HOUSE OF COMMONS

# International Trade Committee

## Oral evidence: UK-US trade relations, HC 978-ii

Wednesday 29 March 2017

Ordered by the House of Commons to be published on 29 March 2017.

Watch the meeting

Members present: Angus Brendan MacNeil (Chair); James Cleverly; Mr Nigel Evans; Marcus Fysh; Mr Ranil Jayawardena; Chris Leslie; Shabana Mahmood; Toby Perkins.

Questions 46 - 103

### Witnesses

I: Allie Renison, Head of Europe and Trade Policy, Institute of Directors, and Jeffries Briginshaw, CEO, British American Business, and CEO, British American Business Council.

# Examination of Witnesses

Allie Renison and Jeffries Briginshaw.

Q46 **Chair:** Good morning. Thank you, panel, for your presence here this morning. Could I ask you first just to state your names and organisations—name, rank and serial number, please—for the members, starting on my left?

***Allie Renison:*** Allie Renison, Head of Europe and Trade Policy at the Institute of Directors.

***Jeffries Briginshaw:*** Good morning. Jeffries Briginshaw, the CEO of two organisations, British American Business and the British American Business Council.

Q47 **Chair:** Thank you very much. An esteemed panel indeed. Could I ask first, what is your main defensive and offensive interest in any US-UK or UK-US free trade agreement?

***Jeffries Briginshaw:*** Could you say that again, sorry?

Q48 **Chair:** What is your offensive and defensive interest, your main offensive or defensive interest in any such agreement of an FTA between the UK and the US?

***Jeffries Briginshaw:*** Would you like me to start?

**Chair:** Yes,

***Jeffries Briginshaw:*** Thank you, first of all, for the opportunity to be with you this morning and to share with you views on behalf of our members. We have presented a short submission, which you have, in which is this table, and we can use that if we want. In answer to the question of offensive and defensive, our starting place would be to welcome the opportunity and prospects for a US-UK trade agreement, recognising that ultimately the trade balances between the two countries are relatively balanced. So to see an interest on both sides, and having conversations that could mature into an agreement, wins for both the US and the UK. Our starting place would be to say we are in favour of it, that there is a balance, and that the —

Q49 **Chair:** Would you want to maintain a balance, or would you want to export more than you import from the United States?

***Jeffries Briginshaw:*** We represent both American businesses proudly doing business here and UK businesses trying to do business in the US. We would want to see a win-win situation. I think we would see three aspects to how we could framework the opportunity to get to a win-win that would start on the basis that we should talk right now. There is plenty to talk about. We ought not to underestimate the negotiating realities of the two different sizes of economy, or overestimate the ease with which we will persuade public opinion if you want to support and get supportive around trade negotiation.

Q50 **Chair:** Do you have any particular defensive and offensive areas? Or do you feel, because you have a foot in each camp?

***Jeffries Briginshaw:*** I think there are benefits across the economy. So almost every sector of membership that we represent would stand to gain, whether that is auto, pharma, financial services, or chemicals, we would see opportunities on both sides. As I said, the starting place is a balanced win-win, offensive opportunities. Defensively, we would see them as risks of an inability to come to agreement that need to be managed, rather than defensive interests that need to be defended at all costs.

Q51 **Chair:** Can I ask that of the Institute of Directors?

***Allie Renison:*** Sure. Thank you very much for inviting us. Jeffries and I have found ourselves doing this before in the context of TTIP, and I think one of the biggest question marks around this is where are we putting our eggs, into what basket. Because it is really not clear from either the US or the European Administration side what is going on with TTIP. But I think one of the things to stress is that, if you were to break it down into offensive versus defensive—and I would concur with Jeffries that a lot of this is about balanced interests—a lot of the offensive interests are the same, as they were in TTIP. They include the following: access to the US public procurement market, particularly going beyond the federal level, which is where the difficulties lie, because you have so many differences between the US states; and services liberalisation. I think over 80% of the UK economy is in services, and we know that the US is a bit recalcitrant, as the EU is to a certain extent as well, obviously. Again, you see a lot of those differences, sometimes in requirements between the US states on insurance, collateral requirements for reinsurance, differences in product standards, etc. I think a big area of interest is going to be making sure that at the state level, governors are there discussing it as well.

I think in any negotiation agriculture is always a defensive interest, but I think it will play out in a slightly, potentially, different way under the confines of a UK-US trade agreement. I believe that the UK—I am not absolutely, 100% sure on it—did not register, for example, any specific request for protections for geographical indications in TTIP, whereas other continental European countries registered quite a few, so I think that will be less of a defensive hold-up.

One of the issues, for example, on tariff reduction, you will probably get the UK and the US committing to eliminate immediately something up to around 99% of tariffs. On agricultural tariffs, those are always the sensitive products, and there are exceptions. I think it would be very important to make sure that if there are phase-out periods for tariffs and that they are balanced on each side. There are examples of past US trade agreements where the US concessions on reducing those tariffs in the phase-out periods run up to 30 years, whereas for the other side very often they agreed to lift them quite quickly. We would want to make sure, I think—it is not about resisting lifting agricultural tariffs, but making sure that the way that that is done is balanced to both sides.

Q52 **Chair:** So that you do not have a period where you have lifted your tariffs and the US have not lifted their tariffs?

***Allie Renison:*** Yes.

Q53 **Chair:** Thank you for that. Can I ask you: would a sectoral analysis by the Government help the companies you represent understand the non-tariff barriers currently in place, and perhaps also help negotiators from the UK Government side understand what industry is particularly looking for?

***Allie Renison:*** I think at this point we are at the period where the UK Government really need to work with industry to develop their overall trade strategy. This is a period for, not paralysis by analysis, as I know someone has referred to it, but making sure that we understand what our priorities are in terms of offensive interest by sector, but also market priorities. Is it about looking at areas where we can chalk up easy negotiating experience? We potentially may have to do that anyway in terms of converting the stock of existing EU trade agreements with countries like Chile and Colombia, where there may be some renegotiation on agricultural market access, but it would help cut our teeth, so to speak.

I do think that the US is in that basket of countries where being political allies can make a difference in terms of enthusiasm, but we want to be cautious on timing at the moment. The other thing that I think helps us a lot is that TTIP has not only provided a potential template and framework, but also there was a high-level working group between the EU and the US that the UK fed into, so some of that work ostensibly has been done and can be used as a basis for looking at adding on where different sectoral interests may lie.

Q54 **Chair:** You just mentioned a point there; how much of TTIP could you transfer that has already been done? Or how much of TTIP would you re-use or base this on?

***Allie Renison:*** It is difficult to say comprehensively because what you are going on is the basis. This is where I think the EU Commission is to be commended; they were comparatively quite transparent. There has not been the same internal demand in the US for complete transparency. The European Commission has published numerous fact sheets, position papers, some texts, and some texts were leaked. I think there is a mistaken idea that the business community was privy in some way, shape or form, more than other stake holders, to what has been agreed so far. We are working off the same basis as everybody else.

But I think the aspect of making TTIP a living agreement is a particularly helpful one to consider, not only as a template for a US-UK deal. I would look, for example, at something like mutual recognition of professional qualifications, where I think the US and the UK standards in that area are quite aligned. You could use TTIP—and I think the EU was looking at doing this—as a basis for setting up mechanisms for future mutual recognition. That is also a potential template, I think, for an EU-UK deal as well, so that you can have progress, but it sets up future co-operation options as well.

