



Select Committee on the European Union

Uncorrected oral evidence: Progress of UK-EU future relationship negotiations

Thursday 28 May 2020

2.30 pm

Watch the meeting

Members present: The Earl of Kinnoull (The Chair); Baroness Brown of Cambridge; Lord Cavendish of Furness; Baroness Coultie; Baroness Donaghy; Lord Faulkner of Worcester; Lord Goldsmith; Baroness Hamwee; Lord Kerr of Kinlochard; Lord Lamont of Lerwick; Lord Morris of Aberavon; Baroness Neville-Rolfe; Lord Oates; Baroness Primarolo; Lord Ricketts; Lord Sharkey; Lord Teverson; Baroness Verma; Lord Wood of Anfield.

Evidence Session No. 1

Virtual Proceeding

Questions 1 - 24

Witnesses

I: Rt Hon Michael Gove MP, Chancellor of the Duchy of Lancaster; David Frost, Chief Negotiator and EU Adviser, 10 Downing Street.

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Examination of witnesses

Rt Hon Michael Gove MP and David Frost.

Q1 **The Chair:** Good afternoon, everyone, and welcome to this virtual meeting of the House of Lords European Union Committee. We welcome back Mr Gove, and welcome, for the first time, Mr Frost. As we know you are immensely busy, we are very grateful to you both for spending time with us this afternoon.

This is a public evidence session. We will be taking a transcript, which we will forward to you in due course, and we would be grateful for any corrections. I would ask you to be crisp in your responses. We have many members and many questions, and that would enable us to use our time to the best effect. Each member of the Committee has been allocated five minutes in which to ask their questions and supplementary questions, and I will call them in order. At the end of our time, I hope there will be a period when we can also have some supplementary questions in two or three-minute dollops.

Perhaps I could start, Mr Frost, by asking you this question. Your recent correspondence with Michel Barnier has shown a state of play in the negotiations far removed from the "broad outline of an agreement" which the Government had hoped to achieve by the June high-level meeting. Given this, and the Government's ruling out of an extension, is the June meeting still a watershed moment for the negotiations?

David Frost: You are right: we are obviously quite a long way from the broad outline of an agreement that we hoped to have at this point. We are frustrated. It is clear from the discussions we have had over the last few months that a free trade agreement and the economic aspects of this negotiation could be agreed pretty quickly, but that other issues, such as the level playing field and fisheries, get in the way.

I hope we can make some constructive progress next round and in the run-up to the high-level meeting. It will obviously be limited. We have to see how that high-level meeting can be used to make progress in the best way. Personally, I hope it can be a way of giving some new impetus, but we have to see what the market will bear.

Q2 **Lord Wood of Anfield:** Thank you, Mr Gove and Mr Frost, for being here. Mr Frost, what sequence do you envisage for the choreography between the June joint committee meeting, the high-level meeting and the European Council on 18 June?

David Frost: Some of those points are fixed and some are not. We have not yet fixed the high-level meeting. We are talking to the Commission about that. It is still very likely to be in June; I would guess in the last week of June. In an ideal world, you would have a negotiating round next week, have some stocktake at the European Council and then jump off with new impetus from the high-level meeting after that.

We will have to see whether that is where the EU is. It has a lot on its plate with other negotiations and other issues, and it is not yet clear that it has the focus on this negotiation that will enable us to get to that point.

Lord Wood of Anfield: Will there be an opportunity for further negotiations? If no progress is made in the scheduled 1 June round, are you saying these deadlines are quite moveable, to accommodate more time for meeting of minds?

David Frost: We are all working on the assumption that there will be further rounds after the European Council and the high-level meeting. I expect there to be one towards the end of June. I am sure there will be at least one more round in July, so negotiations will continue. As the UK, we have to balance two things: our need, on the one hand, to keep talking as long as there is a constructive process happening, which at the moment there is; and our need, at some point, to provide maximum certainty to businesses and economic operators about what will happen at the end of the year.

To use the shorthand, the Canada and Australia outcomes are similar but not identical, and at some point we have to be clear about what business has to be ready for. We will talk in a constructive way as long as there is a constructive process, but at some point prioritising readiness for the end of the year will loom larger than the negotiating process. We are not at that point at the moment, but as a matter of logic it will come.

Lord Wood of Anfield: From what you say, it sounds like the June deadline for an extension request is neither here nor there and will not be used in any circumstances. Is that true? Are there any circumstances during the negotiation that would prompt you to consider an extension request?

David Frost: I work within the policies set by the Prime Minister and the committee that sets policy in this area. The Government's position is pretty clear: we will not ask for an extension and, if the EU asks for one, we will not agree to it. That is just part of the framework now, and we are working to an end-year deadline.

Lord Wood of Anfield: On the question of consultation to begin to prepare for the exit of the transition period, if indeed there is no agreement, at what point will there be discussions with businesses about that eventuality?

David Frost: That is perhaps a question for CDL on the readiness side. I am focusing on the negotiations proper.

Michael Gove: We are engaging with business now. Business knows that, as David pointed out, there are significant differences between a Canadian and an Australian-style deal. They will need to be ready for customs declarations and other processes, so the business process of making sure that you have customs agent capacity or intermediaries who can ensure that those declarations are filled in is pretty much the same,

come what may. Everyone's attention has been distracted by Covid-19, but we anticipate building up our engagement with businesses for the changes that they will inevitably require.

Of course, if we are outside without a Canada-style agreement, there will be the additional process of tariffs to be paid on some goods. But in many respects, while tariffs are significant in some sectors, the biggest bureaucratic challenge is making sure that people are ready for being outside the customs union. Business broadly knows, although there is much work still to be done, what that will require, and HMRC and others are engaging with business on that.

Lord Wood of Anfield: Mr Gove, if indeed the European Council comes back and says, "Look, we really need a little extension to this transition period to get the basics sorted out", is the Government's position that they will say no to that request?

Michael Gove: Yes.

The Chair: That was good and crisp. Thank you very much.

Q3 **Baroness Brown of Cambridge:** Good afternoon, gentlemen. I wonder if I might follow up with Mr Gove some of the discussion that we just had.

We heard in our discussions with businesses in Northern Ireland how desperate they were to know what preparations they should be making. You have touched on this, but can you expand on what mechanisms and support you are considering to facilitate an orderly transition from what happens today to the requirements of the future relationship? I wonder if you can tell us a bit more about when the proposed business forum will start its work and what it will do.

Michael Gove: Northern Ireland business had a wide range of views on the protocol, but there was near-universal welcome—not three cheers, but certainly one and a half—for the publication of our command paper on the protocol, which laid out the principles by which Northern Ireland businesses will continue to have unfettered access to the rest of the United Kingdom's internal market. It also laid out some additional processes that will need to be undertaken, when goods are moving from Britain to Northern Ireland, for us to play our part in protecting the EU's single market.

Our business engagement has now begun with the Secretary of State for Northern Ireland and his team leading that. There are still some issues to be worked out, but we have said to the Northern Ireland Executive that any additional costs will not be borne by them, but by the UK Government.

Baroness Brown of Cambridge: Since you have touched on unfettered access, how do we square the absence of a requirement for exit summary declarations with article 5 of the protocol?

