HOUSE OF COMMONS

International Trade Committee

Oral evidence: UK-US Trade Relations, HC 978-i

Wednesday 15 March 2017

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Watch the meeting

Members present: Mr Angus Brendan MacNeil (Chair); Liam Byrne; James Cleverly; Mr Nigel Evans; Marcus Fysh; Sir Edward Leigh; Chris Leslie; Shabana Mahmood; and Sir Desmond Swayne.

Questions 1-45

Witness

Edward Barker, Director, Trade Strategy and Capability, Department for International Trade.

Examination of Witness

Witness: Edward Barker.

Q1 **Chair:** Good morning. Thank you for coming. Can I ask you to state your name and post for the record, please? Name, rank and serial number is what we are looking for.

Edward Barker: Certainly. Good morning, Chairman. I am Edward Barker. I will explain that, from 2013 until June last year, I was Head of the Transatlantic and International Unit in the Department for Business, responsible for our interests in TTIP. Since July, I have been Director of Strategy in the Trade Policy Group at the new Department for International Trade.

Chair: Thank you very much. We wish you good luck in your current post.

Edward Barker: Thank you.

Q2 **Chair:** Could you tell us what the current situation is regarding TTIP and the negotiations around that?

Edward Barker: Certainly. I think it is fair to say that I would not expect TTIP to conclude this year, and there are a number of reasons for that. On the EU side, there are a number of elections, including probably most significantly the French and German elections. We have a new Administration in the US and I think, frankly, we are still getting to understand that Administration's interests in TTIP.

Q3 **Chair:** What sort of vibes are you getting about that Administration?

Edward Barker: I think it is fairly clear that the first priority is NAFTA. I would expect China and some of the wider US trade relationships to come close behind that. Somewhere on the list is TTIP, though I would not know where for sure. I don't think that is going to move quickly this year.

In terms of where the negotiation has got to, I hear people say that it is about two-thirds done and that feels realistic to me. What I would say is that the remaining third is the hardest third. As is often the way with trade negotiations, you save the hardest issues for the end game. After 15 rounds over the past four years, we have made some good progress—probably more progress than people realise—but there is still that rather difficult final third still to go.

Mr Nigel Evans: I keep hearing about TTIP's death.

Edward Barker: Well—

Chair: Sir Edward Leigh, briefly.

Q4 **Sir Edward Leigh:** I want to come in on that one. It has taken so many years already. Is it fair to say that the worst organisation for making any free trade agreement of any sort is the European Union? Answer! *[Laughter.]*

Edward Barker: I shall!

Chair: Witnesses shall not be barracked.

Edward Barker: Bear in mind, if you are focusing only on TTIP, it is quite a hard example to look at because it is quite unprecedented, I would say. It was trying to do and is trying to do a number of things that trade agreements have not done before, especially in the regulatory sphere. It is a negotiation between two large blocs, both of which have their own ways of doing things and neither of which want to give ground right from the beginning. There are all sorts of reasons why it would take a long time and it would not be completed by now, so I don't think it would be fair to lay all the blame at the negotiators' door.

Chair: That is as good an answer as we are going to get.

Q5 **Mr Nigel Evans:** Still, though, you must read the articles saying that Donald Trump is not interested?

Edward Barker: There are some things that were very clear during the presidential campaign that have carried across into the early days of the Administration. I think President Trump has made some very clear statements about the purpose of trade policy in the US. He has said some pretty clear things about the Trans-Pacific Trade Partnership, TPP. He was strikingly silent on TTIP during the campaign, and I would say we still don't really have a very clear sense from the new Administration of what they want to do on TTIP. Given that the general approach seems to be towards bilateral agreements rather than multilateral or big platforms or plurilaterals at the moment, you might read into that less enthusiasm for TTIP than under the last Administration. It is essentially too early to tell where they want to go on TTIP.

Q6 **Mr Nigel Evans:** The negotiations are just going on as before?

Edward Barker: I think the last full negotiation round took place in October last year and there has not been one yet since the new Administration. Of course, the way these things work is you have big negotiation rounds but there is also quite a lot of intersessional discussion that takes place. Certainly, you can expect some of the technical work to continue and it is continuing now. Whether we are going to have another big round any time soon remains to be seen.

Q7 **Mr Nigel Evans:** As far as what TTIP is worth to the United Kingdom, we have had all sorts of estimates as to whether it is going to be worth £10 billion in growth, over €500 per household, increasing jobs. What is the truth of what TTIP is worth to the United Kingdom?

Edward Barker: You have to keep in mind that it is quite difficult to model the value of agreements like this. They are inevitably going to be driven by the assumptions you make, both about the change you can achieve through it and then what effect that is going to have on the economy. It depends on how sophisticated you are in trying to look into the future and how the economy might change in reaction to the deal. It is all quite heavily driven by assumptions.

The Commission conducted a piece of research across the European Union—the methodology for which we used in our own research commissioned from CEPR—which came up with the £10 billion based on a pretty ambitious deal. That is assuming that we got a fair way in achieving what we hoped to through TTIP. To this day, I have not seen a stronger basis for estimating the value than that. I have seen some numbers that are significantly more than that based on a different sort of method. Personally, I think £10 billion is a fairly realistic place to start.

