

Exiting the European Union Committee

Oral evidence: The UK's negotiating objectives for its withdrawal from the EU, HC 815

Wednesday 23 November 2016

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Members present: Hilary Benn (Chair); Alistair Burt; Alistair Carmichael; Maria Caulfield; Joanna Cherry; Mark Durkan; Jonathan Edwards; Michael Gove; Peter Grant; Andrea Jenkyns; Jeremy Lefroy; Peter Lilley; Craig Mackinlay; Seema Malhotra; Karl McCartney Pat McFadden; Dominic Raab; Stephen Timms; John Whittingdale; Sammy Wilson

Questions 65-123

Witnesses

Dr Robin Niblett, Director, Chatham House, Stephen Booth, Acting Director, Open Europe, Shanker Singham, Director of Economic Policy and Prosperity Studies, Legatum Institute.

Examination of Witnesses

Dr Niblett, Stephen Booth and Shanker Singham.

Q65 **Chair:** Good morning. Can I begin by welcoming Stephen Booth, who is Acting Director, and Director of Policy and Research, at Open Europe, Dr Robin Niblett, who is the Director of Chatham House, and Shanker Singham, who is Director of Economic Policy and Prosperity Studies at the Legatum Institute, who have all kindly consented to come to give oral evidence this morning? Thank you very much for doing so.

We were discussing last week with the witnesses we had, and the phrase “quickie divorce” was coined—in other words, basically getting out of the European Union really really quickly. I wanted to begin by asking the three of you whether you think that is feasible. What are the opportunities that might create? What are the risks? In answering, can you comment about whether you think we should or should not be worried about the famous cliff edge?



Shanker Singham: The issue is that there is a prescribed way, as you all know, for exiting the European Union, which is the triggering of Article 50. After the triggering of Article 50 we essentially have this two-year period. The withdrawal agreement that would be negotiated after Article 50 is triggered will include some of the non-trade issues: the co-operation between police forces and so forth—that sort of thing. I do not see major problems in doing that. There are technical things that have to be done but there are no huge problems that would exist in doing that.

The issue then becomes what you do in terms of potential interim measures or transitional arrangements that would be triggered at the end of the two-year period. The way to look at that is to look at the areas where there are significant issues raised by the UK leaving the customs union and leaving the EEA. If the UK does leave the customs union and the EEA, then in certain areas, like financial services, for example, we will have to look at interim measures that relate to financial services and that relate to certain other areas for a specific period at the end of the withdrawal agreement, with a view to leaving the EU at the end of the withdrawal period and starting the process of negotiating the new arrangement with the EU.

Dr Niblett: Getting out very quickly strikes me as difficult. It depends what we mean by “out”. Clearly the exit negotiation is going to be hugely complex. The question is about the extent to which you can be developing a complete agreement for the end of that two-year period at the same time as negotiating the exit. I have been a strong proponent of, and I remain a strong proponent of, the idea that you could establish, as Article 50 allows, a framework of what the future relationship might be, beyond the end of the Article 50 negotiation process.

However, the idea that you could complete an entire agreement and actually have a parallel closure that is exit and the complete agreement for the new stage strikes me as unrealistic. The cliff-edge risk, however, need not be there, providing you have used what Article 50 allows you to do, which is establish a framework where you would have to lay out your position on the single market, on the customs union, on payments in or out of the budget, and on any preferential terms of movement of labour.

If you could at least have that framework in place then you could conceivably have a predictable period of another three or four years in which to negotiate the detail of getting there. If you do not do that, it is a cliff-edge, and a cliff-edge, to me, of going straight to WTO status would be very negative for the British economy and the EU economy as a whole, because tariffs would have to come on quickly. You would probably not know until—I do not know—one, two or three months before that things have failed. Companies would have to make very rapid adjustments. It is not so much whether we could live with WTO status in three years’ time or four years’ time. The reason it is called a cliff edge is that you fall off it. That would not be good.



Q66 **Chair:** So I understand you correctly, you are saying that transitional arrangements would be required.

Dr Niblett: It is highly likely that transitional agreements of some sort will be required. Those will pose their own set of problems, which we can come to in a minute if you wish.

Q67 **Stephen Booth:** We all agree that if a comprehensive bilateral agreement is the ultimate objective, it is likely that a transitional interim period will be required, but that does not mean that the UK cannot seek to give itself options and opportunities within that interim period, such as the ability to strike its own trade agreements with non-EU countries. That is an important thing to consider in terms of giving ourselves options beyond the EU negotiation. That is something that the UK should be looking to explore as being able to do that, once the Article 50 process is ended and you are in that transitional period.

Dr Niblett: Stephen, I have a few things on this. Regarding my comment on that point about other trade agreements, it is going to be very hard to enter any kind of credible negotiation with a third country until not only we have exited the EU but we have a good sense of what that agreement is going to be. Ultimately the agreement with the EU would have to be complete; otherwise those other countries will not know what kind of deal we have with the EU, which is our principal trade partner. That would complicate rules of origin, decisions, etc. My view is that it is going to be quite a long time before we are able to get to the business end of any other trade negotiations, and the ability, therefore, to leverage one against the other is going to be very difficult.

Shanker Singham: I have a slightly different take on the negotiation of other trade agreements. As someone who has been involved in trade negotiations in the past, what you do when you are looking at a trade negotiation with a partner like the UK, where there is an uncertain arrangement and it is not clear where they are going to be in terms of the EU and the arrangement with the EU, is a stock-taking exercise; that is the beginning of any trade negotiation with any country. You can actually do a lot of that once Article 50 is triggered. For most trade agreements it is a good year of stock-taking and figuring out what the barriers are in different countries. A lot of that work can actually be done, frankly, right now.

Legally, you cannot sign an agreement until after the UK is out of the EU. From a legal standpoint, you can do a lot of negotiation and you can do a lot of scoping. The issue is really a political issue: does that other country want to negotiate? Do they want to expend that political capital? As we have just seen from the TPP fallout, countries regularly negotiate agreements with other countries when they do not necessarily know, at the end of the day, whether that agreement will survive. It depends on what the options are.



If you are a third country and you are looking at the UK, if they are in the customs union there is no agreement, and if it is EEA there will be no services agreement, which is most of what they want. Therefore, what is the likelihood they will emerge from this process as having the ability to negotiate an FTA? If I, as the third country, think that is relatively high and I think the interests are very high, I will engage in that kind of stock-taking exercise and I will engage in some early negotiations.

There is a lot that can be done prior to the withdrawal but it is going to be countries that are significant trading partners.

Q68 Mr Whittingdale: Whatever view was taken about the merits of leaving the European Union, the most generally expressed concern at the moment is the uncertainty about our future arrangements potentially impeding investment, growth, etc. To that extent, is there not an argument that we should try to resolve that as quickly as possible? What assessment have you made of the effect that the uncertainty, rather than the actual consequences of exit, is having at present?

Shanker Singham: Uncertainty is an issue, obviously. We are at a point—and we will probably get to this point in around January—where the issue that we have is that the business cycle is diverging from the political cycle, on this whole process. Even if the Government had a very good sense of where it is going with respect to Article 50 trigger, or the withdrawal agreement—all the things that you would do after that—it is important that comfort is given to investors and manufacturers and so forth, and there is actually a lot of comfort that can be given to them.

If you look at financial services, for example, and interim measures, there are a significant number of directives that give third country passporting and equivalence rights. That requires a modicum of co-operation from the European Commission but that co-operation will come at the end of the two-year period. Given the fact that European financial institutions also have a need for the same kind of passporting arrangement and the same kind of equivalence arrangements, there is going to be a big drive to do something like that. Agreeing what that pathway is, with major financial institutions, is something that could be happening now. There are a couple of directives, like CRD IV and Insolvency II, where the pathway is less clear but we can develop mutual recognition in those areas as well. A lot of comfort can be given to the City of London and the financial services sector with that.

With respect to manufacturing, you have to look at this in terms of a tariff bucket and consider what is going to be the tariff picture going forwards. Customs clearance is a different issue. The customs clearance issue is relatively straightforward. The expedited customs clearance mechanisms exist all over the world. If you look at the best places for the customs clearance, it is the US-Canada border and the Australia-New Zealand ANZCERTA agreement. You can give people a lot of comfort on what customs clearance is going to look like after the withdrawal process.



HOUSE OF COMMONS

Both of those, by the way, are free trade agreements, not customs union. You do not have to be a customs union to have good customs clearance.

The tariff issue is slightly different. There you have just got to look at what is coming in. If you are talking to manufacturers, you want to say, "Look, if we control our tariff schedule, we can drop the import tariff to zero. We can apply a zero rate. You can use inward processing. You can use WTO-compliant duty drawback to lower your tariff obligation. Obviously, if you are manufacturing and exporting out of the UK, you have the benefit of the devalued currency. The overall picture for a manufacturer in the UK is pretty good, actually, because you have lowered the total cost of manufacturing including the tariff piece. If you are manufacturing on the continent then you have a very different picture, which looks much worse. That is the reason why the automotive industry in Germany and others will push very hard for a free trade agreement that will equalise this.

For lots of different areas like this there are good answers that can be given to industry with respect to the pathway forward. We probably should be giving them now.

Dr Niblett: I do not want to play a "on the one hand; on the other hand." I would simply say that uncertainty is a big issue and I do not know if my colleagues on the panel hear the same thing but certainly what I hear, in particular from financial services companies, is that they are very concerned about the timeline in which certainty will emerge. Decisions need to be made in a matter of months, not years.

We have seen already, although I have not looked in any detail, the dispute emerging right now between the EU and the US over capital requirements and ring-fencing finance amounts that could lead to banks and third party banks that are operating across the EU having to keep potentially large pools of capital in order to be able to operate across the EU. Where the UK sits in that mix, we do not know yet and we will not know. It is no one's fault. It is just the situation of negotiating an exit.

Uncertainty is going to be real. Equivalence, as I am sure Shanker knows better than I do, is not the same as being a member of the single market. Equivalence can be applied. It can be withdrawn. It can be rethought. It can take time. It is not certainty. The certainty that will emerge will be when we know what kind of deal we will have. Without wanting to overplay the politics part, which is where I am bit more focused myself, whatever deal the UK comes up with, EU member states will make sure it is not be the same—and it will not be the same—as the deal we have at the moment. They will do their best to make sure it is not better and they will do their best to make sure it is not identical; otherwise, everyone could leave and have a deal where they do not have to take the pain with the gain.

While I cannot point out where this is going to apply specifically, we have got quite a bit of a way to go. Devalued currency, while useful, depends



HOUSE OF COMMONS

on the amount of imported components you need to put in given your supply chain, so I think currency plays in both directions. It can be beneficial for some and not for others.

The only thing I would say about us being relaxed about being outside the customs union because of tariff clearances is that it is true. If, as has been mentioned, you look at the US-Canada border or the Swiss-German border, this is entirely possible. The difference is that the UK is reversing into this arrangement. The UK did not negotiate this arrangement. All of the companies that operate here have been operating not under those circumstances. Whatever happens, especially for small and medium-sized companies, there is going to be a period of adjustment. The question is how much time you have to adjust.

Q69 Mr Whittingdale: Dr Niblett, you referred to the fact that if we were to have to go to a WTO position, that would be damaging to British industry, but not just to British industry but European companies as well. Mr Singham, you also talked about how we can perhaps ameliorate the effect of tariffs but they would have an impact on Europe just as much. To what extent do you think the fact that the failure to reach a deal might then result in significant damage to European business as well as to British business is likely to be an incentive for us to get on with it and find a deal?

