Environmental Audit Committee

Oral evidence: The Transatlantic Trade and Investment Partnership, HC 857

Wednesday 28 January 2015

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Written evidence from witnesses:

- Friends of the Earth

Watch the meeting

Members present: Joan Walley (Chair), Martin Caton, Zac Goldsmith, Mark Lazarowicz, Caroline Lucas, Dr Matthew Offord, Mrs Caroline Spelman.

Questions 1–41

Witnesses: **John Hilary**, Executive Director, War on Want, **Sam Lowe**, Land Use Campaigner, Food and Water Security Programme, Friends of the Earth, **Elisabeth Roderburg**, TTIP Adviser, British American Business, and **David Baldock**, Executive Director, Institute for European Environmental Policy, gave evidence.

Q1 Chair: I would like to start by thanking each of you for coming along this afternoon for our very brief look at the Transatlantic Trade and Investment Partnership. We are all aware that there have been other committees of the House looking at this and I just want to make it clear from the outset that we are naturally looking at the environmental aspects and, to some extent, the potential effects on developing countries. If you could start off by telling us the concerns you have about TTIP and, equally, if there are wonderful improvements as far as the environment is concerned that it would bring in. We want to try to get that perspective from each of your organisations.

I do not know if you have a spokesperson or one of you is going to go first, so try to catch my eye and we will go through the various questions that we have. Who would like to start first?

> ***John Hilary***: My name is John Hilary. I am the Executive Director of War on Want. I am very grateful for the opportunity to be able to present evidence before the Committee. By way of a general introduction, our greatest concern with TTIP is that it is no longer a traditional trade agreement in the way of previous trade agreements under the General Agreement on Tariffs and Trade or under the World Trade Organisation. It is explicitly a 21st century, new generation trade agreement that is no longer focused on the mutual

reduction of tariff barriers at the border but instead reaches behind the border and is explicitly designed to reduce the non-tariff barriers and what they also call the regulatory barriers. This deregulation agenda, the explicit desire to remove regulations insofar as they are seen to act as barriers to trade and investment, is at the heart of the threat. That threatens instantly to subordinate social and environmental standards to the profit motive of increased trade and investment.

Q2 Chair: You see this as purely deregulatory?

John Hilary: Yes, and we have also had good confirmation from our Government and the European Commission that there is no possibility of raising standards. I think that basic logic of TTIP is very important to understand from the start. It is about removing regulations insofar as they are seen as barriers to trade, not raising standards in any way.

Q3 Chair: Where does TTIP stand in relation to the wider cultural shift towards economic recovery or economic investment at all costs, irrespective of where the balancing environmental and social concerns come in?

John Hilary: From our point of view, TTIP is less about any economic interests and much more about power. You will have seen, perhaps, the study done for the UK Government by the London School of Economics, particularly focusing on the investor state dispute settlement powers, the ISDS powers. The London School of Economics said quite clearly there will be no additional US investment as a result of this treaty going forward because the US companies already have enough protection under domestic law and they are not looking for these additional powers. What it will see is extra costs to the British taxpayer and so the economic interests of what is already a flourishing transatlantic trade and investment relationship are not the main point of TTIP; the main point is the transfer of power away from society, away from environmental protection towards capital.

Q4 Chair: Say, for example, Trading Standards was looking at whether or not it is there to do what it says it is there to do, would you say that it has been presented in such a way that the motives of the proposal are clear?

John Hilary: Certainly when you look at the detailed documents from the European Commission it becomes absolutely clear. They started by saying the removal of regulatory barriers; they then started talking about regulatory convergence; they then moved to regulatory coherence; then to mutual recognition. So the different ways in which they describe it have changed but the basic principle of removing regulations and lowering standards has been absolutely constant throughout.

Q5 Mrs Spelman: May I just quickly challenge that view? In the absence of the Doha round, which has not happened, bilateral trade agreements are being struck, and the advantage for Europe and the United States, which have higher standards in health and safety and environmental regulation than, for example, the emerging markets, is to establish these higher standards as the global standard. The mutual recognition of the regulations that we have is not designed to dilute safety and environmental protection but to make sure that these protections are safe in a global market.

John Hilary: One of the critical things to recognise in the relationship across the Atlantic is the huge disparity between the standard setting and regulatory regimes in Europe and in the USA. Without looking beyond that to the wider world, that is the real crux of our problem because you have two fundamentally different regimes. I know that David and Sam will definitely talk to this coming up.

For us, there is no one set of high standards across the Atlantic. There are two very different regimes, particularly when it comes to environmental standards, which is obviously the focus of this Committee; the European regime is infinitely higher than that in the USA. That is really the source of our concern.

Q6 Mrs Spelman**:** Just coming back on that, in the very words "mutual recognition" is the fact that Europe's higher standards, instead of holding our products out of the American market will now be accepted as products in the American market. If you take the car industry, for example, we have very high standards of road safety, more congested roads than America. Up until now the Americans have been able to hold the safer product out of their market but will this create mutual recognition of our higher standards in their market.

John Hilary: We are very concerned about the environmental threat of the reverse. By mutually recognising their standards as equivalent, and this particular point of mutual equivalence being now the key focus of their side of it, we will be importing goods from America that have not passed any of the key regulatory requirements of Europe as if they had done so. That is the key concern that certainly the European Commission is very aware about. We have seen more studies coming out of the Commission saying they recognise that is a genuine threat and also out of the European Parliament Environmental Committee, which I know David will speak to.

Q7 Caroline Lucas: Just on the disparity between what the Government is saying and what you are saying, in its evidence to the Committee the Government said that, "People have expressed concern that TTIP will lower environmental standards and we should be clear that this will not be the case". So they are saying that in black and white. I wanted to know where they said what you said, which was that there was no possibility of raising standards. Where is that captured?

John Hilary: I have a written and a spoken comparison for it. The written one was in a paper they did together with the French Government, right at the beginning of the negotiations. They put in a specific footnote saying that there will be no possibility of raising standards—

Caroline Lucas: Would you be able to send us a link to that? That would be helpful.

John Hilary: Certainly. Definitely. Also when we met with the Government officials, as we do regularly, we picked them up on that point and we said, "Can we just confirm with you that there will be no possibility of raising standards under TTIP?" and they said, "Absolutely. TTIP is not about raising standards; TTIP is about removing regulations that are barriers to trade".

Elisabeth Roderburg: By way of background, I will introduce myself. I am Elisabeth Roderburg. I am a TTIP Adviser for British American Business, which as you may know is an organisation that combined both the American Chamber of Commerce in the UK and the British American Chamber in the US back in 2000. We have about 280 members and I think it is fair to say that British American Business has been in the forefront of promoting an informed debate about TTIP, not just through social media and outreach and policy forums. We have also served in a secretariat role for the All-Party Parliamentary Group on EU-US Trade and Investment under John Healey's chairmanship, which has been focusing on TTIP. In addition to that, we have also run roadshows across the country, meeting with small and medium-sized enterprises, discussing the barriers they meet in transatlantic trade or challenges they have and what they would like to see, while at the same time also informing on them.

I would like to take a totally different tack from John Hilary here. We do not, as business, see TTIP lowering environmental standards. We are confident about what negotiators and politicians on both sides have declared, not only to the media but also in parliamentary fora: that there will be no lowering of environmental standards. TTIP will not, as such, lead to a change in standards. Standards are set individually by the US and EU, which is why John Hilary is drawing the conclusion that there will be no raising of standards by TTIP. TTIP, as an agreement, will not alter the standards.