Q8 **James Cleverly:** Mr Barker, Tony Abbott, the former Prime Minister of Australia, gave a speech last week. One of the points he made is that heads of Government really have to set the pace for trade negotiations to be successful and that personal interrelationships—selling the kinds of benefits that you have just discussed to each other—are really important. First, do you feel that that has or is happening? Secondly, if it is not, is that possible in that bilateral versus multilateral context?

Edward Barker: With respect to TTIP?

James Cleverly: Yes, specifically with respect to TTIP.

Edward Barker: I do think that political leaders have an important role to play in getting these deals done. Although a lot of it is economic at the end of the day, you only get the hard bits agreed if you have political support.

I would say one of the things we learned, through the period I was closely involved with TTIP, is that we need to think rather more about how we communicate about that externally. You need consent for what you are doing and some of that can come from experts, some of that can come from the businesses, consumers and other people who might be affected, but some of it does need to come from political leaders. I do think they have an important role to play.

Is it happening? I think UK Ministers have been pretty consistent advocates for this at the top level down, with the US, in the EU and domestically here in the UK.

Q9 **Sir Desmond Swayne:** How much progress has been made on, first, the reduction of tariffs; secondly, on rules of origin and, thirdly, on investment liberalisation?

Edward Barker: They all fall broadly within the market access area and, overall, I would say that that is probably the hardest part of the negotiation. But within that, on tariffs, so far the negotiators have got to about 97% liberalisation, which sounds quite good and is actually quite good for this stage in the negotiation. The remaining 3%, of course, is the most difficult part. Most of that is agricultural tariffs and that would be part of the end game discussion. On tariffs, I think the TTIP negotiation has progressed quite well.

Another related area is public procurement, which we may come back to.

Chair: We will.

Edward Barker: Progress there has not been so good. On investment limits, for example, in the aviation sector that was one of the UK's asks. Also, more widely, on related services access, there was quite a long technical war in terms of how the EU and US were going to talk about services and the basis on which they were going to make any offers, which delayed getting into the substance. I continue to think that there is potential for TTIP to make some progress in that area, and we might come back to financial services specifically.

Sir Desmond Swayne: We are certainly coming back to financial services.

Edward Barker: Similarly on mutual recognition of professional qualifications. As far as rules of origin are concerned, I think we are heading towards agreement but on a product by product basis, so quite a lot of work would go into that. I think rules of origin is developing quite well.

Q10 **Sir Desmond Swayne:** In terms of mutual recognition of technical standards, has that held things up? Has it added complexity and what progress has been made there?

Edward Barker: Maybe if I differentiate briefly between the technical standards, as you mentioned, and environmental standards—

Sir Desmond Swayne: We will come to environmental standards.

Edward Barker: Okay, good, because I would say a bit of conflation of the two is part of our problem in talking about TTIP, so I am glad we will come back to those separately.

One of the most important parts of the negotiation was in trying to take away unnecessary regulatory hurdles to trade. The bulk of the work there was around recognising the equivalence of regulations where we felt they were equivalent on the two sides of the Atlantic. I can go into some of the sectors where that made progress. I think that started to work quite well once the right people were involved in the discussions. One of my lessons from this is that regulators need to be there at the table, if you are going to get anywhere on regulatory work for a number of quite obvious reasons.

One of the key asks from the US was around conformity assessment for meeting technical standards of products that are made in the US and carried across into the EU. It was clearly important to the US—I think it is still very important to the US—but it was a rather fundamental area of difficulty because the approach in the EU and the approach in the US are very different.

In the US, there is competition for technical standards and then whichever competes out becomes the standard whereas, on the EU side, the standard is agreed and then you compete on the basis of that standard. The US ask essentially that US standards be recognised in the EU in a fairly straightforward way, which is quite a difficult ask and that negotiation was still very much ongoing last time I looked.

Q11 **Sir Desmond Swayne:** Coming now to environmental standards and food safety, how has the so-called race to the bottom manifested itself in the negotiations?

Edward Barker: This was clearly one of the most provocative concerns about the negotiation. Relatively early on European leaders, the UK and the Prime Minister here, and the US President, all very clearly said that nobody wanted to dilute their existing environmental, labour and other standards. That was a red line in terms of anything else we might try to do within the negotiation.

That does not change the fact, though, that, certainly in the agricultural sphere, the US was keen to improve access for US agricultural goods into the European markets. To their mind, there are a number of ways in which that could be achieved and part of it would be through lowering tariffs in the EU. Part of it might be through the EU running its systems for deciding which products meet their sanitary and phytosanitary standards more efficiently, so they deliver what they say they will deliver, and also asking the EU to look again at what those requirements are.

I would say that I think the US was ultimately quite realistic about the extent to which they would probably not make much progress on changing sanitary and phytosanitary standards in the EU. I think they did hope to get the process improved. I think they did hope to bring tariffs down, but they approached it in terms of asking for more science-based decision-making and more effective administration of the process that exists in the EU.