Shanker Singham: First of all, I just have a quick point on certainty. We are in a very uncertain environment and there is an assumption that the counterfactual is certainty. The counterfactual is not, of course, certainty. Equivalence and passporting, even now, can be withdrawn so we are not saying that we are trying to get to an environment that is absolutely certain. Such an environment does not exist. On the tariffs and the role of European corporates, which you have heard a lot about from European industry and the BDI and others, the European corporates, particularly European corporate clients of UK-based financial institutions have multiple concerns here.

The first concern they have is to maintain the deep and wide capital market in the City of London. It does not help them to have that eroded because that is not going to Frankfurt or Paris. That is going to New York. They have a big interest in ensuring a deep and wide capital market in the City of London, which is very important because they will, at some point in this process, make that point to their leaders and those leaders will make that point to the European Commission. The kind of co-operation from the European Commission that is necessary for some of those interim measures is not actually very significant for the first stage. You then go to a free trade agreement negotiation where greater levels of co-operation are then needed. They have that concern.

They also have another concern, which is the whole tariff picture and what happens to them in terms of going to a common external tariff and the WTO tariff mechanism. Here they also will be pressuring their



HOUSE OF COMMONS

Governments and pressuring through their Governments the Commission to negotiate a sensible arrangement.

Just on the tariff issue, we have a tariff binding. We will be going through, as part of this process, a WTO recertification, because we are WTO members. We do have schedules. We have to discover our schedules but in order to do that in the smoothest way possible we will likely simply accept the bits of the common external tariff that apply to the UK and the bits of the services schedule that apply to the UK. There are some issues in agriculture but they are not unsolvable. Those are the bindings. You can apply a tariff at whatever rate you want to apply and you can certainly apply a tariff where you say to Europe that we are going to apply a zero tariff in this transitional period.

You could, as some around this table has suggested, say, "We will do that if you also apply a zero tariff", and it is in everybody's interest, obviously, to do that, especially it is only for a small, three-year transitional period. If you do not, then the WTO common external tariff applies. This offer would be a good test of the ability of European corporates to express their interest.

Dr Niblett: I am not, on the contrary, an expert to know the details here. I am just wondering whether the issue of discrimination would come in at all on that issue, if there is not a formal trade agreement between the UK and the rest of the EU. I do not want to take the Chair's role in questioning Shanker, but would you be allowed to apply a preferential rate to the UK if the UK was not a member of the EU? Would that not bring the EU into WTO discrimination?

Shanker Singham: No, because the bound rate would be the rate that you would actually agree in the WTO recertification process and you are moving towards a free trade agreement. The rule is that it has to be for a limited period so if you were to do it in an open-ended way, yes, you would have a discrimination problem with the WTO but if you did it for, say, a three-year period then you avoid the discriminatory issue.

Q70 **Mr McFadden:** Can I return to this issue of a cliff edge? I am not sure that it is widely understood what people mean by this. Could you set out what is meant by "cliff edge"? What does the Prime Minister mean when she says on Monday, "I understand that people want to avoid the cliff-edge"?

Shanker Singham: To be honest, I am not sure the words "cliff edge" are very helpful in this discussion. What is being referred to is there being no transitional arrangements in place at the end of the two-year period after Article 50 is triggered. Let us look at financial services, for example, which is a major issue, as you know. If there are no passporting mechanisms, if there is no deemed equivalence, no third country passport, what happens to the industry then? There is not a single cliff edge. There are lots of different things that happen to different people at different times.



HOUSE OF COMMONS

If you are selling insurance products, for example, and there is no deal on Solvency II, which is the relevant European directive, what happens to you selling insurance products around Europe? 3% of insurance products are actually sold cross-border. 97% of UK insurance products are sold by subsidiaries that are in European member states. There is not really a cliff edge for them. There is a cliff edge for that 3%.

Q71 Mr McFadden: Do you think it is not worth worrying about this cliff edge?

Shanker Singham: No. I would not say it is not worth worrying about. I would say that, first of all, it is not helpful because it applies to different industries in radically different ways. If you are doing deposit taking and lending there are a significant amount of subsidiaries in European member states already. UK institutions' subsidiaries in EU member states continue to do business in the normal way.

I am not saying it is not worth considering. I am saying that we need to develop, for the different sectors that are applicable, the solutions pathway for each different area, and it is going to look very different for each one. If I am providing investment services and I am operating under MiFID II and the MiFIR regulation as of January 2018, then I am in a very different situation because the third country passporting equivalence regime there is much clearer than it is for other bits of the financial services industry.

If I am a fund manager, then I have a whole different set of issues with respect to coming out at the end of the two-year period. For fund managers, it is quite easy. They already do a lot of work with Irish and Luxembourg management companies. US fund managers do this already. That is not a significant problem. That is the financial service industry. You then look at manufacturing and you look at cars and you look at these sorts of things. You have to look at, "What is the cliff edge for a Nissan in Sunderland or a Honda in Swindon?" You have to look at the total cost of manufacturing and the tariffs and the ability to have inward processing; regarding the duty that you pay for the incoming autoparts that go into a manufacturing operation for onward export, you can claim that duty back or you can use inward processing to suspend the duty. You have to look at the overall tariff that they are going to pay and you have to look at the cost of manufacture and you have to look at the cost of the car being sold in Europe. It is actually much less than for a similarly placed European car manufacturer.

In that case, there is a cliff edge but it is not for the UK industry. There is a cliff edge for the European manufacturer. The process that we have to go through is to identify each of these different sectors, where the problem actually lies for the UK industry, and then identify what the solution pathway. It is not really one single cliff. It is lots of different things.

Q72 Mr McFadden: If I could just try to move the questioning on slightly, Dr



Niblett, the picture being painted there by Mr Singham, if I can paraphrase, is that there is maybe a bit less to worry about here than people have been saying and it affects different sectors in different ways. How important do you think it is that we have some sort of transitional or interim arrangement to avoid this scenario, or do you take a similar view that this is not as big a problem as maybe is being painted?

Dr Niblett: The reason it is called a “cliff edge” is not so much because of where you end up. Mr Singham has described how, in each sector, there are probably deals that can be made. The reason it is called a cliff edge, to me, is because it means we are going to fall off it. It is because we do not know. The cliff edge metaphor is that you are walking along and you fall, not, “Ah there is a thing I must avoid falling into. I will avoid falling into it.” The reason the phrase is used is that it implies the UK would have been going along, trying to get to an agreement, transitional or otherwise, and will have failed to do so, and that companies will not have the time to make the kinds of adjustments that Shanker was describing.

They are complex. There are multiple. Some can maybe be managed. Some will be more difficult. I would imagine that the British-based car industry is going to have some complexities and not just the continental-based car industry with the kind of tariffs that would be applied under WTO status. It does not matter. Both sides will get hit. The reason the “cliff edge” phrase is there is because you are not ready for it.

Therefore, having some type of a framework agreement, done within the two years, would give people a sense of certainty, and, I presume, the need for transitional arrangements to then allow you to implement that arrangement would avoid the uncertainty and avoid suddenly finding yourself in quite a different situation, because uncertainty comes because these companies do not know which of these options is going to emerge: are we going to be in a WTO status? Are we going to have some kind of rough free trade agreement? At the moment, we are not sure whether we will stay in the customs union or not. There will have to be evidence of certainty provided; otherwise, companies will not be able to prepare to adjust on both sides of the channel, in continental Europe and in the UK.

To me, that is why trying to get some type of agreement, rather than being at all lackadaisical about the fact that we might not end up with an agreement in two years, is very important.

Q73 **Mr McFadden:** This concept of a transitional agreement is supposed to be a bridge between leaving, which is triggered by the Article 50 negotiations, and the agreement of a new, permanent future arrangement between the UK and the European Union. If that is not possible and if there is no interim agreement, we fall back on the WTO position between leaving and agreeing any future agreement. Can I explore this WTO position a little bit more? We are members but there is this issue of schedules and quotas and all of that. Is it a straightforward



HOUSE OF COMMONS

process to fall back on WTO rules? Do we simply cut and paste what we do through the EU with the WTO, or would we have bespoke schedules and quotas that we decide if we were in that environment?

Stephen Booth: The obvious thing to do, which Shanker alluded to earlier, is to take on the EU schedules.

Mr McFadden: It is not exactly taking back control, is it?

Stephen Booth: We have to take those in order to be able to control them. You have to start with a base level. The issue is going to be around agricultural quotas, where that is more complicated. We should also remember here that there is a mutual interest in the UK and the EU doing this together because the EU market is also going to be shrinking by 15% to 18%. The EU is going to have to go to WTO and possibly look at its commitments because its market is being reduced, so its offer to the rest of the WTO is being reduced.

Coming back to an earlier question, this is all about setting a roadmap and about the sequencing. If you think you are going to have this nirvana that suddenly does not arrive, where we are going in terms of the obvious direction is WTO plus. We are going to end up in WTO unless we can negotiate something better. That is the direction of travel and therefore a cliff-edge situation should not actually be a big surprise to people.

It is about putting in place the measures, ensuring that we have the WTO schedule in place, ensuring that we have the tools to mitigate against any costs that come through that, as Shanker explained, and realising that that is something that we have to do with the EU in terms of our offer to the WTO, sorting out agricultural tariff quotas and so on. That is something that we would have to do with the European Union as well, in co-operation with them. If it is taken in that spirit, and the UK and the EU actually recognise that there is clearly a common interest here, and common responsibilities and duties to the rest of the world, that is a very different type of negotiation.

That requires the UK to be very clear from the outset about what kind of deal it is seeking to get. That comes to the earlier question about certainty. We need to know from the Government before Article 50 is triggered what decisions it is going to take on the customs union and the single market. Those decisions have to be made at the outset rather than throughout the Article 50 process.

Q74 **Mr McFadden:** Is this a straightforward process?

Shanker Singham: Let me tell you how the WTO process works. In Geneva, there will have to be a discussion by the UK with its fellow WTO members about what the UK's schedule is going to be and the way that process would work is you would go to your substantial suppliers, you would go to large countries that essentially supply products to you, and you would say, "This is what we think our WTO schedule actually is."



HOUSE OF COMMONS

It would be the common external tariff that the European Union has, because that would be the bound tariff that the UK would go onto. We would have a services schedule where we would say that the bit of the European services schedule that applies to the UK that has been declared at the WTO would be our services schedule.

The European services schedule is both incomplete and uncertified. There are a lot of problems that Europe has with its services schedule. It does not include the newly acceded countries. There are a lot of issues for Europe there, but we will say that that is what our level is going to be. In the WTO process, when I said, "To make it as smooth as possible", what I mean is, to make it a process where you do not have a lot of arbitrations by other countries who do not like what you are you changing, you do not actually change the schedule but you rectify the schedule, and the language is very important in WTO law. You would simply take the services schedule of Europe as it applies.

In agriculture you have got three areas that you need to think about: what is our share of the European import quota? What is our share of the European share that they have agreed with other countries? What is our share of our aggregate measure of support, which is the European subsidisation level that has been agreed by all countries? The issue there is not going to be a problem for the UK, because the other countries are going to say, "The quota that we bargained for with the EU, we want to keep. Britain can have its own share—that is fine—but we want to keep the European share."

The pressure will be on the Europeans because they have just lost a lot of their economy but they are going to have to keep the same overall tariff rate quota, which means that your beef—or whatever it is that is going into Europe—is going to be going in at the same level, even though the UK is no longer part of Europe. Therefore, it is going to put pressure on Europe, but the pressure is on Europe, not the UK, in that process.

Mr McFadden: You think this is quite straightforward.

Shanker Singham: Just to give the Committee some comfort, I chair a special trade commission of former trade negotiators around the world. Three of our members are former chairmen of WTO committees. We have got Crawford Falconer, who is the chairman of the agricultural committee, Alan Oxley, who is the former GATT chair, and Nicholas Niggli, who is the former chair of the WTO procurement committee. None of them is concerned at all about this process. They do not think that this is going to be a problem.