Michael Gove: Our view is that it is for the UK to administer the protocol. If we are prepared to bear the risk, which is very small, of goods entering our internal market through a Northern Ireland back door, it is not a problem for the EU, but a problem for us. Theoretically, there might be a loss of revenue. Theoretically, goods that do not meet our standards might enter through that, but we are confident that other steps—market surveillance and so on—would mean that that risk is minimal.

Baroness Brown of Cambridge: To change the topic, there is no mention of Horizon Europe in the draft legal texts that were recently published. Can you give me an update on the negotiations for full association with Horizon Europe? Universities are worried about a lot of things at the moment, but that is one of the things they are particularly concerned about.

David Frost: I am happy to do that. We are talking to the Commission about Horizon Europe and three or four other programmes that we are interested in participating in, if we can find the right terms. We have not published our own text on that, although we keep the right to do so. Principally, it seems that, because these are EU programmes, it is logical to work off the EU's text rather than writing our own. This is a slightly special case in this process.

We have begun discussions. A number of areas remain to be clarified. In particular, the Commission has proposed a mechanism that would mean that in no circumstances could the UK be a net recipient from any of these programmes; it could only be a net contributor. Some provisions about the terms of access, the GDP key and the terms on which either side could exit the programme need to be sorted out. If we can sort these out, we are very much open to participation. The negotiation is pretty constructive, but we are still some way from agreement on it.

Baroness Brown of Cambridge: Mr Gove, if we do not have an agreement on this by January 2021, what measures are the Government planning to support our universities and companies to continue with key research and collaborations?

Michael Gove: The Prime Minister has made it clear that we will match every penny, and indeed exceed any loss of funding from participation in Horizon, so that scientific research continues to be well funded in our universities. As you know far better than I do, there are other impacts on universities as a result of Covid-19. We will need to ensure that we are even more determined to support scientific research. It has to be one of the top priorities for future government expenditure overall.

Baroness Brown of Cambridge: Thank you. That is good to hear.

Q4 **Baroness Couttie:** Mr Frost, when Mr Gove appeared before us on 5 May, he indicated that we would be willing to accept non-regression clauses, but not additional level playing field provisions that might, for example, require alignment to EU law or regulations. Setting state aid to

one side for a moment, can you say what the EU proposes beyond non-regression in the areas of labour, the environment and taxation? What additional things are the EU asking for that may restrict our ability to enter into free trade agreements with countries outside the EU?

David Frost: It is quite complicated, but I will be as brisk as I can. On labour, they are suggesting that there should be non-regression from EU standards, so EU standards are important. They are suggesting that enforcement mechanisms need to be in place domestically, which they are. They are proposing a ratchet clause, which is complicated, and I can say more about that if you wish. They are proposing that what happens in this area should be subject to a dispute settlement mechanism that includes the European Court of Justice. That is what is over and above that.

On environment, it is rather like that, except that they would like us to establish an independent authority to police ourselves in the environment area. On climate, they would like us to commit to carbon pricing, and to the Paris agreement, as an essential element of the agreement.

Tax is a bit different; it is not normally part of an FTA in quite this way. They are proposing commitment to good governance and OECD standards, where we do not have a big difference between us, of course. They are proposing non-regression on three specific tax measures about anti-avoidance, which really equate to EU directives, again policed by a dispute settlement mechanism that involves the European Court of Justice. We have some problems with that aspect of this. Generally on tax we have similar principles, as you would expect.

Those are the slightly complex, and in some areas unprecedented, arrangements being proposed.

Baroness Couttie: I accept that, politically, we will try to hold firm on this. If we were forced into any form of compromise, how would that impact the free trade agreements we may want to enter into with third countries? Is there anything else in the current EU regulations that we have to adhere to, which the EU is trying to ensure we continue to adhere to, that could protect its markets in the UK? I am thinking particularly of agriculture, viticulture, automotive—those important big industries for the EU where I can see that it would want to protect its market in the UK, which it might feel could be undermined by free trade agreements with countries that produce those products more cheaply.

David Frost: There is a lot in that. On issues of regulation of goods, such as cars, it is a given that, if we are exporting to the EU market, we meet EU standards. That is clear. The EU is making a virtue of that fact and not doing anything in its offer to ease the movement of such goods across the border. In most free trade agreements, there are facilitations for mutual recognition of such products and measures to reduce barriers to trade in particular sectors. None of that is on offer at the moment, although we would like it to be, because it is quite standard stuff.

To answer the first part of your question, any area that affects our domestic discretion to regulate can have an effect on other free trade agreements, because deep free trade agreements are about regulation as much as they are about goods. That is an abstract answer. You have to wait until we are negotiating more FTAs to be more specific about it.

Baroness Couttie: If I understand what you have just said, the EU is resisting a mutual recognition of standards, particularly as we may or may not start to diverge from the EU regulations. That in turn, if we diverge, may impact on the types of free trade agreement we could negotiate with other countries. Obviously, we are holding our line, but say we had to accept that.

David Frost: It is clear that we will hold our line on this. For example, we are not talking about mutual recognition of different standards and goods. We are saying that, for example, each side's agencies can recognise goods against different standards. A UK agency could say that a good met UK standards and EU standards, so the same good did not have to be policed in different places. That is not on offer.

Q5 **Lord Oates:** Good afternoon, Mr Gove and Mr Frost. Following on from Baroness Couttie's questions, Mr Frost, can you set out for the Committee your view of the ratchet clause as proposed by the EU, for instance in respect of environment standards?

David Frost: It is not terribly clear from the legal text, so we have talked to them about this in some depth. Although this is an interpretation of the legal text rather than very easily derived from it, they give a numerical example. Suppose we leave the transition period with standards that equate to five out of 10 at the point of exit. If over time we voluntarily increase our standards to eight and they increase their standards to seven, we cannot then fall back below seven. There is a mutual commitment to the higher standard. It does not require us to move in parallel, but if we both choose to move to higher standards, those are locked in. That is their explanation.

We have a number of problems with this. First, it does not seem easy to define standards in quite such a simple way. Sometimes there are numerical components and sometimes there are not; they are qualitative and it is not obvious what a comparable standard is. Secondly, they propose a dispute settlement mechanism that involves the European court interpreting EU law in this area. Since much of this in their construction would be quite like EU law, we feel that would not be a balanced arbitration process if we got into any argument about standards. This is wholly novel. We are not aware of any agreement that has anything like this. It seems complicated to run, quite apart from the issues of principle that it raises.

Lord Oates: Mr Gove, we have a good reputation for leading the way on environmental standards and climate issues. Might there not be some specific advantage to the UK in the ratchet clauses?

Michael Gove: We respect the position that the EU might wish to take. I would say two things. First, the Office for Environmental Protection, a new body that is intended to be set up in the Environment Bill, is one that we wished to set up anyway, but during the negotiation of the withdrawal agreement the EU recognised that this body would ensure that the broad environmental principles that most civilised countries take account of—the polluter pays principle and the precautionary principle—would be policed in the UK in accordance with policies set out by the UK Government.

The EU was broadly satisfied at the time that this would mean that we would not be renegade. It was our belief that others might seek to emulate the model of the OEP. The point was made by the Prime Minister in his Painted Hall speech that, while we absolutely want to continue to be leaders in environmental standards and in other areas, we would not ourselves place an obligation on the EU. We do not want to use these negotiations in any way to fetter the EU. This goes to David's point that the level playing field requests and the way they have been argued for represent one sovereign equal seeking to fetter another sovereign equal. We do not take that approach.