Q55 **Chair:** Okay. You mention the area of mutual recognition of professional qualifications. What scope is there for agreement between the UK and US of product regulation and standards, as well as these professional qualifications that you have just mentioned, thinking of recognition agreements and conformity assessments and what have you in that area?

***Jeffries Briginshaw:*** I think the whole area of regulatory co-operation is a good one for us to already start talking with US interlocutors about. It is a complex area, as we know. The regulators, the standard setters, the state authorities, the local authorities, the cities, and the states, all have competencies that make overall, international regulatory co-cooperation difficult, but worth having. Most of the economic value that we have historically seen in trade agreements between advanced countries like the US and the EU, or the US and the UK, will exist in getting rid of the kind of regulatory barriers that certainly we have found during the TTIP experience. SMEs in particular were complaining about suffering disproportionately.

It is worth trying to go for regulatory co-operation, the barriers that are there. The mechanisms: we know what they are, mutual recognition, equivalence, substitute compliance, harmonisation, and so on. However, the complexity of those barriers means that we need to find mechanisms to unlock them. Again, going back to European experience—TTIP—there are some lessons. But also, an organisation that was set up by the US and the Government and the Commission called the Transatlantic Economic Council had, I think, some success in dealing with unlocking regulatory barriers, in particular by looking at forward-looking opportunities rather than legacy regulation, and taking, if you want, a project-based approach, so seeing the economic value in the project, like electric vehicles, and battery designs, and battery standardisation for electric vehicle design, and saying, "We can see the value here. Who are the people we need to talk to in this complexity to unlock the barriers?" That led to, if you want, the idea of one standard for a battery plug-in for an electric vehicle where everybody has a different starting place and a different design.

Q56 **Chair:** Given the UK will want to also trade with the EU, do you see any difficulties at all—I see a smile there—in dealing with both the EU and the US, and keeping them both happy, and keeping our own consumers happy?

***Jeffries Briginshaw:*** It is a really important starting place, because if you think about the long run, 10 or 15 years out, most of our members will be wanting to trade across borders, embracing some form of global business reality. All of this complexity, whether it is in a US-UK context, or an EU-US context, or an EU-UK context, has to be put together again. Some of the regulatory mechanisms do not even respond to the UK, EU, and so forth, so they exist, anyway, in different contexts sometimes. At the end of the day, it all has to be put together again.

Q57 **Chair:** Our tabloid newspapers want to see an end of regulations and so forth.

***Jeffries Briginshaw:*** Some do. Interestingly I do not even think business would be interested in a bonfire of regulation. I think business is interested in aligned, effective, proportionate regulation—not liberalisation, necessarily; effective regulation that works.

Q58 **Chair:** Business can want an end of regulations, but business still wants to trade with the US and EU, who want regulations.

***Jeffries Briginshaw:*** Correct. There is a regulatory reality that has to defend public interests and protect public interests, and where possible allow for non-duplicative approaches. Not designing a brake light that has to conform with two very, very similar standards, let us say a braking distance of 42 metres against 41.7. There is no point in that duplication. Two systems are quite capable of coming up with one brake-light test. That kind of thing is sensible where the standard is going to be in the public interest, and obviously the private sector interest in not having duplication. It is not a bonfire of regulation; it is effective, proportionate regulation that allows business to reinvest funds somewhere else. That can be in innovation, or it can be in rewarding their shareholders, who knows. It is an ask, but not an ask for no regulation or a bonfire of regulation.

***Allie Renison:*** I think you hit the nail on the head in some respects. I look at agriculture, for example, and there is resistance within. There is a tendency to think that the UK farming and agri-food community is opposed to all of the way that the European Union regulates food standards and would like to move over to the US. I know from speaking to quite a few in the farming community that it is a balanced approach. In some areas they are very clear—for example, on ractopamine, which is effectively a hormone that is used to raise cattle and livestock, there is a lot of resistance within the UK farming community at the moment to changing current practice, not only because it potentially would impede your access to the European market, but a lot of them view this as a brand and reputational issue as well.

I think it is worth saying that we have to have that conversation about how we are going to regulate farming and agricultural support before we get to trade policy. I know under the guise of the Secretary of State that that discussion is being held now about how that is going to change over the next few years. A lot of things at the moment are obviously regulated by the EU, and we have to decide how we want to do that going forward before we come to accepting standards from the US that are vastly different from our own.

Another issue was on data flows, for example. There is a big question mark right now, and it is not just within the tech community, so to speak. For example, there has been lots of discussion about this privacy-shield mechanism. Basically, the US and the EU have very different data-protection standards. There was a mechanism called Safe Harbour that was put in place to basically facilitate the transfer of personal data, not just for tech companies, but payroll data, staff information, and so on. Ecommerce and digital flows do not respect borders probably more than anything else. There is a big question mark around what are we going to have in place to guide our relations with the EU on data protection going forward? How does that impact and coincide with what kind of agreement we reach with the US in that respect? This is a fundamental tension that I think you are always going to see in respect of do you design regulation just with your home market in mind, or do you design it with an eye on how it might impact your trade relationship with other countries? I think that is going to rear its head in the Brexit negotiation significantly. Even though the PM has stated that we will not be in an arrangement whereby we would be a contracting party to the EEA Agreement—ie part of the internal market—there is going to be a question mark around to what extent the EU will try to expect and demand that the UK signs up to follow certain standards, and parts of the EU acquis going forward.

That is why I think it becomes a little bit difficult to really comprehensively talk right now, in the context of a trade agreement with the US, about your domestic regulatory systems in terms of services liberalisation, because we are not sure what the shape of that will end up being with the EU. However, I think it is very important to stress that these are not reasons not to start those sorts of dialogues with the US. I think we fall into the trap sometimes of thinking that a full-on trade agreement is the only way that you can advance trade ties. For example, I think in December or January, the EU and the US, basically the European Medicines Agency and their respective counterpart in the US, signed a mutual-recognition agreement on inspection of medicines agencies, basically. There are things you can do without having to jump into the trade agreement full-on right away.

**Chair:** Did I see any head gesticulations that you want to get in?

***Jeffries Briginshaw:*** Yes. I think that it is really important to focus on what we can do before. One of the things we need to do before, in dialogue, is work out how we are going to open a conversation with people, business communities, and citizens to get ahead of some of the issues that we are talking about that are either defensive or offensive, whether that is public procurement in the US, or agriculture here, or the role for business, if any, in public service provision. All of those things that we learned about during TTIP we have to get ahead of. We have to come up with better answers, more imaginative solutions, and creative ideas as to how this will be something that everybody wants to embrace. That is something you can do before competence, as there are many things that we could talk about that do not need any new competence anyway.

**Chair:** Thank you. James Cleverly, you want to come in briefly before Marcus Fysh?

Q59 **James Cleverly:** Yes. We touched a little bit on it. I know Marcus is going to go into it in a bit more detail, so I apologise if I steal some of his thunder, but the US is often caricatured as a very light-touch regulatory environment, whereas the reality is that it is a quite highly regulated market. Although a lot of established products and services have pre-existing regulatory frameworks, could you briefly touch upon the opportunity through a trade deal to start setting a more global attitude to regulation, some of the emerging technologies, perhaps on the 4AR technologies, where at the moment there is a pretty open field where the regulation?