Q12 **Sir Desmond Swayne:** Do you think that will get down to product by product negotiations?

Edward Barker: I would expect so, yes. Another reflection from TTIP is that certainly, when you have a sophisticated negotiating party, they have a lot of resource that they pull in behind it and, absolutely, they get into the minute detail product by product.

Q13 **Shabana Mahmood:** Mr Barker, continuing with this theme of fear of a race to the bottom, the US has much weaker labour laws and employment protections. It has not ratified six of the core ILO conventions and there is a fear that TTIP would mean that we have a levelling down of employment law protections. The House of Lords report on TTIP suggested that the Government saw the negotiations as an opportunity to persuade the US to make some progress on ratification of key ILO conventions. Can you tell us anything about any progress that has been made on that front?

Edward Barker: Yes. Again, there is quite a difference in approach between the US and the EU, not just on labour standards but on some others, where typically in trade agreements the US will have quite well defined requirements. They may not be the most ambitious in the world, but then they focus quite a lot on how they enforce those standards. Whereas the European negotiators tend to go in for slightly broader, maybe more aspirational standards but then focus less on the enforcement of them. There is clearly a trade-off there.

I think where we had got to was making some progress on both sides of that. From the UK and EU perspective, we were trying to lift the standard a little bit. Certainly, from the US perspective, they were trying to tighten up the enforceability bit. We have not yet tested whether what you end up with is something that is saleable to both sides. If it is both more demanding and it is more enforceable, are you going to cross somebody's red lines? That was the way the negotiation was heading last time it talked about these issues.

Q14 **Shabana Mahmood:** That is helpful. If the US position remains broadly where it is today, what implication do you think that a weaker regime for labour rights might have for any future deal, assuming there is no movement on either side in terms of enforcement versus aspirational standards?

Edward Barker: To reiterate, certainly our position was that we would not be weakening our standards; the question was whether we could increase the standard that is agreed in the agreement beyond what is already there. This is an area where I have to say I think it is too early to tell where the new US Administration is going to go, and I don't think I can really guess at what that would mean for us. I do think we started from—and I would expect we would again start from—a pretty clear position that we are not looking to dilute our standards as we go into this but, looking at where it is relevant, we can improve them.

Q15 **Marcus Fysh:** I want to focus on the automotive sector, because apparently BIS was saying that the automotive sector might be forecast to grow by 4.1% as a result of the measures we are looking to introduce through the TTIP agreement. I wonder what sort of progress was made with US negotiators on the tariff and the non-tariff barrier aspects within the automotive sector and how achievable that sort of augmentation of the industry would be.

Edward Barker: To my mind, this was one of the areas that, as you say, we identified as being a high priority for the UK because of the nature of our economy and our competitive automotive industry. Both tariff and non-tariff issues are important, though I think in the long term certainly the regulatory issues were especially important looking at the initial analysis.

This is an area where I think progress definitely accelerated as we went through. At first it was quite hard getting regulators to engage from the US side—and regulators who are key to agreeing anything significant on the regulatory side—and quite a lot of time was spent, both by our Department for Transport here but also European negotiators and regulators, in building the US regulators' comfort with what we were looking at doing. It brought them to the table.

In terms of recognition of equivalence on safety requirements, I think there was pretty good progress and certainly the potential to agree a number of fairly specific—I think in the view of the industry—worthwhile areas where we could recognise equivalence.

The intention would be to move on to look at environmental equivalence, as well as to see whether there are aspects of the environmental testing and design of cars where you could also recognise equivalence. We had not made much progress on that by the last negotiating round.

Q16 **Marcus Fysh:** Is a part of that what you mentioned earlier—the tension between the competition for standards approach that US industry goes through first rather than having standards that are applied? What scope would there be if we were doing our own negotiation, for example, of a free trade agreement? Would that be an area that we could be more flexible in than the EU has been able to for that reason?

Edward Barker: The issue was more that when it came down to running the analysis and trying to look at what the US safety standards for a car required, what the car is you create as a result and, therefore, how safe it is, and comparing that with the European side. It is pretty complex.

Trying to do it direct one for one—does your indicator light need to be exactly the same as ours or could it be a bit different and still achieve the same purpose?—is quite a difficult judgment. It is just technically difficult, I think. I don't think it was especially the different systems that were the issue there. It was more the technical difficulty of the exercise and the fact that, at the end of the day, the regulators are rightly quite risk averse. They don't want to agree to things that they feel would undermine the safety of the product in the market they are responsible for. A combination of complexity and the approach of the regulators make it hard.

In terms of prospects for the UK, again, it is a little early to say much about that, although I suppose the important thing to keep in mind is, just as we are talking to the US, we also need to sort out our arrangements with the EU when we leave. There is an interconnection there. What we agree with the EU will have a bearing on what we agree with the US and vice versa.