Q75 Mr Lilley: I have a very quick question before I move on to more substantive ones. How long did it take the NAFTA countries to negotiate NAFTA, and how long did it take the EU and Norway to negotiate the trade agreement when Norway refused to join the EU?



Shanker Singham: The Canada piece of the NAFTA agreement was about 14 months. It can be relatively quick. That was with the US, which is not the easiest of countries to negotiate with.

Dr Niblett: I do not know how much more time Mexico took. I do not know. We do not know the length of time.

Q76 **Mr Lilley:** I believe the Norwegian thing took eight months and the average of all bilateral deals over the last 20 years is less than two years. This leads me on to the question of why you anticipate lengthy negotiations. Could I now suggest that we focus on two possible outcomes? Assuming we are outside the customs union, we are outside the European Economic Area and we are not part of the internal market, look at the two options. One is that we continue with, substantively, the status quo: no new tariffs and no new barriers to services on the one hand. The alternative is going to the WTO and then proposing barriers to services. Why should either of those take very long to negotiate?

Shanker Singham: The speed of the trade negotiation depends really on only two things. One is the defensive baggage that a country has, which it brings to the table. The other is the internal demand for a free trade agreement with the other side. The problem that the EU has in negotiating trade agreements with third countries and why some of them take so long—as an example, the Indian agreement took 11 years of negotiation—is the EU has a lot of defensive baggage, particularly in terms of agriculture. That makes it very difficult for the EU to negotiate. If you take agriculture off the table, as they have in most of their third country agreements, then you are essentially saying to your trading partner, “We are going to take the one thing off the table that you actually want. It is going to be very difficult for you to get what you want.” That is why it has been very hard for the EU to get services and investment agreements.

The UK will be in a very different position on that point. We have the ability to transition out of the common agricultural policy and the common fisheries policy as a result of this process, which does not mean ending subsidisation; it just means doing it in a different way that is less distorted. The UK is already doing that. In fact the only production subsidy in the whole of the UK is about £38 million in Scotland for very specific programmes. To compare with France, the level of production subsidies in that particular programme is about €1 billion. We do not really have any of these issues anyway, so we will be able to move quite quickly. Furthermore, the demand, particularly in the context of a UK-EU agreement will be very, very high, because of integrated global supply chains and European supply chains and all of the things that we talked about earlier on.

Dr Niblett: I will just go back to the core point. In the end, trade agreements, if there is mutual interest on each side, can happen remarkably quickly, as you have pointed out and Shanker has pointed out. As he noted in his last answer, the kinds of deals that third



HOUSE OF COMMONS

countries currently have with the EU will be materially affected negatively if the UK leaves the EU because the UK will no longer be a market inside that particular deal, which means there will be more pressure on the EU to take more of those goods or services, or to balance that agreement with a third country so it carries on being beneficial to that third country.

The EU is going to want to compensate somewhere. Who put the EU into this bad situation? It is the bit that seems to be missing from this conversation as if the EU is sitting there, very happily finding its relative trading position eroded by Britain's decision to leave. The EU is, we know, a very complex and slow and unwieldy trade negotiator because different parts have different interests. Each one can fight for them very strongly within the context of saving a trade mandate. They will do the same with the UK. Somebody will be losing something, and that particular country will gang up with two or three other countries and make sure that they can get some compensation somewhere.

That is my only point. The EU is going to feel it is entitled to make sure it does not come off worse from Britain's exit from the EU at the very least. The tone of the conversation at the moment is all about how Britain is going to do better and the EU will have to lump it. That is unlikely to be the politics of the situation.

Shanker Singham: On that point, that is true of the WTO process. There are certain aspects, particularly the aggregate measure of support, or even the import quota issue, where Britain leaving the EU has given the EU a problem. There is a very recognised mechanism in the WTO compensation in that particular area. With respect to third countries, the issue there for the UK is to simply agree with the third country, through an exchange of notes, that we will agree to be bound by the EU agreement with that country. If a country agrees and we agree, an exchange of notes is actually the usual way one would do that until such time as different arrangements can be made between the two. I am not sure that creates a problem for the EU in that context but, yes, under the WTO process there is a bit of a problem and that can be quantified and that can be given to them.

Q77 **Mr Lilley:** As time is short, I wanted to focus on the negotiations between Britain and Europe, first, to continue the status quo, and, secondly, to go to the WTO, rather than agreements with third parties, interesting as that is.

Stephen Booth: The fact is we are going to have to do it in two years, to avoid not having that in place. We are going to have to sort out our WTO baseline because, as I said earlier, that is the default option. We have to ensure that is the case and, as we discussed, there is no reason why that cannot be the case. The issue of maintaining the status quo in terms of a bilateral trade agreement depends on the domestic politics here as well. It also depends on what kind of regulatory co-operation and what kind of agreements and supervision we would be willing to accept to maintain the status quo. Some of the things that we would be asking for—maintaining



HOUSE OF COMMONS

the single market in financial services as we know it today—are going to require a level of regulatory co-operation, co-ordination and possibly common supervision that we would have to work out whether we are comfortable with.

Yes, it could be done but the politics are challenging, not just on the European side but also on the UK side. Given that we have voted to take back control, how do you square that with some form of supranational, if any, or intergovernmental common supervision or regulatory co-operation? That is the difficult thing in all trade agreements now. We have seen it with the US and the EU, the CETA deal. It is this investor state dispute mechanism. It is about how you maintain a living agreement when the EU changes its regulation. Are we going to move in lockstep or not? To preserve the status quo is not actually so difficult. It is how you maintain a living agreement that is going to be complicated.

Q78 Mr Lilley: It would be simple to have a transitional agreement that preserved the status quo but more complicated to allow for future changes in our regulations.

Stephen Booth: That is also why we need a transition: to give ourselves the space to figure out how we are going to make this work going forward.

Shanker Singham: All of these processes are happening at the same time. The WTO recertification process can happen from now. The discussions need to start now because with the WTO you need to not give people surprises. The UK rep in Geneva should be talking to members now.

That conversation can be a very easy conversation. It is essentially saying, “We are going to discover the schedules in the way that we have all described but understand that there is going to be a lot of water in those schedules. For example, we can offer a much better services schedule than the European services schedule, which has lots of exemptions and restrictions and so forth. We are going to be able to offer a better agricultural offer to you, with respect to coming out of the CAP and CFP,” and what we should do in that process is linked to these other agreements that the UK can have with other countries, because what you do in that process is you communicate to your fellow WTO members that, “We are very well able to negotiate that difference but we will do it in the context of a free trade agreement with you. We will not do it in the context of our WTO process because we do not want to give that away.” That will actually cause them to want to have trade agreements with us, and that would be countries like Australia and New Zealand, and even the US, Singapore, Canada, etc.

Q79 Mr Lilley: Could you compare the difficulty of, say, Europe negotiating a trade agreement with Canada—Europe starts off with 12,651 different tariff lines and Canada has a similar number, and they are trading off those things against each other—with the situation where we are trying



to maintain the status quo in the EU where neither of us have any tariffs against each other, where we have identical product standards and we have identical systems of regulation. Which is the easier?

Dr Niblett: Clearly I would say the easiest thing is, as you said, we are in the EU. The regulations apply. We do not have the same obstacles in terms of having to negotiate any changes in tariffs. I would agree with Stephen that the issue is going to be how you adapt over time. If the UK is happy to continue to accept the regulatory rulebook as established originally by it as a member of the EU but subsequently by the 27 without the UK, and if it is happy to continue adapting its regulatory context for the standards, in terms of safety or in terms of any other type of standard, into the future then the continued access into the rest of the EU market should not be difficult.

However, if the UK wants to have a different standard for car emissions for diesel, if it wants to have a different set of building products, if it wants to sell its kettles with a different level of power wattage to the rest of the EU, then those things could become an issue in the future. My sense is that the potential cost for the UK is longer-term rather than short-term, if you can get over the politics of other EU members not wanting to compensate for any the perceived loss they have from the short-term departure of the UK.

Shanker Singham: It is clearly easier for the UK to do an agreement with the EU. It is not just because we are already connected. It is the connections of our global supply chains. All of this is very different from the Canada-EU situation, and so the demands will be much higher. You saw with the Canada-EU agreement, when the referendum happened, Canada's interest in the agreement was much less, because 30% of their trade was with the UK.

Q80 **Dominic Raab:** My question is focused on trade so I will start with Shanker and then please do, if you have further comments, chip in. The Government have not set out their negotiation plan but the Prime Minister and other Ministers have made clear that Brexit will involve leaving the free movement rules, ending the jurisdiction of the European Court, and there is this commitment to make the UK a global leader when it comes to free trade. Is the logical conclusion, from your perspective, that we will end up with a free trade agreement with the EU because the three things I mentioned cannot be done as a member of the single market or a customs union?

Shanker Singham: If you look at the customs union first, if you are a member of the customs union in any way then you have accepted the common external tariff, which means you then cannot negotiate a goods agreement with any other country. All of that, then, is off the table. What you have to evaluate is what the cost is of leaving the customs union, and what the cost is of being in the customs union?

Q81 **Dominic Raab:** I will get to all of that. Sorry to interrupt. I just want to



HOUSE OF COMMONS

establish whether, when you read the mood music from these commitments such as they are, without the whole plan being out there, do you think everything is still on the table, or do you perceive that as it being pretty clear we are coming out of the customs union?

Shanker Singham: Personally I do not know how you can achieve this whole thing—Brexit as in not just as in leaving the European Union but all the other free trade agreements, all the dividends that we can have in terms of improving the global position of the UK—from within the customs union, and I also do not see how you can do all of that from within the EEA, as well. That is an issue of the UK's economy. That is very specific to the UK. The UK is 80% services exports.

The problem that the UK would have from being within the single market is that, in order to do a services negotiation with any country around the world, you have to be able to put your domestic regulatory system on the table for a discussion, as was mentioned. If you cannot do that—which you cannot if you are in the EEA—no one will negotiate a services agreement with you

Q82 **Dominic Raab:** Can I just stop right there? Can I just check with our other two witnesses, because I want to make sure I have given them a chance? On this specific question, when you read the three commitments that have been made, do you two agree that it looks highly unlikely that staying in the customs union remains an option?

Stephen Booth: Yes. I agree. It is a bilateral trade agreement or a WTO.

Dr Niblett: It is highly unlikely that we will stay in the customs union. It will create the interesting issue that as you negotiate agreements with third parties, there is a question of whether the EU then comes back and says, "Hold on. That changes the nature of the deal that we have with you." I think that will be an interesting part to look at later on but leaving the customs union is pretty much inevitable from my perspective.

Q83 **Dominic Raab:** Thank you. Shanker, can I return to you? A lot depends on the content of the deal with EU. We have heard a lot about cliff edges and risks. Can I just ask what you perceive as the at least potential economic advantages for the UK coming out of the single market and the customs union, but retaining access for trade purposes?

Shanker Singham: That is entirely about the kinds of agreements we can get with other countries. I mentioned the WTO recertification process and how you then communicate to these other countries that you are available for comprehensive free trade agreements with them. Britain's needs, in terms of those agreements with other countries, are primarily in the services area, because that is what our economy primarily exports. That becomes a domestic regulatory negotiation.

There are many, many barriers to services, even in countries that are supposedly very much like-minded, such as Australia, New Zealand, and



Singapore. Being able to negotiate those down for the UK would give significant benefits. In international trade now, the biggest barriers are not tariffs. I know we have spent a lot of time today talking about tariffs, but they are not tariffs. They are behind-the-border barriers and what we have called anti-competitive market distortions. These are the biggest barriers in trade.