***Jeffries Briginshaw:*** Sure. I think that the US and the UK have different approaches to standard setting on which the regulatory process and the legislative process sits. The standard-setting process in the US is private-sector run; here it is public-interest run. That produces different ways of developing standards, but ultimately it all rests on a technical idea. Interestingly—and this is the point—sometimes the standard-setting frameworks do not respond to trade-policy frameworks, they respond to global standard-setting universals. For example, the auto sector, through which standards are set whether through the US approach, the UK approach, or wherever, also responds and plays into a Geneva process for global auto-standard setting.

So whenever we are thinking EU-US or UK-US, we are also thinking about how those are going to dock in a global standard-setting organisation. The same technical experts at Land Rover, Ford, General Motors, wherever, are playing across all of those environments and trying to get coherence from their technical commercial point of view. That is the backdrop for what then US regulators do, or UK regulators do, and for the conversation. It is a conversation that can be driven to outcomes, but you guys, the political folk, need to hold technical people to account, because otherwise they will talk all day, forever, about technical issues.

Q60 **Chair:** Can I ask if you agree with James Cleverly's assertion that the US is indeed not the light-touch regulatory atmosphere that it is made out to be?

***Jeffries Briginshaw:*** I think I heard the honourable Member say that the reality is that in the US there is substantial regulation—evidence-based regulation and science-based regulation as well—and I hold to that. Absolutely, US regulators are equipped, often equipped far more than anywhere else in the world, quite frankly, and do have the capability, to take approaches to a evidence-based regulatory form. What is different is that they take a different approach to risk. They would take the view that if you can prove the product's safety, you do not have to prove to a precautionary level, as we do in Europe, but to a risk basis, which is a different standard, a standard that, at the end of the day, works to deliver the same levels of safety, but it comes at it from a different point of view.

Q61 **Marcus Fysh:** I want to go on from what you were saying about how we put a dialogue in place to manage some of these issues. The Institute of Directors has said before that where we cannot agree regulations or standards mutually, we should look to have a deal that is a living agreement, which can set a framework for future co-operation. Can you say a little bit about how you think that would best work.

***Allie Renison:*** Looking for example to the mutual recognition of professional qualifications example—I will come back that, but I will expand beyond that as well, I think that the EU-Canadian deal, CETA, did a very good job of laying out mechanisms for sector-by-sector framework developments of those to facilitate, basically, those kinds of qualifications because the EU has not advanced that as far as we would have liked. In fact, I think a lot of people will talk about it being very relevant in architecture, so for architects, but not much beyond that. I remember several times during the stakeholder sessions that the US and the EU would hold around either side of each negotiating round, there was a lot of emphasis from US negotiators on trying to encourage the EU to become more of a consolidated marketplace in this, so basically to create more of a single market in these areas and relating to services. I think that you can take lessons from what CETA has done in trying to establish those sector-by-sector frameworks.

Certainly with respect TTIP, it was bringing together a lot of that framework for regulatory co-operation into one setting, in effect, and giving it the final push that it needed. A US-UK deal might be a little bit different because, depending on the regulatory agency—it is not clear about how, for example, with the medicines and health regulatory agency at the MHRA here, what amount of power is being taken back from the European Medicines Agency. The same thing goes for chemicals regulation. So we need to have a much better understanding of what powers lie once they are repatriated and brought back from the EU before we can really explore how that will work in the context of a trade agreement.

Q62 **Marcus Fysh:** Yes. From the BAB's perspective, you talked a little bit about the difference in the US system in terms of risk assessment being one of the ways in which they look at normative standard setting. I think you have said that future alignments should be around the science-based pursuit of norms. Could you expand a little on that in that context?

***Jeffries Briginshaw:*** The opportunity when we are thinking, as Allie was saying, about how we are going to drive the UK interest in norm setting and the approaches that we are going to take are precautionary approaches; they stop things until you can prove something close to zero risk. That has an economic impact and we can choose to have that, if we want, as our baseline but it will stop some innovation from coming into the market. A risk-based approach, as the US takes, does not to that extent stop innovation. It allows actors to proceed at risk but the risk is severe and significant. It is not a question of safety but a question of approach. That allows economic actors, businesses, whoever, to proceed in different ways at different times in different places. That is an opportunity if you wish to take it.

You may wish to stick on a precautionary approach or find a space that allows a better balance between producing and deploying innovation and waiting for zero risk. In scientific terms, that is a way of calculating risk but it is not necessarily going to be something that is deployable in an economy. We see across different sectors, whether it is the pharmaceutical sector or wherever, that products don't get to market on the basis of where you draw that line. That is a choice.

But in the US they have taken a certain approach and innovation takes a certain course. In Europe we have taken a different approach and that is available to us, thinking all the time that products are going to move across these borders anyway so they are going to have to work, in some way or another, in the tripartite context.

Q63 **Marcus Fysh:** What do you both think is the best way of ensuring that regulatory co-operation in the future is subject to open and transparent scrutiny by the likes of us?

***Jeffries Briginshaw:*** That is a great question and I think that is the real question. Down the line we have to be thinking at all times about how we do that. Part of it is the living agreement approach so that the mechanisms for regulatory co-operation in particular allow for technical change within the scope of public interest governance that you provide to be able to see into that development. I think that is a part of it.

The other part is to consider whether, with some of these mechanisms at a global standard-setting level or things like the Transatlantic Economic Council, which exists, and other fora where regulatory co-operation is discussed between geographies and regions, there is an identity that allows us to work alongside some of those institutions. An example is the Transatlantic Economic Council on a project for electric vehicle battery design, because ultimately the manufacturers are all going to be sitting saying, "What is the plug going to look like?" and we can say, "It is our plug or no plug" or we can say, "We would quite to know what you are thinking about for your plug design and we might like to know the evidence that you are using to make that design choice and we might even like to implement it".

***Allie Renison:*** I think we have to also remember—and this touches on the issue of mutual recognition of standards and how that is set up—that the EU, backed by the UK, was a very enthusiastic proponent of this regulatory co-operation council under the guise of TTIP. The US was quite ambivalent, to say the least. They are not as open to the idea of comprehensive mutual recognition as the EU has been in the context of trade agreements. They look more at using trade agreements to advance domestic regulatory reform. I think of intellectual property rights, for example. I know that under the US-Korea free trade agreement, Korea had to rewrite quite of few of their intellectual property laws. The US tends to try to use trade agreements to advance changes to regulatory output and is a little bit more ambivalent on co-operation.

My hope with the UK and the US is that those interests are so closely aligned in different sectors, particularly in financial services, although I think people have overestimated the willingness of the US to talk about this in the context of a trade agreement. I think those are the areas where doing it on a bilateral level between the US and the UK may yield better results.

Q64 **Chair:** Just to check that I have that properly, you are saying that the US looks to influence domestic legislation in the partner country of the FTA?

***Allie Renison:*** Particularly with smaller countries that are less developed, I think. The UK is a highly developed marketplace so there would be less scope for that, but it is much more ambivalent on, through trade agreements, trying to do mutual recognition on regulatory standards, in the way that the EU does as well. These are two massive regulatory negotiating blocs that basically export their regimes.

***Jeffries Briginshaw:*** To add to that briefly, that is exactly right. It goes to this point of what is the risk of a negotiating asymmetry where on the UK side we are going to have to come up with some creative thinking as to why, for example, we are not just going to have to get the FDA as the regulator here. What is it that we are talking about that means there is a brave new world that does not require us here in the UK to lock, stock and barrel swap Brussels for Washington? There are answers, but there is an asymmetry that we are going to have to manage.