Q17 **Marcus Fysh:** Finally on that, the supply chain in the automotive industry is a complex one, both in North America and in Europe. It is very deep and very cross-border. Were rules of origin a particular challenge for the EU negotiation, and what would be an ideal way of looking at rules of origin for the automotive industry in the future to solve some of those issues?

Edward Barker: Again, there is quite a lot behind that question. As I say, the main thing is I don't think by any means that was one of the hardest issues in the EU/US discussions. I think, overall, we were heading to a pretty satisfactory place across the economy on rules of origin.

Q18 **Chris Leslie:** Can I ask you a bit about the whole financial services side of things? As I understand it, in the States most financial regulation is state by state, whereas, of course, in the UK it is done nationwide. Give us a sense of how on earth—I don't know—from your TTIP experience, I guess financial services might have been a more marginal issue for the wider European Union, but, for us, if we are going to get a bilateral deal with the States, financial services is going to be a key thing. It is an important part of our economic base.

Is there a realistic chance of being able to persuade either the federal Government to bear down on state by state regulatory mismatch with the UK, or does the UK have to open up discussions with 50 different entities in order to crack through this? What is the realistic approach we should be taking given that we are now potentially embarking on a US/UK FTA?

Edward Barker: You raise a really key point in terms of lessons from TTIP about the role of the States. I will come back to that in a moment, if you don't mind, and just start a little bit on financial services more generally.

It certainly matters to the UK and we made that very clear from the outset. I would say right at the beginning of the process we were not the only country arguing that financial services mattered, but we were certainly one, if not the loudest.

I still don't think that the ask we have in TTIP is that big an ask. Given that, certainly when the process started, we had an agreement in the G20 about a path for financial services regulation but different jurisdictions were implementing that in slightly different ways, generating unnecessary costs for the companies regulated, but also making the regulation less effective and certainly less efficient, the main thing we wanted was that regulators talk to each other in a more structured way and, before they regulate, to at least take account of what others are doing. It never seemed to me like a very significant ask.

Yes, it was quite difficult to bring it into the discussion and that was for a number of reasons. I would say it was not really a state issue; at least we had not reached the state issue. It was partly at the time in the US there was a perception that this was the EU trying to weaken financial services regulation in the US, following some controversial legislation that had gone through Congress. I think it was also an institutional concern from the Treasury in the US that this was not something trade negotiators should be talking about; this was a Treasury issue.

I don't think anyone would argue with that. I don't think anyone thinks trade negotiators should set financial services regulation but, a little like bringing other regulators into the discussion, the answer is to bring in the right people and let them talk to their opposite numbers under the umbrella of the trade negotiation. I think there is a convening power and perhaps political attention that comes from the agreement but, on a technical level, you need the right people having those discussions.

All of that put up quite a block to even talking about it. In terms of where we are now, I think we have the right people talking. I am sure they would never want anything they agreed to be part of a trade agreement, but, ultimately I think, if you have achieved the end and you have some plausible commitment to it, basically you have achieved your goal.

As I say, the States were not really a large issue at that point, perhaps reflecting how early on in the discussion we were on financial services. You are absolutely right that the States are quite a key element of other parts of the discussion. I think insurance is a financial service because that is definitely regulated at state level and—

Q19 **Chris Leslie:** Given we have London and New York pretty competitive, fighting for business—it can get quite tense—including what some have perceived to be quite punitive regulatory frameworks for misbehaviour in different jurisdictions, you probably need to get the New York financial services regulatory bodies around the table in any US/UK FTA discussion to have meaning. I think your point about having the right regulators around the table in the discussions, so that it is not just trade reps one to another, would be a pretty obvious prerequisite.

Edward Barker: That is right. You need the right constituencies there. If you were trying to do something more ambitious on financial services, I am sure you would need to bring in the key figures from across the US, including New York, into those discussions on the US side.

Just in passing, in other aspects of the negotiation, for example, on public procurement, a lot of what we were looking for actually lay entirely in the hands of states and local government. In that case, you also need to find some way of bringing them into what is essentially a federal Government negotiation.

Q20 **Chris Leslie:** In the TTIP, did they actually get into a process where they had a mechanism for state issues to come into the negotiation or did you just simply have federal Government, UK Government or EU? It feels to me as though it could be a very lopsided debate: you there spending all your time in very friendly discussions with federal Washington representatives and then they just shrug and say, "Well, yes, but it is a state matter" and things run into the sand. Beyond financial services, I think it is how you can set up the discussion with the right people to make this a viable free trade agreement at all.

Edward Barker: I don't think I could describe all of the discussions at the federal level as friendly—the US are tough negotiators—but your point is a good one. The model is going to be different in different places. If you look at CETA in Canada, they have a very structured way of bringing the provinces into the discussion, which has its pluses and its minuses. Of course, the set-up in the US is different and I don't think we would want to try to encourage them to do quite what the Canadians do.

In terms of what happened on TTIP, my impression was, first, USTR and US trade representatives were very clearly leading the negotiation and were the hub. I would say on those issues that lay within the responsibility of the USTR they could move quite quickly. On those that lay with other federal entities, they had a fairly effective interagency process for developing a position. Where it was at state level or local level, there was not really a system for that. I think they did have conversations, but I don't think that there was anything like the machinery that would deliver state elements to the negotiation.

