HOUSE OF COMMONS

European Scrutiny Committee

Oral evidence: The Transatlantic Trade and Investment Partnership Inquiry, HC 553

Wednesday 21 October 2015

Ordered by the House of Commons to be published on 21 October 2015

Watch the meeting

Members present: Sir William Cash (Chair), Geraint Davies, Richard Drax, Peter Grant, Kate Hoey, Kelvin Hopkins, Calum Kerr, Craig Mackinlay, Alec Shelbrooke, Kelly Tolhurst, Mr Andrew Turner, Heather Wheeler.

Questions [1-72]

Witnesses: ***The Rt Hon Lord Maude of Horsham***, Minister of State for Trade and Investment, and ***Edward Barker***, Head of the Transatlantic and International Unit, Department for Business, Innovation and Skills, gave evidence.

Q1 Chair: Minister, thank you very much for coming this afternoon. We have had interesting meetings with your predecessor, but we are now getting to a point where the evolution of these negotiations is becoming more important. I will ask the first question, which is about the progress and the pace of negotiations. The 11th round on TTIP is taking place in Miami this week. Your letter of 6 August on the outcomes on the ninth and 10th negotiating rounds indicated limited progress on key areas such as services, public procurement and the geographical indication of foods. Is this a correct assessment? Is this where we stand at the moment? Does this support reports that negotiations are stalling?

Lord Maude of Horsham: I do not think it suggests that negotiations are stalling, but I would say that I think that both sides feel that we need to press ahead with speed, energy and urgency. It is clear to me, from my conversations with the Obama Administration, that they do want to see this negotiation completed in substance by the time that Administration leave office. That gives us effectively a 12-month window within which to complete the substantive negotiations. Realistically, if we do not complete it in that time, we could expect, given all the delay that inevitably accompanies a transition to a new Administration, a delay of probably at least a year and perhaps two years in completion.

Q2 Chair: They are not stalling, but they look as if they might well.

Lord Maude of Horsham: No, I do not think even that is quite fair. They have been slower than we would want. Probably on both sides, there has been a bit too much playing of tactical games, rather than looking to see what we can agree so that the size of the prize becomes evident. Difficult issues in any complicated trade negotiation inevitably have to be left until the end game, but both sides will make trade-offs in the end game only when there is some definition around the benefits—in this case from removing non-tariff barriers as well as the tariff barriers.

Chair: This comes into a number of the more contentious issues. I would like Alec Shelbrooke to ask the first question.

Q3 Alec Shelbrooke: Lord Maude, do you agree with your predecessor, Lord Livingston, that people have concerns over ISDS partially because they are being misinformed, or do you agree with Commissioner Malmström that the old system of investor-state dispute settlement should not and cannot be reproduced in TTIP? I am particularly thinking there of the allegation that the NHS can be sold to the Americans. Is it possible that that could happen, or is that out—that clearly ties into those two opinions?

Lord Maude of Horsham: I certainly do not think that there is any substance in the anxiety that is being raised about there being any threat to the way in which the NHS is administered from TTIP. I just do not see that there is any substance in that. On the question about whether traditional, conventional forms of ISDS were appropriate here, we do not particularly see any problem with the way in which ISDS has been encapsulated in different free trade agreements over the years without any huge controversy attaching to them. But, if there is a way of configuring it a bit differently that meets the concerns that exist, we are open to considering that.

Chair: With regard to this external knocking, this is not a séance. I am going to ask the people who are doing it to desist.

Lord Maude of Horsham: I have put up with worse competition than that.

Q4 Alec Shelbrooke: Just as a follow-up to that, could you specify why you think it is highly unlikely that the NHS is under threat? What in the agreement is putting across the opinion that those allegations are unfounded?

Lord Maude of Horsham: It is quite hard to prove a negative, but all I would say is that I do not think it is even highly unlikely. I see nothing in this that would enable there to be any risk. Two things tend to get conflated here. One is a concern that if a Government have taken a decision to outsource a particular public service to some extent and external investors come and make a commitment in the host country to carry out that public service, and if there is an arbitrary decision to discontinue that way of running the service, it is alleged that there could be an action under the ISDS against the Government. Actually, if you look at the ISDS actions that there have been—and there have been very few over the decades—they tend to be actions for compensation, not actions that stop the Government from doing what they want to do.

The other issue, I think—it is a little cloudy, to be honest—relates to the question of whether, under public procurement rules, given the perfectly proper expectation that there should be fair and open competition without protectionism, any Government that have decided that a service should be provided in-house could be forced to put it out to tender. There is simply no substance in that whatsoever.

Q5 Calum Kerr: On this specific point, Nicola Sturgeon, the First Minister, wrote to David Cameron last week to say that it was imperative that the NHS should be specifically excluded, and that if it was not, that would be grounds for using the veto. Do you not understand why there is a degree of consternation in the country that, given that there is a mechanism for a veto, we do not just automatically name the NHS so that it is exempted? Especially if you say it is exempted anyway, why not name it?

Lord Maude of Horsham: I will tell you exactly why: if you start excluding the NHS, the implication could well be taken that other public services are not excluded. The reality is that the NHS is in no different position from any other public service, and there is nothing in the ISDS provisions as they are that places the UK Government's chosen way of delivering NHS services in any jeopardy.

Q6 Calum Kerr: Is there not an argument now for rather than naming what is excluded, naming what is included and taking the complete opposite approach so that if it is not named, it is not included? Has that approach been considered? Why do we not take that approach?

Lord Maude of Horsham: Because there is nothing in reality that provides any justification for believing there is a threat to the decision by a Government on how a particular public service is delivered. There is nothing that I have seen. I have had others come to visit me to persuade me of this and I have invited them to point me to what it is that gives rise to this concern, which has been met with a silence and, "We had better perhaps get our lawyers to talk to your lawyers." Frankly, the result of all that has left me with no more inclination and no more disposition to believe that there is any vulnerability whatsoever here, except what you would expect for any Government that seek to be open to overseas investment: if a contract is terminated, not for cause and outside the terms of the contract, the contractor is entitled to expect compensation. That would be the case regardless of any trade agreement.

Q7 Calum Kerr: I will just make one final point. It is understandable why the public focus on this issue, because the NHS is so well regarded and held in great esteem by the country. They want to be absolutely sure that it is safe. My greater concern here, on top of all this, is that we are making such a hash of this that the public are becoming completely anti-TTIP, whether rationally or irrationally, and we are heading down a road where people who are pro-EU end up considering voting anti-EU and to leave it because there are such concerns over TTIP and our public services.