Q65 **James Cleverly:** One of the things that was highlighted as a concern about TTIP by a lot of its opponents in the UK was that it was going to open the door for this massive deregulatory free-for-all that would leave us highly exposed. From what I am hearing, that is not the environment that we are going to be plugging into. Do you think there is an understanding at the business level about the regulatory environment that we would be stepping into in greater UK-USA trade? More broadly, what do you think could be done to get people to understand and perhaps neutralise some of the criticism of a UK-US trade agreement, that there is not this kind of wild west free-for-all going on out there?

***Jeffries Briginshaw:*** Very quickly, it was never the intention of the business community to burn regulation. I think we all were taken aback, impressed by the strength of opinion that was exercised, particularly about public service provision, whether trade agreements become a challenge to public service through liberalisation or through investor state dispute resolution mechanisms. I think we have learned from that experience and that was my point about we need to get ahead of the curve and come up with transparencies, approaches, dispute resolution mechanisms that would satisfy public opinion, because we are going to need to. The lesson is outreach. We do need to have a conversation with our business communities, our citizens, our SMEs in Britain's second, third and fourth tier cities about why it is in their interests. That is about specific, local and tangible, not GDP forecasts, and it is about what are the answers to those citizen-type questions on public service provision and the extent to which trade agreements become tools for liberalisation. They can be or they can't be but you can tell them that they can't be and if you say, as legislators, "We don't want that" then they aren't. It is up to you to stop that.

Q66 **Mr Ranil Jayawardena:** Policy exchange, the think tanks, is that if the UK becomes a full member of the Trade in Services Agreement, which is still under negotiation, that will set the stage for negotiating the services part of a UK-US agreement. What is your view on that? How important is it to any future agreement?

***Allie Renison:*** I think that in and of itself the TiSA is important from the point of view of trying to bring on board other countries that are more on the developmental side with commitments under the General Agreement on Trade in Services and trying to solidify that rather than unlocking new market liberalisation. I think it is very important, and it goes back to the honourable Member for Braintree's point about when it comes to what can the US and UK do, particularly in a multilateral or in this example a plurilateral agreement—we are not sure whether the US is on it but even before the presidential election the EU's ambivalence on its offers was halting quite a bit of progress, particularly from some member states. That is more of a case of the UK joining potentially in its own right to help set that stage for bringing other countries up to the convergence on service and liberalisation as envisaged under the GATS and less so as a mechanism for unlocking new markets between the US and the UK.

Q67 **Mr Ranil Jayawardena:** But it would set the stage for negotiating that UK-US agreement in future?

***Jeffries Briginshaw:*** I agree and I agree with Allie. What happens in these contexts is that trade associations, governments or whatever see the variety of fora that are available for the same subject matter, look at the precise characteristics of each forum and say, "Let's play our offensive interests more aggressively in that forum and then it is going to get played across or in that forum" and so on. There is always an open platform where if you make an offer in a bilateral context then people are going to say, "How come you can't do that in a global context?" There is that benchmarking but it is positive benchmarking. As Allie said, it does not really undermine the ultimate logic of what you are trying to do, which is to get mutual recognition for the provision of professional services that will encourage economic activity.

Q68 **Mr Ranil Jayawardena:** I am pleased you have gone on to mutual recognition because, as you have said already, the EU is part of the problem here in that they have objected to new services being discussed. The US has questioned the EU's continued participation, as has already been said. In your view, do you think it is impossible for the EU to negotiate a regulatory agreement with the US?

***Jeffries Briginshaw:*** The EU has negotiated regulatory agreements with the US. There are a number of—

**Mr Ranil Jayawardena:** As far as this?

***Jeffries Briginshaw:*** There is a background of mutual recognition agreements that have been signed. There is an auto sector mutual recognition agreement. It was the implementation that really was disappointing rather than the agreement. I think there is a range of experiences. We should not lose sight of the fact that regulators talk to each other every day. That is a form of regulatory co-operation that is equally meaningful.

Q69 **Mr Ranil Jayawardena:** Co-operation is different to agreement, of course.

***Jeffries Briginshaw:*** It is, absolutely, but when you are thinking about how you are going to produce your own regulatory form through sharing evidential experiences, there is a difference genuinely—and I have heard this said many times—between a US regulator calling up a UK regulator or a European regulator and a US regulator calling up a Chinese regulator. It is different. There are lots of manners and modes of co-operation, some of which have four mutual recognition equivalents and each of which has a different substantive context and variability and governance mechanism, which I think allows for it. The EU does have experience and I don't think we should trash it just for current reasons. It does have a track record, so it is a serious player.

Q70 **Mr Ranil Jayawardena:** As you said, there are different styles, different approaches to things. Given that the UK and the US share many common values, many common approaches to things, does this present an opportunity for the UK to step into a void to improve on a deal that might have been able to be done before, given that we will be able to do it in our own right?

***Allie Renison:*** With respect to TiSA, the UK joining negotiations in its own right will help to focus minds. I would say that as well at the WTO level, in the worldwide intellectual property organisation, in lots of areas. Having the UK's added voice will help. In some areas I think the EU is quite aligned with the UK, not necessarily the US, but having the UK as that voice will help focus minds.

Q71 **Mr Ranil Jayawardena:** What impact do you think TiSA will have on the UK's offensive and defensive trade interests?

***Jeffries Briginshaw:*** The UK is interested, and also the US, in services liberalisation and being able to provide services across borders. As I say, I think it is a positive context that there is a global forum for that discussion and that is a good starting place. Generally speaking, it is a good thing that those fora are available. Ultimately the questions about our receptivity for the provision of a given service or mutual recognition qualification go back to matters of national domestically-defined interests, defensive and offensive. That is part of the story about how do we make win-win here, how do we get the trade-offs, how do we get the deal set up in the right way in the dialogue before it so that that kind of ask gets to be answered more positively through whatever means, through the quality of our bilateral economic relationship already or on the technical basis of economics.

Q72 **Mr Ranil Jayawardena:** One of the most important areas of services to the UK economy is financial services. How should any UK-US agreement approach such regulatory co-operation in the future? I think the Department said that in TTIP negotiations—their words not mine—the main thing we wanted was that regulators talked to each other in a more structured way before they regulate to at least take account of what others are doing. Is that all you would like to see?

***Jeffries Briginshaw:*** I wouldn't underestimate that. The role of the Treasury Department as the US regulator and as an actor on the international regulatory stages is pretty important. Common ways of approaching things like prudential supervision are good conversations to have, even if you are forming your own domestic approaches, but harder dialogue is also available, structured dialogue that has an agenda and outputs, short of mechanisms such as mutual recognition. Then there are opportunities for mechanisms of regulatory alignment that, as you say, the financial services community would be in favour of.

***Allie Renison:*** I think the reason that dialogue mechanism is so important is because I don't think we are looking at—for example, if you look at Dodd-Frank and then the Vickers report, the way that we talk about ring-fencing here within financial institutions and what money they spend, in the US it is completely separated under the Volcker Rule. You get to a situation where even under the current Administration they are looking at unpicking some things but undoing some of the extraterritorial provisions of the Volcker Rule, for example, basically meaning that foreign banks in the US have to abide by the exact same capital requirements as the US banks. I don't think you are necessarily going to get that revoked, but as that regulation and changes develop, those sort of dialogues between the US and the EU, but between the US and UK, need to be established because it helps input and feed into explaining there is a more formal way of making sure that Congress when it is considering these changes—we have to remember that one of the issues in TTIP was that in terms of who regulates and who legislates there was a lot of hesitancy from the US side because Congress has such a big remit in that, whereas the Commission can speak a lot for the EU in that respect. That is really important in setting up those regulatory dialogues.