The TPP has now failed, which means that there is a huge demand amongst countries that were TPP members for the same kind of high-level platform agreement, so there is a possibility for what we have called a prosperity zone, which would be a group of like-minded countries that work on lowering the distortions in their own markets. That is feasible now. We calculated that if those distortions are lowered by even 20% to 30%, it will be an injection into global world product of about 1% per year, year-on-year.

Q84 Dominic Raab: What would that mean for the UK?

Shanker Singham: 1% year-on-year, in terms of global world product, means a global economy 50% bigger than it would otherwise be in 15 years. The UK, as the centre of this, whose industries will be primarily benefitted by this, would be the lion's share beneficiary of that. That is trillions of dollars. It is a transformative arrangement, which has not been possible up until this point.

Q85 Dominic Raab: Can I ask about attitude to free trade agreements? It seems to me that it is the attitude and the disposition of a country trying to negotiate that is absolutely critical. I just wondered whether you think, given the Prime Minister's commitment to making Britain a global leader when it comes to free trade, that the UK is better placed than the EU to pursue a liberalising free trade agenda. I am thinking concretely in the context of the UK and the wider EU's position on the Mercosur deal, the US deal, and the negotiations with India. Do you sense that the UK has a more liberal, and therefore a more ambitious, approach that is more likely to yield advantages?

Shanker Singham: Yes. As I said before, the advantage the UK has is that it has very limited defensive interests and very strong offensive interests in international trade. It is an ideal trading entity to capitalise a lot of these trade agreements. For example, on the ones you mentioned, I have talked about this like-minded group of countries. I talk about that because in order to advance the ball on getting rid of some of these distortions, you have to be working with countries that are broadly in agreement with you. That is not the case for the Chinas, the Indias, and the other WTO members of the world.

The pathway to the India deal, for example, that the UK might strike that would be quite quick, relative to the European deal, would be a more open agricultural market and the ability to give India Mode 4 services, which is free movement of labour in the services context for high tech. If we were able to do that, then we probably could get legal services access



in India, which has been something not given for years. We would probably get some level of financial services access, and we probably would be able to do something about the Scotch whisky tax, which is about 150% in India. These things are on the table for the UK; they are not on the table for the EU.

In services and investment, the UK is a much better trading partner. If you look at the WTO Trade in Services Agreement, the Americans have basically said that Europe should not be part of it, because the Europeans have taken the position that they do not want to negotiate new services at all. Europe has difficulty negotiating because of the structure of its economy and the structure of the member states' economies. It has difficulty negotiating in services and investment.

Q86 Dominic Raab: Can I turn to Dr Niblett and Stephen Booth on a related question? Roberto Azevêdo, the head of the WTO, gave an interview last month saying that the UK would have a relatively smooth transition back into the WTO on leaving the EU. I appreciate there are issues for us on our level of tariffs and certification domestically, but in terms of the international process can I just take it as read that there is no disagreement with that? If you do disagree, could you explain why? Stephen, do you want to go first?

Stephen Booth: I do not really disagree with that, as I said earlier. The WTO process, provided we do not start putting tariffs up, should be relatively straightforward. In terms of defensive interests, when it comes to the third parties, people is going to be an interesting one. What is the UK Government's position on immigration going to be and how does that square with trade agreements in services and Mode 4 services? That is going to be an interesting development.

Dominic Raab: Dr Niblett, I am conscious that you wanted to get in on that.

Dr Niblett: Ditto; I am not enough of an expert on the WTO to know whether the UK would find it quick or not. It strikes me from my limited understanding of the WTO that it would be relatively quick and easy, but I defer to others. On the idea that the UK is a country with limited defensive interests in trade, that is a perspective. The UK is a country with different political attitudes and approaches, and lots of sectoral interests, like any other country, will seek to defend their interests as best they can, from agriculture to financial services to whichever sector you want.

The reason TTIP, the Transatlantic Trade and Investment Partnership, may not have passed in the UK is because there are many people in the UK who are opposed to the idea of other countries being able to determine an investor-state dispute settlement mechanism arrangement. The idea that the UK is just waiting to strike multiple trade deals is a perspective that some people have in the UK, but I would not take for granted that you will find that across the board.



Secondly, there is a reason that there is no WTO agreement on services. They are the hardest area to get into. There is a reason why the EU does not have an open services market despite claiming that it does. That is an area where the protectionists' interests are the most extreme and severe. What I would say is that, yes, the UK is a great services exporter—the largest per capita and second largest in the world. However, enlarging that by ourselves in big markets that are still in the process of opening up, in many cases, their goods markets, and have not yet got to the services markets, is ambitious. It is going to be difficult and not easy. That is all I am saying. The UK should go for it, absolutely, but it is not going to happen quickly.

Q87 Dominic Raab: Can I just check: given the worst-case scenario being painted is that the UK leaves the EU without agreeing a free trade agreement, what steps do you think the UK has to take to mitigate the risk? People tend to talk about how the devaluation of sterling helps mitigate the risk. The net tariff revenue to the UK will be £8 billion, it is estimated, from the EU external tariff applying reciprocally. First of all Shanker, and then the others, might wish to comment on the ability of the UK to mitigate what is regarded as the worst-case scenario.

Chair: Can I just say that we will need to be quite brief in answering these, because we have other colleagues that we need to bring in with the time we have?

Shanker Singham: One point of clarification on the defensive interests: that means an interest you want to protect by the erection of a trade barrier. We have lots of interests but we have very few of those. Technically, it is a defensive interest for the trade barrier. We are not going to try to get a trade barrier in financial services, whereas in agriculture you might. In terms of mitigation, the best way to mitigate any costs is to negotiate trade agreements with other countries to lower the barriers that those countries pose to your primary exports, those being in services. That is a lot of the mitigation that we would require.

Q88 Sammy Wilson: Mr Singham, you have mentioned a number of issues. First of all, on the cliff edge, from your description it seems more like a step than a cliff edge, because the barriers are not that significant. You have also indicated that the cliff edge applies both ways, because there are problems for companies in Europe, and that getting into WTO agreements might not be all that difficult for us. Given all that, do you see that these negotiations are not likely hampered by the technical issues but more by the political issues that have to be addressed?

Shanker Singham: That is a good question. Yes, technically, we can find solutions to a lot of these problems that may seem very difficult at first. Politically, you are obviously seeing right now, particularly from the European Commission, a lot of political statements that the UK is going to be punished and various other things. Generally, in any trade negotiation that I have been involved with, the political grandstanding is very much what happens at the beginning. However, as you start the process of



HOUSE OF COMMONS

triggering Article 50 and the withdrawal agreement, commercial interests do start to assert themselves and drive the process, because the interests between the UK and the EU are simply too big.

I would see commercial interest becoming much, much more significant, but I do not see any change in the political dynamic until Article 50 is triggered. That is why you can actually come up with some sort of a plan even without giving away your negotiating hand. That is important at this point. I also think that the power will shift in this negotiation from the European Commission to the Council of Ministers, and that will help.

Dr Niblett: I would just wonder whether when the shift happens it helps or does not help. The Commission has some folks who will make political statements, but it is full of officials who are used to negotiating. As we well know, political grandstanding can happen at the end of negotiations, not just the beginning, hence the end of TPP. You can negotiate as much as you want, but if somebody wants to change the politics, they will change them when they need to.

My concern is very simple. EU leaders will judge the deal at some level as to whether the UK is coming out of this better than being inside or not. It is very simple. If you talk to any political leaders across Europe, as I have been doing over the last few months, there is no ill will. There is disappointment, and in some cases there is a sense of opportunity, even. However, the bottom line is that they will try to impose a political solution in which the UK is not better off in terms of the deal. Over the long term, the UK may end up being better off. The UK might negotiate other deals and might succeed better outside the EU; who knows? However, in the terms of the negotiation, they will be careful to insert a political dimension.

Q89 **Sammy Wilson:** Are you not assuming that the political pressures are all in one direction, i.e. that the EU negotiators are miffed that the United Kingdom leaving the EU? Are you not taking into consideration the pressures that those negotiators are going to find from their own industry, their own financial services, and the other internal political impacts they have to face in their own countries?

Dr Niblett: My experience is that if it comes to political leaders saying that it is about the future stability and cohesion of the EU, the companies will back down. They backed down over Russian sanctions very clearly. The BDI said that this was a political issue and they stepped back. There was a huge business interest in not allowing those sanctions to go forward. In general, making sure that the remaining market of 450 million people remains cohesive will trump—I use that word advisedly—making sure that the UK gets the best possible deal for the particular companies concerned.

Q90 **Sammy Wilson:** The sanctions that were imposed on trade with Russia are significantly different than the size of the trade that they have with the United Kingdom. Is that not the case? It is therefore probably not a



HOUSE OF COMMONS

direct parallel or a good case to take?

Dr Niblett: It is all relative in the end. My judgment, from having watched European politics for a long time, is that the cohesion of the EU is paramount to the companies as well as to the politicians. That is all I am saying.

- Q91 **Alistair Burt:** In passing, you said something very important that I just wanted to clarify. We spent a bit of time this morning talking about the uncertainty of the process and the impact of that on certainty, and you talked about various things that mitigate it. However, just now you said that if the Government were to publish something about the parameters of their position, not dealing with the detail of the negotiation or going into the weeds of that for obvious reasons, before or at the same time as triggering Article 50, that would actually bring some clarity into the process and might help the uncertainty. Is that what you meant?

Shanker Singham: There is a lot that you can do to talk about essentially discoverable facts. You can say that these are the likely outlines of what we are going to be trying to do. We have talked about that this morning. The outlines of what you are going to do are triggering Article 50, entering a withdrawal agreement, and looking for interim measures in certain areas. You can do a lot of that without giving your negotiating hand away at all. Frankly, a lot of that is well known by Europe anyway, but it does enable people to talk to manufacturers, investors, and people who hold UK gilts and equities, and suggest that there is a pathway forward. There does need to be a little light shown on the pathway forward, probably now.

- Q92 **Alistair Burt:** In between the Government's position of not wanting a running commentary and people's demand for the negotiation position to be out there, it is perfectly possible for the Government to publish something that would shed some light on where it wants to go without giving everything away. Would that be a good thing?

Shanker Singham: Yes, that would be a good thing.

- Q93 **Chair:** Dr Niblett and Mr Booth, a "yes" or "no" will do. Is that a view you share?

Stephen Booth: Yes, it should outline something. I have just one thing to add to that. It comes back to the single market issue. A lot of the European politicians are reacting as if we want to go and rewrite the rules of the single market, as opposed to do a trade agreement with the single market. If that becomes clearer, the trade-offs and some of the things the UK are asking for become clearer.

- Q94 **Maria Caulfield:** I think I have got this right. All three of you have concluded that it is likely we will leave the customs union and single market, and there are really two options on the table: either going to WTO or doing a bilateral trade agreement. With those two options, the issue of migration then comes up, because obviously free movement of



HOUSE OF COMMONS

people is quite a contentious issue. If we go to WTO, there is no imperative on us to negotiate on free movement. What is your view about a free trade agreement? How likely is it that the EU would want to see something about free movement of people in a free trade agreement discussion?

Shanker Singham: On Stephen's point, in the context of a free trade agreement, free movement of people is not an issue; it is not in the trade negotiating position. It is only in the free trade agreement in the context of what we call Mode 4 services. If you are doing a services agreement, what you agree is that we want no barriers, or limited barriers, in the way you provide services: consumption abroad, cross-border supply, commercial presence, and then movement of people. If I have an office in France, I want to be able to move my people to France and they want to be able to move their people.