Lord Maude of Horsham: You say that the public are becoming very anti-TTIP, but I have seen no evidence for that whatsoever. There are certainly some campaigns that have been stoked up by people who are hostile to TTIP anyway. If you are a protectionist, you will not want a free trade agreement, and I completely understand that. That is a perfectly legitimate argument to make, and one with which I profoundly disagree. This, as a ground for opposing TTIP, has no substance whatsoever, but I do not expect that most members of the public to want to spend time reading the detail of what can sometimes be turgid text to satisfy themselves. They are entitled to rely on what responsible politicians tell them and, if we behave responsibly, we should be able to allay people's concerns to the extent that they exist at all.

Calum Kerr: We will come back to some of this. I think we are failing that. By the way, we are not protectionist.

Q8 Geraint Davies: Can I say, first of all, that I am pro-trade and pro-EU, so it is clear where I come from?

Lord Maude of Horsham: Excellent.

Geraint Davies: In terms of the investor-state dispute settlement, would you not accept that, as a system, the arbitration system trumps UK law? By way of example, if the

UK pushes forward with fracking, with American companies doing fracking, were we to decide due to, for instance, the Climate Change Act or the Environment Act that it is in breach of our law and we want to discontinue that, we will be subject not just to fining and compensation, but the fact that that arbitration's judgment will trump our UK law, namely those Acts.

Lord Maude of Horsham: I will be corrected if I am wrong about this, but my understanding is that the cases that have been brought—there have been very few—under investor-state dispute settlement processes have been actions for compensation from the effects of a change in law.

Q9 Geraint Davies: I can provide details of Deutsche Bank *v.* Sri Lanka and Veolia *v.* Egypt in a written statement after this meeting. The first point was that there is this trumping effect. The second point I wanted to put to you is: are you aware that, if we do sign up to TTIP and indeed CETA, under the stabilisation clause, which is CETA Article 10.08, page 490, we would be bound into the ISDS rulings for 20 years, even if we left the EU? In other words, signing up to this would be in contravention of the normal constitutional guidance that a Government should not bind future Governments for 20 years or any duration. Are you aware that we would be bound into this for 20 years?

Lord Maude of Horsham: That is a normal expectation with free trade agreements.

Q10 Geraint Davies: So we are clear on it: you, as a Minister responsible for the negotiation, are happy for Britain to be bound into a system of rules that actually trumps UK national laws that have occurred up to now and future ones?

Lord Maude of Horsham: I do not think it is the case. I will ask Mr Barker, who is the world expert on these agreements, to clarify, but my understanding is it does not trump it. In any event, this part of TTIP has not yet even been drafted.

Q11 Geraint Davies: Mr Barker, there is case law to support this, as I have already mentioned.

Edward Barker: On the question of whether it trumps national law, the only thing an arbitral committee can decide is a compensation award. There are examples in other countries when companies have brought cases under ISDS at the same time as bringing a case under constitutional law or contract law, or through other routes, and sometimes they win all those cases. The ISDS case alone can only award compensation.

Chair: Could I briefly make a point here? I am aware of the fact that Mr Geraint Davies has a piece of paper that he is going to try to pursue now. I will say that he is entitled to ask the questions, but it may be more convenient, both for him and for you, for this paper to be responded to afterwards because we are getting into the complications of individual specific details. I think it would suit Mr Geraint Davies as well, from the discussion I have already had with him, if he would like to put this in as something to which you could respond.

Q12 Geraint Davies: I am happy to do that, Chair. In particular, there are these points about the trumping and the 20 years. If I may, I have one other question on a slightly different issue, which you mentioned in the opening question, of geographical indicators. My understanding is that the French are protecting brie and champagne, etc. In terms of us protecting our regional areas, of particular importance to me is Welsh lamb, which I understand is 20% of the gross agricultural output of Wales and would not be protected. Something could be called Welsh lamb although it was produced in Canada, for instance. It is the same for the Cornish pasty and the Cumberland sausage. I know you smile, but there are a lot of people who are very anxious about it.

Lord Maude of Horsham: No, I know.

Geraint Davies: Are these not going to be protected anymore? That is my understanding of where we are.

Lord Maude of Horsham: That is not a correct understanding, if I may respectfully say so. These are matters not yet resolved. We are certainly seeking to have continued protection for, for example, Welsh lamb, Scotch beef and so on.

Q13 Geraint Davies: But, if I may, there are lists already published of protected and non-protected areas. The French and Italians have protected theirs, and I think what you are saying is that we are coming in late in realising the Cornish pasty and Welsh lamb is at risk, so we are trying to get that sorted now. Is that correct?

Lord Maude of Horsham: No.

Edward Barker: Just to be clear, nothing that the EU is going to agree to in TTIP will take away existing protection for GIs within the EU, so there is no question of existing protections being taken away. We are pursuing extending protection for some UK GIs in the US, including Welsh lamb and a number of others.

Q14 Geraint Davies: You are confident you will protect all of those.

Edward Barker: We certainly intend to extend the protection into the US.

Q15 Kate Hoey: Following on from Mr Kerr's question, surely the ISDS mechanism in TTIP could prevent a future Government, for example, from reversing the Health and Social Care Act due to the fear of the legal costs that would come from the multinational companies involved in private healthcare. Is that not part of why people feel a real concern about this relating to the NHS?

Lord Maude of Horsham: No, I do not think that is right. Any law-abiding Government that want to remain an open environment for overseas investors will want to respect the law and will want to respect contracts. We have seen plenty of examples in other parts of the world where a Government take an arbitrary decision without compensation to remove, abate or truncate the contractual rights of a business in their country, and the economic effects are very severe. I am assuming that any law-abiding Government will want to give protection by way of compensation and will not want to truncate contractual rights without compensation. That is just as, if a Government decided to nationalise a private sector-owned industry, it would need to weigh up the financial costs of compensating those whose property they were appropriating as part of the consideration. That is just part of life. There is nothing new about this or nothing that is unique to a trade agreement in it.

Q16 Kate Hoey: Compensation sounds like a couple of quid. Multinational medical companies going for legal action would be into billions.

Lord Maude of Horsham: Nationalising a major industry will be in the billions as well. Unless a Government are planning to nationalise without consideration to the current owners, which would have a lethal effect on the investability of the economy, they are going to have to make that calculation. That is just life.

Q17 Kelvin Hopkins: UK public opposition has not been very vocal, possibly because they are not aware of TTIP. It is just an acronym and they are not aware of it. Recently in Berlin, a quarter of a million people, from a number of EU countries, demonstrated against TTIP. Last week, I was in Brussels, and public transport and taxis could not get into the central political part that had been blocked off by the police because of a demonstration against TTIP, which apparently got a bit rough. There were water cannon, and police and police barriers everywhere.