Going beyond what is established at the moment between the EU and the US in the financial markets regulatory dialogue, there was a huge number of complaints from both sides of industry across the Channel about the lack of work in that respect. It was interesting to see that despite the fact that the financial services industry in the US was really pushing for financial services regulatory co-operation to be discussed as part of a trade agreement, the Treasury was absolutely vehemently opposed. It is not clear whether that will change, but I think that we need to not wait for a trade agreement to have that bilateral regulatory mechanism established.

Q73 **Mr Ranil Jayawardena:** You have highlighted the difficulties that the EU has negotiating agreements with the US, given that it requires agreement from all the member states. The City of London is a global financial centre and not just a regional one. In that context, do you think that further EU equivalence could hinder further work with the US and, therefore, the opportunity to now decide our own regulation and work in line and hand in hand with the US provides opportunities for the UK as a global financial centre?

***Jeffries Briginshaw:*** I think it is tough. Who knows, but let's take an example of insurance collateral requirements. There is an EU-US process underway where that is in debate, in discussion, squaring up one to the other and saying, "We will do this if you do that". On the UK side we want the same thing. In fact, we were driving the European bus to the same conclusion. At the end of the day there is a US regulator sitting in every single state in the US who will make that determination. Ultimately, are we going to have any more luck on our own changing that approach? Maybe. Maybe that is the same question: is the scale of the EU going to do that or is our bilateral relationship going to do that? I think ultimately that US regulator thinks about neither of those things most of her or his day and so it is still a difficult sell.

***Allie Renison:*** To go a bit further, one of the issues that was touched on earlier was that there is a slight myth about the fact that the US has a light touch when it comes to its regulatory remit. At a federal level that is certainly true, but then you get down to the states and there are states like Texas and others who extol themselves on being able to be different at a state level. I think that we need to bear that in mind when it comes to how we do power-sharing returns to the devolved Administrations. We need to learn from the experience. Not that we can always look at everything through the lens of trade policy, but we need to learn from the experience of what has happened in the US and how that sometimes hinders comprehensive really relevant trade agreements.

We should make sure that they are at the table in discussing that but also make sure that there is something of a centralised approach to trade negotiating capacity so that we don't find ourselves negotiating a trade agreement but because we have changed the way that the power-sharing system is structured it renders a trade agreement meaningless. There is that development of massive difference in certain areas. Subsidies is a big one. As part of the Brexit negotiations, it is very important to make sure that we retain state aid principles between the UK and the EU. I think the EU will insist on that anyway, but that is helpful in making sure that we don't have a complete subsidy race between the different parts of the UK.

***Jeffries Briginshaw:*** Following on from Allie's point, we haven't talked about public procurement but there is obviously an interest in opening up our procurement processes to the best experiences from the UK in our context and the US. We have a lot to talk about public-private participation and expertise that would help spend taxpayers' money at a state level more effectively. Are we going to get that through a trade deal? That is going to be really tough, but are we going to get that through ongoing dialogue and a marketing best practice approach at a state level? Yes. Turn up at a state level with a bag of expertise that produces taxpayer benefits and British engineers behind it is more likely to win through than trying to get the federal government to force a state to put something in a trade deal. That is going to be a really tough ask.

Q74 **Shabana Mahmood:** On that exact point, I was going to ask you about procurement. It doesn't sound like you think it is very likely that you would get a deal on government procurement within the context of a US-UK deal?

***Allie Renison:*** I would disagree with that in the sense that there are examples the US will have at federal level. Buy America is sewn into municipal, state and federal level, but there are waivers. There are effectively presidential waivers for Buy America under the context of trade agreements. I do think that is one area where the UK could make a lot of inroads compared to where the EU has. There is more of this pervading perception that the UK plays fair, so to speak, and that you are starting from the same pricing basis. As long as we make sure that the rules of competition once we leave the EU are maintained, which I am fairly confident they will be, the US is much more open to talking about that than they are with other countries.

Q75 **Shabana Mahmood:** Are you still optimistic even in a political atmosphere of "America first"?

***Jeffries Briginshaw:*** I am slightly less confident. I think that the logic is sound, that it is a topic we should talk about, there are things that you could do. Federal procurement is available and there is no complexity there. In terms of best practice, what does good practice look like in procurement; that is all it needs to do setting a best practice example. But I think the federal government struggle asking the states to come to the table. It is almost beyond economics. It is almost into constitutional territory and it is really tough. That does not mean we should not talk about it and have the aspiration, but in reality if it turns out that through some common marketing activity we get, from a British point of view, British potential participants at a state level of procurement into state governors' offices—I don't care how they get there—they are talking to the people who are going to do the contracts, talking about things that matter, diversity of procurement for example, that in some states and cities you have to do that. Fine, okay, we may have something to say about that. That is the conversation. It does not matter how you get there, to some extent.

**Chair:** You have opened a whole can of worms here.

Q76 **Toby Perkins:** Getting back on to this issue about government procurement, one of the things about TTIP was that it hit upon two huge sensitivities for the UK about the US, which is about their healthcare system and about it being a very litigious society. What people read into TTIP more than anything else was they are going to try to make us go to a private healthcare system and if we try to retain the NHS they are going to sue us. That seems to me to be such a dominant factor in the UK psyche that the danger of a trade agreement washing up against that is massive. I think that the fear that major corporations will sue us even if they are wrong just because they can use their power to bully us into agreeing with them will be a factor there. How does any government procurement deal cope with that sort of central contradiction that we have?

***Jeffries Briginshaw:*** I agree with you. I think it is central. The debate here will be shaped by whether we can come up with new approaches to those issues. We learned through TTIP that the answers that we had were not sufficient to provide the comfort levels that we want. That is the communications reality. The substance is not troubling, so you get to choose the level of liberalisation you want and you get to choose to say we are not having it. You get to write that and to say on the litigation side, "This doesn't apply in these circumstances". You get to say, "We are happy that in an NHS WH Smiths we can sell US Mars bars, we are happy to have diagnostic equipment, but we are not happy to have service provision for effectiveness". You can choose and then say, "We are not going any further" and that is the negotiation. The US might say, "We are not going to do a deal"; fine, take it or leave it.

There is that substance part, you get to write the script, and then there is the communication part. It is going to take all of us wanting to get that communication right because citizens have views, as we know and we found through TTIP. They don't like the macro: 10 billion to the UK economy, which is what we think; they don't care. It has to be specific, local and tangible in Gainsborough or wherever and we have to go through the process of what it is that people need to see before they get comfortable.

***Allie Renison:*** We need to try to understand. Maybe for some people nothing was ever going to be enough but for others: what was the objection to the reliance on language not only in EU trade agreements but more widely in most trade agreements about this public services reservation clause? I know that some trade unions commissioned advice—I am not sure if it was actual legal advice—to say, "That wasn't enough. You need to have an exception for NHS". What is wrong with having a blanket exception for NHS? What is the language needed to satisfy people on both sides? You will not ever please everyone but I think this goes to the heart of why we need to have this discussion now about not just the US but more widely about what our priorities are before we run headlong into any trade agreement just for the sake of it.