Lord Oates: Mr Frost, can you tell us how you respond to Michel Barnier's claim in his letter to you that the level playing field provisions, including on state aid, do not mean that the UK would continue to be bound by EU law?

David Frost: The draft treaty that they have put forward clearly shows that we would be bound by EU law in the state aid area. Indeed, there is an obligation to adopt it dynamically; as EU law changed, we would have to change our domestic law to match it, with penalties if we did not choose to. I am sure and confident that Michel Barnier knows that well, and I read his letter accordingly as part of the ongoing process of negotiation.

Q6 **Lord Kerr of Kinlochard:** Mr Frost, last time you saw us, Mr Gove told us that he would be willing to consider some tariffs on some trade with the EU if this solved the level playing field problem. Which tariffs would they be? How would you pick them? Would this not breach the WTO MFN basic law?

David Frost: We have brought this into the discussion, although we prefer the outcome of zero tariffs and quotas. We have committed to that in the political declaration. That is what we are working for. We are trying to find a way through the level playing field problem. At the moment we have a binary choice in these negotiations: zero tariffs with lots of level playing field, or no agreement. It seems that there is a way in the middle of this, with the level playing field characteristic of a free trade agreement and free trade agreement-like levels of access, so 98% or 99% tariff-free, but a small amount.

We have to discuss with the EU whether this is a productive way forward. I am not sure it is at the moment, but we have put it on the table. If it is

a way forward, we will have to have a discussion about which tariffs would be excluded from the process. There are precedents, and they tend to be in agriculture, but that would be a policy decision. That is the state of the process that we have got to. It would not bring in WTO MFN provisions, as I see it; it would put us in a situation analogous to Canada or other countries that have a free trade agreement that does not quite cover everything.

Lord Kerr of Kinlochard: It is substantially all trade, but you are saying that it would be a very limited number.

As a wider question, in his rather odd Greenwich speech on 3 February, in which he warned the world against getting into a panic about coronavirus, Mr Johnson said that humanity needs the UK to “take off its Clark Kent spectacles” and play Superman, the “supercharged champion” of free trade.

In that spirit, Mr Gove, you used to say that, if there was no deal with the 27, we would put no tariffs on our imports from them and challenge them to do the same. You do not seem to be saying that now. We seem to have ditched the Superman cape and published WTO tariff plans. Do you now agree that no deal with the world’s largest free trade area would mean these tariffs on imports from our largest supplier, and their tariffs on exports to our largest market? Would that not be quite a big step back from free trade?

Michael Gove: There are several points. First, the Prime Minister was warning specifically about a retreat to autarky in the wake of the pandemic. He made the point that we need international co-operation. We have seen that—scientific, procurement, and otherwise—so it is only fair to say that the Prime Minister was right that a retreat into full-on protectionism in the face of Covid-19 would be a mistake. Covid-19 has exposed the fact that there may be an overreliance in some areas on some markets, and therefore we need to have even greater diversification, which would help to promote freer trade overall.

On the point about the tariff schedule that we have published, it is fair to say that it is more liberal than the EU's approach. We have gone for simplification of a number of areas where the EU has a more complex approach. For example, we are radically simplifying the Meursing table that covers agricultural goods. In essence, it is a step forward to free trade. It is only one step; we want to take further steps, including free trade agreements with other countries as well.

Lord Kerr of Kinlochard: But you would be putting tariffs on the country that is the largest exporter to us. A large number of goods sold in the UK would carry a tariff. They would be more expensive.

Michael Gove: Yes, and that would be a hit for the EU. It is one that it might want to take, but, as is well known, the EU has a surplus in trade in goods with the UK. Some economists, although I am not one of them, argue that, if you are a deficit country when it comes to goods it is

economically rational to have tariffs, because it is a way of making sure you increase government income and penalise your competitors. I do not take that view, but it is a respectable view held by some. The people who would suffer most as a result of this would be EU producers.

Q7 **Baroness Neville-Rolfe:** I want to follow up on tariffs. Have you assessed the impact of any such tariffs on UK businesses? You mentioned EU business, but what about UK businesses, the supply chain and, indeed, the overall economy? Is there a comparable precedent for an FTA inclusive of tariffs being agreed so quickly? We have only a few months left.

Michael Gove: I will try to answer it and then David may come in with real expertise. On the first point, we are assessing overall, in the light of Covid-19, exactly what the right approach would be and, at a time when supply chains are being reviewed across every sector, what impact tariffs might have on them. We are already seeing, even absent the conclusion of these negotiations, a drive towards a greater level of reshoring, for a variety of reasons, not just Covid-19, but also as a result of changes in technology. We are seeing that in Japan. We may see it in automobile manufacture here. Tariffs are one factor, but only one factor, as supply chains are reviewed.

On your second point, I will hand it to David, because it is a matter of will rather than technicality.

David Frost: Your question was whether there are comparable examples. This is a highly unusual situation. Most free trade negotiations are about reducing barriers; this is an unusual one in the sense that we are coming out of the customs union and the single market, and putting a different institutional arrangement in place. Yes, it is unusual. That is one of the complexities of this negotiation. As a policy decision, the Government's view is that the benefits of having regulatory control and controlling your own customs arrangements outweigh the cost in the long run, but we would like to minimise that cost if we can.

Baroness Neville-Rolfe: Right, so there is not really a precedent, because it is a completely different situation.

David Frost: I am not aware of a precedent. There may be one on a micro scale, but I am not aware of a major country doing this. We all know that this is an unprecedented and unusual situation.

Baroness Neville-Rolfe: On a slightly different tack, Mr Frost, your letter suggested that it is quite possible that a deal will not be concluded by the end of the year, at least in several important respects. It seems to me that there will be some economic challenges, but there could also be some opportunities from that situation. You have already mentioned clarity. Can you expand a little on the opportunities side?

David Frost: First, it is not our preference. We would like to get a deal and my letter was not intended to signal that we were looking not to reach an agreement; far from it. It was intended to show that an

agreement is perfectly possible, provided that the EU did not bring new and unprecedented elements to the discussion. We would still like to reach an agreement.

One big opportunity is the ability to control your own trade, to do free trade agreements with other countries more broadly, to lead the WTO in the trade world more generally, and to have regulatory control over your own rules in a way that makes us nimbler and more capable of responding, for example, to technological developments and the EU. That is a policy decision about the right regime for the UK, which the Government have taken and which was settled through the election and the referendum before that.

Q8 Lord Teverson: Perhaps I can start at a higher level on the fisheries side with you, Mr Gove. You are generally recognised as being one of the most successful Defra Secretaries of State. You have family connections with the Scottish industry, so you know very well that fisheries is one of the most emotionally charged areas of this negotiation, not just on this side of the channel and the North Sea, but on the other side. At a top level, do you think there is a possibility of getting an agreement on fisheries? Can common ground be found? Is there a real chance that it will not be found because the gap is so wide, and that will stop a wider deal happening by the end of the year?

Michael Gove: Thank you, Lord Teverson, for your very kind words. You are absolutely right; it is an area of significant contention. It is interesting that, as we understand it, Michel Barnier had a call with the Fisheries Ministers of various EU nations earlier this week. He may or may not have been seeking some flexibility from them, but their message to him was to stand firm. Whether we are inflexible and they are resolute, or they are stubborn and we are principled, whichever way you cut it, there is a sense of a stand-off there.