Clearly, TTIP is being taken very seriously. There are some trade unions in Britain, for example, that are now seriously worried about TTIP, and quite rightly so. Have you had specific meetings with those who are opposed to or concerned about TTIP, and how have you used those to inform your own approach to TTIP? How have you taken on board some of the points they have been making?

Lord Maude of Horsham: Yes, I have. To comment on the sentiment in some other European countries, in Austria, where I was recently, public opinion is genuinely very negative towards TTIP. That is the one country where you will see real hostility and negativity towards TTIP. I saw one account of the demonstration in Germany that said there were 250,000 people and another that said there were fewer than 100,000, so who knows? These assessments often differ.

Kelvin Hopkins: More than 10.

Lord Maude of Horsham: That there are some people who are very concerned about it, I do not dissent from at all. I thought it was interesting that, in our general election campaign, this was an issue that did not get any traction or currency in the campaigning, certainly as far as I was aware. I was not standing for election myself, but I was still campaigning and it did not come up. Have I had meetings with people who are concerned? Absolutely. I had a very good meeting with a trade union leader, for example, whom I know quite well, who raised this concern. But I find, when I ask to be pointed to what is the actual cause of concern, it all gets a bit vague, which is why I am simply not persuaded. No one has shown me what it is that is capable of creating the mischief that you and others clearly fear.

Q18 Kelvin Hopkins: Is it not part of the problem that it is all being negotiated in secret with the corporate world, without really any democratic involvement? Does this not lead to enormous suspicion on behalf of those who believe in public services and democratic accountability that something is being done that is not very nice behind their backs, and it will be too late to stop it when it happens? Do these demonstrations in Europe not also suggest that people are increasingly not trusting their Governments and the EU to protect their real interests because they are on the side of the corporate world and are going to sell out our interests to that corporate world?

Lord Maude of Horsham: The latter part of what you just asked is a much broader issue, which we could no doubt debate for a long time. On the specific issue about transparency in the way in which TTIP is being negotiated, I have some sympathy with what you say. I think, the greater the degree of secrecy, the greater the tendency to breed suspicion. I would just make the point that of course there does not seem to be any doubt that this treaty will end up being a mixed treaty that has to be ratified by each member state, so there will be an opportunity for scrutiny at a time when the actual package is complete.

We would like to see more transparency here. I do not know of any negotiation of this kind that would ever be conducted completely in public, in full display, but we do think that national Parliaments in particular should have access to a much greater extent, particularly much more akin to what Members of the European Parliament have.

Q19 Kelvin Hopkins: My final question: I think a suspicion of all those who oppose TTIP is that we might start with something that is solely benign, but that, rather like with the European Union, the ratchet effect will kick in and over time we will finish up with a world that is governed by the corporates and in which democratic government is merely a decoration with no power.

Lord Maude of Horsham: As you know, trade matters are the sole province of the European Union. That has been the case ever since it existed. I do not have the same fear that it will all become a complete corporate racket, but I do want the advantages of much freer trade to be able to be harvested, particularly by small businesses.

We have lots of examples of this. The owner of one small business I am familiar with says she is getting demand for her product from the United States, but cannot sell into the United States because of a lack of regulatory convergence. It is just too difficult and too expensive to be able to configure what she produces for the United States market. Another is a cushion manufacturer. Her small business sells into the United States, but she has to submit her products to two different flammability tests, each testing the same thing—whether it catches fire—but doing so through a different means, therefore doubling the friction costs of doing business.

It is these sorts of non-tariff barriers that impose an economic penalty on us, and this is why the prize is very big for consumers, and particularly for small businesses. To your concerns about it turning into a ramp for big corporations, I understand where you are coming from, but I am afraid I do not agree that that is where the main benefit will be. The main benefit will be for consumers and for small businesses.

Q20 Peter Grant: Can I go back to one of your earlier comments on the possibility of legal action by multinationals against member states? You commented first of all that if it was a member state being threatened with legal action for a major renationalisation programme that was going to cost tens of billions anyway, it might not be so significant, and, secondly, that it is more likely to be action for compensation than action to attempt to prevent a Government from doing something. Would you accept that some of the cases we have seen in other countries have been action for decisions on legislation that Governments have taken that cost very little, but which potentially could have a significant benefit for public health?

A number of countries have tried to legislate to restrict tobacco advertising to enforce plain tobacco packaging, for example. It costs very little to the public purse and all the evidence suggests it could have significant benefits for public health, but several countries have put those plans on hold because of the threat of being sued. Scotland has a similar situation with minimum alcohol pricing, which all the medical evidence suggests has a potential public health benefit. The national Government of Scotland, who are the people who are supposed to set policy in public health, are now being threatened with legal action by multinationals because they do not like it.

I suppose the first question is: do you not accept that sometimes the threat of very, very time consuming and potentially extremely expensive legal action is in itself enough to delay, deter or even completely prevent a nationally elected Government from doing what they believe is best for the health of their citizens?

Lord Maude of Horsham: The financial effects of any policy decision made by any Government are part of the equation and part of what any Government should take into account when deciding what they want to do. I have used the example of nationalising. If a Government decide to nationalise an industry, there is a cost attached to that, and that is part of what you have to factor in. There is nothing different about this. No responsible Government would embark on a policy without understanding all the implications.

Q21 Peter Grant: That would seem to suggest that if a new agreement is put in place that introduces an additional potential and very substantial negative financial impact to a decision, that pushes national Governments away from taking some of those decisions, because, being responsible Governments, they have to take into account the potentially significant financial disadvantage that was not there before. That would mean there is a danger, if we get TTIP wrong, that it will prevent Governments, possibly including our own, from taking decisions in the interest of public health, because the balance between the financial costs and the public benefit has been pushed in the wrong direction.

Lord Maude of Horsham: Just to pick that up, you are making a very general point, which is that unless a Government want to be the kind of Government that are willing to impose huge costs on businesses that have invested in their country, they are bound to take that into account. If you are a Government that are willing to do that, you raise the price for any future investment because there will be a political risk premium required from any potential investor. That is just part of the calculation that any Government have to make. This is no different. This is does not add anything to the calculation that any Government have to make about making a policy change. Any responsible Government have to consider all the implications, but the implications are not, in my view, any greater as a result of this.

Q22 Peter Grant: With respect, Minister, the specific examples I gave, one of which was the minimum pricing of alcohol, have absolutely no cost implications whatsoever for the manufacturer.

Lord Maude of Horsham: In that case, there is no basis for compensation.

Peter Grant: The other one is restrictions on tobacco advertising, which are being used as a basis for compensation. I would have thought that cuts across, because it is cheaper to produce a plain tobacco packet than putting fancy colours on it. I will move on, because I know other members will want to come in.

Chair: I think this must be the last one.