That is the free movement in a free trade agreement, which is very specific to the movement of labour and that sort of thing. There would not be any discussion of free movement. I do agree with Stephen that the sooner we separate this notion of what the rules are when you are a member of the EEA versus what the rules are when you are talking about access to the EEA the better. Those are two very separate things. In the context of an FTA, we are talking about access to the EEA, and so free movement is not an issue that affects us.

Stephen Booth: While I agree that is technically true in terms of a free trade agreement, the politics of this with the European Union illustrate that there is going to be a trade-off between the level of movement of people between the UK and the European Union and how good a trade agreement we would get. They are not entirely separate politically as part of this process.

Whether that is incorporated as part of the free trade agreement or is a standalone agreement, we will have to see, or whether that is just down to how the UK organises its own immigration policy. These are all things that are up in the air at the moment. However, politically we have to recognise that for the rest of the European Union this is a political trade-off in terms of access to market versus how open we are going to be to European migration.

Dr Niblett: The Prime Minister, by rejecting the points-based system as an option, has given the Government the flexibility to decide how it wants to negotiate some type of preferential access, if she wished to, to the UK market for EU workers, obviously in return for preferential access for British workers to EU markets, and maybe for other products and services. It becomes part of the negotiation. It does not have to be in it, but it becomes part of the negotiation.

Shanker Singham: However, there are many, many countries that have immigration accords with each other. We could certainly have immigration accords with the EU.



HOUSE OF COMMONS

Q95 **Maria Caulfield:** In terms of the more than 50 countries that currently have a free trade agreement with the EU, how many of them have had to compromise on free movement of people as part of that?

Shanker Singham: None of them do, because they are free trade agreements. You have a negotiation with another party, and if they have issues on visas they will put those issues on the table. However, they will not necessarily be resolved in the context of the free trade agreement itself; they may be resolved in other ways. It does become a political discussion. I would imagine that the UK and the EU would come to some agreement on immigration accords.

Q96 **Maria Caulfield:** So it is a completely separate issue.

Shanker Singham: From a negotiating standpoint, it is a separate issue.

Dr Niblett: In the deep and comprehensive free trade agreement with Ukraine, there is no requirement for movement of labour, but that it is because no one wants the Ukrainians coming into the EU. People will play it the way they want to play it.

Q97 **Maria Caulfield:** Dr Niblett and Stephen, do you both agree that the free movement of people is a completely separate issue to negotiating a free trade agreement?

Stephen Booth: No, I do not agree with that. It can be technically separated in terms of chapters of an agreement, but in terms of a political negotiation, it will be one of the elements that is part of the trade-off. As I say, how we are perceived in terms of our openness to European migration will have an impact on the type of free trade agreement we are able to negotiate.

Q98 **Maria Caulfield:** Why has that not been an issue for other free trade agreements with other countries?

Stephen Booth: It is history and geography, the fact that we are so close to the European Union and are a European country, and the fact there are so many EU nationals here and UK nationals in the rest of the European Union. It does not mean that it has to be the same as free movement of people, but the fact is that the level of immigration there has been between the two blocs is clearly going to be very important.

As we touched on earlier, it is going to become much more about the free movement of labour as opposed to people. We have to recognise that. It is not going to be about free movement of EU citizens as it is now. It is changing the discussion, but the levels of immigration between the EU and the UK will be part of the overall package.

Dr Niblett: I agree that it is to do with the level of integration that exists within the countries that are members of the single market. Each country is trying to trade off their competitive strength. If you are in Romania and you are going to open your markets up entirely to German cars and British finance, what have you got to trade in return? In many



cases, it is people. Those countries have accepted opening their markets as extensively and as deeply as they have, which is what the single market involves, in return for one of their factors of economic strength, which is labour. The EU single market is so much deeper and more comprehensive than any other trade agreement, and labour has come into it.

Q99 Stephen Timms: I would also like to pursue this issue of migration a little further. Some people we have heard say that free movement of people is one of the four pillars of the European Union; you could not change that while also keeping barrier-free access to the single market, which the Government have said that they want. I would be interested to hear from you how you think in practice this political discussion might go forward. Are there options, do you think, for introducing some restrictions on free movement, and if so what would they be, in order to achieve the access that we want to the single market?

Stephen Booth: It is entirely political. Robin mentioned the Ukraine Association Agreement. That effectively is as close as you can get to being in the single market, but there is nothing about free movement of people. The EU itself negotiated agreements that would potentially enable that; I just think that the political dynamics between the EU and the UK are likely to be different. The question is where we strike that balance, what the UK is comfortable with in striking that balance, and what trade off the EU is willing to make.

The UK public would find it relatively easy to accept free movement of people above a certain economic threshold. The issue is clearly going to be around lower-skilled labour where there is much more public concern. The other big issue that we will be free of outside of the EU is EU citizenship and the rights that come with that. Again, looking at the rights and responsibilities of non-UK nationals in the UK will also be part of the equation, notwithstanding the rights of people already here and the rights of UK nationals already in the EU.

There are lots of issues around citizenship in the first instance and what kind of access to public services and welfare you have. There is going to be a different system for people at one end of the labour market as opposed to the upper end of the labour market. There is going to be a desire for greater control on people at the lower end of the labour market. The question there is going to be what kind of preference you give to the EU, if any, if you think that is required to secure the largest possible access to the EU market.

If I can just add one other point on the foreign policy and security agenda, which we have not talked about here at all and, in my view, should be an important part of any UK offer here. We are not simply talking about commerce when it comes to the European Union. We are talking about UK nationals abroad, EU nationals abroad, NATO allies, and countries we share lots of information with on people already here and vice versa.



HOUSE OF COMMONS

It seems to me that we have entirely avoided that subject so far, and that seems to be a very important, potentially constructive element where the UK can actually put positive things on the table, as opposed to damage limitation when it comes to trade. The UK needs to think about that as well as in terms of how many barriers there may or may not be to trade with the market. How can we continue to co-operate in these other areas, where clearly there is going to mutual interest?

Q100 Stephen Timms: Just to come back to Mr Booth on that very briefly, I think you are suggesting that we could have an arrangement whereby people could freely come to the UK if they had a job to come to and their income is above a certain threshold. Do you think, in terms of the negotiations with the EU, that an arrangement of that kind would, in their view, be enough to give us the barrier-free access to the single market that we are looking for?

Stephen Booth: That is why I mentioned the point of security, because if we simply return effectively to the Cameron renegotiation, which was about how much market access we could have to restrict migration, I do not see why it would necessarily end much better this time. We need to be talking about a broader partnership. We are talking about what things the EU does. Actually, once we are outside of the EU, this is going to be our membership with the European Union as an organisation but also our relationship with the member states of the European Union.

As part of this process, we need to think about not only our relationship to the EU but our future relationship with the member nations and the Governments that comprise the European Union. That is not simply going to cover the single market and migration; it is going to cover security, foreign policy, and our wider geopolitical interests. With that kind of package, these trade-offs become different. It is not simply about market access and immigration; it is about market access, immigration, and geopolitics. That is a much broader discussion. There is much more room for everyone to have a win-win solution in that kind of discussion, as opposed to a narrow one about the four freedoms.

Dr Niblett: Just to add, on the specific issue of income above a certain threshold, you have to be very careful that this does not look like discrimination to the EU members that you are negotiating with. If you are saying that we will only take people above a certain income threshold for certain types of work, then you will have other EU member states saying, "Hold on a minute. You are striking a special deal for the UK that benefits French bankers or Italian finance specialists. What about us? We are the ones taking the most in from the UK market as part of the trade-off." You are going to have to have something if you are going to negotiate preferential access. I agree with your point about only taking up work that is available, but it will have to be more spread across the income spectrum.

Q101 Stephen Timms: You are suggesting that a viable option would be having a job, not specifying an income threshold.



HOUSE OF COMMONS

Dr Niblett: Specifying income thresholds will raise the issue of discrimination amongst EU member states and complicate the negotiation. I should add, however, if you listen to the political debates in France and Germany, and they will increase in others as well, with the UK no longer being there and no longer being one of the main destinations, along with Germany, for inward work migration, a lot more pressure will then come on to other northern European successful countries. You may find that within the EU over the coming years, as we have heard from now-failed candidate Sarkozy, there is a discussion about tightening up movement of labour amongst EU member states irrespective of the UK. The climate here is a bit more flexible than the four freedom mantra would imply.

Shanker Singham: I do think that there is the possibility of some sort of grand bargain here, which would include lots of different things. It could include things like many of the security issues you have mentioned. It could include things like the UK agreeing, as it comes out of the EU, to still do structural assistance and support for certain eastern European countries and so forth, to shore up the eastern edge of Europe.

There are lots of things that could be discussed in the grand bargain, but your question highlights for me the reason why we need to keep the immigration accord discussion, if you want to call it that, separate from the free trade agreement discussion and the access to the EEA discussion. There are certain things that you might do that you would pay for. This would be things like immigration accords and some of the other things that have been talked about.

However, what you do not want to do is to have a concept where you are paying for access to the single market. That is not how trade agreements work. That sets up a very, very dangerous dynamic and precedent. We want access to a single market; they want access to the UK market for sound commercial reasons that ultimately will drive the nature of that relationship. We need to keep that very clear.

Q102 **Stephen Timms:** Could I just press you on that? The Prime Minister visited India recently, and, according to press reports, her hosts there also pressed her specifically on this migration point. Is the reality not that trade and migration liberalisation are inextricably intertwined and cannot be separated?

Shanker Singham: As long as we are talking about movement of labour supporting commercial operations, for example if your trade agreement opens up economic activity and opportunity in the other country, and therefore you want to send people from one country to the other country, then absolutely, it is fully part of the trade relationship. However, as Stephen pointed out, that is different from the concept of EU citizenship or some of these other issues.

Q103 **Stephen Timms:** In India, Theresa May was pressed on student access to the UK, which does suggest that the two are in practice inextricably



HOUSE OF COMMONS

intertwined.

Shanker Singham: People will press a head of state on any issue that they are concerned about. In that particular case, China had been given a preferential agreement that affected Indian students negatively, and so they are naturally going to press on that issue. That does not mean it becomes part of the free trade agreement going forward.

Dr Niblett: Can I just say that what we are doing with the EU is not a trade agreement?

Shanker Singham: No, part of it is. In order for that part of it that is a trade agreement to work and deliver the commercial benefits that need to be delivered, it is very important that those commercial interests that play in the ordinary working out of a trade agreement are allowed to play out. There can be many other things that are discussed as part of this UK-EU arrangement, but at the heart of it is the trading relationship between the UK and the EU.

Q104 **Stephen Timms:** I will raise a final point. Mr Singham, you have suggested, I think, that there could be a kind of migration deal for specific sectors depending on the trade agreement. I wonder whether each of you think something along those lines could be workable, or a regional approach, with a different arrangement for Scotland or the City of London, for example, compared with the rest of the country. What do you think the options might be there?

Stephen Booth: The regional approach is a potential option, but that is much more a matter for the UK internally as opposed to the EU. It is going to get very difficult if you start tying that to the negotiations with the European Union. It should be a matter for the UK to decide for itself whether that is the kind of road we want to go down in terms of regionalising immigration policy.

As with the customs union and the single market, I do think the UK needs to have a fairly clear view quite early on in the process about what we are aiming for domestically in terms of immigration system, and therefore what we would be willing to do over and above that to secure greater trade access, if that is how negotiations go. We need to be quite clear about what those trade-offs might be and what we would be comfortable with from the outset.