Michel Barnier argues that he does not want to look to the past with this agreement. The precedents are all very well, but he wants to look to the future. One of the contentions that David has made, and which I strongly agree with, is that on fisheries they are looking to the past. As you well know, stock management and climate have changed what is happening in our waters. We wanted to use a method of zonal attachment, which more accurately reflects where the stocks are and what their conservation condition is.

The EU wants essentially to stick with a modified version of the relative stability mechanism, which relates back to where fish were and patterns of fishing when we joined the EU. Again, I do not want to be unduly critical. If I were the Irish or the Danish Fisheries Minister, I would fight for my sector as well, but this is an area of real difficulty.

Lord Teverson: Perhaps this question is for Mr Frost, but is there any chance whatever of an agreement by 1 July, which is what was hoped for? If not, what are the implications of that? Where does it go from there?

David Frost: I said yesterday that I was beginning to think that we might not make it by 30 June, and that is still true. It is now challenging. It is only an aspiration in the political declaration, of course; it is not a requirement. I am sure we will carry on talking after 30 June. At some point, there will need to be a negotiation on the arrangements for 2021, whether there is an agreement or not. If there is no agreement, that will reflect the fact that we are an independent coastal state and will control access and fishing in our waters at that point. That is the reality which the EU has to contend with if it does not evolve its position and try to reach an agreement with us.

Lord Teverson: At the end of the day, fisheries is way less than 1% of GDP, on both our side and their side. I could see a scenario where not getting there means that the EU refuses to have an agreement at all with us. Is that scenario possible: that this undermines the whole process?

David Frost: Either side can establish linkages between any elements of the negotiation that it wishes. You have to judge how credible those linkages are as you go through it. I still believe it is in the collective interest to find an agreement on fishing and on everything else, and that is what we are trying to do.

Michael Gove: Con O'Neill, who was involved in the negotiations when we joined the EU, said in his memoirs that fisheries was the most difficult issue then. To be fair to Michel Barnier, that is one thing that has not changed.

Q9 **Baroness Donaghy:** Good afternoon, Mr Gove and Mr Frost. My question is about the mutual recognition of professional qualifications. Mr Frost, your letter to Mr Barnier states that the Government's "legal texts draw on precedent where relevant precedent exists", yet the Government's proposals on the mutual recognition of professional qualifications appear to go beyond existing precedents such as CETA. Do you agree?

David Frost: I look at it slightly differently, I suppose. Let me make a general point first. Every free trade agreement is different. They are all tailored to the circumstances of the countries negotiating them, but they are all recognisably free trade agreements and not something else. There has generally been a process of improving and deepening free trade agreements over time, over the last 10 to 15 years, as they have been negotiated. As one example, EU-Japan includes provisions on financial services co-operation that do not exist in CETA, and that reflects the realities and the interests of the economies. What is a free trade agreement? That is not something that has absolutely clear content.

In some areas, we have thought it perfectly reasonable to put forward proposals that reflect the specificities of our economy and the EU's, and a particular starting point, but they are all free trade agreement-like. They all have appropriate content for free trade agreements, and they are not like being in the single market, or anything like it, as has been suggested.

Those are my general points about why we put forward something slightly different on mutual recognition of qualifications. It is perfectly appropriate to a free trade agreement; it is just a little different from existing ones. I can go into the detail of what we have proposed, if you would like.

Baroness Donaghy: If the Government could explain their rationale for departing from precedent in this area, and point out the differences between our approach and the EU's, it would be very helpful.

David Frost: Briefly, because it is very complicated, all that existing free trade agreements—Canada and so on—do in this area is establish a framework for agreeing mutual recognition of qualifications. Both parties then have to operate through that framework, and usually it is a two-step process. The industry groups and the authorities have to make a recommendation to the joint committee. The joint committee agrees it. The negotiators can then agree an agreement. Only when that is done can anyone start recognising any qualifications under that agreement. It is not entirely surprising that no such agreements have been established under any of these free trade agreements so far, and therefore not a single qualification has been recognised.

We are suggesting simply going one step further—requiring the relevant authorities, both here and in the EU, to establish a system up front from the start. It does not say what that system should be; it does not require the other party to accept qualifications. It just says that there should be a system. It is trying to get to the end point that is in the Canada agreement at the start. It is trying to say, "Let's not spend ages working out the framework agreement for establishing the qualifications. Let's do that from the start and focus on the actual mutual recognition process". It is an attempt to accelerate what is there but not change the fundamental nature of it.

Baroness Donaghy: How would you react to Mr Barnier's indication that we are seeking favourable market access conditions for UK professionals?

David Frost: I would say that that is what a free trade agreement is about. It is about establishing favourable market access for both sides. There are plenty of professionals who come to the UK for whom this would also be of benefit. We do not think there is anything wrong with that. That is what these agreements are designed to do. If the EU does not want to do it in this way, we will have to find some other way of doing it that will be more like the Canada agreement, but we make no apologies for putting it forward. It seems perfectly reasonable that we should be trying to improve market access. It is not at all like being in the single market, where you have a single set of rules policed by a set of institutions and no choice about how you operate them.

Q10 **Lord Lamont of Lerwick:** Good afternoon to you both. Mr Gove, how much progress has been made on the financial services negotiation, particularly the equivalence assessment, which should have been easy and should be made by the end of June?

Michael Gove: You are absolutely right; it should be relatively straightforward. It is a process for the EU, but given its skills and the knowledge it has acquired of our financial services sector I would have hoped, as I indicated earlier, that adequacy would have been granted. David can say more about the smoke signals that have emanated from the negotiations. The negotiations are about the future. This is about whether we pass a particular test now.

David Frost: On equivalence, the process has begun and the Treasury is in regular contact with the Commission about all this. Some pretty hefty documents have been exchanged by way of questionnaires, which is a little surprising in a way, since the EU knows our system perfectly well, and knows what directives we are abiding by and how we do it, but there we are. We go through the process and it is constructive. We do not see why this needs to take a long time, but we are in the EU's hands as to how long it takes. We are conducting our own assessment of the EU's equivalence to us on the same timescale, so that is where we are. It is constructive, but there is a way to go yet before we get a decision.

Lord Lamont of Lerwick: Mr Gove, how important do you think an agreement is for the financial services sector? How easy would it find it to operate with no agreement at all? Are there any parts of the financial services sector that would be particularly vulnerable?

Michael Gove: Some sectors would be more affected and some would be significantly less affected. I am no expert on financial services, but if we look at everything—the broad retail and wholesale banking sector—there are some areas where the capacity to sell services into the EU would be affected. It is important to look at the UK financial services sector in the round. There are several things.

First, there is a concentration of expertise, not just in financial services but in the business services that support it—legal, accountancy and otherwise. Secondly, there are few places in the world where you have such a deep and broad capital market. As I think I have mentioned in the past, if the EU deliberately chose to raise the barrier on access for our financial services to its market, the losers would be investors in equities in EU companies, who would not be able to get the very best price for any transaction that they wanted. It would be another example of potential self-harm on the EU's part.

That potential self-harm might have an impact on certain parts of our own financial services sector, but some parts of our financial services sector, some funds and so on, will be completely unaffected. More broadly, as we have seen in the past, some EU rules, such as on bonuses, have been designed by other finance ministries in the EU specifically to cause problems for our financial sector. Outside the EU, we will not be exposed to those risks.