In terms of what we did, the UK—as did some other EU member states and as did the Commission—during my time certainly did spend time talking to the key states to try to encourage them to offer things that were valuable to us in the negotiation. I agree—I think that is one of the things we need to think about in anything the UK seeks to do with the US in the future: what is the mechanism for bringing the States in where it really matters to us? We need to be clear what does matter because you can waste a lot of time pursuing general aspirations. It needs to be quite specific and quite focused in the US.

Q21 **Sir Edward Leigh:** I want to ask you about agriculture. To set the scene, I should say that I represent Gainsborough, which is the bread basket of England. We grow wheat and barley. In area the constituency is the same size as the whole of Greater London. We had free trade with America in the 1930s and no subsidies, and you could walk from Grimsby to Lincoln over derelict farms.

When we were at the World Trade Organisation a couple of weeks ago, they told us that agriculture is the most sensitive and difficult thing because everybody wants to protect it. Can I start off with a general question about how the agricultural negotiations are going and what it might mean for a constituency like mine, please?

Edward Barker: Certainly. You are absolutely right, agriculture—certainly for the US—feels like it is often at or near the top of the list in terms of their objectives for negotiation with the EU. They are very assertive, very aggressive on that. As I mentioned before, in terms of tariff reductions, although there was quite a lot of tariff reduction elimination agreed, where that has not happened yet in the negotiation is mainly on agriculture. At the moment in the negotiations—

Q22 **Sir Edward Leigh:** To set the scene, remind us what the tariffs are for the sake of the record. Where are we and what might we achieve?

Edward Barker: They vary a lot. The thing about subsidies, including in agriculture, is they tend to be very spiky. They might be relatively low across the piece, and I would have to check exactly what the average number is, but that does not tell you much because the point is that on some individual products it might be 20% or 50% or something—

Chair: Dairy is around 36% and meat is around 20%.

Edward Barker: Right, okay. They matter for people operating in those specific product categories within agriculture. As I say, within TTIP, there is still some way to go in terms of removing tariffs on both sides.

Q23 **Sir Edward Leigh:** If you don't mind my saying so, "some way to go" is a terribly general answer. Are they going to actually come to a resolution and what might it be? When might they?

Edward Barker: Because agriculture is so political it is a significant ask on the US side, and from the EU side it is both an ask and a key defensive. It is part of the end game discussion. When I said we are about two-thirds of the way through and there is a third to go, a lot of that third—certainly a lot of the political bit of the third—is in agriculture.

Q24 **Sir Edward Leigh:** End game, but it is not just a full stop. It is a massive, difficult bit, isn't it?

Edward Barker: It is.

Sir Edward Leigh: If we have taken this long to get to agriculture, how long are we going to take over agriculture when it is so sensitive? It is not just constituencies like mine. We have huge farms, 20,000 acres, hugely efficient. Unlike the 1930s, nowadays we could probably compete with anywhere in the world, with Canada or whatever, which we couldn't in the 1930s. In terms of small farmers in Bavaria or France, I wonder where this negotiation is going.

Edward Barker: As I say, from the European side collectively—and one of the things we need to work through, as we look at a future discussion with the US, is what are the UK's interests on agriculture quite distinctly—there is a mix of offensive and defensive. But predominantly the EU is looking at maintaining regulatory standards, trying to extend the protection of geographical indications for European products in the US, not looking to give ground. The European Commission probably realises that they would have to give some ground on things, like tariff rate quotas for beef, basically not looking to give a lot on this but needing to give enough for the deal to work for the US overall.

The US was looking to remove tariffs, make it a lot easier to sell all sorts of US products here. Because it is so political, it is in the end game. The end game can move very quickly because you know better than I do how politics can work, but a lot of what has been achieved through the first two-thirds is predominantly technical work. It is regulators talking to each other. It is people trying to work out what the analysis suggests. The bit at the end is tough. It is tough because it is politically important and there are difficult constituencies to trade off rather than a long, slow, technical process.

Sir Edward Leigh: Rather than it is too technical?

Edward Barker: Yes.

Q25 **Sir Edward Leigh:** To finish the conversation then, what about a free trade deal after we have left the EU between Britain and America? Have you any idea how it might pan out? I am talking just about agriculture now, nothing else, which is the most sensitive and the most difficult thing. I have no idea but I presume our Government would be quite radical in wanting to reduce tariffs, whatever that might mean in terms of competition for British agriculture. From your experience, what about the American side? What are the main challenges we might face, do you think, and what are the prospects and the hopes for an agreement?

Edward Barker: You are right: we would want to try to improve our access to the US market and that would certainly be something we would go into the discussion looking for. I would expect the US to start from at least as assertive a place as it did with the EU and possibly more so, because I think, from the US perspective, most defensive interests in the EU were not here in the UK, they were elsewhere.