Q77 **James Cleverly:** The US constitution says that all men are created equal, but certainly not all American states are created equal. You were talking about getting a presence into state governors' offices. The obvious question is which ones should we be looking to start influencing ahead of the game?

***Jeffries Briginshaw:*** Our advice would be economic value-wise. If you look at the map and say, "Where is the GDP?" you go where the GDP is. It is like the bank robber and the bank; that is where the money is. You are going to have to talk to California if you are serious. Our experience on trade and investment promotion is that the US market is huge, complex and sometimes there is a bit of an imagined business case. Market entries are normally state-driven anyway. People's thinking should be about states, a whole range of circumstances about a particular state. In the context of procurement, that kind of pre-analysis is also going to be necessary: are the folk in this state going to buy in? Can we have a conversation with them? California is going to have an approach that we would recognise in terms of the—

Q78 **Chair:** Which are the top three? You have mentioned one.

***Jeffries Briginshaw:*** Let's say GDP, California, New York and Illinois, just for the sake of it.

***Allie Renison:*** To follow up on that point, the IoD has hosted numerous visits, inbound trade investment missions from state-organised economic development agencies, which are the equivalent of what were our RDAs. We need to get better at how we have discussion about trade promotion and trade policy in that same atmosphere. We can do that now. We can start having those discussions. We are trying to promote trade before we get to the actual trade policy part because of current constraints. You can put that into the conversation.

Q79 **Marcus Fysh:** Just moving on, what opportunities do you think there are for defence procurement on a bilateral basis, either before or in the context of a free trade agreement, because of this new relationship we are trying to set up?

***Jeffries Briginshaw:*** It is a good question. First of all, interestingly in the TTIP discussion defence procurement was excluded, largely because the UK and the US said, "We don't need to talk about this". The reason the UK said we don't need to talk about it is because we have a good relationship, a bilateral defence procurement relationship that puts many of our most competitive companies inside the security architecture of US Government procurement on defence. That is a great starting place and it has governance obligations that attach to it that are serious and we comply with. That is a starting place, that we already have a track that is worthwhile.

I think there are opportunity areas. We are all talking about cyber resilience, defence capabilities, security resilience. In fact, there is an argument that if the UK were to step up its defence capabilities generally we would be a more popular international player, and so on. In the cyber area, which is a military-civil thing, cyber procurement, tech, all of those things are equally useful in the context of start-ups, entrepreneurs, tech, as they are in defence. Cyber resilience, procurement in cyber and dual use civilian and military opportunity is a good one.

Q80 **Marcus Fysh:** Does it have any implications for changes in the mergers and acquisitions area?

***Jeffries Briginshaw:*** I think that the ecosystem for defence procurement is one where there is a lot of US defence players operating here, there is a lot of UK players playing there. That works. I think it is again looking at opportunities. That is why I say cyber is one where we are already able to talk to each other and our companies are already playing into tech ecosystems to get ecosystems and clusters working. Looking at this from a full spectrum of security through to commerce and a relationship that works bilaterally, that is a great opportunity.

Q81 **Shabana Mahmood:** I wanted to come on to a couple of questions on investment. You have already said a bit about investor state dispute mechanisms, but going back to first principles, do you think that investment provisions should be part of a trade agreement? Would you be happy to see us go down the standalone treaty bilateral agreement road just on investment?

***Jeffries Briginshaw:*** We would be in favour of including investment. It is the real driver of the economic relationship. We know the numbers: $600 billion; the largest investor; we are the largest investor in the US. To have a significant bilateral economic agreement that did not cover the main driver of the economics would be odd. If you do that then I think a number of things fall into place for what you are going to do around that theme. I think they range from being able to say, "We believe in this kind of investment climate, we believe in this kind of globalisation". I have seen good, useful investment statements agreed between international parties saying, "We believe in open markets but they have to deliver to people" or whatever. You can do that. You can then offer investors protection, allowing them to sue the state if you want or not. But we would go down that path and we would encourage you to go down that path.

***Allie Renison:*** I found the experience of TTIP very jarring in this respect. It was frustrating because this, for all intents and purposes, some might say was invented by Germany, the biggest public opposition in Germany. People suddenly woke up to the prevalence of this. In the past, up until probably the last five to seven years, they were done on a standalone bilateral basis but now it is increasingly done in the context of trade agreements. I repeat what we said in our written evidence, I am not fundamentally wed into its inclusion. Is it a massive priority for our members? I will be honest, no. I spent so much time—and I stand by a lot of the arguments that we have made—trying to explain some of the myths behind ISDS, but the reality is that I am not sure it is necessarily up to the UK just by themselves because I think the US would absolutely expect it. There was some discussion about whether the US would even pursue TTIP without investment protection. That may be potentially because of differing levels of investor protection within the EU, even though you have intra-EU bilateral investment treaties.

That may be what drove a lot of their particular interest but it also comes back to the benchmarking issue, although I don't put much stock in the notion that if it was not included in TTIP that, for example, China would not want it. I think China is an active user of these kinds of mechanisms. But I have to be honest and say that despite all of the myths surrounding it, we could live with it or without it, quite frankly, from our perspective.

Q82 **Shabana Mahmood:** We know what the critics say about them being democratically unaccountable; why aren't our courts good enough as the argument in favour of domestic courts to be used instead; discrimination against domestic investors. All of those things are well known. If you were preparing a case for the defence doing your myth busting, what would be the top points that you would use?

***Allie Renison:*** From the perspective of ISDS it is a very important component of international commercial and investment law. It is the only way to guarantee non-discriminatory treatment when you are an investor. It is just the most secure way of doing it. There are examples that show, particularly because of the way the US does political appointments to benches, that there is potentially more of a scope for politicisation of certain issues. It is not a very popular example to use but there was quite a lot of discussion after the Deepwater Horizon in the Gulf of Mexico about how BP was treated with fines. I know that the UK Government made some kind of written submission, I wouldn't say protesting the treatment but registering their objections to the way that BP was treated. It is really down to investment treaties to make sure that it basically guarantees that aspect of non-discriminatory treatment.

***Jeffries Briginshaw:*** I would share that and say that I think there are opportunities in a case for the defence to build in transparencies, processes that give comfort. I would start from first principles that investors would like to have protection and that the state is a different actor. On one side you do want to protect the state to allow it to regulate. That is what we are interested in, public interest, but if the state says, "We would like you to build a bridge" today and then cancels the contract on Tuesday week, that is a normal commercial activity by the state and it is sometimes more difficult to sue. It has immunities, particular sort of presence, capabilities that do need a separate body of law. We understand how it appears to be such an obtuse issue but it does go to quite the core of how we get private money into public works.

***Allie Renison:*** It is, in and of itself, quite a business. For example, I know that in Scotland several years the then First Minister opened up an arbitration centre. I think it was a project organised by the University of Dundee. This was to try to bring a lot of the global arbitration business that very often happens with respect to energy policy. The Energy Charter Treaty is very often used by investors to sue governments. The most recent example is after the German decision to ban nuclear energy. There were contracts between the government and Vattenfall, the Swedish company. This was seen as expropriation of assets and there was a need for compensation in their respect. There are a lot of people who would like to bring that arbitration business itself not only to the UK but to Scotland, for example.

It is a business in and of itself, but I think that my colleague is right in saying that a lot of it is about trying to establish core principles. The big question mark is do you do it on a standalone basis or incorporate it into trade agreements.