What TTIP may do over time is to increase the level of standards by promoting a dialogue between regulators. I think Mrs Spelman mentioned this. Yes, there are high standards on the US side and on the EU side. Often they are not formulated in the same way. They have the same functionality; they function the same way in the end but the processes by which they function are different. The question in TTIP is: can you build bridges? Can you, where you have standards that are at the same level, reduce red tape, reduce unnecessary barriers? No one on the US side or the European side is interested in reducing standards. I think the social

There are ways that the agreement can raise standards. One of them is where you have mutual recognition, where you have agreement and build bridges, that by default becomes the gold standard for the rest of the world. Also through the development of thinking and roles bilaterally the EU and the US can influence discussions internationally that can lead to raised standards. If you look at the draft position paper of the European Commission on the sustainability chapter that came out on 7 January, which I assume that you are familiar with, one of the goals specifically enshrined in that document is to promote dialogue between the EU and US and together to further environmental standards.

I would like, Madam Chair, if I may, go back and alter the picture that John Hilary has presented on what the motivations behind the TTIP are. I am in a privileged position because I was party to that process in Brussels when it started. Basically there are three factors that led to the launch of TTIP. One is the great recession; the second is the moribund Doha round where nothing was happening for more than 10 years; the third is the competitive liberalisation that both the EU and the US had been pursuing with their trading partners without discussing a trading agreement between each other. The EU has more than 50 preferential trade agreements and the US has more than 20. When you see the EU make a deal with South Korea, the US makes a deal with South Korea, business on both sides of the Atlantic that recognise that we are each other's biggest partners wonder: why should the Korean suppliers be receiving preferential access to the US market if they are an EU producer? If you are an US producer, why should they be receiving preferential access to the EU market?

Q8 Chair: Okay, but our concern is with the environmental standards. We heard from Mr Hilary just now that the French had indicated that there would be no opportunity to raise environmental standards. I would be very interested to know what environmental benefits you see happening?

Elisabeth Roderburg: Given that Mr Hilary used quite a bit of time to paint a picture of TTIP as being a profit driven, corporate power game, I think it was important to lay out what the background is for the Committee.

Chair: Sure, but I want to focus on the environmental issues.

Elisabeth Roderburg: Yes. Going on to environmental issues, I think also that Mr Hilary's picture of standards being like this and like that, with the EU being here and the US being there, across the board is not necessarily a correct picture. I say that using careful wording. The case is that you have differences in environmental standards. I do not know how many of you picked up on *The Financial Times* article on diesel engines last week where France now is in a conundrum; 90% of the cars running around in Paris are diesel engines. The US does not allow a lot of diesel engines. Why? Because they do not conform to the stringent requirements they have in the US for emissions from diesel engines, which we allow in the European Union. That is one example. If you look at standards for food safety, the US has a zero tolerance for listeria; the EU does not. Why? It is culturally determined, there are other factors at play, but let's not fool ourselves into thinking that there is one set of standards there and one set of standards there. I do not think that is the picture and anyone who has talked to regulators on both sides of the Atlantic will see that that is not how EU regulators see it and not how US regulators see it.

Q9 Chair: Just to summarise, because we have quite a few questions to get through, how would you summarise the particular concerns and advantages as far as the environmental safeguards are concerned, from your point of view; the advantages for the environment from TTIP and the possible disadvantages?

Elisabeth Roderburg: I do not see any disadvantages because I am confident that regulators on both sides of the Atlantic will maintain the high standards that they have. I see advantages in regulators talking to each other and perhaps finding more efficient ways of achieving the same goals that they are separately pursuing today. I see sharing of information from both sides on what are the downsides of some types of environmental regulations. For example, as you have seen with the diesel engines in Europe now playing into how you can develop new types of engines that do not present the same kind of problems: do you start regulating the emissions or do you start making requirements for the engines? These are the type of things that can develop and increase the benefits to the environment over time. I have more points as well but I perhaps should let—

Q10 Chair: We may have a chance to come back to them. Mr Baldock, you wanted to come in. We are keen to limit it to the advantages and disadvantages for the environment.

David Baldock: Sure. I am the Director of the Institute for European Environmental Policy and we specialise in trying to understand, comment on and occasionally help to improve EU environmental policy. We have done some work on TTIP, including some reports to the European Parliament that I can send you, if you are interested.

Chair: Please do.

David Baldock: Just starting from the issue of comparing US and EU standards, it is a very difficult thing to do. They are different places and they often operate in different ways. We had a brief exchange about this on the way in. On the whole I would say EU standards are more demanding, especially when expressing product standards and reasonably comparable units, than US ones. Not in every respect; diesels, nitrous oxide emissions, for example, are quite stringent in the US; aspects of marine protection have been pretty stringent in the US. It is not absolutely black and white. One's view is influenced by the fact that the EU on the whole has the most demanding set of regulatory standards in any major economy and therefore it influences producers in Asia and in developing countries as well as in the US and the EU. This is a very important point when we are looking at the overall environmental impacts.

TTIP is not designed explicitly to change any particular regulatory regime in one direction or the other. The question is what effect it would have in the end. There are two things. We would not rule out some things getting better under TTIP. That could happen, because we could get mutual recognition in a beneficial way: that the Americans have recognition of some European products and achieve market penetration that would not occur otherwise. But obviously the concern is where US standards are less demanding, if you go through a mutual recognition route and if the US product is more competitive, then there is a danger of undermining the EU product in the market.

Q11 Chair: Would that be your main concern?

David Baldock: That would be a concern. Then more difficult to predict is the effect on third countries. If you are a producer of a product in Asia and you feel that you can get into the EU market via a lower standard that has been arrived at through a TTIP process, you can then weaken global standards.

Our other concern about it on the environmental side is what I would call regulatory chill. This means the fear that potential hassles with TTIP will inhibit the Commission from proposing stringent measures in the first place. In my view, this has occurred already with the fuel quality directive, which has been a highly contentious issue to do with different aspects of fuel quality, including carbon performance. If you take a hypothetical example of this, European imports of US wood pellets are increasing very rapidly in response to EU policy, so the Commission is thinking about whether it should be introducing sustainability standards for biomass under the new energy directive. They are rather nervous about doing so and they are going to be even more nervous about doing so, since the US is the main source of these pellets, if they are in a TTIP.

That is what I mean by regulatory chill. There is very little to quantify this. Nobody can say in advance precisely how this would affect matters one way or the other, but in terms of looking at the framework as a whole, those are the sort of issues that I think are relevant.

Q12 Chair: Thank you. Mr Lowe, do you have any comments about the concerns or advantages from this as far as the environment is concerned?

Sam Lowe: Yes. Hello, my name is Sam Lowe. I am the Trade Campaigner for Friends of the Earth in the UK—well, England, Wales and Northern Ireland; Scotland left us a while back—and represent us on these matters here. We also have an office in Brussels. I am going to speak fairly quickly so we can get on a bit. I think a lot has been covered. If I just say what our headline concerns and I can maybe go into a little bit of depth if there is time.