Q23 Peter Grant: Sure. When you were asked earlier about the issue of nationalisation or the privatisation of public services, you quite rightly pointed out that, even just now, if a Government break a contract against the terms of that contract, they are going to get sued. The concern that I and a number of people have is that a Government or even a local authority, at the end of the agreed contract period, decide, “We are not going to advertise this as another externally provided contract. We are going to bring this service back in.” Before you talk about the cost of that, a lot of these services do not necessarily have significant capital start-up costs. If a management contract for a hospital has been outsourced and the hospital is still publically owned, there is not a massive capital investment by the public sector to bring it back in house.

Can you give an absolute assurance to the Committee this afternoon that nothing in TTIP or ISDS or its replacement will in any way hinder the right of national or local governments to take policy decisions to bring services back in house when the outsourced contract has expired? Can you give that absolute cast-iron guarantee just now?

Lord Maude of Horsham: Yes, I think I can. I see nothing in TTIP that would impact that at all.

Chair: I can tell you that I have just been notified that we are going to have a vote in the House shortly.

Q24 Geraint Davies: On ISDS, you have mentioned the case of renationalisation and the compensation—that is accepted. You have mentioned harmonisation of regulations; again, that is a benefit, and we understand that. The concern is that companies will sue Governments for laws that have been passed to protect citizens and that impact on their future profit. I am thinking of things like Philip Morris suing Uruguay and Australia over tobacco advertising.

I myself presented today a sugar Bill that would ask for sugar, as Jamie Oliver has supported, to be expressed in spoonfuls on packaging. That would have a direct impact on the profitability of Kellogg's cereals and other products. If the Government introduced that, the concern would be that that Government would be sued for the lost profit of those companies, but the reason the Government were doing it in the first place would be to protect health.

Indeed, secondly, in terms of fracking, again as we have said, there might be investment in fracking, but then, because of public health concerns, environmental concerns or carbon output concerns, the Government might say, "We are going to stop that," and they would be sued. That is quite different from the story of nationalising an industry or renationalising it.

Lord Maude of Horsham: I am not sure it is, really. When any investor makes a decision to invest in another country, they assess the political risk. What they are looking at is the likelihood of that Government making a decision to change the policy basis on which a substantial investment is made. They price the investment accordingly, and there will be a premium exacted from any Government that have greater political risk. The implications of this are just in the way life is, not in what flows from any investor-state dispute settlement system.

Q25 Geraint Davies: Let me put it another way. If a theoretical motor car company invested in Britain and produced all these cars, but then suddenly the Government decided to put constraints on diesel particulate emissions because they kill thousands of people, that company would have a choice of either suing the Government for that, or just fixing the cars and pretending they were abiding by the rules, as in the case of Volkswagen. Of course, what it does is to take all the risk out of investing in the country by giving the power to the tribunals to sue the democracy. Then there is this chill factor over the democracy because they do not want to pass these laws that might end up in them being sued. Surely that is not something anybody could want.

Lord Maude of Horsham: It ignores the reality of how government works, which is that if you are going to make a change of the kind you postulate, you consult. The Government will consult and they will understand what the costs are to business, and, because any rational Government will not want to do something that imposes a disproportionate cost on business, they will generally make a decision to phase the change or to allow time for the business to adapt in such a way that the financial cost is minimised. You would want that to happen anyway, because otherwise the cost just gets passed over to the consumer.

Q26 Geraint Davies: Not really, because would you not accept that the first duty of Government is the protection of their citizens, not the profit of private companies? If those companies did not make a profit, they would go bust—and, frankly, I would not worry particularly. I know in the case of the current Government that they have not compensated for feed-in tariffs and this sort of thing, and there are cases when there should have been compensation. That is one, so I accept there are cases for compensation, but we cannot have a situation where ISDS is chilling democracy from passing laws that might impact on future profitability.

Has there been any improvement in the ISDS rules? They have been debated and discussed, but have they been improved in any sense in this respect, and how?

Lord Maude of Horsham: The ISDS has a specific and explicit protection of a Government's right to regulate in the public interest.

Q27 Geraint Davies: Right, so when they pass laws that undermine future profitability, they will not get sued.

Lord Maude of Horsham: As I say, the ISDS has an explicit protection of the Government's right to regulate.

Q28 Geraint Davies: Why in that case was Lone Pine able to sue the Canadian Government for hundreds of millions of dollars because of a moratorium on fracking in Quebec?

Lord Maude of Horsham: I do not know the detail of that case. The fact that there is an explicit protection does not stop someone suing.

Q29 Geraint Davies: No, successfully suing. I am just saying that the corporate wolves have very sharp teeth, which have been provided by the ISDS, and my view is that they need to be extracted and we should move ahead with a trade deal. I was going to ask whether you think that such a trade deal should also embrace things like climate change and other commitments, perhaps human rights, rather than just having a purely trading relationship, which will be the blueprint for the world, of course—that it is all about company profitability against democratic power.

Lord Maude of Horsham: You are wrapping up a whole lot of stuff in there that would take quite some time to unpack and disentangle. I do not believe a trade deal is an appropriate vehicle for dealing with all of the world's ills.

Chair: I think this will have to be the last point.

Q30 Geraint Davies: Could you accept a TTIP deal or a CETA deal that did not have an ISDS as such? After all, it is between two mature economies with established commercial law already, is it not?

Lord Maude of Horsham: You would need to make a very powerful case to me, which no one has yet successfully made, for why uniquely, of all the free trade agreements that have been reached, these should not have an ISDS provision.

Q31 Calum Kerr: In response to your comment earlier, by the way, do not confuse concern over big issues with a desire for this deal not to happen. Certainly in the Borders and in Scotland, we have absolute confidence in our products to compete on a world basis. On Monday, I was at Hawick Knitwear, and they were saying, "We need TTIP because we pay 4% on cashmere and 16% on lamb's wool. We need those duties reduced and then we can be more successful."

But even they have concerns, as do the public, about these issues, and that is why things like the NHS are important. That is why ISDS feels unnatural, because you are talking about circumventing well-established legal systems where there are mechanisms for suing and surrendering power essentially to group of corporate lawyers, who then make a decision on which there is no right of appeal. Can you at least appreciate the concern and why that feels wrong when you have a very mature legal system that you are talking about here?

Lord Maude of Horsham: I understand the concern, but I think it is unfounded, as I have said at some length. I will go back to your first point of talking to a company that I think I actually visited a little time ago.

Calum Kerr: You might well have.