Dr Niblett: Just quickly on the sectoral side, my instinct would be that is where the British Government are going to want to try to go. If it is a free trade agreement plus, you are looking across a whole range of different sectors, and we are no longer members of the single market but trying to gain access to the Single Market, we will try to get the best deal we can in those sectors where there is interest to us, and hopefully mutual interest on the other side. You have mutual interest in cars, and on finance, actually, I would agree with Shanker; there is a mutual interest in that sector as well. Back to the politics of this, if it looks like



HOUSE OF COMMONS

the UK has cherry-picked the best deal, we will not get it. This is deeply political for the rest of the EU.

Shanker Singham: Just on that point, there are many areas where we can actually pay for things. Obviously, we mentioned the WTO process. If we cause harm to a trading partner because of what we have done, we can pay for that. There are other areas like preferential access for people, and even things like the aviation open skies arrangements, that you can actually pay for. In terms of securing the minimal level of European co-operation that we need in order for transitional arrangements and interim measures, we may have to communicate the message to Europe that we are willing to pay for some of these things.

Q105 **Peter Grant:** Thank you and good morning, gentlemen. I want to go back first of all to the earlier discussion in response to Peter Lilley's questions. We looked at a scenario where the United Kingdom is out of everything: we are out of the EU, we are out of the customs union and so on, and we seek to negotiate a series of bilateral trade deals with other partners. I am particularly looking at the transition period that you said was likely to be necessary, during which time we would probably agree with these other partners to continue the same terms of agreement that had existed under an EU agreement.

First of all, how long would such a transitional arrangement be likely to last? My feeling is that we are talking about a few years until a fresh deal can be agreed. How long is it likely to last, and during that time, what happens if the terms of the EU deal change? Do we then have to comply with a different set of rules from the ones that we went into, or is it likely that the third party would be willing to accept continuation of a now outdated deal with the UK at the same time as they are in an updated deal with the rest of Europe?

Dr Niblett: There is a political element to this as well. It is possible that a transitional agreement could last three, four or five years; that is the rough estimate. Maybe it could be quicker; I cannot tell. It depends on how constructive or conflictual the negotiations are. However, the likelihood is that if you wanted to make it as smooth a transition as possible, the UK would need to continue accepting the jurisdiction of the European Court of Justice during that period.

If that were the case, obviously that would be difficult to do politically. However, if a framework agreement had been accepted at the end of the Article 50 process, which indicated that at the end of the transition the agreement was by both sides that the UK is not a member of the single market, the jurisdiction of the European Court is going, we will be out of the customs union, and we will be able to do free trade deals or whatever it is, then it may be politically possible to sustain such an arrangement for three or four years. Again, that will be down to Members of Parliament and others to decide.



HOUSE OF COMMONS

Shanker Singham: Rather than calling it a transitional arrangement, we are really talking about a series of interim measures that are quite specifically targeted to those industries that would be more affected than others as a result of coming out of the EU. That process should not be too long; I would think something like two to three years for those measures, because you do actually want to put some pressure on negotiators to actually get from the framework agreement that Robin talked about at the end of the Article 50 process to the actual free trade agreement. If the transitional measure, or the interim measure, is too long, then it will limit that. We also have the discrimination issue that we talked about earlier. It ought to be two to three years for that arrangement.

Peter Grant: Stephen, is there anything you would like to add?

Stephen Booth: There has to be a time limit under WTO rules, to some extent. You cannot simply have an open-ended transition; you have to actually explain that you have a destination in mind, and you have to have some form of time limit on that. There is no reason why two to three years should not be possible.

Q106 **Peter Grant:** Once we move on to that and we have a new bilateral trade deal with China, for example, or India, or wherever, do we take back control? Does the UK Supreme Court then become the ultimate arbiter of that deal, or are we still relying on the judgment of an international tribunal and court somewhere else at that point.

Shanker Singham: With interim measures, I do not think it is necessary that we continue.

Q107 **Peter Grant:** I am now looking at after the interim measures and after we have agreed a bilateral trade deal with some major player, be it the Chinese, the Australians or wherever. Is it likely that that deal would allow the UK Supreme Court to be the ultimate arbiter, or is it more likely that it would have to be some kind of international court?

Shanker Singham: Just in terms of sequencing, once you are out of the EU at the end of the withdrawal agreement process, I do not think with interim measures it is necessary that you have to submit to the ongoing jurisdiction of the European Court of Justice. That may not be part of the interim measure. There are all kinds of things that you can do with regulatory co-operation between the UK and the EU on financial services and so on without the ECJ. You are going to have to have some level of "nationalisation" of European law directives and ECJ decisions into UK law, but subject to UK courts and jurisdiction. Once you are out of the EU, then you can conclude negotiations with these other countries. Out of the EU, it would be fully subject to UK jurisdiction.

Dr Niblett: If you are a WTO member, you are subject to rulings of the WTO dispute settlement mechanism, which we would continue to be. If you are part of the Basel process, you agree to be beholden by the arrangements that are made there. The UK will continue, you could



argue, to shed some of its sovereignty with other institutions, but it will not be with the EU.

Q108 Peter Grant: Another area we looked at much earlier on in today's session was the cliff edge, which I think was the very first question. I cannot remember which of you it was that said that the cliff edge happens if we do not have transitional arrangements in place. I just want to be clear about the timing we are talking about here. I am assuming that we trigger Article 50 in March 2017. In March 2019 or thereabouts, we cease to be a member of all these institutions. Am I right in thinking that the transitional or interim arrangements would then need to be in place within the two-year period?

How realistic is it for all of those arrangements to be in place within what we are now being told is probably more like a 15 or 18-month realistic negotiating period? At what point is there a danger that the financial services industry and financial markets begin to get jittery, because they are not convinced that all these arrangements are going to be in place, or, alternatively, they think they will be in place but they are not confident that we will get a good deal out of them? Are we in fact looking at a potential mini cliff edge that starts to hit parts of the financial services industry much sooner than March 2019?

Shanker Singham: The interim measures would happen at the end of the withdrawal agreement process, so that would be two years. In March 2019, you then have a two or three-year transitional arrangement, and then hopefully you would go to a free trade agreement at that time. What the financial services industry needs is some level of comfort.

It does not have to be certainty, but it needs some level of comfort that those interim measures that would be initiated in 2019 would cover the things that they need to have covered. They need some level of comfort and reassurance quite quickly, because obviously decisions are being made and licences are being applied for and so forth. We will have to have some level of comfort that we will get the level of European co-operation to deliver those interim measures in March 2019.

Dr Niblett: There would need to be comfort that the Government are putting forward an end state that looks like it is going to be negotiable and accepted. In an ideal world, you would have European leaders saying, "Finally, thank you. You have told us what you want, and that sounds realistic, though a lot remains to be negotiated." That would create a political environment of some comfort for the negotiating period, although with no guarantees that everyone would still think the same at the end.

This is going to be very interesting year politically as well for Europe. If you have a François Fillon or somebody like that winning in France, Merkel winning later in the year, and Mark Rutte staying in the Netherlands, you could end up with a group of leaders that are therefore



interested in trying to come up with the best outcome. That will also affect the level of comfort.

Q109 Peter Grant: I want now to look specifically at the ongoing relationship with China. Robin, I think you commented in May this year that you felt the UK was more in a position to create a relationship with China as a member of the EU than we would be outside. Clearly, the option of being a member of the EU has now gone. I am particularly interested in China and some of its neighbours as an expanding market for Scotch whisky and other drinks. That is not simply a joke, because it is one of the UK's biggest export areas, and it is probably the biggest private sector employer in my constituency; it is one of the UK's biggest excise duty earners.

By implication, now that the UK is heading out of the European Union, you have said that there is a risk that our influence with the Chinese could start to be reduced. What is it that the Government need to be doing now in order to make sure that that influence is restored, in order to protect what is not only a major source of employment but a major source of income to Her Majesty's Treasury?

Dr Niblett: My sense is that China had a plan for the UK, which is two parts. The UK is a fantastic platform into which Chinese companies that are going global can invest, and invest in a benign environment that is relatively friendly. They could then go global with the credibility of having invested in the UK. That has not gone away. The UK out of the EU still remains the UK: a big and highly respected market into which China will continue to invest for infrastructure, energy, etc. Financial services are included and are part of China going global financially.

What will not happen is that I do not think the UK will have the same role as what Xi Jinping put in his Guildhall speech last year of Britain being the gateway to Europe. He may have used that phrase to other countries as well, but in any case he did say he was looking forward to Britain being China's gateway to Europe. That now is not going to be the same option, so it is a mixed bag. In the end, the Chinese are tough and pragmatic negotiators. They will get the best possible deal they can for their citizens, and if there is a way of doing deal with the UK bilaterally they will go for it. Right now, they are going to be trying to take advantage of America pulling back from the TPP.

Q110 Peter Grant: I have one final question, particularly for yourself, Stephen, because I realise that I have almost used up my time. There has been an assumption, and it has been made explicit by a number of speakers today, that there is some kind of trade-off between trade agreements that are generally a good thing, and free movement of people, which a lot of people see as a bad thing. Part of the United Kingdom, and certainly Scotland, do not see it as that. They see trade agreements and free movement of people as being good things.

Most commentators believe that the long-term growth of the Scottish



HOUSE OF COMMONS

economy is going to rely on a continuing inward movement of workers. Is it possible to create a system where free movement of people and inward migration can operate under different rules or different criteria in different parts of the United Kingdom, depending on what the needs of the national or regional economies in those areas might dictate?

Stephen Booth: Yes. The first thing that I would say is that whilst there is a trade-off there, I do not think that means accepting free movement of people as we currently understand it and as the EU understands it. There is nothing wrong with having a different migration system, which may or may not have different thresholds in terms of encouraging or discouraging inward migration.

In terms of how it can be structured in terms of regionally or otherwise, obviously you can do that through sectors for specific industries, which obviously has a regional balance either way. In other countries around the world they have federal migration systems where federal states can sponsor certain migrants as opposed to a national system. There are systems globally that we could look at in terms of how that can be done.

Q111 **Mr Carmichael:** Thank you, gentlemen, for your evidence this morning. I am always fascinated to hear people talking about cliff edges when you represent Orkney and Shetland. I represent the highest sea cliffs in the United Kingdom at St John's Head and Hoy, and generally I am here to question you here today because I have made it my policy to stay well back from them. Some people always seem to be drawn towards them, however. I want to take us now onto something that Mr Booth touched on earlier. It is a question of security, policing and defence co-operation.

Essentially, what I want to tease out with you is how close we could take this to the edge. What is the right approach to negotiating this? Is it something that we say, "Here is an area that is so important to us all that frankly we do not conflate it with other issues"? Or do we do, as I think Stephen Booth was suggesting, say, "Here is a useful lever to get a better deal in other areas that are a bit more difficult"?

Stephen Booth: I would not describe it as a lever or something that we should use to hang over the European negotiating partners; I just think it is the real world. If we end up in a trade war with the European Union, which in effect we would if we get a bad deal, is it reasonable to expect the UK to be as committed to these other areas of co-operation, and vice versa? Trade is about building trust, so the less trade you have I would argue that you have less trust in all these other areas. I am not saying that it is necessarily a threat or something, but we should all recognise that these are all part of a package. If we want to remain European, and I think that is one of the things that the Foreign Minister has said—that we have left the EU; we have not left Europe—the EU is entitled to ask what we mean by that.

That is why these areas are very important for us to put a positive and constructive offer forward and saying very early on that we want to



maintain all these things. However, it has to be on the understanding that we are going to leave the European Union, so it is going to be an intergovernmental basis as opposed to a supranational basis. There is no reason why that would conflict with the ability to co-operate operationally, and the UK has lots of assets to bring here.

On the very highest level argument, which is that the UK is so often accused of cherry-picking in this discussion, the UK is entitled to say to the rest of Europe, "We pay 2% towards NATO. We pay 0.7% towards our aid budget. We are willing to continue and potentially use more of that for European ends, but let us move on from this discussion of cherry-picking because how many other countries around the table do that right now." That is not threatening behaviour; that is just stating the facts.