One of our main concerns is that the EU is using this to push for an energy chapter within TTIP and the removal of US bans on exporting crude oil as well as restrictions on LNG. We fear this would lock in a high carbon infrastructure for the next 20, 30 years because a lot of the infrastructure is not there. If they build it they are not going to then want to remove it essentially in the future. That is a concern for us. We know it is a high priority because Karel De Gucht, the former trade commissioner, said that he can't envision a trade deal happening without these provisions. So we know that it is something that is very much wanted by the Europeans, maybe less so by the US, and that is a concern for us. We also have a concern it would put downward pressure on food safety, health and environmental standards. A lot has been covered already but it is maybe good to go into the three sectors in which we are worried that can happen.

There is the headline political asks; there has been a lot of talk about scaremongering about different things that could happen as a result of these negotiations, things to do with chlorine chicken, things like that. We would argue that those concerns have not emerged from a vacuum. The reason they are in the public discourse is because they have been specifically asked for or demanded by US trade negotiators. The backlash as a result of that, which has prompted the European Commission to stand up and say this will not happen, is the result of campaigns on the ground, such as Friends of the Earth and War on the Want who are making this an issue. However, so far everything the US has asked for the European Commission appears to say will not happen, so we fear that as this is a negotiation—the EU is not negotiating with itself, the US is not negotiating with itself—down the line there will have to be tradeoffs and these things could come back on the table.

Also with standards we have heard about mutual recognition and why that offers some concern. The SPS proposed chapter was just released by the European Commission and it is quite interesting in that it points to an exporter verification scheme where effectively each party verifies that the food is safe and you trust it. However, within that example we know that in the US at the moment industry refuses to fund such a scheme. That leaves us with the question: is the food that is coming over going to be safe? Admittedly there are qualifiers that the European Commission say have to be fulfilled. However, if the purpose of these negotiations is to remove barriers, and the purpose is economic growth and jobs, we are worried that over the course of that environmental and health concerns will get passed over. Going forward, with regulatory co-operation, our fear there is essentially that it formalises the lobbying process that has seen the fuel quality directive get weakened during the negotiations with Canada and the EU, the SETA agreement. That is not just our opinion of it. It was widely reported in *The Financial Times* that it was watered down so as not to exclude fuel sands or discriminate against fuel sands coming over from the US.

The final thing we have some concerns with is the ISDS mechanism that has drawn a lot of attention and we fear that it could be used to challenge, obstruct and delay pro-environment legislation. One important thing to note with this is that ISDS has been in trade agreements for a long time, so they have had a lot of time to study it. As the LSE report drew out, there is still no evidence that it leads to increases in foreign direct investment. So even if you are not so convinced by the big scare stories around it, it seems we cannot quite understand why it is being included if it still poses a risk without benefits.

Q13 **Chair:** Thank you. Two very quick questions from me. Which countries are really pushing it?

Sam Lowe: The UK.

John Hilary: The UK is one of the absolutely chief promoters. There was a letter that was sent in October 2014 by the UK Government and 13 other member states of the European Union pressing hard for the European Commission to respect the fullest mandate it could be given on pushing TTIP through. We have seen also from internal documents of the Council of Ministers and other trade policy committee meetings within the European Union that the UK Government has taken the most bullish turn on this. There is reservation within several of the member states, but we can come on to that later.

Elisabeth Roderburg: I think it is very hard to say who is pushing it the hardest. It is important to remind everyone that it was a unanimous council, that means all members, all the 28 members—

Chair: Sorry, no, I was just interested in which countries were pushing this.

Elisabeth Roderburg: I think what you may see is that there are some Nordic countries that have been more adamant about achieving something in this area than a number of other states. There have also been the new member states that have very much seen the benefit of the Transatlantic Trade and Investment Agreement.

Q14 **Chair:** Thank you. Did you want to come in Mr Lowe? Fine. Just finally from me, there are two factors in the timing of this, aren't there? How does it relate to the US presidential elections? Does it need to be completed and signed off by then or could it go on beyond that?

John Hilary: It is perfectly possible for it to go on beyond that. Certainly the initial hope of the European Commission had been to rush the negotiations through by the end of 2015. It would not then get linked into the presidential campaign but also I think they felt that time would be their friend, haste would be their friend, because the more people find out about TTIP the greater the opposition is to it. That does not mean it has to be finished by then; they can also take it on to the next presidency in the United States, and they are already beginning to talk about a much longer horizon of 2017, 2018. Obviously from the time that the negotiations finish there is then an additional process of at least two years for the ratification process.

Q15 **Chair:** There is speculation about what would happen if the UK were to leave the EU. How might that have a bearing on it?

John Hilary: That has an immediate bearing, if I could just come back on that one, if the question was addressed to me. There is an immediate recognition that if the UK was to leave the European Union after TTIP had been signed certain of the provisions would still apply. There is what is called a sunset clause that lasts for another 20 years, so even if the UK have pulled out of the EU we would still be bound by some of the provisions.

Elisabeth Roderburg: Given that TTIP is fairly unique in that it is a negotiation between equal partners, I think advocates of the UK negotiating a treatment on its own with the United States failed to recognise that disparity in size and there would be a totally different negotiating procedure. If the UK left when a deal has been done, the UK would have to renegotiate with the US. If negotiations are not finished, the US would very likely conclude its negotiations with the EU before it would enter into negotiations with any third party. Needless to say, they would then be on a more take it or leave it basis than what would be the case. This is the dilemma that Switzerland, Norway and Turkey are struggling with now. Turkey has been pushing very hard for a separate dialogue with the US and the EU in order to stay abreast of what is being negotiated, because by being in a customs union with the EU they will need to adjust in order to maintain that afterwards.

Sam Lowe: I would just add in terms of timeframes, the SIA for the agreement is not predicted to be finished until the end of 2015, after originally being scheduled for the end of 2014. They cannot complete this agreement without that being done. So that would potentially provide some information as to claims that it would be done this year.

David Baldock: I would be most surprised if it was done quickly on all counts, not least because of the US politics. The President has to have a specific authority to effectively negotiate these. It is far from clear that will be the case or when or anything else.

Elisabeth Roderburg: Recent reports seem to indicate that the trade promotion authority that David is referring to is going to be put forward fairly soon. Press reports, insider reports from the US indicate that that may be in place by the end of March in order to allow for the conclusion of the Trans-Pacific Partnership Agreement.

Sam Lowe: We have also had indications from BIS—just to hammer home the point—that they are not going to negotiate certain chapters, including intellectual property, until the Trans-Pacific Partnership is completed so they can make sure there is no contradiction. That still has not been finished.

Q16 Zac Goldsmith: My first question is to Mr Baldock. The White House has described TTIP as an attempt to, “Reduce the cost of differences in regulations and standards by promoting greater compatibility, transparency and co-operation”. So, effectively it is about harmonisation of standards, which we have already talked about. What is the main difference in the regulatory approach of the EU and US in your view?

David Baldock: Good question.

Zac Goldsmith: It is a big question but if we could try to characterise it.

David Baldock: We are talking about a forest here, not a little grove of small trees. There are many sectors and differences. Some of these non-trade barriers are simply highly bureaucratic mechanisms to do with the way shipments of goods are treated at ports and so forth with no particular environmental dimension.

If we look at the environmental standards, philosophically there is, in principle, a difference because in the European Union treaty there is this reference to the precautionary principle. The precautionary principle does inform EU environment regulation. It does not necessarily determine it but it certainly informs it, whereas the American approach is similarly, in principle, informed by sound science principle. These two could be precisely the same but in practice they tend not to be and so some European standards are more demanding because they include more of a precautionary element in them. I think this is an important point to discuss.