David Frost: I do not have much to add, except to note that equivalence is not a single thing. It is a set of decisions under a set of separate directives. Many directives in many areas do not have equivalence

provisions, so the relevant sectors are already preparing to operate without that because the possibility does not exist. It is not single and binary—equivalence or not. It is a much more variegated situation.

Lord Lamont of Lerwick: Where are we on clearing houses for derivatives and synthetic products? That was one area where the EU was threatening to repatriate them to the eurozone. Have we managed to find a solution, either temporary or permanent, to that?

David Frost: I believe there is an equivalence question with that particular issue. Therefore, it is caught up with the broader equivalence process that is under way. I am sure we can write with more detail if that is useful, but it is covered by my general answer earlier. It is going through the mill of the equivalence process.

Lord Lamont of Lerwick: If you could write, that would be helpful.

The Chair: Thank you very much. That is a kind offer.

Q11 **Lord Sharkey:** Can I follow up briefly on Lord Lamont's question about CCPs? London clearing houses are a key part of our financial services structure. The European Systemic Risk Board is currently considering changing the rules governing the resolution of ailing central counterparties in order to prevent cascading failures. Are we part of those discussions? What would be the effect on our financial services of regulatory divergence among CCP-regulating authorities?

David Frost: I would have to suggest that we wrote to you on that point. My own focus is on the broad negotiations with the EU for the future rather than that specific side of it, but we can let you have more information in writing.

Lord Sharkey: That would be very helpful. Turning to the broader side of it, in that case, what reasons has the EU given for resisting the inclusion of provisions on regulatory co-operation for financial services, including consultation on a mechanism for making equivalence decisions?

David Frost: That is a good question. We are not sure why they will not go down this road. We are proposing a set of arrangements rather like those that are already in the EU-Japan agreement, so it seems a bit strange to us that this is the difficulty. Maybe it is a difficulty that will be overcome as we move forward in the negotiations. The EU's basic view, at least in this context with us, is that this is not appropriate to a free trade agreement and may need to be captured in some other way. We are not far enough down the road of discussions to know exactly where they want to take this.

Lord Sharkey: How have they responded to our proposal of the creation of a dispute settlement body for financial services in general?

David Frost: What was proposed is a little more complicated than that. It is more about bringing predictability to autonomous processes so that we both know where we stand and there are no surprises. I would not

want to go into the detail of everything that is said in the negotiations. They feel that we have a set of good arguments, which at the moment they do not want to respond to or pick up in this negotiation in this way. As I say, we are at a particular stage of the negotiation and, as we move forward, things that are not possible may become possible.

Lord Sharkey: In some sense, is that a way of saying that there is a linkage between, say, fisheries and financial services?

David Frost: I would not say that. We would not want to establish any such linkage ourselves in that area. The EU is probably doing what any reasonable negotiator would do, which is to indicate that it does not want to move on things that are important to it until we also begin to move on things that are important to it. When we get into that dynamic process, some of these things may become possible, but I do not think we will link fisheries to anything.

Q12 **Baroness Primarolo:** Good afternoon, Mr Gove and Mr Frost. Can I turn to the question of data protection? In the context of the adequacy decision required by the GDPR, Mr Frost, I wonder whether you can take us through the reassurance you have provided to the Commission that, at the end of the transition period, the UK will continue to replicate the EU standards on data protection, which is clearly important to both sides.

David Frost: Where we are is roughly parallel to where we are on the financial services equivalence process. Discussions have begun over adequacy. The first meeting was in early March, and we have published quite a lot of the material that has gone to the Commission. We have provided extensive detail on how we have incorporated the GDPR and law enforcement directive. Once again, they know that very well, but we have provided it in any case. There is no doubt, in our view, that we will be data adequate at the point of exit, because we are operating the same rules at the point of exit. It would seem odd to us if there was any question mark about adequacy at that point.

Looking to the future, we have made clear that we intend to operate a high-quality regime. That is obvious and is part of being a high-standards country. We will not commit to follow whatever the EU does or the GDPR in every detail. The EU has granted adequacy to 13 countries; none of those operates GDPR, but they operate rules that are equivalent. We are committed and intend to remain committed to the high standards.

Baroness Primarolo: You touched there on law enforcement. The Prime Minister made it clear in his February speech at Greenwich that we were going to establish our own sovereign controls with regard to data protection. Looking to the future, because this will be crucial, in the context of law enforcement and co-operation on criminal matters, what specific reassurances have you offered the EU 27 on data protection? This will need to be progressed quite quickly.

David Frost: We have offered the same reassurances in that context as we have in any other. Obviously, the legal framework is different, and

there are two adequacy procedures going on, one under GDPR and one under the law enforcement directive. We are the first country that has had to undergo both, so there is a certain amount of a new precedent being established here.

Our general point stands that we intend to be a high-data-standards country, processing data in the best possible way. The EU's view is that continuing data adequacy is a precondition for any kind of law enforcement co-operation. That is a position it is entitled to take, but it does not seem to be absolutely necessary up front in a law enforcement agreement. That is where those discussions have reached.

Baroness Primarolo: Can you expand a little on the detail of what exactly is being said by the EU negotiators about the reassurances you have provided to them on data protection going forward?

David Frost: Of necessity, those reassurances are general, in the sense that the future is unknowable. The precise circumstances that we will be responding to are unknown, but we are committed to maintaining the highest possible standards. It is inherent in the future that we will be a separate jurisdiction in this area and doing things in the same way. It is up to the EU to draw conclusions from what we do, but we do not believe we will give it any reason to doubt that we are a high-standards country doing things in the best way.

Q13 **Lord Morris of Aberavon:** Good afternoon, Chancellor and Mr Frost. I would like to ask you about appropriate further safeguards if the Government wish to mimic Norway and Iceland. What do you mean by appropriate further safeguards?

David Frost: On extradition, we are suggesting that we should have an agreement between us that is rather like the EU-Norway agreement, which is similar to the arrest warrant arrangement, but different in some crucial ways. In particular, you can bring extra safeguards and conditions into the process that do not exist in the EU system and that have been quite controversial here.

To take probably the two most important examples, proportionality is one safeguard that we are looking for. Some EU members have a legal obligation to pursue every case, however trivial, and thus extradite citizens for minor offences—very minor theft offences, for example. We think that judges should have the right to refuse to surrender somebody when they receive a warrant if the cost of that and the associated process are not proportionate to the accusation against them.

Another area is trial readiness. Again, this has been quite controversial. We think the judges should be able to refuse to extradite if a case is basically not ready to go to trial in the other country or it is to ensure that a sentence is served. We do not think it is reasonable that we should be required to extradite citizens to sit in a prison, essentially on remand, for prolonged periods while an investigation is conducted and we do not know whether any charges will be brought.

Those are two of the main safeguards we want to bring into this process. They have not been agreed yet, but we are having a constructive discussion about them.

Lord Morris of Aberavon: Do these aspirations go beyond EU law?

David Frost: They are different from EU law in the sense that the EU arrest warrant arrangements do not allow you to place these sorts of conditions. The Norway one includes some different conditions. We are looking for something that is a bit tailored to our particular circumstances and the needs of our legal system.

Lord Morris of Aberavon: How will these arrangements be policed and enforced?

David Frost: They will take place under the legal provisions of the agreement. If there is a disagreement in a particular case, we propose the possibility for both Governments and both sets of authorities to discuss that situation. This is a general point about law enforcement agreements. We do not think they are appropriate to arbitration mechanisms or, still less, the involvement of the European Court of Justice.