Q83 **Chair:** Can I take you back to the Deepwater Horizon event? Are we saying that the US courts discriminated against BP because it is a non-US company?

***Allie Renison:*** Am I saying it? No. Were there a lot of people who were saying it? There was a lot of discussion afterwards about were they treated fairly. It was very often used as an example of pointing to how potentially if there was an investment treaty in place between the UK and the US or the EU and the US that that might have been recourse to ensure that there was fair and equitable treatment, but I would not go so far as making a judgment because I am not a judge.

Q84 **Chair:** At the moment we can say that some people do not trust the US court system, as an example?

***Allie Renison:*** It was an example that was pointed to about the uncertainty of the US court system, at a state level in particular, about the scope for politicisation of cases.

***Jeffries Briginshaw:*** One thing I would say is the creativity of the US plaintiff bar shows no limit. Legal theories that would not stand up in any jurisdiction anywhere else in the world do habitually get raised at a state level in particular in certain jurisdictions in the US, including that in which the Deepwater Horizon litigation was heard. I do think there is a problem. It is a systemic structural problem in US tort law and it acts as a disincentive for businesses to operate in the US, for US businesses but particularly for UK and other businesses who wish to do business there but think—

**Chair:** That is a huge issue.

***Jeffries Briginshaw:*** It is a huge issue: am I going to have to insure myself for $1 billion? Answer, yes. I am not doing business there. It is a huge barrier to investment. It is something that lives within the domestic frame and it has never been something that we have had the courage to talk about in a trade context, and I think that is probably right, but it is an investment issue, hence the point about investor state. From an offensive point of view, looking at a Mississippi courtroom, you can begin to see a UK offensive interest to trade off against how we balance out the needs for protection of public service here.

Q85 **Chair:** I think many in the UK would think the UK would be treated almost like a domestic friend, this special relationship, but it does not seem to go as far as the courts. It means nothing at state court level.

***Allie Renison:*** I don't think that in a courtroom. In a policy-setting, framework sense perhaps, but you would need policies put in place through an investment agreement to make sure that there is the appropriate expertise to be able to deal with some of these commercial issues.

Q86 **Chair:** I think on that question in the context of the earlier question of a non-discriminatory approach, certainly people feel you could be discriminated against and the UK too could be discriminated against. Any foreigner could be discriminated against.

***Jeffries Briginshaw:*** I think the US legal system is set up to find weak spots wherever they are. I don't think BP was in particular singled out or any other British company was in particular singled out. The dynamic of the plaintiff bar and the way it works is that they will go for you and if they can get $1 billion from you they will try to get it from you. At a local state level in the courts you need to be very careful as to how you set yourself up.

Q87 **Chair:** Thank you. I want to get to the area of agriculture, it being a huge issue and certainly one—I think we were talking about the WTO in Geneva—that raises the temperature, raises the blood pressure of negotiators involved and seems to be often touched on because of the way it interacts with a large area of the territory of any country. The US Department of Agriculture told a Lords Sub-Committee on TTIP that the United States would have greater access to the EU's meat and poultry markets and this was a US priority. Given that statement, what potential do you see for a UK-US trade agreement, especially with liberalising agriculture, and crucially which direction do you think that most likely would flow?

***Jeffries Briginshaw:*** That is another central question. Agriculture matters; it matters here and it matters to the US. Indeed, many of us have heard it said that you don't get a trade deal unless there is agricultural access, so it is pretty binary. The question is: what are going to do about that? What are going to do about the trade—

Q88 **Chair:** Do you think US-UK trade deals will hinge on agricultural access?

***Jeffries Briginshaw:*** I think that without agreement that meets expectations on both sides on agriculture that the conversation will be more difficult.

Q89 **Chair:** A number of other things could just fall by the wayside because they can't agree on sheep and cattle?

***Jeffries Briginshaw:*** We all have observer status on US politics and your equivalent committees, but it is well known that agriculture plays a significant role in how things get done and that will be true for the UK as it would be for anybody else. The question is: how do we get ahead of that, how do we make the right kind of balances? Our point is partly about the approach to risk that gets ahead of the problem not immediately on the tariff lines but in the regulatory side so that we are not worrying, or we are worrying, about American chicken. We may worry about it on the farmer side, but there are two parts to the problem. There is the science and the markets. If we want to approach a negotiation where there are trade-offs and balances, that is one of the areas we are going to have to talk about. There are things to talk about on science and there are trade-offs to talk about on agriculture, which could include access to US agricultural markets as well.

***Allie Renison:*** We have to have the dialogue with our consumers, farmers, businesses and stakeholders here first before we make the trade-offs helter-skelter in a trade agreement. It goes more widely than just are we going to do this with the US. It is how, if at all, are we going to change our regulatory standards and some of that is linked to the Brexit negotiations. What relationship will the Agricultural and Horticultural Development Board have with the European Food Safety Authority, for example? Are we still going to be a member, are we going to be an associate member? What will the EU expect us, should we even be outside of the single market, to say that we will agree to follow X standards, because that constrains your ability to negotiate with the rest of the world?

Q90 **Chair:** There are a number of things happening here. First, we have to sort out what the situation with Europe is for the UK. We have to have this dialogue that you have talked about. We have to have the agricultural part of the UK-US together and then you have the rest of the stuff. Assuming that all of these happen in a way that would enable us to get to stage 4, how many years is this?

***Allie Renison:*** But that can happen concurrently. I know that Defra is in the middle of consulting on how beyond 2019, 2020, which is when CAP payments have been extended to, agricultural support will be organised. That discussion can happen now about the development of the trade policy brief within the Department for International Trade. We are part of that discussion, with many other business organisations, about what the overarching objectives of our trade strategy are going to be. We don't need to wait for that discussion.

Q91 **Chair:** Some can happen concurrently but latter stages will be affected by the decisions in earlier stages and latter stages might not happen at all if particular decisions are made earlier on. I think that leaves a tendency for them not to happen concurrently and for people who may be involved in stage 4 and know stage 1 is crucial for stage 4 ever happening. Do you think that that mitigates stage 4 happening?

***Jeffries Briginshaw:*** Trade deals take longer than people think as a general rule, so this could take longer rather than shorter, but that is, in a way, the point of dialogue. You can do things through dialogue irrespective of what the timeline is—two, four, eight, 10 years—on an actual agreement that may or may not ever happen. We want it to happen, but if people can't make the trade-offs what are the things that you can do in the meantime that are within your competence at a given date or within your competence but then capable of being acted on in other ways at any given time? It is the dialogue that drives the potential as much as the written form of a negotiation.

***Allie Renison:*** A lot of this work very often is done at a sectoral level. For example, with the pig industry there were discussions with China about export licensing and veterinary health certificates. That had a reference to the EEA framework, so that probably will have to be not so much redone but certainly the discussions need to start now and industries need to have an understanding from Government—this comes back to objectives and priorities and transparency as part of the Brexit process—about where that direction of travel is headed. It is hard to completely and comprehensively talk now with the US cattle industry about whether Brexit, as they potentially see it, is going to be an opportunity to increase their exports to the UK market, but then you see that the Farming Minister has effectively said that the ban will remain in place. That is why that kind of joined-up framework needs to happen and is happening at this stage.

Q92 **Chair:** How should the two devolved nations and the devolved region of Ireland engage with this, particularly in agriculture, during these trade negotiations? What should they be looking for, what do you think their threats are and what thought have you given to that?