Another important point to discuss is that a lot of EU standards are arrived at by a process that involves stakeholders in a more explicit and extensive way than in the US. That runs across the board. There are plenty of examples against any of these generalisations.

Q17 Zac Goldsmith**:** Ms Roderburg, you put a lot of emphasis on the parity between the two systems. You did not say they were identical but the standards were at the same level as—

Elisabeth Roderburg: No, I did not say that they were identical.

Zac Goldsmith: No, that is not what I said either, but you said it was wrong to describe a stronger approach on one continent compared with the other. Just on this issue of the precautionary principle, would you concede that there is a tougher approach to regulating chemicals in Europe as compared with the US, for example?

Elisabeth Roderburg: Absolutely. Negotiators, as you will have seen, have said that there is no chance, there is no possibility at all that any agreement on regulatory coherence will be reached on chemicals. So when you say reducing the cost of regulatory differences and you are citing the White House, and you say that automatically means harmonisation, I would like to add—and this is going along the lines that David mentioned—that there are costs involved with regulations that do not necessarily increase the strictness or stringency of the regulations effect but are costs for business, for example medical devices. I think the European consumer organisation has pointed to medical devices as an area where US standards are a lot more stringent and I think your report shows that as well. One area they are looking at in the negotiations of achieving some sort of coherence is to have the same application process for approval of medical devices. That does not change the institution's decision in the EU or in the US but it reduces costs for business.

Q18 Zac Goldsmith: But you would accept that on the reported pressure in relation to chemical regulations, what we are hearing and what we have seen so far has been evidence of a downward pressure not an upward pressure. I have not seen any examples in any literature at all of any attempt to raise the regulatory bar in relation to chemical regulations, whereas there are many examples of the opposite. We saw, for example, that Europe was very close to introducing almost a ban on endocrine disrupting chemicals. They said that unless they can be proven to be safe they are going to be banned. This was in 2013. It triggered an almighty lobbying exercise by the US chemical industry that led to the US Government quite openly saying, "Consider the impact this will have on our fledgling trade deals that we are talking about at moment", and within a few months the proposal by the EU was suspended. It is impossible not to make a link between the threat of derailing these trade talks and the failure to push ahead with a very tough regulatory approach to endocrine disrupting chemicals. There are many other examples but we only have 45 minutes or an hour left. Is that an example that you would recognise?

Elisabeth Roderburg: I have read about that example, I am not personally familiar with endocrine disruptors. What I do know is that the chemical industry on both sides of the Atlantic is very much in favour of reaching a TTIP agreement. What I see coming out of the discussions between regulators on chemicals is agreement on labelling, agreement on prioritising which chemicals represent the biggest risk, and there are probably more issues. I get your point—

Zac Goldsmith: Let me just interrupt you for a second, if I can, and then I would like to come to John Hilary on the same issue.

Elisabeth Roderburg: No, but could I answer the question you asked, whether or not I recognise—

Chair: I think Zac Goldsmith is in charge of his own questions, so it is up to him.

Q19 Zac Goldsmith: I am just interested in pushing on this because you can define standards in whatever way you choose. If you are a US regulator you would regard GM food as being of the highest standards, whereas in Europe there is much more hostility. It is not necessarily a question of higher or lower standards. You could even describe it as a question of taste, which matters in a democracy. But you have issues where had the European Union progressed with its proposals there would have been something like a ban on endocrine disrupting chemicals. We have bans in place in relation to hormones and pork, beef, milk and so on. There are specific areas where we do not allow the food producers to go, whereas in the States the food producers are allowed to go. In those cases there is a basic incompatibility. You have an enormous lobbying, a splurge of lobbying, by those interests in the United States who would like to see us remove those obstacles. That is where the pressure is coming from, but I do not see the equivalent upward pressure.

Elisabeth Roderburg: No, but you have the same pressure going the other way, for example from European cheese producers who very much want access to the US market.

Zac Goldsmith: I am talking about safety and environmental standards.

Elisabeth Roderburg: Yes, and it is a safety standard: if you have a zero tolerance for listeria or not. I get your point that regulators may think twice about doing something when they have more information, but I do not think—having worked in policy myself—that having more information is negative. Small and medium-sized businesses do not feel that they have enough impact on what a regulation would do to their trade. Getting that information and a regulator thinking twice about introducing something that they have been suggesting, I do not think is necessarily a bad thing.

Q20 Zac Goldsmith: Can I come to John Hilary? In the past I have seen you commenting on the lobbying activities that we see around all these different issues that we are talking about at the moment. Clearly you would not engage in a lobbying exercise if there was not an expectation of some kind of success at the end of it. Where has the main emphasis been and in which areas would you say there is the greatest risk of standards being lowered as a consequence of that lobbying?

John Hilary: To take the lobbying aspect first and then to come on to where the greatest impact should be held, you will probably be aware that a document was received from the European Commission through a freedom of information challenge that showed 119 secret meetings that the European Commission had held prior to the starting of the negotiations from 2012 to 2013. The list of different lobby groups is now there for public consumption. That shows you that there was a very strong representation not just from the European Union business lobby but also from their US counterparts and often working in tandem. I think that is an important thing to recognise. This is not an international relations game with Europe facing the US; this is much more a political economy game with business on both sides of the Atlantic seeking to remove the barriers to its maximisation of profits. I am afraid for all of the attempts of Ms Roderburg to speak against that; that remains the initial stimulation back to the 1990s. It is nothing to do with the recession; this came out of the transatlantic business dialogue that was set up in 1995 precisely to effect this type of customs union.

It is on the majority of the main issues that you are seeing now negotiated in TTIP—chemicals, pharmaceuticals, food—a whole range of the big lobby groups who have come up and addressed the European Union on those issues. I think it is also instructive to get a sense of what our US counterparts are saying, because that is also an important way of seeing how they recognise the huge gulf in environmental standards between the European Union and the US. These are groups in the US who are fighting on so many fronts to try to raise standards in their own territories, and they look across to Europe all the time and say, "We want to have the type of high environmental standards that pertain in the European Union. We want to have the same animal welfare standards". For example, all animal testing on cosmetics is completely banned in Europe and it is completely open in the United States. Time after time we have that.

Q21 Zac Goldsmith: I am going to move on in a second, but just specifically on that point of animal testing, how would one go about harmonising? The other term that was used in the White House document was "fostering greater compatibility". How do you do that when you have a fundamentally different approach on specific issues like this that will profoundly impact on a whole sector?

John Hilary: There are different ways. The original way we have been talking about is harmonisation and convergence, which is where you would see a coming together of the standards and a weakening of the standards themselves, in the regulatory regime. In some of the sectors they are still hoping for that. In others, such as chemicals, they recognise that they are under so much external pressure and so much oversight from the public at the moment that they cannot begin to move on that. So instead of that they go for a coherence that would come through mutual recognition or mutual equivalence. That is the fear, that you will not get a move upward with mutual equivalence. You will only get a race to the bottom, and what David was saying about market penetration from higher standards from the EU may happen but that does not in any way raise standards at all.

Q22 Zac Goldsmith: Can I come to Mr Lowe very quickly? In the EU we have binding climate change commitments, very different from anything that currently exists in the US. Are they compatible with a successful TTIP?