Lord Morris of Aberavon: We have heard evidence that the police are concerned that they will have much less ability to extradite. Is that the position that we envisage?

David Frost: The arrangement we are looking for is similar to the Norway one, which is a streamlined process compared to what would happen if there was no agreement. In all these cases, there is the question of balancing correct process requirements and reasonable requirements for decent treatment of people against the requirements of law enforcement. I have given two examples of where we think the arrest warrant did not strike quite the right balance and where we think it could be done in a slightly different way.

Q14 **Baroness Hamwee:** Good afternoon, gentlemen. You have just mentioned a couple of aspects of human rights. Can I take you, Mr Frost, to the issue of the European Convention on Human Rights? The political declaration requires continued adherence to it and refers to it as a commitment. That is reflected in the EU's negotiating text. I am interested in why we are, apparently, refusing to include it despite our role in its creation. Can you tell us why this is and whether the EU understands why this is?

David Frost: We are members, in good standing, of the European Convention on Human Rights and intend to continue to be. That is the situation whether or not that fact is mentioned in the law enforcement agreement. The EU's position is that it must be mentioned and that collaboration and co-operation should be conditioned on it. Over and above that, they are saying that our domestic implementation of the convention must be subject to their supervision and, if they do not like

our implementation of the convention, that the law enforcement arrangements can be collapsed as a result.

That seems to us to be wholly inappropriate in an agreement such as this. How we implement our international commitments is a matter for us, and we intend to do that in good faith. Therefore, the framework of the convention exists for law enforcement co-operation. It exists whether it is mentioned in the agreement or not. It is very important to both sides. Of course, the EU itself cannot be party to the European Convention precisely because it will not accept an outside authority dictating its own internal arrangements. We think that is a good principle to take into the agreement more broadly.

Baroness Hamwee: That is a bit technical and a bit political. The words in the political declaration are "continued adherence and giving effect to". Does that leave some room for agreement as to what "giving effect to" means? It would look pretty awful if the UK appeared to be rowing back from the ECHR. Would it not, apart from anything else, impact the good faith and our ability to reach agreement on a range of security issues?

Michael Gove: We will not be. We take pride in the role we played in the establishment of the convention in the first place. We will remain subject to it and part of the court. The Human Rights Act, like all legislation, can be updated and modernised. Tony Blair brought it in when he was Prime Minister. He subsequently thought that it might need review in one or two cases, but that is about making sure that human rights work better, not about moving away from them.

Q15 **Lord Ricketts:** I want to pursue a couple of question on the policing databases and alerting systems that have become so central to UK policing in the last decade or so.

I will start with the Schengen Information System, SIS II. We heard evidence from the National Police Chiefs' Council lead on Brexit, Richard Martin, that, last year, UK policing accessed this system 603 million times. David, given the Government's aspiration to achieve capabilities similar to SIS II, even though there has been no precedent for a non-Schengen country to do that, what are the real negotiating prospects of getting something similar to SIS II?

If we do not, what mitigations can we put in place to help the police with those 603 million requests per year, which we will not be able to make next year? That question is perhaps for the Chancellor.

David Frost: You are right that SIS II is an important and extremely useful system. The difficulty is that the EU has said that it is simply legally impossible for any non-Schengen and non-EU member state to be part of SIS II. That appears to be a position that it is very firm on. We are not sure exactly what the legal underpinning for that is. There are different views on the question here, so we hope that it may not be a completely closed one. At the moment, that is the EU's position and we regret it. It makes a negotiation pretty difficult to have. That is where we

are on that and we hope that the EU will think better of it as we move forward in the negotiation itself.

If we do not agree it, we would like other arrangements that come as close to it as possible. At the moment, the arrangement will be the Interpol alert system, which is definitely less satisfactory. It would certainly be possible to develop something that is better than that and comes closer to what can be achieved in SIS II. Let us hope that we do not get to that point.

Michael Gove: I agree with David. Again, we all benefit from its operation. I think that we proportionately—per capita, or however we want to measure it—share more information with EU member states than is shared with us. Again, with security, it is never entirely a zero-sum game.

There are alternatives. Fundamentally, the question comes down to ECJ jurisdiction, as David mentioned. SIS II came in, I think, just towards the end of Tony Blair's time as Prime Minister, so there is an argument to be made that, while it is a useful tool, it is not essential in maintaining national security. There are, through other methods of police and security service co-operation, a number of ways in which we can operate effectively. As I have touched on before with this Committee, Border Force and others believe that, if we have the right sort of border controls and we accumulate intelligence ourselves through flows of goods and of individuals, we may be able to protect our borders better than is the case at the moment. That, of course, is open to debate.

Lord Ricketts: Can I follow up briefly on another database, the Prüm database of DNA, fingerprints and vehicle registrations? When we opted into that in 2015, the Government said it was in the national interest as it helps us to identify foreign criminals and serious crimes. Richard Martin said that accessing crime scene data through Prüm took 15 minutes, whereas, under the previous system, it took four months. Are we going to go back to taking four months to access crime scene data?

David Frost: I hope not. We are having relatively constructive discussions on Prüm. There are still some differences between us on that. Prüm is rather like many of the tools in this area, on which we are having quite constructive discussions as to their substance, but we cannot accept the conditions which the EU imposes by way of ECJ involvement, arbitration, data adequacy, the ECHR as the EU frames it, and so on. We are positive about Prüm and many other areas in this, if we can find a way through those questions of principle. Although, as you said, they look pretty difficult, let us see if we can move forward somehow.

Q16 **Lord Cavendish of Furness:** Good afternoon. My question concerns transparency. I hope it is very clear to you that the publication of the UK draft text hugely enhances our ability as a committee to scrutinise negotiations. However, the letter received by our Chair of 19 May says that you only published these because of the EU's insistence on sharing them with member states. I think the Committee would like to know

whether greater transparency and openness could be expected in the future. Will the Government commit to publishing updates and texts in a timely fashion as their negotiating position develops rather than waiting for two months?

Michael Gove: The fact that the EU was publishing its own text was only one factor. I do not want to be unfair to the Commission, but it was making a virtue out of necessity because sharing the text with the other 27 member states would have meant it would have inevitably leaked out. Our view was that, in many trade negotiations, texts are not published in the detail that we have.

We also felt that it was important for people to see that what we were asking for was a series of precedented arrangements. The EU's position was one factor, but a desire to make sure that you and others could see that our requests were not excessive was another. Of course, should anything change, we will be determined to share everything with Parliament as quickly as possible.

Lord Cavendish of Furness: Mr Frost, from your point of view, what harm would have resulted from publishing those draft texts at the same time as the EU published its draft agreements back in March?

David Frost: In our view, we were, and are, trying to begin a rapid and complicated textual negotiation in good faith. It is normal in international negotiations that you keep those textual negotiations in-house among negotiators to see if you can move forward and find constructive compromises. We wanted to preserve a bit of space to do that. That is not quite how things developed for various reasons, including the Covid crisis, but not only that. It became clear that it was simply easier and more constructive to make them available to all, so that is why. I do not think any harm would have resulted, but we wanted to preserve some negotiating space to see if we could move things forward. That did not happen in quite that way.

Lord Cavendish of Furness: Might I make the point that our draft texts do not cover a number of areas that we might have expected to see, such as public procurement and participation in EU programmes? Will they be forthcoming in the future?