I would not be surprised if they started with a very bold agricultural ask to open up the UK markets. That is based on nothing more than what I saw from negotiators operating for the last US Administration, and this is one of the many areas where we need to see more of the new Administration. They need to get their team in. They need to work out their priorities and, of course, as I said, we still need to work through our relationship with the EU, which will have a bearing on what we are able to agree with the US.

Q26 **Chair:** Just briefly, continuing on that, when there has been talk about the agricultural side, has there been much discussion on the food security side? Picking up from the point of the 1930s, of course, when the farms were derelict in Gainsborough it led to the difficulties of the Battle of the Atlantic, because the food was being produced in the prairies of Canada and then had to be taken by merchant ships travelling very slowly across the Atlantic, which were sitting ducks. Is food security still an issue at these points of negotiation or has it been forgotten?

Edward Barker: It is probably true that some of the people involved in the negotiation, some of the interests on both sides, would have that in the back of their minds, but, to my knowledge, it has not figured much in the actual negotiations or the structure of the deal that is being prepared. It may well be part of the context of some of those on both sides.

Q27 **Chair:** Should it be more overt in the negotiations? At the moment we are talking about trade and we are talking about peacetime. We have a defence system for arms and weapons but do we have a defence mindset for food at all?

Edward Barker: I don't think we have a view on that at the moment. From my perspective, in a trade negotiation you need to have fairly specific things you are trying to achieve. It is a little bit back to this discussion about the different approach of the EU and the US, perhaps. I probably would not encourage people to think in terms of broad commitments to try to achieve things on food security, but instead to think about what ways a trade agreement can help improve the operation of markets that improve food security. This is an area that merits some further thought.

Q28 **Chair:** What has the Government's approach been to TTIP negotiations on geographical indications? I note that some have been mentioned by Lord Green. I am talking of Welsh beef, Welsh lamb, West Country Farmhouse Cheddar, Scottish beef and, of course—as the Committee will know ad nauseam here—Scotch lamb is something I manage to raise from time to time, as I raise lambs in the springtime. So, just in those kinds of areas?

Edward Barker: Within the negotiation the EU is looking to extend the protection for EU GIs in the US market. From the outset, this was an issue that the US was pretty unwilling to engage on because they basically have a different framework. They don't use GIs in the same way and they would look to rely on their trademark framework. It was an important ask for the EU. It was something the US did not want to give ground on. As you say, the UK had a relatively small number of GIs that we were looking to pursue.

I don't think any significant progress has been made on this issue so far within the negotiation. My sense is, or certainly was, that ultimately in the end game the US might have scope to give a little bit of ground for very specific GIs but might not even go there. I think that the principal argument was still holding up last time this was discussed within the negotiation, so I would say pretty limited prospects for agreeing much on GIs within TTIP.

Q29 **Chair:** When Lord Green was Trade Minister, he thought that the geographical indications were an opportunity for the UK to tap export markets, but there are no GIs on the CETA agreement. Why is that?

Edward Barker: I am afraid I am not an expert on the CETA agreement, so I cannot really speak to that.

Q30 **Chair:** Fair enough; I will not take you out of your comfort zone. That is understandable. Do you think there is a difference between the demands on GIs between the UK and the EU?

Edward Barker: Is there a difference in terms of what we are asking for?

Chair: In the push for GIs?

Edward Barker: In the hierarchy of things that matter overall, I think GIs figure quite high up the list across the EU collectively. They are probably lower on the list for the UK, though the thing we were asking for from the US was essentially the same thing. It was recognition of some specific GIs. For some other EU member states, they have quite a long list of GIs that they are looking to get recognised in the US. Ours is relatively limited, though important.

Q31 **Chair:** Was there any particular sector on the other side—say, the dairy side—that was particularly allergic against the idea of GIs or had concerns?

Edward Barker: From the US?

Chair: Yes.

Edward Barker: There are particular products that tend to be especially difficult. Parmesan cheese is one that comes to mind, and that would fall in the dairy sector. It goes beyond the dairy sector. The US opposition is rather more fundamental, to be honest. I think they are just not especially keen to take the GI approach.

Q32 **Chris Leslie:** This is really a specific question about public procurement practices in the States. The traditional characterisation of TTIP was that there was an attempt to infiltrate NHS contracting from American firms into the UK, but, as I understand it, that had been firewalled off and that was not going to be part of it.

Going back the other way, what is the state of regulatory protection on US public service and US public procurement arrangements? You mentioned earlier something about—maybe it was not you, but a different colleague who we were talking to before the Committee started—limits in defence activities, aviation and so forth. Tell us a little bit about the restrictions that the Americans have on foreign firms, business, working within US public procurement that you are aware of.

Edward Barker: To the point about the NHS, absolutely right. In our view, there were a lot of measures within TTIP that prevented the sort of concern that I know people were raising about procurement and the NHS.

In terms of our offensive interest in the US and the sorts of barriers, I can say a little bit about how far I think we have got on that. The first thing to say is defence was out of scope for TTIP. The question about how that would play into the UK/US discussions was off the table.