Sam Lowe: That is a very difficult question to answer, because there are lots of other factors involved. Are they compatible? I suppose they could be if lots of other measures were put in, but in terms of direction of travel, do we want to be locking in high carbon intensive infrastructure for the next 20 or 30 years at a time when we are meant to be moving in the other direction? That is where the question is. Even the CPR, the economic study on this, had a quick look at emissions, and it was quite a limited study but they predicted a small increase in CO_2 emissions in the US and the EU as a result of TTIP.

Is it compatible in the long run? Yes, but you would have to make even more concessions elsewhere because you would be increasing emissions.

Q23 Zac Goldsmith: Mr Baldock, logically therefore, if that is correct, the overall emphasis on carbon emissions in Europe, even from what you are saying, the pressure again would be downwards because of all of the concessions that would need to be made in order to render the two systems compatible. Do you agree with that?

David Baldock: What I would say is that the climate ambitions in the EU at the moment are potentially more ambitious than those in the US and so are a lot of the mechanisms supporting it. I doubt personally that the EU would roll back its environmental regulations right now on climate, but the difficulty in my view is more the regulatory chill; how far they are willing to go further. That is the critical point. Looking at it from an economic point of view, if there is more economic activity you are going to get more carbon emissions anyway. So that will be an outcome.

John Hilary: I just have a very small addition to exactly what David said. In the European Commission's original sustainability impact assessment published in 2013 they calculated that a successful TTIP would add an extra 11 million tonnes of carbon dioxide to the atmosphere, which clearly militates against reaching any of their targets.

Chair: Do you have the reference to that?

John Hilary: Definitely. All of the references to these are also in the book that we have produced.

Sam Lowe: I thought it might be good to emphasise why the push is for the energy chapter and it is to do with geopolitical reasons, so the idea is that it would be less reliant on Russian gas, ultimately. Our argument against that, just so that it is on record, is that because the infrastructure is not there in the US to transport liquefied natural gas over to the EU now it would take a long time to create those structures. It would make no difference in the short term. Also the cost of transportation would be expensive, so it probably would not be competitive here. All we would be doing is creating more avenues and more demand potentially for fossil fuel extraction with no obvious gain, even from the geopolitical perspective.

Elisabeth Roderburg: Just to go further on what David said, if you accept that the goal is economic growth, increased economic growth and jobs, you are going to have a greater level of CO_2 emissions. The reason that the European Union has had reduced emissions in recent years, by its own account as well, is also the lack of growth. On energy, specifically UK producers, for example in the chemical sector, would very much like to have the same sort of energy prices that the US is enjoying in that sector.

Sam Lowe: Can I just come back on that?

Chair: Very quickly, and then we must move on.

Q24 Zac Goldsmith: I am going to interrupt because I have one more question and particular area of concern, which we saw in documents that we think were leaked from the TTIP negotiations around the Regulatory Cooperation Council. The concern that people have with that is particularly in its suggestion that this would lead to "early opportunities to intervene in the regulatory process for selected stakeholders”. Call me cynical, but it is hard to imagine those selected stakeholders are going to be anything other than very large corporate interests both in the EU and the US. It seems to me that is an invitation to vested interests to be part of shaping policy before it is even subjected to any kind of scrutiny by parliaments nationally or at the European Union level.

I want to put that to Elisabeth Roderburg first and then I see you want to come in on that point, John.

Elisabeth Roderburg: Thank you. The Regulatory Cooperation Council will not produce or decide regulations. Yes, there will be an opening up in the regulatory process to allow for stakeholder input. This is something that small and medium-sized businesses are very much in favour of, because they feel that there is not sufficient access to provide input on the consequences of regulations.

If I may, Madam Chair, I feel there is a demonization here that businesses are trying to advance a cause that is inherently negative or detrimental, both to our economies and to the environment, which I find a bit surprising.

Q25 Chair: We are simply trying to look at the environmental implications. Mr Lowe wants to come in on this point, and my colleague also wants to come in.

John Hilary: Just to say absolutely, the Regulatory Cooperation Council—or as they are now beginning to call it, the Regulatory Cooperation Body, which is in the latest of the leaked documents—is precisely to allow for big business interests to have that early sight and potentially the opportunity to veto the introduction of new standards. That is on both sides of the Atlantic. We consider that to be profoundly worrying for environmental and social standards alike. We consider it to be profoundly anti-democratic because we have our own lines of accountability of the public standard-setting bodies in these countries. I think the real concern for us is that it harks back to an age of trade policymaking where all other interests are subsumed. We have seen this through the disputes settlement cases of the WTO and in a whole range of the ISDS cases, the investor-state cases, already over 500 cases where precisely that challenge, that contradiction between environmental and social standards and the priority given to trade has brought in so many negative impacts. I think that is what we are going to see with the Regulatory Cooperation Council if it comes through, and of course it is already included within the EU-Canada deal that was negotiated to a conclusion in September last year. They have called it the Regulatory Cooperation Forum.

Sam Lowe: I would like to pick up on a couple of things that have been said. First, that businesses here would like the same fuel prices as in the US. I am sure they would. Unfortunately TTIP is not going to achieve that. It will not be competitive. We might like the same prices and access to that gas but the idea that it will be the same is pure fantasy.

Also, we have had a lot of talk about SMEs. It has been a PR push recently. They have put in a chapter where they have put forward the idea that they are going to create a nice website for information, which is a good idea but hardly that ambitious.

Then we have SMEs in, say, Austria, so we had the SPAR network who have come out against TTIP and have been taking out adverts because of fears of lowering the standards that they hold dear. So let us not pretend that it is universal from the business side as well in favour.

Q26 Mark Lazarowicz: There are so many big issues arising, and these are big questions so I will try to be brief in questioning and I hope you will try to be as brief in answering as you can be. On this issue of a regulatory council, obviously there is a great distinction between a European approach where regulations go through a whole process, through the commissioner, Parliament and state-owned energy companies where everybody has an input into a process. This will not exist in the same way in TTIP if it is set up, and I wonder how far any process involving stakeholders is going to be able to, in any sense, be equivalent in any real way to a European process. Is that a fair concern?

Going back to an earlier point, which is perhaps taking on board Ms Roderburg's point, speaking slightly more in favour of TTIP and taking away some of the concerns about TTIP and climate emissions, if there was increased economic activity, all things being equal there is a likelihood of more carbon emissions, so the response to that is to have policies that try to delink increased economic activity from increased emissions. Are we blaming TTIP here for something that is a wider issue that needs to be addressed in other ways, so a question of the regulatory framework as compared to the EU one? Secondly, how far can TTIP specifically be regarded as responsible for increased emissions rather than economic activity increasing itself? Sorry it is so long.

Elisabeth Roderburg: I will try to answer the first part but I think maybe David is better placed. Regulations are complex. It is really hard to understand how regulations are formulated in the EU but also in the US. The perception that there is no input from stakeholders or public comment in the US is wrong. The report that David—

Mark Lazarowicz: I did suggest that there be a regulatory body bringing the two together but not having that same input in the same way. That is the point I am making.

Elisabeth Roderburg: I am not sure about that, because it will not alter the regulatory process in the US, which is legally bound to publish something and invite for comment. In some areas in the report that David's institute has produced for the Environment Committee in the European Parliament they highlight, for example, in the field of pharmaceuticals that the US has a requirement for an environmental impact assessment before approving production of a pharmaceutical product. They can stop production or prevent production. You do not have a similar approach within the EU. It is a much more centralised approach with the FDA in the US, as an example, and we can go back and forth on anecdotal evidence on how this works.