Lord Maude of Horsham: It is fine to say that we know there are small companies, as that is, producing very high-quality products and we want to get them on the shelves abroad, not to fatten up corporate profits in some rapacious way, but for hard-working entrepreneurs who have sweated to build up a business and produce a superb product. We want them to be able to get that to the market in as many places as possible. The prize there is a big one. It is a very big prize. Yes, we need to address the issues that cause concern, but we are not going to do that successfully until we have defined what the prize is and what the benefit is for Hawick Knitwear and all the other hundreds of thousands of companies that stand to benefit.

If we can show that there is a benefit, we have a context against which we can resolve the issues that continue to cause, if they do, concern.

Chair: I think we have covered the broad questions pretty thoroughly by now.

Q32 Kelly Tolhurst: I would like to ask you how member states, the European Parliament and our counterparts in the USA have reacted to the proposal by the Commission for the replacement of the ISDS and that a "new and transparent system" was needed due to a lack of trust around ISDS.

Lord Maude of Horsham: This is the Commission's latest proposal for some sort of investment court and so on.

Kelly Tolhurst: A different system, yes.

Lord Maude of Horsham: We are willing to consider that. We will look at it carefully with our partners. I have not heard any responses that are a showstopper. I just make the point again that we need to spend a bit less time on this issue, which is about how you deal with negative effects, and start working at pace. There is a lot of work needed to deal even just with tariffs, where there is going to be reasonably broad agreement. There is still a lot of work to be done, and we need to get on with that. My point is: let us do that. Let us start to define what the size of the prize is and then we can deal with those kinds of issues, which are real—there will certainly be a way of doing it that allays the concerns. If we spend all our time on that now, we are not going to get a deal done at all.

Q33 Heather Wheeler: The Minister for Europe recently told the Committee that the safeguards built into the investment chapter for CETA, the EU-Canada treaty, are strong. However, given the Commission's recent proposals for the EU-US investment chapter, should negotiations on this aspect of CETA be reopened, or perhaps not?

Lord Maude of Horsham: We certainly do not want them to be reopened because then you start to allow the possibility for the whole thing to be unpicked, and this is a chunky agreement. It is not as material as TTIP, but Canada is a big trading partner, particularly for us, so there is a big benefit for us in seeing that through. There may be some minimal tweaking that can be done through the process of the legal scrubbing of the detailed text, but we would be very chary indeed of seeing it being seriously revisited in substance.

Q34 Geraint Davies: But, on this, the whole ISDS concern is that if we do not clean it up in CETA, that agreement will be a Trojan horse through which American companies can sue democracies through Canadian subsidiaries. If it is accepted in the EU that we have to look at ISDS in TTIP, surely we need the same situation in CETA.

Lord Maude of Horsham: You have perhaps been following some particularly colourful conspiracy theories here.

Geraint Davies: No, this is original thought, you will be glad to hear.

Lord Maude of Horsham: That is even more alarming.

Q35 Geraint Davies: As a matter of logic, would you not accept, if there are problems with the ISDS that people accept are in TTIP and that are now in CETA, they will also have to be changed in CETA? Otherwise it will just be a backdoor entry into suing countries. I think Mr Barker is whispering "yes."

Edward Barker: We felt that the CETA ISDS provisions were quite an improvement on what was there before already. CETA is already quite a big reform. The other point is that one of the things we have been looking to change is to make it harder for companies to treaty-shop, so they would use the Canada route if that were appropriate and they would use the American route if that were appropriate.

Q36 Geraint Davies: Just so we are clear, you are not even prepared to review the ISDS in CETA. As far as you are concerned, it is fine.

Lord Maude of Horsham: There is a remaining process to be gone through with CETA, so it is not absolutely hard and fast, but root-and-branch reopening of it I think would be a big mistake because it would put the whole thing back.

Q37 Geraint Davies: To be clear on this, you are happy to be tied in for 20 years to those rules.

Lord Maude of Horsham: Just so I am clear, this is a deal that has been negotiated some time ago and agreed to in substance by all member states in the European Union and by the Canadian Government. It is pretty tough to get these things agreed, so we would have a lot of explaining to do to small businesses who stand to benefit from this if we were to take a step that threw the whole thing into jeopardy.

Chair: This, I think, is going to be the last question before the break, but we cannot be sure.

Q38 Peter Grant: We have been provided with a note of a meeting on 20 September, which I do not know if you attended yourself, Minister, with one of the heads of unit at the European Commission Directorate General for Trade. A number of national Parliaments were represented. The Commission is describing the investment court system as a new and transparent system, which begs the question of what ISDS was if it was not transparent. It is describing that as a fundamental change from ISDS. If the Government and the Commission genuinely believe that a large amount of the concern about TTIP is actually misplaced concern about how ISDS would be applied to it, and if they genuinely believe that the ICS is going to be a big improvement on ISDS, would it not be better just to put TTIP on hold and get the new dispute resolution system put in place? Then you could bring in TTIP and nobody will be concerned, because it would be transparently obvious that the threats we have spoken about no longer exist.

Lord Maude of Horsham: We can put the whole thing on hold if you want, but you will have to explain to Mr Kerr's constituents why it is that we are denying them the benefits of free trade, which will enable them to grow their business and create jobs. If that is what you want, that is fine; it is not what I want.

Geraint Davies: We want to protect democracy for 20 years. That is what we want.

Chair: Order. Sorry, you have asked a lot of questions. We are now going to move on.

Q39 Mr Turner: With presidential elections looming—I think a bit more than a year away—a migrant crisis in Europe, Greece's financial turmoil and the UK's renegotiation diverting critical attention on the EU side, further delays seem inevitable. Do you agree that achieving tangible progress before the end of this year is now unrealistic? In which case, when is the next window of opportunity likely to arise?

Lord Maude of Horsham: When you say by the end of the year, do you mean by the end of the 12 months that lie ahead?

Mr Turner: Yes.

Lord Maude of Horsham: No, I think it is perfectly realistic, but challenging, to deliver a substantive agreement in that time, but it will require energy and pace, and a willingness to work on the stuff that we can get agreed as quickly as possible to allow the maximum time to sort out the final things. There is always some horse trading at the end of any trade agreement; that is just part of life. Is that doable? Yes. If we do not get it done in that time, I think there will be a hiatus of at least a year after that, and perhaps longer.

Q40 Kate Hoey: Would it not be a bit more sensible to wait until after we have had our referendum on the EU because we might then be in a position where we could make our own agreement with the United States as the United Kingdom?

Lord Maude of Horsham: We are no worse off doing this.

Q41 Kate Hoey: We might be wasting a lot of time.

Lord Maude of Horsham: For the people who are doing it, it is what their job is, so we might as well get on and do it—*[Interruption.]*

Chair: Thank you very much for the time being, Minister. We now have a Division on, so the sitting is suspended until 3.38 pm.

Lord Maude of Horsham: Very good. It makes me feel very nostalgic.