We are too often defensive on this whole thing about cherry-picking and everything else, when it is simply not the case. When you start moving beyond the narrowness of the single market and talk about what a European relationship looks like and what the building blocks are of that, yes, trade is part of it. So are our alliances when it comes to security and co-operating on day-to-day policing and everything else. It would be a ridiculous situation to pretend they do not exist or they are going to carry on regardless. That is not credible.

Q112 **Mr Carmichael:** Tactically, do you think we have got a strategic interest in being forward-leaning in this area?

Stephen Booth: Yes, we should be constructive. If that falls on deaf ears that is not our fault, but we should put a constructive effort forward.

Q113 **Mr Carmichael:** I see that Dr Niblett wants to come in here, but what do you think we should read in to the appointment of Julian King as Commissioner for the security union in this regard?

Dr Niblett: If I could come to that in one second, and I will be quick, I will simply say that Britain's security is intrinsically linked to broadly European security. It is inescapable, whether it is how Russia decides to test the boundaries of its new sphere of influence, whether it is terrorism and being able to fight something that does not see borders, or whether it is migration. We are at the front end of movements of people into Europe, and some of them will spill into our direction. Ultimately a weak Europe is a weak Britain.

We cannot be successful if our main neighbours are weak or destabilised. NATO and the EU are part of a spectrum. NATO is at the harder end; the EU is at the softer end. In today's world, the rule of law, policing, judicial co-operation and cybersecurity are as important as tax. We should be aware that the spectrum is important, and, therefore, my view is be as open as possible to efforts that the EU 27 will make without us rather than seeing them through, in my view, a somewhat outdated sense of competition with NATO.



NATO, to point out the obvious—certainly after the election of Donald Trump but I have said this before that—is becoming more of an insurance policy for existential threats as the last resort. It is less and less what you do day-to-day. Therefore, to endorse what Stephen was saying earlier, this is not what we get in return. It is in our own security interest to find ways to co-operate, and hopefully we will get the same attitude from our EU neighbours on the security front.

Julian King's appointment was a clever sideways move for British influence within the Commission from a highly contentious area that would be directly linked in a negotiation that could have been seen as being zero-sum to a position that does reflect the win-win that I am trying to describe.

Shanker Singham: I would just like to say that it is important that we keep those tracks separate, because we have very specific interests in security and defence co-operation that we all share. When Article 50 is triggered and that withdrawal agreement is negotiated, the front end needs to be these things. Britain absolutely should be putting forward a very positive agenda.

Q114 **Mr Carmichael:** If a weak EU is a weak Britain, what does that then mean in terms of our future participation in the common foreign and security policy? How do we influence that instead of just seeking to be a subject of it?

Dr Niblett: It is going to be more complicated for the simple fact that we will not physically be at the table, necessarily, although there are options we discussed of us being there if we wanted to—we may or may not—in a quasi-observer status. There are some very strong bilateral security relationships, and not just the one existing with the French but with the Germans increasingly, and with Poland, so bilateralism becomes important.

There will probably be some plurilateral structures. The UK may encourage Nordic defence groups that may go beyond the EU to include Norway and EU member states, some of which are not in NATO. We can be inventive here. It is going to be more complicated, and the UK is going to have to paddle more under the water than it did before.

Stephen Booth: What has been interesting is the European reaction to this. There was a summit meeting quite recently after Brexit where there was talk of much deeper integration of defence policy and potentially a two-tier defence arrangement. It has been quite striking that some of the Nordic and eastern European countries have been very resistant to that because I think they recognise that that potentially drives a wedge between the UK and an EU core on some of these issues. The UK has to also be alive that there is a live debate within the EU about how this moves forward. It has to be sensible and careful about how it plays that diplomatically and bilaterally as well.



HOUSE OF COMMONS

Shanker Singham: I would agree with that. I would just say that there are lots of institutions that are completely outside of the scope of this EU withdrawal discussion, like the Council of Europe, where the UK can have a much bigger role. The UK can proactively reach out to some member states like Poland and others and offer structural assistance directly with those countries once we are out of the EU. We should be doing all of that.

Mr Carmichael: We might finally start engaging with organisations like the Nordic Council, for example.

Shanker Singham: Yes.

Q115 **Mr Carmichael:** I am conscious that we are under some pressure of time here. I want to take you onto some of the nuts and bolts of Europol and policing. First of all, the Government told us last week that they were going to remain part of Europol, at least until Brexit. Do you think that was the right decision, and what do you think it means for us post-Brexit? Is it going to be possible to remain part of Europol?

Stephen Booth: It makes sense at the current time, given that we are members of the European Union and, at the same time, we are saying that we expect to be treated as members of the European Union for our other rights. It is very difficult for us to pick and choose at this moment, and given that was the only option on the table we had to go for that.

I do think that outside of the European Union we want to do that on an intergovernmental basis as opposed to the supranational basis. There is no reason that cannot happen. Europol already has agreements with lots of other third countries, and the question would be how deep that agreement would be. Given that the UK and the EU have a mutual interest in maintaining that co-operation, I do not see any reason why we could not do that intergovernmentally.

Q116 **Mr Carmichael:** In practical terms, though, there is quite a lot of stuff to unpick here, is there not? Look at the European arrest warrant. You have got all the various arrangements for sharing criminal intelligence, criminal records information, and all the rest of that stuff. Do you think that we are going to be able to continue with that on an intergovernmental basis?

Dr Niblett: This is the problem, or this will be the more complicated element. The nature of intelligence management today is generally a huge sharing of data. The sharing of data has to be done under legal norms. The EU is going to have legal norms for sharing data amongst itself. We will have to decide whether we want to either emulate it, and we get back to the same things as some of the regulatory aspects of the broader agreement. Do we look for equivalence? Who decides whether we are being equivalent in the way that we treat our data compared to other EU members? Is that supranational or intergovernmental?



HOUSE OF COMMONS

It is going to be complicated but very important to get right. If I could go back to the points Stephen was making earlier and I was making earlier, this is absolutely essential stuff for British security—being able to get the best possible access. The European arrest warrant has a slightly different angle but has the same challenges in terms of legalism. To me, the sharing of data is critical.

Shanker Singham: I would just point out that there are many other countries that are not part of the EU that do share data in the intelligence world.

Dr Niblett: The question is how you could use it in court or not, and so on.

Mr Carmichael: We have privileged access to quite a number of these organisations and associations that are well independent of the EU.

Q117 **Karl McCartney:** It has been refreshing to hear Mr Singham and Mr Booth today with a heavy dose of realism. Thank you for that, because some in the media, I suspect, and some commentators as well, will be reliant on it. Dr Niblett, I want to drill down on some of your evidence today and some of answers. I think you have used quite emotive language. Some of it has been negative. I know you have been repeating maybe what some of my colleagues have said. There are three points that I would like to address.

First of all, you have said it is going to be complex, but if it is going to be simple surely it is not going to be as long as you fear that it is going to be. It could be a much shorter process as your two fellow witnesses have alluded to as a possibility. Why is it going to be a cliff edge? That is very emotive language. Who has said it is going to be a cliff edge? What happens if it is just a bump in the road? Maybe if you had some business experts dealing with the negotiations rather than some civil servants, they would want to see it as rather a small bump in the road to navigate around rather than a cliff edge to fall off, because that allows civil servants to kick things into the long grass, which they are very good at.

In light of those two things, why then would you need a transitional agreement? If things are going to move a lot faster then maybe, as Mr Singham pointed out, there might be just a few interim agreements that will last for a short period of time rather than some big, all-encompassing, transitional agreement. I have aimed them at you, but obviously all three of you can answer.

Dr Niblett: I do not think I was being emotive, but if I came over that way that is fine. I did not say there would be a cliff edge. I said that the definition of a cliff edge is getting to the end of a negotiation where you do not have an alternative and the negotiation not working out right. In which case, you have hit a cliff edge. That was a statement of fact rather than opinion. If the UK is able, over the course of the Article 50 process, to come to a framework, as I said, I think it should do, and if the other EU member states are in agreement—and I said earlier I thought there



HOUSE OF COMMONS

was mutual interest on both sides to come to it—then you do not have to have a cliff edge.

If we do not get there then a cliff edge is probably a good description because you drop into a status that potentially companies and others have not been prepared for. Maybe they do prepare and maybe they do not. We shall see. Some big companies will be able to do it more than others.

The difference between a transitional agreement and a series of interim agreements, to me, is wording. A transitional agreement is simply a way of saying the process of this next two years of disentangling budgets, rights of workers, European company law, fishery adjudication, whether we take on state aid, long-term budget commitments, etc. There are so many dimensions to disentangling that it may be difficult to get to a position, at the same time, of an agreement that is more than just a framework.

The disentangling and the leaving is going to be tougher than the new agreement, which is why you may, at best, end up at the end of the two years with a framework. That would need two, three or four years—and I do not think there is any disagreement across the panel here—to be able to finalise.

Shanker Singham: When people talk about a “cliff edge”, one of the things that they are talking about is this notion of lines of lorries because of standards and technical barriers and other things that suddenly appear. That is actually relatively easy to deal with. You simply say, as part of the ECA repeal Bill that was mentioned by the Prime Minister, that you are going to take over and nationalise European law, directives, regulations, ECJ decisions that have UK applicability. That is subject to some exemptions where things do not make sense, but also some exemptions where we would not want to immediately port over, for example, the common fisheries policy, necessarily, or the port services directive or whatever it happens to be.

If you do that your standards and technical barriers at the date that you withdraw are not a problem. It is the same issue. There is that aspect. When people talk about the “cliff edge” that is something that they are talking about. That is relatively easy to deal with. The things that are more difficult to deal with, which is where you would need your interim measures, are things like those specific areas within financial services where you need some equivalence measure or mechanism going forward, or in the digital single market. There are certain, very specific things that in two and a half years we have to know exactly what they are, and we have to have interim measures in place.

Stephen Booth: The question that none of us knows at the moment is if it is easier to negotiate specific things for specific industries in this 18 months, or is it easier to say, “Let us maintain the status quo across the piece for a longer time to give us the space to negotiate the bilateral



agreement at the end.” No one knows the answer to that. We do not know what the political environment is going to be.

My own view is having some form of transitional phase also allows the political temperature to drop elsewhere in the EU, which would help us get to a better agreement in the long term. As I think Robert said, there is going to be lots of very emotional discussions and very politicised discussions about disentangling from the EU budget and the EU institutions, which may not be in our interest, and that could be confused with some of the trade things. We can establish that there is going to be a road map that we are going to have a trade agreement but we are going to have to fill in the details a bit later on and not get those confused with exactly what our contribution to the EU budget is going to be for the next 18 months.

Q118 Jeremy Lefroy: Can I thank all three of you for your very measured responses today? Could I ask two very brief questions? One is about this idea that there are four pillars that are all fantastic in the market. It seems to me, from the little I know, that the former Prime Minister often used to come back from Brussels and say, “We tried to reach an agreement on completion of the single market in services, and it has not happened.”

In fact what we have here is a situation where the UK, which has a competitive advantage in services, has been put at a disadvantage in the European Union by them failing to agree a single market in services. On the other hand, the other three pillars are pretty robust. Does that not indicate the fact that the UK is a very open market for services, and we have something to offer in that we are already offering much better access in services to our European neighbours than many of them are offering to us?

Shanker Singham: This was my point earlier on. Yes, we have something to offer to the European Union in the context of a negotiation as part of a free trade agreement ultimately down the road. Also, one of the things we did not talk about was that it is not all about regulatory harmonisation, and it is not all about having the same regulations between the UK and Europe. We want to have got regulation. We want to have pro-competitive regulation in the UK.