The point of establishing a horizontal regulatory body is to continue the dialogue on developing new regulations, especially in areas that are not regulated today. For example, nanotechnology or electric vehicles or new types of batteries, instead of each side separately going for exactly the same goals and the same level of standard and developing that in a different way, to perhaps identify that that might be an area for dialogue while they are looking at how to develop standards. They may end up coming up with one set of standards in the US and one set of standards in the EU, but at least you have a forum that will allow for that dialogue. That is the point of it. It is not something evil that is out there. It is not an attempt to end democracy or anything like that.

Chair: We are getting very short of time and we are getting very long answers. I know that Mr Lowe wanted to make the tiniest point, and then I am going to move on to Caroline Lucas.

Sam Lowe: It was a response to your comment about energy and are we blaming TTIP for a wider problem. I think our point was that if we were to import more oil and gas from the US we would lock in a fossil fuel intensive future and make it more difficult to decouple, essentially. Once the infrastructure is built and there, it is very hard to get people to stop using it, effectively.

David Baldock: Can I just answer the first part of your question about the European processes? The concern here is not if TTIP leads to discussions about changing an existing EU regulation. That would be in the public domain and go through the normal process. It is more to do with if TTIP, behind closed doors and in a negotiating process, results in things like mutual recognition, which would not necessarily require new primary legislation and has all sorts of secondary and tertiary effects that are far less clear and not subject to the same scrutiny. I think that is where a lot of concerns lie in terms of what TTIP per se could think about.

Q27 Caroline Lucas: I wanted to test the theory of TTIP against a couple of concrete examples, just to see if we know enough to see whether we can come up with an answer. We have talked about how the EU emphasises the precautionary principle in making environmental regulations, while the US takes a rather different approach. Could we deduce from that whether the current EU ban on neo-nicotinoids would be permissible under a TTIP agreement? Do we know enough to be able to know whether that ban would be compatible with TTIP?

Sam Lowe: I think it is important to bring up the precautionary thing. When you look at both sides, often we get told that on aggregate it is not very different, but in certain key areas it is, including climate, toxic chemicals, GMOs, hormones in beef, and what you have mentioned. Under TTIP would we have to ban those? Probably not, but would there be even more pressure fitting into the general European Commission's agenda at the moment, which is job growth at the expense of environmental legislation? I think it should be seen as more pressure going in the other direction, and make it harder to maintain them. I am not sure if John would like to come in on that.

John Hilary: Maybe the other thing to bring up here is the challenge from instituting an ISDS process within TTIP. The Investor-State Dispute Settlement has been used widely in the context of NAFTA, the North American Free Trade Agreement signed between the US, Mexico and Canada in 1994, so we have 20 years of experience of where the introduction of new environmental standards has been challenged and overturned time and again. That was not because those standards themselves were mentioned in any way within NAFTA, nor were they even foreseen, but the fear is the fact that you have set up an institution that allows for them to be challenged and to be struck down simply because they represent a barrier to trade and investment. You are setting in place new powers for business to be able to challenge host states and undermine the introduction of any of these new regulations.

Q28 Caroline Lucas: I wonder if Ms Roderburg could give us any reassurance.

Elisabeth Roderburg: I am not familiar with the product you are talking about, so I cannot answer specifically to that.

Caroline Lucas: It is a pesticide that has had impacts on bee populations.

Elisabeth Roderburg: I am not in a position to say anything on that, sorry.

David Baldock: It depends on the outcome of TTIP. There has been a joint paper by the pesticide industries on both sides of the Atlantic, which if that came about would lead to a looser regime than they have at the moment. Of course it would depend on whether that was sanctioned through TTIP or not.

Mrs Spelman: Can I interject? This may be for Ms Roderburg. The issue in America is that bee health is affected by something completely different from in Europe where colonies of bees are moved around, and that is seen to be the main threat to the poor bee health, because they do not reestablish in different habitats at different temperatures as well. That is not a practice that is common in the European Union where other causes, including pesticides and possibly infections caused by varroa mite, are seen. On the two sides of the Atlantic the bees have different problems.

Q29 Caroline Lucas: They are both chemicals, though, aren't they? The key thing is that it is a US company primarily exporting lots of the chemicals, irrespective of the situation in the US.

Anyway, I wanted to come to the fact that the US regulatory system focuses on the food product more than on the process of food production. Is there a concern that stricter monitoring and enforcement of standards in the EU could disadvantage EU farmers and food producers against their US counterparts?

Elisabeth Roderburg: Can I be a little flip? It is probably not wise. Yes, that is true. The EU side does focus on the production and the US side does focus on the end product. From what I have been told, that creates a situation that is of course unintended where you have a ban on a product, for example hormone in beef production, which means that you don't test for hormones in the end product because it is banned. In a country where you then allow a certain amount of it you test for the residue in the beef. I was working in the United States at one period of time where that was seen as a major problem, that European beef could not enter the market because it had too high levels of hormone in it, even though there was a ban. I am mentioning this to indicate that there are different ways of regulating things that might end up with different results. In the US, yes, they do control the end product more than the process.

John Hilary: That is really a very disingenuous euphemism. They have no control over the process, you are entirely right. Basically the last day, the time of slaughter, is the only time at which they introduce these regulations and standards on how the meat is taken care of. This has led precisely to the challenges we have seen already at the WTO where the US has challenged the European Union's far higher standards on food safety, and again and again we have seen the WTO exercising the same principles of trade and the free trade trumping environmental concerns and therefore finding in favour of the US. The European Union scientists have said, "Because we have found bovine growth hormones to be carcinogenic in humans, we will not allow their importation into the European Union" and the WTO has allowed the US to take up sanctions against the European Union on that basis. It is precisely that principle where free trade trumps all of the environmental and social standards that we are seeking to enshrine in TTIP, but with the added problem of an ISDS mechanism that would allow companies themselves to challenge our public health standards.

Chair: We will come on to the ISDS system in just one moment.

David Baldock: Ideally we need to bridge the gap between the US and the EU in this sector, particularly on GMOs, on beef hormones and a number of other issues. It would require a very big change. If we were to accept hormone-produced beef in Europe I am sure there would be major impacts from that.

Q30 Caroline Lucas: I wanted to touch on another issue that this Committee has been working on a lot recently, which is around the fracking report. We produced a report on fracking and one of our concerns in that report was the poor environmental regulations that surround fracking in the US. Again, if you can extrapolate from what we know about TTIP: do we have any sense of how TTIP could change fracking regulations in the UK?

Elisabeth Roderburg: I think the Commission has very clearly indicated that it would be, as it is today, up to the individual member states to determine what sort of policy they have on fracking. There are different policies within the different member states, and that would continue, according to the documents put out by the Commission.

Caroline Lucas: Do you disagree?

John Hilary: This is deliberately sidestepping the question. The issue here is you have countries such as France or Bulgaria that have introduced complete bans on fracking and it is precisely through the new powers that TTIP will bring in that those bans can be challenged, exactly as you are now seeing in NAFTA. You may shake your head, but exactly as you are now seeing in NAFTA where the province of Quebec introduced a moratorium on fracking under the St Lawrence River, and that is being challenged by Lone Pine. So it is precisely—

Q31 Mrs Spelman: That is not a correct interpretation of European law, so sovereignty by member states, the 28 member states of the European Union for example, individually decide whether or not they are going to allow genetically modified food to be grown in their country.