Sitting suspended for a Division in the House.

On resuming—

Chair: Thank you for bearing with us, Minister.

Q42 Geraint Davies: Minister, based on the negotiation to date, what is your latest assessment of the range of possible benefits and costs of TTIP for the UK? In particular, how would they vary by region and by industrial sector? You have mentioned small businesses.

Lord Maude of Horsham: I do not think I have details of the benefits by region. There are a number of studies on this. The best estimate is that, for Britain, the benefits are likely to be in the region of £10 billion a year additional to our GDP, but it cannot possibly be a precise science.

Q43 Peter Grant: Minister, I have one point here. Your colleague, Nick Boles, the Minister for Skills, during an Adjournment debate on 9 July, indicated that he was happy to provide my colleague, Ian Blackford, with an analysis of where that £10 billion figure had come from. I spoke to Ian this morning and it has not arrived. Can you commit to putting that analysis out into the public domain in time for others to look at it to see whether the figure you have quoted is as robust as you are suggesting?

Lord Maude of Horsham: I think the relevant studies are pretty much all in the public domain. I will certainly supply you with the internet links.

Q44 Peter Grant: What is your response, Minister, to the BIS Select Committee's comments in March this year that "It is impossible to quantify the benefits in any meaningful way without having a comprehensive assessment which includes the estimated economic yield of a variety of levels of agreement"? Have the Government done that yet and, if not, do you intend to?

Lord Maude of Horsham: As I say, there are a number of studies that overwhelmingly show a significant upside. We could study this to the nth degree, but I doubt whether you would get any greater precision. As far as I am aware, every other free trade agreement has resulted in an economic upside. After the EU-Korea free trade agreement, which was finalised in 2011, we saw a doubling of our exports to Korea and what had been a trade deficit turned into a trade surplus. I am not sure that endless further study would yield much greater certitude in this. This is not a precise science, but all experience shows that if you reduce the frictional cost to trade, you allow there to be a greater possibility of trade. It creates jobs, it creates prosperity and contributes to economic growth.

Q45 Heather Wheeler: Really carrying on from that, what is your latest assessment of how TTIP may impact the UK's trade and investment flows with our non-EU-US partners, particularly some of the UK's traditional Commonwealth trading partners, such as India, which are effectively, at least for the time being, closed off from TTIP?

Lord Maude of Horsham: We should not assume that this is a zero-sum game in opening up free trade between two big markets. It is worth remembering that you add together the European Union and the US and it amounts to some 45% of world GDP, so this is definitely worth getting out of bed for. I would not assume all this is trade that is diverted from other partners.

What I would say is that it increases the prize in speeding up other trade agreements. The EU-India trade agreement has been genuinely stalled for a couple of years, as has the EU-Japan trade agreement, and these are big, chunky agreements. While it certainly is not a zero-sum game and you will see an increase in the size of the world trade pie as a result of it, there will undoubtedly be some diversion. There is a legitimate cause for concern about the recent completion of the Trans-Pacific Partnership, which, while it is not as big—you add together all the TPP partners and it amounts to a lesser share of world GDP than EU-US—is still very substantial. That increases the prize for us to get a TTIP result and also increases the penalty if we do not.

Q46 Geraint Davies: In terms of access to classified TTIP documents, my understanding is that MEPs now have some access to them. Do you believe that MPs should have equal access? Finally, do you think there is a case to be made for Committees like this or others to give some signals to the negotiation and to make suggestions that could be considered in the round? They are two different questions.

Lord Maude of Horsham: On the first, we certainly favour members of national Parliaments having access much closer to what MEPs have; we think that is right. The right way to feed in national concerns is through the member states that are providing the mandate for the commissioner. We do that on a continuous basis. A Trade Policy Committee is meeting on a pretty frequent basis. I think that is the right way to do it. To be honest, I would much rather the European Commission officials and commissioner who have responsibility for delivering this would be getting on with the work and then submitting the final results for scrutiny by national Parliaments and for ratification.

Q47 Geraint Davies: But, in our case, if I had specific concerns, I should basically send them to you, for you to consider and send them through the chain. Is that correct?

Lord Maude of Horsham: Yes.

Q48 Peter Grant: Whose interests would be substantially damaged by making public the kind of information that just now is available only to MEPs on restricted basis?

Lord Maude of Horsham: That is a very hard question to answer. The concern on both sides of the negotiating parties would be that it would complicate the process, which is already complicated enough. This is a difficult negotiation. There is a hell of a lot of work to get through. It is much better to get on with the work, do the work, show what the results are and then allow national Parliaments and the public to judge.

Q49 Peter Grant: Do you have any sympathy, Minister, for the view being expressed in a number of European countries by trade unions, business organisations and sometimes companies themselves that, if they knew what was in the current draft of the agreement, because they are the ones who know the business, they might be able to improve the deal? Do you also accept that there is a very widespread view among ordinary citizens and among some of the groups we have spoken about that the Commission is simply acting on the basis of, "We know best how to do trade," and the people that are actually going to have to live and work under these agreements have not been involved because the Commission does not see them as having anything worthwhile to add to the discussion until it is too late?

Lord Maude of Horsham: That is a question you need to address to the Commission, rather than me. I am not a negotiating party here. My role is limited to providing, with our partners in Europe, a negotiating mandate to the Commission. There is a trade-off. Yes, greater transparency and scrutiny can provide useful insights, but we need to be able to feed in those insights in any event. There is no way of making this a perfect process—both perfectly transparent and expeditious in the way that it needs to be.

Q50 Peter Grant: Are you able to tell us whether the Commission is taking input from major multinational corporations as part of the consideration that is happening?

Lord Maude of Horsham: I think it is taking input from all sorts of organisations: businesses, small, medium, large; and consumer organisations, which represent the interests of consumers. Increased trade is primarily in the interests of consumers who have access to a better range of goods and services at more competitive prices.

Peter Grant: Sometimes.

Q51 Chair: I would like to make a comment at this stage, in the light of your reply to Geraint Davies just now, with regard to the distinction between MEPs and MPs. As you know, there is a very strong body of opinion in this House and in the country that our national Parliament is more important than the European Parliament, to put it bluntly. It seems to me that, irrespective of your response, which I am sure was done with the best of intentions, the fact is that the European Commission is more likely to give width and opportunity to the European Parliament because it sees the European Parliament as representing that broader field of so-called democratic issues, which we in the United Kingdom Parliament certainly do not share in general. I just want to get that on the record. You know where I am coming from.

Lord Maude of Horsham: I do.

Chair: You know that I am not going to resist the opportunity to make that point, so I just want to get that on the record. I do not agree with the European Commission's line and there are a lot of people who are Members of national Parliaments who I think would agree.

