples. For 99.9% recurring of trade from Northern Ireland to GB, no paperwork or declarations should be required.

Q323 **Nigel Mills:** That position would not change if, heaven forbid, we had tariffs on EU-UK trade and there was some risk of revenue leakage for goods being routed through Northern Ireland into the mainland.

Michael Gove: If you saw, for the sake of argument, a German firm attempting to use the Larne-to-Cairnryan route to get loads of high-quality BMWs onto the UK market, we think we could spot that using market surveillance.

Q324 **Nigel Mills:** That would be a fetter of some sort, but probably a justified one. On goods moving the other way, how are we going to manage the problem of some goods being deemed to be at risk of moving into the Republic and therefore the EU wanting declarations and tariffs? I think you talk about there being sophisticated data and using the latest technology. Does that data exist? Does the technology exist? Would you put it in the public domain so we can see how it would all work? Is this still a work in progress?

Michael Gove: HMRC will have customs declarations. We can have access to that and of course we will make sure the EU is fully sighted on how we are operating that process. The overwhelming majority of trade from GB to NI stays in NI at the moment. If there was a good that went from Britain to Northern Ireland and then into the Republic, a tariff would be payable when it went into the Republic. We are committed to using state aid flexibilities, paying or remitting the cost of that tariff for the company affected.

Q325 **Nigel Mills:** That is slightly different to the at-risk process, which would mean the tariff would have to be paid when the good crossed into



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Northern Ireland, rather than if it subsequently moved to the Republic though, is it not?

Michael Gove: It is the job of the Withdrawal Agreement Joint Committee to decide which goods are termed at risk. The Command Paper is the UK Government's approach. We have outlined a way in which we think that we can protect the EU single market and the UK's internal market in a way that has the least possible bureaucratic or other pressure on Northern Ireland's businesses and people.

Since the protocol exists to underpin the Belfast Agreement, we hope that the EU will see this as a constructive way forward. I would not want to pre-empt what the EU will say, but so far it has welcomed this step in the process. I am sure it will ask for further particulars and there will be a further refinement of the EU's approach in the joint committee

Q326 **Nigel Mills:** Finally, are you still more than two-thirds confident of a trade deal with the EU by the end of the year?

Michael Gove: I am a fan of Aberdeen and Queens Park Rangers, so I am a natural optimist.

Nigel Mills: As a fan of Notts County, I am probably even more of an optimist than you.

Q327 **Matt Vickers:** Mr Gove, as the UK will not be seeking an extension to the transition period, how will we ensure businesses have sufficient time to adapt to the changing trading conditions?

Michael Gove: The whole of the country, indeed the whole of the developed world, is going through a significant economic shock as a result of COVID-19. Businesses everywhere are reviewing their supply chains and the approach they are taking for the future. Going back to the very first set of questions the Chair asked, we are working with business in order to ensure it is ready for those changes. As the Chair acknowledged, some of those changes—being outside the customs union and the requirement for customs declarations—are well understood, but we have stayed closely in touch with businesses in order to make sure we understand their level of readiness. If we need to do more, we will.

Q328 **Matt Vickers:** Mr Gove, how will we ensure there is sufficient customs and logistics capacity on the border on day one?

Michael Gove: We are making sure that, for example, some of the processes that may be required to check products of animal origin when they come into the UK are being put into place by Defra. Work is going on there. More broadly, we have increased the number of people who work for Border Force in preparation for this change. As we discussed earlier, £34 million has been made available to train people in the private sector to be able to navigate any new customs procedures.

Q329 **Matt Vickers:** As well as the funding that has been made available, will there be enough time for industry to train and prepare for those new



customs processes, given the impact of COVID-19 on their businesses?

Michael Gove: We are working with business now to make sure it has what it needs in order to prepare. As the Chair pointed out earlier, there are a number of people in business who have expressed their concerns. We want to do everything possible in order to allay those concerns and make whatever changes are required to our preparations in order to help them be ready for that day.

Q330 **Matt Vickers:** Some areas, particularly transport and logistics, could change substantially as a result of COVID-19. How do you assess that risk so that we negotiate something that is fit for the future? How are you mitigating this?