Once the UK is outside of the European Union it will be able to have its own pro-competitive regulation. A lot of these standards and global regulation are offset at Basel and at a global level, and the UK will be able to better represent its interests in those global institutions and ultimately get a better regulatory system. What you are saying about the single market is correct. In financial services, for example, there is no real single market in financial services. It is often talked about but it does not actually exist. There are many restrictions that member states have that are different from each other.



Part of the goal here, when you talk about the long-term goal and the free trade agreement ultimately with Europe, is not just that we want to be the same and we want to tie our regulation to European regulation, which is how the passporting and equivalence mechanism works. We want to ensure that European member states do not erect trade barriers and market access barriers to UK institutions, and vice versa.

We do not want to be erecting trade barriers to them either. That is where a trade agreement is a better mechanism, because essentially what it says is, "You will not discriminate against our service providers. You will not have market access barriers. You will provide national treatment and those are going to be legally binding obligations." That is what the UK services industry really needs.

Q119 Seema Malhotra: From what you have outlined, it would suggest that in parallel we may need to be working on Article 50 negotiations, possible transition planning for an interim measures agreement and a possible new WTO arrangement if we do not get a new agreement in place by the end of two years. Also, we could possibly be thinking about a framework around a future trade agreement with the EU and possible future trade agreements with other countries.

There have been words used like "could be quite easy" and "could be quite simple." There have also been comments about the complexity of the politics around these. Do you think it is possible and, indeed, compatible to do all of these in parallel? Would we have the resources in the FCO, the DIT and Brexit, and if not what would you see us needing to prioritise?

Stephen Booth: We need to prioritise, first of all, Article 50 and the WTO, because we need a WTO in place to do anything we want to do next, which includes the trade agreement with the EU. It includes trade agreements elsewhere. The WTO has the advantage of being a much less politicised environment as opposed to the EU negotiations. If the UK plays by the rules and does sensible things that we have discussed earlier, that should be a relatively straightforward process and it should be happening as soon as possible.

We need to have that in place either if we end up with Article 50 and that is the default, but we also cannot have a sensible trade negotiation with the rest of the EU until they know what we intend to do in terms of the WTO, and the same with everyone else. The WTO is the most important one alongside the Article 50 process. I do not see why an agreement on a transitional phase is necessarily that difficult to come to early on, if people have the political will to do it. Logistically it does not have to be that difficult. Part of the reason of having a transitional phase is to give yourself more time for the more complicated trade negotiations, so the sequencing is important. Doing all these things together helps you manage the task.



HOUSE OF COMMONS

Shanker Singham: You have laid out a lot of things, obviously, and it sounds like an enormous task. What I would say is that you should initiate everything at the same time but does not mean that, for example, the potential negotiations with other countries will require a huge amount of effort at this point. There is a sequencing for those where, essentially, it is a stock-taking exercise that does not require a huge amount of effort.

Really your question is about prioritisation of effort. Prioritisation of effort, across the whole of Government, should be the triggering of Article 50, some of the arrangements we talked about with respect of policing and those sorts of things. Those are very important and need to be done during the withdrawal agreement. We are going to have a good sense of interim measures and where we need them. There needs to be a lot of priority on that. I would put the stock-taking exercises and other agreements at a lower level of priority, but that does not mean I would not start them. I would certainly start them.

The WTO process is going to happen anyway. Our WTO partners are already having these discussions with us, so that is going to be going forward, and some of them bleed into each other. The WTO discussion will bleed into the potential free trade agreements with other countries process as well. We have the resources to do what we need to do, but I would say, as a former trade negotiator, economy of effort is the key. What you need to be able to do is triage the really important issues first, and you need to develop a mechanism for doing that, but I think it is fully feasible.

Q120 **Jonathan Edwards:** Mr Singham, you have very powerfully put forward a case for a free trade bonanza in a post-Brexit UK. If you go back to the referendum campaign, the leave vote in South Wales, for instance, in the manufacturing, post-industrial communities, were led by issues such as Chinese dumping on steel, and in perhaps some of the rural areas New Zealand lamb coming in and talking over from Welsh lamb, and perhaps Irish dairy products. How do you square those?

Shanker Singham: That is an excellent question. It leads to what I think we can achieve in these trade agreements, and the fact that the modern barriers to trade are inside the border. You talked about Port Talbot and China's steel. This happened—and it is not only the shutting of Port Talbot but also Redcar and so on—because of distortions inside the Chinese market. It was the fact that China's steel companies get free access to water and land and all these different things that lead to an artificially lower cost.

We should have a trade position that says we are open to competition. If you are going to come and compete with us, the import competition is good because it means our food is cheaper, our clothes are cheaper, all of these things are cheaper, and that is good. What we are not going to do is to allow you to distort your market, artificially lower the cost of your



companies and then compete with us. At least we are going to have tools to deal with that.

Right now we do not have very good tools to deal with that. We have trade remedies that are a sledgehammer, but one of the things that we can propose in this like-minded group of countries are mechanisms to deal with those kinds of issues that you highlighted. That is an opportunity. It is something that we are going to have to do.

One of the reasons that Donald Trump was so successful in the US election was because there were not tools to deal with those sorts of distortions in other markets, and it is incumbent on us to be able to say to people that you succeed or fail on your merits, and the quality of your work and the capacity of your work. If you are going to be damaged by a distortion in another country, and that is why you fail, we have a policy and we have a set of tools to deal with that. That can be developed in the context of these new agreements.

Chair: Dr Niblett, did you want to come in on this?

Dr Niblett: I have to apologise in a minute, Chair. As I indicated earlier, I have a very hard stop at 11.30. I have a couple of quick comments of this particular point. The challenge for the UK will be how it can talk tough to China at the same time as trying to have the best possible deal with China. Outside the EU the UK will have to find a like-minded group of countries, who may not have like-minded attitudes to China at the same time. If you end up with a like-minded group of countries, it is a nice phrase, but we would have to work out what that means in very practical terms.

The fact of the matter is that China will have a bit more clout of what the UK can and cannot do when the UK is out of the EU than when it is in the EU. The problem with the EU is that is a slow, lumbering operator, but in a way it provides protection. Outside of there, the UK's got more nimbleness and more capacity to strike its own deals, but it is by itself to a certain extent. We have seen in the way that China has dealt with countries like Australia and the trade deal it has struck with Switzerland that it is a very tough country to deal with. I would simply say that I am a little less sanguine that it is all going to fall perfectly. It will be tough, and that is fine too.

On the services side, potentially the biggest trade agreement for the UK would have been the opening of the services market in the EU, with the UK inside. As the services market opens in the future in the EU, and it will take longer probably with the UK out than it would have done with the UK in, those rules will be designed without Britain at the table. We are going to have to fight very hard to make sure that what is currently our great benefit and our great advantage in terms of even getting access to a relatively closed services market—and it is closed, and those four freedoms are rubbished in that sense. We are going to be in a much tougher position to do it. We will need trade negotiators to help us.



HOUSE OF COMMONS

Q121 Chair: Dr Niblett, just before we release you, and that was the agreement, can I ask you one final question? Going back to common foreign policy, security and defence co-operation, do you think that there is a willingness on the part of the 27 member states to think creatively, imaginatively and flexibly about how that can be sustained in a new form in this framework agreement?

Dr Niblett: I am not sure it used to be in the framework agreement, number one. Number two, yes, I think there is. There is a willingness. They will look for it because there is mutual interest. I do not think it necessarily has to be in the framework agreement, and I would agree with Stephen that keeping some separation between the two makes sense. There is a willingness. We have to show a willingness as well. Common defence co-operation and a military headquarters for the EU had tended to be a bit of a shibboleth for some British politicians. My view would be that I would be a bit more "live and let live" in the current environment.

Chair: The Committee will release you at this point. There are two other members who want to ask questions, and then we will bring the session to a close. Craig Mackinlay was first.

Q122 Craig Mackinlay: It is a shame because I wanted to explore your new doctrine of plurilateralism that I had never heard before. It sounds like a great one. I am just recognising that the EU of today is unlikely to be the EU of tomorrow. There are new countries that are likely to join in the future: Albania, potential for Turkey, and if Mitterrand from years ago is to be believed, potentially even North African countries. Could you anticipate an independent Britain having different arrangements with different countries within the EU in the future, rather than treating it as one homogenous block, which we often have to? For instance, I travelled to Dubai recently. My wife is Hungarian. I did not need a visa; she did. For the ESTA system for the UK, Hungarians do not need one. UK citizens can apply for ESTA, but Bulgarians and Romanians cannot. This gets to the heart of justice and policing.

Could you imagine perhaps Britain accepting the European arrest warrant, which has got its own contentious issues, to certain countries and not to potential new applicants? It is this multilateralism, plurilateralism, or whatever we discussed earlier, applying to Britain's new arrangements with potential new EU countries, even ones that are maybe there at the moment. I would have personal concerns about the justice system in, say, Romania, and whether the European arrest warrant is appropriate for British citizens to be subject to that, even today.

Stephen Booth: The UK has to be careful about how it goes about doing that. For certain things like the European arrest warrant the EU will want to have a collective agreement about. If you move to an intergovernmental way of operating that agreement, perhaps the UK would have stronger safeguards where there are concerns about justice



in a particular country, and maybe that could be incorporated into it. China divides and conquers when it comes to what are very clearly EU policies, and it could be quite difficult.

That does not mean that we should not be exploring where the EU is not the dominant player in a policy area or whatever it is, or that we should be trying to have deeper bilateral arrangements with some member states as opposed to others. That is the natural way we would do this outside of the European Union, and will be more important if we are outside the European Union.

Q123 Joanna Cherry: Mr Booth, this is a question for you. You were asked four questions earlier by my colleague Maria Caulfield about the correlation between trade agreements and free movement. Your organisation, Open Europe, which is a politically independent think-tank, has written a paper called, "Britain's EU immigration debate: Norway and Switzerland are not the answer". Am I correct in understanding that Switzerland is not a member of the EEA but has more than 100 bilateral deals with the EU, and was told by the EU earlier this year that it will lose access to the single market if it goes ahead with plans to impose controls on free movement of EU citizens? Does that perhaps give us some insight into the attitude that will be shown towards the United Kingdom if the United Kingdom wishes to have access to the single market without free movement?

Stephen Booth: As I said earlier, for the EU, this is a political trade-off. There is no getting around that fact. What the various bargaining positions of different nations are likely to be are going to be different. The UK is a different kettle of fish to Switzerland. We are not in Schengen, for example, which Switzerland is, so that whole thing is a different environment. That is why I come back to my earlier comments about thinking about this in a broader package.

We have to get across to the rest of the European Union that they are not dealing with Norway or Switzerland here. There are bigger things at stake here in terms of geopolitics and the wider environment. If the UK is forced to choose between accepting free movement of people and a good trade agreement we do not know exactly what is going to happen there, but the indication is that it will not choose free movement of people. It is a case of getting across what the negotiating dynamics are and that this is not simply about commerce and immigration but about a wider relationship.

That is why I think the sooner the UK gets out on the front foot on what that wider relationship might look like, and us coming up with constructive proposals for that by saying, "We are open to trade agreement with you. If you want to turn that down by imposing conditions that we made very clear we are not willing to accept, then that may be the case." That is a different dynamic to the one of accepting that the four freedoms are somehow inseparable and that is how a



HOUSE OF COMMONS

negotiation is going to go. Once you accept the UK is outside of the single market it is an entirely different discussion.

Chair: That concludes the session. Can I, on behalf of the Committee, express our thanks to all of you as witnesses for coming today and for answering our questions so helpfully?