Q52 Kate Hoey: This almost follows on. Your optimism stands through about getting a deal fairly soon, in the next year or so. So, if you get the deal, just take us through concretely how this Parliament, and indeed the British public, will have a say in the final decision. What scrutiny will happen in Parliament? How long will we have? Will it be Select Committees? Will there be a vote in Parliament? Just take us through it in very simple terms.

Lord Maude of Horsham: Sure. The process would be that a text gets agreed. There is an agreement in substance. Then there is a fairly lengthy process of what is known as legal scrubbing—assuring it is consistent internally and externally, and translating it into many, many languages. If it was simply dealing with pure trade policy matters, that would not be a mixed agreement and it would not be subject to ratification by national Parliaments, but it is very likely to be a mixed agreement, in which case there will be a need for ratification.

The parliamentary process is, as I understand it—despite having been in this building one way or another for more years than I care to remember, I am no expert in parliamentary procedure—that there would be scrutiny. We would not agree the EU Council decision to sign the agreement until it had been scrutinised by both scrutiny Committees in each House. The Government might have to decide whether a JHA opt-in is appropriate.

Q53 Kate Hoey: What does that mean?

Mr Barker: It is if there are mode 4 provisions in the agreements. This is the movement of people.

Kate Hoey: I am just trying to get it into laymen and women's terms.

Lord Maude of Horsham: Okay. It has to be scrutinised in the normal way, as any EU decision is, by this Committee and the Committee in the other place. Then there is a process of ratification, and what I would understand would happen is that the agreement would be published, laid before Parliament for scrutiny for 21 sitting days and, in either House, there could be a prayer against the agreement.

Q54 Kate Hoey: So there could well be a vote in Parliament on it after the scrutiny Committees have gone through it.

Lord Maude of Horsham: Yes, absolutely.

Q55 Chair: If I could help there, what we anticipate is that there would be a decision that it was both legally and politically important. I do not think there is any doubt that we would recommend there was a debate on the Floor of the House. That would then be scheduled according to the Government's, the Leader of the House's and the Whips' decisions, and then we would have a vote on that issue. That is the way I think it would work in practice, but that looks to me to be quite a long way off at the moment.

Lord Maude of Horsham: Yes, absolutely.

Q56 Kate Hoey: Realistically, with your optimism about having it all completed in the next year, we are then talking about probably another at least one year.

Lord Maude of Horsham: Yes, I would say at least. Before it comes into force, once the substance is agreed by the Commission and the US Government, it then has to go through a process of congressional approval in any event, as well as going through whatever national ratification processes each member state decides on. The earliest an agreement could come into effect is 2017, I would guess.

Q57 Kate Hoey: A change of President in America would not make any difference.

Lord Maude of Horsham: It should not do, if the substance is agreed. If there were a composition of Congress or an Administration that was much more protectionist, you could see this getting more complicated.

Chair: I do not want to make it even more complicated but, of course, depending on the date of the referendum, that could also have a very profound effect.

Lord Maude of Horsham: Indeed.

Q58 Richard Drax: You have just taken the words out of my mouth, Chairman. Forgive me; I am sorry I was not here earlier, Lord Maude. If that happens, and I hope it does, where does that leave this agreement? I presume then we would have to renegotiate our own agreement with the US, free of the EU, in addition to reorganising ourselves with the EU.

Lord Maude of Horsham: That is all very hypothetical.

Kate Hoey: It is quite possible.

Q59 Richard Drax: It is hypothetical, but it is a major threat. It could derail this, could it not?

Lord Maude of Horsham: No. If Britain was not in the European Union—

Kate Hoey: Sorry, it would be the United Kingdom that was not in the European Union.

Lord Maude of Horsham: That too. We would not be subject to the trade competence of the European Commission.

Q60 Geraint Davies: On that last point, you mentioned that you did not anticipate TTIP being, as it were, enacted on the ground until 2017.

Lord Maude of Horsham: That is the most optimistic.

Q61 Geraint Davies: When will CETA get in play, do you think? When is the earliest CETA could be agreed?

Lord Maude of Horsham: Next year. The process of scrubbing and translating it will not be finished until the end of—

Q62 Geraint Davies: We could be in a situation whereby we were bound for 20 years by CETA, then chose to leave the EU and, by obligation, we would be bound for 20 years by that, and then what is in TTIP would just be fed through CETA. I know you do not think there are great concerns over ISDS, but let us assume for a moment there are concerns. Either way, we would be bound, would we not, to a trade arrangement for 20 years, be it with Canada or through the EU, even though we had left the EU? That is right, is it not?

Lord Maude of Horsham: To be honest, I am not an expert on what the effect of that would be. If we agreed as a member of the European Union and we were suddenly not a member of the European Union, the effect of all of those free trade agreements would be, I suspect, a matter of subsequent negotiation and discussion.

Geraint Davies: Maybe we can write and get clarification.

Chair: I think the short answer is, depending on what the decision led to in terms of the no vote, if there was a no vote, you might go down the route of article 50, in which case there is a period of two years' negotiations. If there was another route adopted, there would be different consequences. The Minister has made it clear he does not and cannot really be expected to know the answer to that question.

Q63 Geraint Davies: No, but we can exchange correspondence. My understanding is that the answer to the question is clear. The situation is that if we have signed CETA, we have agreed it, and if we leave, we are bound into CETA, and it is very similar for TTIP.

Can I ask you something about the nature of the negotiations? The case for secret negotiations is that democracy in the wider sense does not get in the way; otherwise everybody would take a position, we would never get anything done and we would agree things by committee. Would you not agree that that is how we do things here? We do agree things by committee, and one of the advantages of that, even though it takes a little longer, is that at least everyone has a say and we consider things in the round, even if they are rejected. The worry is that we come for a vote in the House of Commons on something that is not amendable—it is basically a take it or leave it vote—and someone might say, "What about this? We would accept it but for this little bit. We should change ISDS a bit," or whatever it happens to be. Does that not cause a problem in the process? How do you see squaring that circle, or do you not think there is a way?

Lord Maude of Horsham: No, it is an issue, but it is implicit in doing big, complicated trade agreements. If we want to change at the last minute some detailed points, the whole thing becomes open again. It is quite binary at the end of it.

Q64 Geraint Davies: That is why it is important, it seems to me, that you in your positon feed through concerns to the negotiations. Even if you do not agree with them completely, at least you say, "These are the concerns," so at least people know what the concerns are. Would you agree with that?

Lord Maude of Horsham: I totally agree with that. It is the job of politicians to convey the concerns of the public, because, at the end of it, we want this to be something that the public like. We are confident that the public will benefit from it. No Government or politician, even now an unelected one like me, wants to be putting through things that they know are not capable of being explained satisfactorily to the public. There is a trade-off between doing things very openly so that you secure buy-in as you go along, and we will do that to the greatest extent we can, and, as you say, having everything crawled over to such an extent that we make no progress.