Q33 **Chris Leslie:** Was that basically for a similar reason? We put NHS out of scope; they put defence out of scope? Was it that kind of—

Edward Barker: No, it was a mutual agreement not to include defence within the scope of the TTIP negotiation. There are a number of what we see as barriers to procurement in the US, at both federal and state level, often around the use of federal funds and whether preference is given to US companies, whether there are thresholds: above a certain level we can compete for contracts but below that level we cannot.

When you get into state and local level restrictions, it can become ever more arcane the sort of hurdles you face. There are also issues, such as not all US states are signatories to the GPA and the general procurement agreement, which sets some minimum standards for how you handle procurements.

Q34 **Chris Leslie:** Is that an American thing or an international thing, GPA?

Edward Barker: It is international. A lot of the main ones you would expect to be signatories are, but not all of them are. The EU went into this looking to make progress across the board, asking for all states to be signatories to the GPA and looking for the ability of European companies to compete on a level footing with US companies for a whole range of federally funded contracts.

Q35 **Chris Leslie:** Are we signatories, the UK, to the GPA?

Edward Barker: Yes.

Q36 **Chris Leslie:** We have signed up but some American states have not?

Edward Barker: Yes.

Q37 **Chris Leslie:** In a nutshell, what does the GPA allow internationally in terms of international procurement and investment?

Edward Barker: As I understand it, it is a series of commitments about how you are going to run a big procurement. One of the aspects that probably matters most to us—which is arguably extending GPA a little bit—is around the transparency of the process you run. How do you make public contracts when you have them? What sort of scope are you giving competitors from out of state, or out of the country, to compete in those tenders? That sort of thing. I think it is more about—

Q38 **Chris Leslie:** The principles of GPA are basically the transparency principles, those kinds of things?

Edward Barker: It is more about those sorts of principles than about the specific commitments to open up certain contracts, although I can check on that and let you know if it is different.

Q39 **Chris Leslie:** Yes. It would be quite useful to get a note or something, Chair, especially if there is some detail about which states have not quite signed up to GPA.

Edward Barker: We can certainly give you that.

Chris Leslie: It would seem to me as though that is a mismatch in the beginning discussions we might be having, US/UK.

Edward Barker: I will send you that. We talked to some of the states where we knew we had interests in opening up public procurement, and what I think was quite clear was that this is a very locally tricky issue politically. In most states, the position they have reached, whether they are signatories or not, has been hard fought and it is going to take quite a lot for them to take that back through their state legislature.

The question became: if that is not an ask that we are willing to pay for elsewhere in the negotiation, are there other changes we can agree with them that, within the confines of the commitments they have, give us more access? Again, that comes back to knowing the detail. You really do need to then get into what the hurdles are in that state and what the sorts of contracts are we might want to compete for.

Overall, I would say we had not made a lot of progress in TTIP on this. It was partly because the States were not really in the discussion. The US had made some offers at the federal level but not really for the big-spending federal entities. I would say that we need to look quite carefully at where the new Administration is going on this. There are some signals that, if anything, it might get harder.

Q40 **Marcus Fysh:** To follow up on that, presumably some of the states are much bigger than others so would have much bigger procurement opportunities potentially, in California or New York or Florida, for example. I would guess the same applies when you are thinking about financial services regulation also. There are some states that it would be quite key for us to look at first, shall we say, rather than trying to chase absolutely every single state up. What are the issues around that?

My second question would be with regard to defence. Are there particular state issues that we need to look at when it comes to defence in particular? Personally, I would like to see defence very much covered in any future trade agreement discussions that we had. I have a large defence manufacturing sector in my constituency.

Edward Barker: As I say, as far as financial services are concerned, the conversation and the main objectives we were trying to achieve were at the federal level rather than the state level. One of the things we need to do across the piece now is to look again at what matters most to the UK. We will certainly continue to support TTIP for as long as we remain a member of the EU, but, in thinking about our priorities for any future negotiation with the US, we certainly will want to look at both state and federal level across sectors where that is relevant.

With defence, we are starting from a zero line because that just had not been part of the discussion. I cannot say any more on that today, but I am sure my colleagues in months to come would be happy to give you more on that.

Maybe it is also worth my saying a quick word about the nature of the discussion with the US, because there is quite a lot of groundwork that goes into a major negotiation. There are various elements of the dialogue we are looking to achieve with the US. Ultimately, I would hope it would lead to a bilateral negotiation, but there may be things we can do in the meantime where we have competence at the moment while remaining a member of the EU.

There may also be issues in the trade arena we can collaborate on outside trade agreements. Of course, there is also a question around continuity, for when we leave the EU, in terms of agreements we would want to just fall by the wayside. There is a bigger picture within which at some point we will need to be in a position to come to a bilateral negotiation. Certainly, by then I would expect us to have a very clear picture of state-level defence interests, for example.

Q41 **Liam Byrne:** Shabana Mahmood asked some quite important questions of Liam Fox when he was here, about the NHS and whether the NHS is within scope or out of scope of TTIP. Can you try to nail this for us? We have had evidence from some campaign groups that basically say the NHS will not be protected in a trade agreement because the generic exemption for services, "carried out in the exercise of Government authority", would not apply to NHS services. I think the Secretary of State was quite clear that he does not want the NHS within scope for TTIP. Can you cover off how in the agreement you make sure the NHS is protected?