David Frost: On procurement, we do not see the need to have a chapter in the free trade agreement. There is the WTO government procurement agreement, which we will be party to and seems to do everything we need it to. We intend to develop our own procurement arrangements in our own way in future, because those of the EU have been relatively inefficient. That is where we are on that.

On programmes, we tend to think that it makes more sense to work off EU texts given that they are EU programmes in that particular limited area.

Lord Cavendish of Furness: On a separate subject, are the Government going to hold the EU to its commitments under article 184 to

work on alternatives to supersede the protocol in the context of FTA talks in order to ensure that it does not become permanent?

Michael Gove: Yes, absolutely.

Q17 **The Chair:** Mr Gove, earlier in the month you and I discussed the theme of inter-parliamentary work and the proposal in the EU institutional framework section of their draft texts of a parliamentary partnership assembly. You had said that it is for Parliament to decide on the exact format for the inter-parliamentary dialogue earlier in the month. The EU's draft legal text states that the proposed parliamentary partnership assembly would establish its own rules of procedure. That would seem to be a satisfactory answer to your original statement, so I wonder why the Government have not responded more positively on that part of the EU draft text.

Michael Gove: Let me now respond as positively as I can, as I believe Lord True also has. We think it would be a good thing, subject to the caveats that I made to the Committee last time around. In so far as my blessing means anything, I am very, very happy to see co-operation between parliamentarians in our House of Commons and the European Parliament prosper.

The Chair: I am sorry to go on, on more or less the same point. Another thing that concerned me was that Michel Barnier, after the last negotiating round, in his pretty long statement, included some words: "Why does the UK refuse to include consultation mechanisms with our European and British Parliaments ... in our future agreement?" I wonder what your answer to that is.

Michael Gove: It comes back to the point I sought to make earlier. I am hugely in favour of parliamentarians working together, but I wanted to make sure that there was no abridgement of the sovereignty of either the EU or the UK. That was all.

Q18 **Lord Faulkner of Worcester:** I should start by reminding you of my interest as the Government's trade envoy to Taiwan, which I suspect Mr Frost will know quite well from his previous life with the Scotch Whisky Association, as Taiwan is the sixth-largest whisky market in the world. He is nodding his approval of that, and I nod my approval as well. It is worth £168 million to £170 million a year.

Are there any particular areas of negotiation with the EU that could come into conflict with other trade agreements the Government are pursuing, such as with Japan, the United States, Australia or New Zealand? If so, what are those conflicts?

David Frost: The short answer is no, we do not think there are. If we had been trying to negotiate a high-alignment arrangement with the EU in which we accepted large parts of EU regulation, product regulation and similar, we would have had a problem because we would not have had total discretion to waive or change our regulatory rules in the context of other trade agreements. Since we are not doing that, it is not a problem.

We have discretion over our own laws and our own regulations, and we can tailor them as we see fit in any free trade agreement we conduct. There is always a precondition and a presumption that we are a high-standards country, and we take that forward into those negotiations.

I do not think there is any sense in which decisions in one context prejudice, control or constrain negotiations in others, except possibly in some marginal areas, but not in the fundamentals.

Lord Faulkner of Worcester: When we have a number of negotiations on the go at the same time, how sure can we be that there will not be conflict between them? How can we keep them interrelated? Is that one that Mr Gove might answer, perhaps?

Michael Gove: We have very effective co-ordination of our approach towards different negotiations through the XS committee. The name implies that it is principally about our exit from the European Union, but it is also a forum in which Cabinet Ministers meet. I cannot say too much, because it is a Cabinet committee, but today we met and there was an opportunity for us to congratulate some individual members of that committee on progress in precisely this area.

David Frost: Every other country in the world manages to conduct a programme of negotiation of free trade agreements, keeps them in step and does so effectively. We believe that we will be capable of doing that as well in the future.

Lord Faulkner of Worcester: As the Chancellor has let the Committee in on a secret of the Cabinet, you may be aware that last week the trade envoys were sent a briefing by the Department for International Trade about the UK global tariff initiative, which I gather is to come into effect on 1 January next year. Can you say how you think that will affect relationships with Europe? As far as my work in Taiwan is concerned, I think it is all good news, because I can only see tariffs coming down. I cannot see there being any risk of tariffs going up, but it may not be the same elsewhere.

David Frost: On the EU relationship, if we do not succeed in getting an agreement with the EU, as we were saying earlier, tariffs will come in, although our regime is less protectionist than the EU's common external tariff. We do not want to get to that point, but it could happen. The importance of the announcement is simply that it is important to know your baseline. In any trade agreement, you need to know what will happen if you do not reach agreement. That is now clear with the announcement of those tariffs. It provides a degree of clarity and certainty that probably was not quite there before.

Lord Faulkner of Worcester: The UK global tariff initiative will be announced properly in due course, is that correct? I did not read anything about it last week.

David Frost: It has been announced. Other news may have got in the way, but we definitely announced it.

Michael Gove: It was a relatively low-key announcement in that respect. More attention was paid, by the media, to the publication of the command paper on the Northern Ireland protocol that day. The fact that we had published previous schedules in the event of a no-deal exit meant that people were broadly understanding of the shape of it, even though it was more liberal than any previous iteration.

Q19 **Baroness Verma:** Mr Gove, do you continue to believe that there is a serious risk that the EU will not fulfil its obligations under the withdrawal agreement on the rights of UK citizens by the time the transition period ends this December? Have you heard what actions the Commission is expecting to take to address your concerns following your letter to the EU's co-chair of the joint committee, Maroš Šefčovič, dated 14 May? Are you confident that the EU is demonstrating a balanced approach in the way that UK nationals are being treated for guaranteed citizenship rights?

Mr Frost, have all EU member states announced their settlement schemes to be open? In your view, has enough been done to give information and communicate it regularly so that UK nationals can apply if they choose to? Have the member states that are lagging behind been asked for any guidance?

Michael Gove: The letter to Vice-President Šefčovič, I think, has been well understood by him and his Commission colleagues. We will have an opportunity at the next meeting of the withdrawal agreement joint committee next month to follow up on that. I know that Vice-President Šefčovič takes those responsibilities very seriously and will be pursuing them with member states.

David Frost: I do not have much to add, to be honest. As CDL set out in his letter, we know that there are some areas where implementation has gone more slowly, for good reasons in some cases and for less good in others. There is still time to do something about that for all member states and that is where we take the discussion at the moment. I think it is fair to say that it has not been ideal everywhere, but we are not naming names. We believe that, just as we fulfil our legal obligations, the EU and the member states will fulfil theirs.

Baroness Verma: Mr Gove, when we last met, you committed to reinforcing the argument for documentary proof of pre-settled and settled status of those wishing to settle in the UK. Has that been done?

Michael Gove: No, but we are talking to the Home Office about it.

Q20 **The Chair:** Building on something raised by Baroness Brown right at the start, at the moment it seems that the negotiations are very likely heading to some sort of agreement quite late in the year—October or November, for example. This would leave very little time for businesses and others to prepare for the new world, and they are, of course, beset by Covid-19 at the moment. I wonder what mechanisms you are

considering for facilitating the transition from the transition period to the new world.