Q65 Peter Grant: There are two quick questions from me. First of all, Minister, it seems to me there are three potential scenarios as to how all these timings fit together. We might be voting in a referendum on EU membership having TTIP already pretty well done and dusted, past the point of no return. We might have the information about what is likely to be in TTIP, but not be committed to it. We might be pretty much where we are now, where it is somewhere on the horizon and none of us knows exactly what TTIP means at the point at which we vote in the EU referendum. What is the Government's preferred order of things? What stage would the Government like TTIP to be at on the date that we have the EU referendum?

Lord Maude of Horsham: There are a number of questions begging in that proposition. I have no idea when the EU referendum will be. I do know what the available opportunity is in the next foreseeable period to get a decision on TTIP. It has essentially got to be done in the next 12 months. That is the window, and, if we do not get it done in that time, it will be postponed for a considerable further period.

Q66 Peter Grant: There is one final question from me, Minister. You have made it perfectly clear that certainly you and presumably the Government are convinced that TTIP strengthens the UK's positon and strengthens the benefits of the UK's continued membership of the EU. Which side of the campaign will you be campaigning on when the time comes?

Lord Maude of Horsham: Which campaign?

Peter Grant: The referendum campaign on the EU.

Lord Maude of Horsham: My views on these matters as a now unelected member of the other place are of little interest or relevance.

Q67 Peter Grant: But your views as a Government Minister with responsibility for trade and industry in what is essentially a trade-industry partnership.

Lord Maude of Horsham: My job as Trade Minister is to do my best within the context we are in to secure a good deal for Britain—*[Interruption.]*

Peter Grant: And Northern Ireland.

Q68 Calum Kerr: This Committee gets very excited about terms, don't we, Kate? We have to get the right phrases, the right language. There was something you said earlier about whether the public was engaged in this debate or not. I have a different perspective.

The danger is I am in a bubble, of course. My view is that, within Scotland, where the independence referendum engaged people in a way that they had not been engaged in politics before, suddenly there were a lot of people very engaged in matters. I think TTIP, while maybe not the conversation topic over a pint in the local pub, is very much on the agenda when people come to voting in elections, but in particular when it comes to the EU referendum.

I would encourage you to impress upon the Government the need to take cognisance of the challenges that have been discussed, but also then, when a deal is finalised, to make sure that there is some kind of positive campaign to position that with the public, because there is a lot of anti-TTIP rhetoric out there. There are sizeable numbers of people in my constituency and in Scotland in particular who are very vocal on that. I just want to emphasise that point of the need for there to be a positive case, because there is a very real danger that, as someone who would like to see us remain in the EU, people do vote against it if they are seriously concerned about TTIP.

Lord Maude of Horsham: The concern I would have is more that a failure to deliver a substantive TTIP agreement will give some credence to those who say the EU cannot do big trade agreements, so I do not see there being a neutral outcome here. A successful TTIP agreement concluded in that timeframe seems to me to be likely to strengthen the case for Britain remaining in the European Union. A failure to do it is likely to weaken it. That is quite well and widely understood.

Q69 Kelvin Hopkins: I have a broad question that may be challenging to fellow members of the Committee. TTIP is predicated on a fundamental belief in free trade and that free trade is always good.

Lord Maude of Horsham: Yes, generally.

Kelvin Hopkins: You are obviously a believer of this new religion. It is a shibboleth.

Lord Maude of Horsham: It is not exactly a new religion; neither is it a religion.

Q70 Kelvin Hopkins: There are those who took views about tariffs, import controls and whatever not so long ago. I happen to share those views, so I am probably on my own in this company. There is a component of trade that is constantly ignored by British Governments, and that is the exchange rate. The Germans believe in free trade, but only when they have cemented their deutschmark in appropriate or advantageous parity with other members of the European Union. The Chinese's great leap forward came about because they had a massive devaluation of their currency relative to the dollar in particular, and that boosted their economy. When we have got into trouble, we devalued enormously after the exchange rate mechanism debacle. Now the exchange rate is ignored. We have gigantic trade deficit with the rest of the European Union, and a fairly big trade deficit outside, too, but a massive one with the European Union because we pay no attention to our exchange rate.

After the 2008 crisis, we depreciated to €1.04. We are now at €1.36-ish, and it has been up to €1.44 even—a 30% increase in the value of our currency relative to the euro, which has been devastating to manufacturing. Our manufacturing sector is now half the size of Germany's as a proportion of GDP. Free trade is all very well, but the exchange rate is fundamental to trade, and our Government seem to ignore it. I have raised this with Labour Chancellors and indeed Conservative Chancellors since then. They pay no attention whatsoever to the exchange rate and, until they do, I shall continue to say that free trade does not work for us.

Lord Maude of Horsham: Okay. I hear what you say. It is obvious that exchange rates make a difference to trade, although it is notable that both Japan and Germany in the post-war era, when they were growing exports quite dramatically, both did so against the background of an appreciating currency, and indeed, the more they exported, the more the currency appreciated.

Q71 Kelvin Hopkins: Can I interrupt? I think the currency appreciated because their economies were strong, not the other way around.

Lord Maude of Horsham: It was also because they were exporting, because there is a connection between the two. We are not unaware of the effect of the exchange rate. We are simply in a world where the ability of Governments to manipulate exchange rates is pretty limited.

Q72 Geraint Davies: On a narrower issue, TTIP will mean that drug companies are free selectively to publicise successful drug trials while not publicising unsuccessful ones. If they had 10 trials and three were unsuccessful, under the new rules in TTIP they would be able to do this. What is more, there are new recommendations about trade secrets. Someone in the company who knew about the unsuccessful trials could basically be punished or sued for revealing that. Is this something that you will look into and reverse? Obviously we do not want to see thalidomide or something happening again.

Lord Maude of Horsham: No, sure. I am not aware of this provision, but I will certainly look at it.

Geraint Davies: Maybe I can write to you.

Chair: Minister, thank you very much. We had a few interruptions and there have been, as I said at the beginning, a lot of contentious issues. There are a lot of people on this Committee who feel very strongly about TTIP, as you will have gathered, and a vast amount of information has been presented. I have one last piece of information for you, which is this paper that Mr Geraint Davies has received from a lawyer from Queen Mary University of London. I did say that I would ask you if you would be kind enough to look at it with your advisers and perhaps respond to us in the Committee, as well as to Mr Davies in particular. On that note, may I thank you for coming and for answering the questions? I have no doubt that we will be seeing you again. Thank you very much indeed.