John Hilary: Absolutely.

Q32 Mrs Spelman: By the same token, deciding whether or not you are going to allow your shale gas deposits to be exploited is a matter for the sovereign member state. That is not overridden by world trade considerations.

John Hilary: Absolutely. I would agree with you entirely. It is precisely down to the individual states, or in Canada to the provinces, to be able to decide whether or not they introduce this moratorium, but it is absolutely permissible for the companies to challenge those bans through ISDS courts and they are doing so at the moment.

Q33 Mark Lazarowicz: But there must be some agreement for that activity within the ISDS mechanism, surely?

John Hilary: Yes, you can basically have anything within an ISDS mechanism where the company can put forward a case that its expectations—and that is the word they use—of profit-making into the future have been harmed by the introduction of a law. That is precisely what happened for Lone Pine in the province of Quebec; that they were hoping to engage in fracking under the St Lawrence River, they were prevented from doing that because of the introduction of the moratorium and now they are suing for $250 million.

Similarly on nuclear power, we know the issue, for example in Germany where, as a result of public opposition following the Fukushima nuclear disaster, the German Government decided to phase out nuclear power from 2022. We would consider that to be entirely their democratic and sovereign right. They are now being asked for €5 billion by the Swedish company Vattenfall as compensation for taking that decision. That seems to us absolutely outrageous.

Mrs Spelman: That is nothing to do with trade regulations.

John Hilary: It is exactly to do with ISDS. It was brought in under the ISDS provisions of the Energy Charter Treaty.

Chair: It seems to me that when we get on to the ISDS we need to perhaps have some further clarification of how this process is going to work when it is decided on. Caroline?

Caroline Lucas: Do you want to just move on, because we are short of time?

Chair: Okay. In that case we will move on to Matthew Offord.

Q34 Dr Offord: I want to ask some questions about environmental law-making in the US and the regulations there. We have heard about a lot of the negative aspects this afternoon. What about some of the positive aspects that TTIP could introduce into the European markets? Ms Roderburg would be a good start.

Elisabeth Roderburg: I would like to start on the positive. Yes, I think there are elements that could be brought in that could be beneficial. I have already mentioned the standards that have been set for particulate matter for nitrogen oxide, things that are associated with car transportation and that are not controlled to the same level in Europe. There is a study comparing these standards by the US Library of Congress that might be interesting. The International Council on Clean Transportation has nine countries as member states. It is the US, EU, Canada, Mexico, India, China, and this institute tries to compare standards for vehicles. If you go on their website, they have tried to give the differences in how standards are set to compare them, and it is quite useful. One of the things that I have seen coming out of this is that in the United States they will test a car not just prior to it being released on the market but after it is released on the market. You will have seen, for example, press reports about a South Korean car manufacturer having to pay stringent fines because the mileage that it was sold under was not the performance of the car. The same goes for emissions. That is something that perhaps Europe could learn from.

I think the very specific commitments, at least in some areas and I mentioned pharmaceuticals, on environmental impact assessments and the obligation in the United

States not just to have an assessment but to answer it and to designate how you intend to meet what comes up in such an assessment is very useful and something that could be done. It is not just a box you tick off, having done an environmental assessment, but you commit yourself to introducing the measures. Those are just a couple of examples.

On the food controls, the European Consumer Organisation has mentioned meat labelling as one area where Europe could improve. They have also mentioned, which is not environmental or food safety, children's high chairs as one area where the US has a better improving regulatory system. Water controls is another one. This is getting into specifics, but my point is that there are areas where we do have lessons to be learned from the United States and regulators see this and are more than willing to learn from each other. Regulators on both sides have the same goal. They want to protect our health and safety. They do not want to undermine something, and of course by getting information on how to achieve that—

Chair: I am pressed for time. I have Mr Lowe wanting to come in and then Caroline Spelman just on this point.

Sam Lowe: I would like to come in on your point, because no one denies that the US also has some standards that are potentially higher than the EU. No one is arguing that. Friends of the Earth is an international organisation and we have a group in the US who are worried about things there. When we are looking at TTIP we are not looking now at harmonisation and creating one standard. We are looking at mutual recognition, which is different, which gives a competitive advantage to the bloc that has the least expensive regulation that often is the least effective. It is slightly different. We are not looking at picking the best standards from either side and then using that. We are looking at just accepting them for what they are and then that brings its own concerns. It is important to look at TTIP as it is being negotiated now rather than as it was perceived two years ago.

Q35 Mrs Spelman: Just building on that very point, here is a worked example. The narrative that trade is somehow bad for standards is patently wrong. Any British company that wants to trade with America has to be compliant with the regulatory regime. In some cases America has regulatory standards that we have been tardy in introducing. As we have seen with the Modern Slavery Bill going through our Parliament, California has set the global standard for transparency in supply chains. We, in turn, have now enacted transparency in supply chains, improving on the standard that pertains in California. On both sides of the trading Atlantic, part of this exercise will be about taking the best practice. What is at stake here is that neither company in America or Britain wants the reputational risk of a poor standard that leads to their brand being damaged, surely?

Elisabeth Roderburg: Yes, definitely. The OECD has studied trade agreements and the environment and has come to exactly that conclusion, that most regional trade agreements where you have a difference in environmental standards do not lead to a race to the bottom, but that it does lead to a levelling up and an increase in standards.

John Hilary: We are going back to the beginning. We have already discussed this. There is no possibility of that.

Chair: We have 10 minutes and the division bell will go, and we have three more questions that we need to cover. I am going to turn directly to Mark Lazarowicz.

Q36 Mark Lazarowicz: Given the time, I will try to cover my questions as briefly as I can and allow you to also address them.

One of the issues we have been speaking about is the Investor-State Dispute Settlement, the ISDS, which is one of the most controversial, at least in terms of the public response, and one that I have real concerns about. There are three points. First of all, how far do you regard the concerns about ISDS as justified, particularly in relation to environmental matters? Do you think that the proposals for ISDS can either be improved or specified in such a way as to meet the concerns of those who are concerned about them? The third question is do we need an ISDS mechanism at all? I understand that France and Germany and certain elements in the governments there have raised the question of whether we need an ISDS mechanism. The implication is presumably can we not rely upon the normal interstate methods for resolving disputes if it is suggested that the state is not complying.

Chair: We are going to have to have short, sharp, quick answers.

John Hilary: Very short answers. I have worked on this very extensively over the past five years, looking at the 500-plus cases that we have from around the world where there are already ISDS challenges that are known to us. Yes, all of the concerns about ISDS leading to a challenge of environmental standards are completely justified. If you look at the cases that are coming from NAFTA, if you look at the cases that are coming from bilateral investment treaties across the world, you will have that proven to you in spades.

Secondly, is there any possibility of reforming ISDS so that it is better? We would say absolutely no. The European Commission is trying to sell its new, modern version of ISDS as somehow better because it closes some of the loopholes for the most outrageous challenges to environmental standards to come through. We have gone through a process with their consultation to show that all of their closing of the loopholes is utterly meaningless. The fact that you have this parallel judicial system open only to foreign investors, to nobody else, and not even in front of tenured judges but in front of corporate lawyers, is a recipe for disaster.