Michael Gove: There are two things. As David indicated earlier, in broad terms we expect fruitful talks to carry on after June. We hope fervently that we do. We will do everything to ensure that they can. There may come a point in the autumn when, despite our best efforts and indeed the good faith of others, it becomes clear that we will not get the agreement we want. We will do everything possible to get it. If we do not, it might, as your question implied, become imperative that we provide certainty. It would be my responsibility to ensure that our arrangements at the border and the requirements placed on business and others were clear. We propose to say a little more about that in the next couple of weeks.

David Frost: My personal view is that October or November is getting a bit late for this, both for readiness purposes here in the UK and for ratification, text preparation and all the things that need to be done. I hope that decision-makers in EU member states are not thinking that this can be safely deferred until October or November and that they do not have to think hard about the politics of it all until then. That would be getting a bit late to think of an agreement.

Q21 **Baroness Couttie:** I have two very quick questions. First, following up on the discussion we were having earlier, you mentioned that we were hoping to get mutual recognition of standards. How and by whom is that going to be conducted as, over time, we potentially diverge from the EU standards? Is there a possibility that the decisions may be political as opposed to based on quality?

David Frost: There are two things there. I will try to be succinct. Mutual recognition of standards is when you have two different standards, but a process for saying that they basically do the same thing. That is not what we are seeking. We are seeking a position where in theory, and no doubt in reality, UK standards in some products might be different from EU standards. If you are a UK manufacturer who wants to export to the EU, you must meet the EU standards.

We would hope to agree that the UK regulator can assess your product against the EU standards as well as the UK ones, so you do not have to go through an assessment process twice by two different regulators. That is very normal in free trade agreements. It is in Canada and many others. At the moment, it is not on offer to us, which we find a bit surprising, but perhaps we will get there once this process is over.

Baroness Couttie: The other very quick question follows up on Baroness Donaghy's point about professional qualifications. Am I not right in thinking that at the moment we potentially have mutual recognition of professional qualifications across the EU, but practically each jurisdiction or country within the EU can add its own kinks to it? This means, in practice, that some professions find it very hard to have their qualifications recognised in those countries. What do you see in our free trade agreement that could be better than that and actually help?

David Frost: You are right. It has been very controversial. There have been some famous cases of ski instructors in France and so on that have attracted attention, most of which have been resolved. It has always been complex, and the rules give quite a lot of discretion to member states, so I think it is fair to say that it has never worked quite as smoothly as we would have wished. All that is locked in, in the withdrawal agreement, as of now. It is the future and ongoing recognition—new pathways, new rules—that is at stake. That is why we want something that would work smoothly and clearly, and offer a decent chance of continued recognition.

Baroness Couttie: Does it look like you will get it? Are you getting a warm reception?

David Frost: We are having constructive discussions about it, but it is not one of the easier parts of the negotiation.

Q22 **Lord Oates:** I want to return to the issue of level playing fields. The Government's February paper on negotiating the future relationship with the EU made much of our position as sovereign equals of the EU. Mr Gove, is the problem we face that, while we are undoubtedly sovereign equals we are not economic equals, given our market of 60 million-plus versus theirs of 400 million-plus? Given that imbalance, what evidence informed the Government's belief that they were likely to be able to successfully negotiate comprehensive access to the EU market while refusing a continuing level playing field with that market?

Michael Gove: That is a huge question. First, what the EU is asking of us is unprecedented in any of the free trade agreements that it has signed or, indeed, contemplated signing with other economies. The EU interprets geography as requiring countries that are on its borders or within its periphery—within what it might consider, in old fashioned terms, to be its sphere of influence—to sign up to a higher level of compliance with EU rules and supervision of their institutions than it requires of other countries.

In my view, that is a fundamentally illiberal approach, because you are saying to a sovereign equal, just because of geography, "You have to accept our suzerainty". That is the sort of approach that empires took in the 19th century. In a world where you have sovereign equals, you want to move away from it. I understand why the EU might want to do that, and part of recognising that we are a sovereign equal is recognising that it is entirely for the EU to decide the level of access that it wants us to have to its markets, but they cannot say, "Just because you are in the continent of Europe, you have to accept the sovereignty of Europe".

David Frost: That is absolutely right. The EU itself is not consistent on this. Barnier said, at one of his press conferences, that we are too small to expect an equal relationship and the power relationship is not equal. Yet, for the purpose of the level playing field rules, they say that we are too threatening, too big an economy and too close to expect the same

kind of terms. I do not really see how you can run those arguments simultaneously. You have to choose one.

Q23 Lord Teverson: I would like to ask a question very briefly about Euratom, which we seem to have forgotten rather. This was always seen as a very useful institution, potentially post Brexit, for everything from medicine to low-carbon energy, but particularly research. There was a lot of talk about an association agreement with Euratom. I wonder where we are on that.

David Frost: We are seeking to negotiate a stand-alone nuclear co-operation agreement with Euratom, which is a pretty standard thing globally. There are plenty of such agreements among countries with nuclear power. This is a pretty constructive bit of the negotiation. We do not agree with the EU on everything. They want to make it part of the overall treaty rather than freestanding. We do not agree with what they have put forward on dispute settlement for the usual reasons. But, in principle, this is quite a constructive negotiation and has a good chance of coming out successfully.

Lord Teverson: That is very good to hear. One of the important things about Euratom was its freedom of movement and the scientific community being able to move around. Will that still be possible?

David Frost: That is a different aspect of it. The EU is proposing that there should be incorporated into the treaty specific provisions for freedom of movement of researchers and some other categories of citizens. We are not attracted to that. We think that those rules are better set by us, so that we are in control of our own immigration agreements. We have made it clear that we want this country to be one of the best places for people to come and do science. We have some particular new rules in place to attract scientists and researchers. We think that those are best controlled by us and not locked into an EU treaty in future.

Q24 Lord Kerr of Kinlochard: Mr Gove, I would like to take you back to where you and Lord Wood ended an exchange with Mr Frost at the beginning. Mr Frost admitted that the negotiation is not quite where he hoped it would be, and I am not at all surprised about that. The virus turned out to be rather more serious than the Prime Minister had suggested at the beginning of February. The disruption that it has caused must have made this negotiation very difficult without face-to-face meetings. You have lost staff to go off and work on the virus rather than on this negotiation. Your promise that there would be no extension and that you would turn down any proposal of an extension preceded the virus. Are you sure that, given all this disruption, that promise still makes sense? It seems pretty clear that no extension will mean no deal.

Michael Gove: Yes. As a small piece of autobiography, before I married my wife I was enjoying all the time that I spent with her. She said, "This is all very well, Michael, but you have to decide by next week whether you want to marry me, and if you do not decide by that time I am afraid

it will be someone else". I realised then that I was missing out on perhaps the greatest pleasure, achievement and love of my life, so I resolved internally to meet that deadline and to celebrate that union. It seems to me that deadlines can make sure that minds are concentrated.

Lord Wood of Anfield: Who else did she have in mind?

Michael Gove: I think, if she had met Lord Wood, she would never have hung around with me.

Lord Wood of Anfield: It is a fair point.

The Chair: Thank you very much indeed, both of you. It has been a very wide-ranging discussion and you have answered all our questions with admirable crispness. We look forward very much to seeing you again in the near future, I regret. Thank you also for volunteering to write a letter on clearing houses. It is something that we, as a general committee, are interested in, and that is much appreciated. Good luck in the coming weeks. I think it is important for all 500 million people affected by this that good results come of the current negotiations.