Edward Barker: Within TTIP, there are two broad ways in which people argue there might be a threat. I don't know the specific evidence you have in mind.

Liam Byrne: There is a lot of it from campaign groups so far.

Edward Barker: I am sure we would be very happy to look at it if you wanted to look at the specific case they are making there, but generally there are two lines of argument.

Liam Byrne: We might put that to you then because a letter back on that point would be good for the debate.

Edward Barker: By all means. There are generally two lines. One of them is that it will be captured as part of a liberalisation of services, so you need to specifically exclude it from that, otherwise you are committing to give access to private providers from another country to compete for NHS services here in the UK. There are many layers of reservation, including on health services specifically, so not just services generally, in EU free trade agreements, which for years have provided entirely robust protection against that. The NHS is protected on that line by those various reservations; it is certainly not just one.

The other concern people raised was around the operation of investor-state dispute settlements. I think the argument there was: if you include these protections for investors, then you open up the possibility that foreign healthcare service providers can sue the Government to force us to open up the market in some way.

Liam Byrne: To break it up; yes, liberalise it.

Edward Barker: Right, and I think there is quite a lot of legal evidence on the other side—which I am sure we will include in the reply to the letter if you want to send it—that explains that that is not a credible scenario for a number of reasons.

First, the purpose of these protections is to give companies another avenue to bring a case when their assets have been expropriated without fair compensation. You then have some people who have ever more contorted ways of arguing that there is some expropriation without compensation. It is quite difficult to demonstrate that in the sorts of cases we are talking about here because there is the NHS and that provides—

Liam Byrne: It is an opportunity that is not open rather than expropriation.

Edward Barker: Right. Even if there were a case and even if it had some success, the most it could achieve would be to force the compensation that should have been paid when their asset was expropriated. It cannot change Government policy and, as you say, my Secretary of State—and I think every Government Minister I have ever heard talk about this—has been very clear that they don't want that risk, but they are also confident those protections are there.

Q42 **Liam Byrne:** It may well be possible within a free trade agreement to write a cast-iron guarantee on the face of the agreement for the avoidance of doubt?

Edward Barker: To be honest, I think we already have that within TTIP.

Q43 **Liam Byrne:** Okay, perfect. The second question then was about tax. One of the most controversial dimensions to the trade debate is the fact that in Europe you have companies, like Google, Apple and Starbucks who are arguably not paying their fair share of tax. Through the OECD and others, there are initiatives to bring tax transparency so that we can see where these big companies are paying tax.

We have drafted into the finance legislation here in Britain the opportunity for HMG to activate some tax transparency arrangements. As far as I know, the US had not signed up—and certainly not implemented—some of those OECD tax transparency provisions. How do we get into a place where we can make sure that big American companies are paying tax, somewhere, on the profits of trade that come from the FTAs that we have in mind? Without tax there will be no trust, and when trust goes so will trade.

Edward Barker: Yes. I would like to come back to your point on trust at the end. On the question about tax, this is probably a question that would be better directed at my colleagues in the Treasury. I am sure they would not want me to—

Liam Byrne: I am just interested in whether, within the boundaries of an FTA, we can make progress on big mega corps, whether they are American or British, paying their fair whack.

Edward Barker: I think I am right in saying that including tax commitments in free trade agreements would be quite novel. It certainly is not something that was considered in TTIP.

Q44 **Liam Byrne:** Even if it is merely a call for transparency?

Edward Barker: The structure of the agreement includes some fairly core typical trade issues, like tariff barriers, non-tariff barriers and facilitating trade. You sometimes then have chapters that include wider commitments to work together on issues.

For example, typically the US is quite interested in looking at what one does with state-owned enterprises and expectations of state-owned enterprises. I can imagine you could extend that list further, maybe, but I would certainly want to consider that more carefully with colleagues from the Treasury in terms of whether it made sense in this context. There are opportunities, but there are also risks in bringing things within the envelope of a trade agreement.

Q45 **Liam Byrne:** Yes, but there are obviously problems, aren't there, if American companies like Amazon are competing with retailers in Britain and the playing field is not level because Amazon is not paying its fair share of tax whereas small traders are? It does strike me that it is important.

Edward Barker: I would not disagree that it is an important issue. I suppose my response is just to say we have not particularly done that in trade agreements. You can bring more things in, and this might be a candidate for bringing in. There are some benefits because you have a space for that discussion. There is some political leadership of it and some political force to get things done.

However, I would also say the wider you make the agreement—especially if there are hard commitments in there—the harder it is to conclude them. You also create precedents elsewhere. Sometimes they are precedents you like, but other times they might be precedents you don't like. It requires more thought, is my basic answer but I am happy to take that away and consider it with Treasury.

Liam Byrne: Perfect, thanks very much.

Chair: Thank you, Mr Barker, for your time this morning. That brings us to the conclusion of this first evidence session.