On your final question in terms of ISDS—do we need it at all—it is quite clear, and there is no dissent about this, that there is no need to introduce a parallel judicial system between the US and the EU that are functioning judicial courts. The only thing that the Government has been able to say on this is that it might act as a precedent for the EU-China investment relations, but they have never come up with one argument why we would need ISDS in the EU-US relationship. Never one.

Elisabeth Roderburg: I will try to be very brief. ISDS is, I think all experts would agree, overblown and the rhetoric surrounding it is not in any way commensurate to what it is. It is a disputes settlement mechanism. It is not a mechanism for someone complaining about environmental regulations or not getting profit. It is about upholding the rule of law when you have a dispute about discrimination or expropriation or removing funds from one investment site to home or out of the country. These are provisions in UK domestic law. It is a question of not altering regulations but getting compensated if you have a contract. The case that you are referring to is related to a contract where money was spent in getting a licence and getting compensation for that, from what I understand.

John Hilary: It is not a contract. Contracts have nothing to do with the ISDS. That is an important thing to get right.

Elisabeth Roderburg: There are commitments that are made that require money. The UK has 90 such ISDS agreements. The last one I think was entered into and ratified by this Parliament in July 2014 with Colombia, which has an ISDS commitment. The UK has been challenged twice without losing it. The US has 40 such investment agreements, nine of them with EU member states.

I think the conundrum that the Commission is in, and Europe is in, with respect to investment, is that it was not a community-wide competence prior to the Lisbon agreement. After 2009 the European Commission negotiates investment agreements on behalf of the EU member states. The US has nine agreements with individual member states, the new member states, of the European Union. What do you do with the 1,400 bilateral investment agreements that the EU member states currently have? That is a question.

Q37 Zac Goldsmith: Just one specific point. If you have a deal with two unequals, one country with an unreliable, dodgy judiciary and another country like ours, on those terms you could understand a need for a two-way ISDS system, and that is exactly what it is designed for, but would you not accept that we are talking about two equals? We are talking about Europe and the United States, with very similar approaches. Why would you therefore need to have an ISDS system? I will leave it there.

Elisabeth Roderburg: The argument has been, one, to clean up the mess that you have and, two, to set a precedent for negotiating with countries that the EU and the US are interested in negotiating investment agreements with. How can you argue for wanting an investment or part-treaty with Singapore when you are not willing to do it with the United States and the European country member states are insisting on keeping it with each other? Of the cases that have been brought against the EU member states, three-quarters of those have been from other EU member states.

David Baldock: I do not think it is necessary to have an ISDS system in TTIP, for the reasons that people have said, and I do not think it is an entirely hypothetical hazard to environmental regulations having an ISDS, but you could strengthen the provisions if you wanted to.

Q38 Martin Caton: On international development, I am going to foreshorten what I am going to ask; it is a three-part question, really. Is there any evidence that developing countries stand to benefit from the TTIP agreement? Does a TTIP agreement provide any opportunities for enhancing environmental regulations in developing countries seeking to export to the EU-US area? What impact would the TTIP agreement have on the sustainable development goals of eliminating worldwide hunger and extreme poverty by 2030?

Sam Lowe: I can come in briefly and say that we have not done a huge amount of work on this but we have had some discussion on it. A couple of studies have come out. DfID has done a study on this and within it said that there was potential risk in terms of loss of trade, trade diversion from Bangladesh, Pakistan and Cambodia. There was also a recent IFO study looking at trade diversion. It said that there would not be a huge deal of loss, but it offset the loss of trade diversion by saying that there would be a lot of increased growth in the EU as a result of TTIP, which many of us here and in other committees would argue about. I think there is a big risk of trade diversion, but I will leave it there.

David Baldock: I have not done enough work to justify the time.

Elisabeth Roderburg: Very quickly, the increased growth in the EU and the US would lead to increased trade opportunities also for the developing countries that are part of the supply chains. It would also potentially lead to improved environmental standards in the production processes when they are meeting EU-US standards as part of that supply chain. One last point?

Chair: I am sorry, the bell is about to go and we need to—

John Hilary: I would just like to say that I have done a lot of work on this and I can provide the Committee with the 12 papers that have been produced looking into exactly this issue over the last two years. The key one that I want to mention is that the European Commission itself has said that as a result of the conclusion of TTIP, the increase in trade between the two partners will be mirrored by substantial trade diversion, a substantial loss of trade by the developing countries. That is from the European Commission's own document, so with all of the different studies you have one where the European Commission says, "We got it wrong at the beginning. When we said it would be a win-win we got it wrong. We now recognise that there will be substantial trade diversion". As a result of your question, would it help for the sustainable development goals? From their understanding, it will militate against sustainable development goals. It is their findings not ours.

Q39 Mrs Spelman: There has not been anything like the difficulty in the EU-Canada trade agreement or the EU-Korea trade agreement. Why is the EU-American trade agreement causing negative opinion?

John Hilary: First, because of the massive size of the trading blocs. The EU and the US between them still represent 50% of world GDP and therefore set a much greater precedent. Secondly, because it was sold from the beginning as being about deregulation. When they said originally that it is about removing the regulatory barriers; that set the alarm bells ringing across the world. I think that is the genesis of the problem.

Mrs Spelman: Do we have another point of view?

Elisabeth Roderburg: I am dumbfounded by campaigners terming TTIP as a threat to democracy and an end to democracy. I find that really hard to swallow.

David Baldock: It is because the US and the EU are the two leading world regulatory regimes, and so when you have an agreement that focuses for the first time on non-trade barriers you are bringing those regimes into confrontation. There are a lot of other political factors but that is, in a way, quite fundamental.

Sam Lowe: One of the other reasons is there has been a more increased interest from business. We have the Chamber of Commerce and the UK group here, and I think Paul Krugman had an interesting quote about that the other day, which was, "There are reasons to support these deals and there are reasons to oppose them but my immediate take is that when the US Chamber of Commerce makes a huge priority out of complicated deals and offers an obviously false rationale you should strongly suspect there is bad stuff hidden in the fine print”.

Q40 Mrs Spelman: Would the right to regulate, which is in the Canada-EU trade agreement, assuage your concerns?

John Hilary: Having worked on the trade agreements for the last 20 years, all of them enshrine the right to regulate, and what is undermined is the ability to regulate in the public interest. The right to regulate is always there as a sacrosanct right, but the ability to put that right into practice is what is undermined through trade law.

Q41 Mrs Spelman: Do you have a view on the right to regulate? Would it help?

David Baldock: I think you would want a stronger formulation than that if you wanted to make it completely clear that the disputes settlement system would not undermine standards. Some lawyers have come up with some wording as to how you could do that, and I could send you a note.

John Hilary: Or you could start from the other premise of not having the environmental and social standards subordinate and trying always to be on the defensive. You could have a complete reversal—and we have worked on this as an opportunity to introduce an alternative trade mandate—where you would start with a raising of standards and try to effect that on both sides of the Atlantic. That is not possible under TTIP, as we have been discussing from the beginning, because they have said it is about removing regulations that act as barriers.

Chair: We are bang on 4.00 pm. I think any second now the division bell is going to go, so we have covered as much as we are able to in the time available. Thank you to all four of you for your evidence here this afternoon. Thank you very much indeed.