Michael Gove: As David knows, we are arguing for a new economic relationship of a kind that we think is enduring and will also work well for other countries. You are right. As David pointed out earlier, there are specific issues that relate to the fact that we have, through the short straits, a large flow of our trade, particularly in perishable goods. One thing we are discussing with the sector at the moment is how to make sure we continue to have that artery running clear for those vital supplies that have been uninterrupted throughout the COVID-19 crisis.

Q331 **Dr Wallis:** Going back and touching on the support for businesses, as you have ruled out an extension to the transition period, are you considering an implementation phase? If so, how might that work and how much would it cost?

Michael Gove: We are not considering an implementation phase. We believe that, whether you call it an implementation or transition period, staying within the purview of the EU would mean additional costs for the UK taxpayer and being subject to additional EU laws. One thing we will do is to make sure businesses adjust appropriately to the situation on the 1 January, when we are outside the customs union and the single market. We will be fully outside, fully sovereign, but we also want to make sure we can support business with that adjustment.

Q332 **Dr Wallis:** Could you be a little bit more specific on what type of support you think businesses might need and what you imagine you might be doing come the end of the year to help with that transition?

Michael Gove: We have all been preoccupied with the COVID pandemic and it is absolutely the case that it continues to be front of mind for everyone in Government. It is also the case, though, that we can now step up our engagement with business in advance of 31 December. Some of what is required is very well known and we are making sure, as I mentioned, with the allocation of £34 million, that we can train people in the delivery of these new customs processes. We are also in talks with the industry on the establishment of a new physical customs academy in Kent, as well as delivering online courses.

Q333 **Dr Wallis:** Finally, you have mentioned the Government's support to



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businesses due to COVID-19 and the support you believe they may need to manage the change. To what extent will you manage the overlap as we come to the end of COVID-19 business support and move on to the leaving the EU business support?

Michael Gove: I sit on a ministerial implementation group led by the Chancellor and the Business Secretary that looks at support for business overall. One of the reasons I am on it is to make sure I can understand the approach they are taking and feed in from the point of view of business preparation for our departure from the EU. One thing that we are doing, in conversation with business, is making sure we properly understand the way in which COVID-19 will have an impact on how businesses operate, where they source their supplies from and what that impact would be on life outside the customs union and the single market.

Q334 **Antony Higginbotham:** On financial services, which we have not touched on yet, I know we are proposing a very ambitious chapter in the free trade agreement. I wondered how receptive the EU had been to that, because I noted it was not in its draft legal text.

I have a second related question on an equivalence decision. It should be purely procedural because our rules are 100% aligned. When do you think that decision might be taken?

David Frost: On the second point first, on equivalence, yes, that is our view. We are operating the same legislation at the point of exit so obviously we are equivalent. The sooner the better is our wish. I get the impression that a final decision may not be that soon, but we are completely in the EU's hands on this. We are engaging very closely with them, but they do this at their own pace.

On the free trade agreement itself, we have been proposing provisions rather like those in the EU-Japan agreement, which provide for, I suppose you might say, stabilised dialogue between regulators, with some predictability in how you operate equivalence arrangements. The EU says that this infringes its autonomy, although it agreed it with Japan, so we still hope it may see its way to agreeing it with us before this process is over.

Q335 **Dr Huq:** David Frost, I understand you have a team of 40. I wondered how many of those come with you to negotiations.

David Frost: Basically, they all do. There has only been one round where we have moved physically, so it is a question of who is taking part in the negotiations, but basically they all do, apart from a small number needed in London to assure continuity.

Chair: That concludes our questioning. On behalf of all the Committee members, thank you, Mr Frost and Mr Gove, for giving up your time today. It has been a very informative session and we look forward to seeing you both again. I hope you will not mind, in keeping with our tradition, if we write to you with some follow-up points, and you have



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made one or two commitments to us, as the result of the evidence you have given today. Is that okay?

Michael Gove: Of course it is. We would be delighted. Thank you very much for giving us the opportunity to give evidence and for chairing so masterfully.

Chair: Thank you.