***Jeffries Briginshaw:*** That is a super tough question. I think some of the general principles apply. Here is an economic opportunity available to everybody within the national constitutional framework. How do we make the most of that? By making sure that the people who have criticisms, who see the opportunities are engaged significantly and substantively in those conversations at all times because you are going to need to sell that to them in one way or another down the line. That would be my answer. Make sure that you set it up so that you are not giving yourself a problem wherever you are going to be down the line.

***Allie Renison:*** The tendency is that many groups have headquarters in London to access and speak to policymakers and enact this conversation. I am fairly confident, but I am not in Northern Ireland, Scotland and Wales all the time, that the discussion is being extended out between Westminster and Whitehall to the devolved regions. It is all quite bound up, whether you look at industrial policy, how does trade promotion and the advent of devolution, in tandem with industrial policy strategy development, work in the future of trade policy. These are all very joined-up conversations and we need to have a very holistic view when we talk about these things. We need to make sure, the Government need to make sure that, in terms of bringing business organisations together, the discussions don't happen in London. They need to happen in Cardiff, Holyrood and so on as well.

Q93 **Mr Nigel Evans:** You both are here on an historic day at Westminster. In less than an hour the Prime Minister is going to be triggering Article 50 for when perhaps the trade negotiations, the scoping will be—you are invited, Chairman. The IoD, unlike the CBI, was not stained by its involvement in the referendum. I thought the IoD played it far fairer. Are you bringing out a charter as to what you believe the UK Government and businesses ought to be doing post Brexit?

***Allie Renison:*** With respect to the EU or more widely.

**Mr Nigel Evans:** In respect to the EU, the wider world and, of course, the United States of America.

***Allie Renison:*** We published a paper about three weeks ago that set out how, with respect to Brexit, we thought the negotiations should go, what are the challenges but also what some of the mitigating solutions are. That is out in the public domain and I think now the conversation that we have with ourselves and beyond turns to what is the priority for trade policy development with the wider world. We have done the opening gambit for our Brexit priorities and the focus now turns to looking at it from a much wider perspective.

Q94 **Mr Nigel Evans:** The United States is what we are talking about today, but do you think there are other areas throughout the world that are rich pickings for the United Kingdom to do FTAs?

***Jeffries Briginshaw:*** We can see where the economic value is, so that is obviously the US, the one that can move the macro. I think the emerging trade policy features other countries either where deals are doable or where there is an economic interest. India: economic interest, some complexities. Australia—

Q95 **Mr Nigel Evans:** Do you think India is one of these really untapped markets?

***Jeffries Briginshaw:*** I don't have a view. It is one that people talk about, the pros, cons and issues that India as a negotiator might want to talk about, things that we would find more or less difficult, for example on students or whatever. We are not experts on that, but there is a world there. We are where we are. Today, as you say, is a day of destiny and our members are looking at the opportunities at the same time as they are trying to mitigate and manage the risks. Part of those opportunities is what is this new trade architecture. When you drill it down, just as we are today on the US side, it is this conversation in other contexts with different symmetries and issues.

***Allie Renison:*** Specifically on India, it is one of those markets where—and you don't always have this—a trade agreement can make a massive amount of difference on its protections for its financial services and specifically its insurance market, tariffs on Scotch whisky, but the thing, as Jeffries mentioned, that they want from us is more on movement of people, on visas and labour mobility. That is something that we need to be looking at more widely anyway, at what priority do we accord to whether it is talking about fast tracking or simplifying visas or are we talking about making it easier for intra-corporate transfers. That is a big thing with the US as well. I have countless examples from IoD members who have talked about the fact that there is a semantic discussion, if you look at US visa regulations, where to work you have to get a work visa but to be on business you don't need a visa. What they want to see is the periods without a visa extended or making it easier to work on a business visa particularly. That is where you get this discussion about the Mode 4 services in trade agreements.

Q96 **Mr Nigel Evans:** Neither of you are arguing for a free-for-all on labour mobility between the US and the UK and vice versa, are you?

***Jeffries Briginshaw:*** We are both arguing or presenting a view that says that business is interested in talent. Talent drives productivity and innovation. Talent often lives across borders and—you have heard this a million times—business wants talent. It wants talent that is educated and productive that comes from the country in which it is situated and it also wants to be able to draw upon pools of labour wherever they are.

Q97 **Mr Nigel Evans:** Do you have any indication of how many Americans currently work in the UK and how many Brits are working in the USA at the moment?

***Jeffries Briginshaw:*** I don't have that number. I can tell you that 1.4 million Americans work for British companies in the US and 1.1 million Brits work for American companies here, which is a staggeringly big number but it is not the same thing as nationals of those countries working for companies in those countries. I can get that number for you.

**Mr Nigel Evans:** It would be really useful to know that information.

***Allie Renison:*** To answer your question more widely, it is not about a free-for-all. I will give you a specific example with engineering people who need to be deployed at quite short notice and don't necessarily have time to wait or they have to go to the US for three months, go back, go back again. What Mode 4 is supposed to be tackling is temporary movement of workers, basically, and that is what we want to see discussed in the context of trade agreements.

**Chair:** Just as a point of information, yesterday I met some New Zealand MPs—Melissa Lee from the National Party, Tracey Martin from the New Zealand First Party and Annette King from the Labour Party of New Zealand—who had the same issues with movement into the UK. The three of them felt that their nationals are being taxed really highly to come to visit the UK and such was the effect of this tax they felt that New Zealand was being turned into a good friend of the European Union because it was cheaper for them by far to fly to the European Union, if they are coming to Europe, before visiting the UK if they are going to visit the UK at all.

Q98 **Mr Nigel Evans:** It might be something that we could look at in a future inquiry, Chairman, because I think it is fascinating. Immigration clearly did play a vital role on the Brexit campaign and if we are replacing immigration from a free-for-all from the EU with a free-for-all from other countries, I think there would be deep concerns about that. It is an interesting one.

Can I move finally to e-commerce, which is a massively growing area. Do you think that there is great potential between the UK and the USA on e-commerce?

***Jeffries Briginshaw:*** Yes, we do. It is an important area, I think particularly from the US offensive point of view there is every interest in how US business, and also UK business, gets to deploy data. The trick and the obstacle is getting to the right regulatory form for privacy and the manner of that deployment. US business often felt that the UK took a pragmatic path on those issues in Europe, which was appreciated. It is expecting and hoping that in a trade negotiation context that pragmatism will feature, but again it goes to one of the questions that our citizens are asking us, which is, "Are you really going to be looking at my searches and creating a curation around your marketing efforts without me giving you permission?" In a US-UK context there is, first, potential to get that answer but, secondly, we are also going to have to sell it into Europe anyway. When you are looking at data deployment you are thinking, "The UK is a great place, there is 60 million people, but I am also designing this product for Germany", so you get the same problems.

Q99 **Mr Nigel Evans:** Do you think we could have two different levels of data protection between the EU and USA?

***Jeffries Briginshaw:*** Do we or should we?

**Mr Nigel Evans:** No, do you think we might?

***Jeffries Briginshaw:*** I think that business would encourage a single standard and business is on a journey to understanding where that balance is. The starting place in the US is different to the starting place here. Citizen wise and business wise, we are all going to need to get somewhere. It is the hugest economic opportunity but it is also the one that worries our citizens probably more than anything else and we are going to have to get the answer. We will have to get the answer before we get to do the deployment.

***Allie Renison:*** There are different ways of talking about data transfers, particularly when you are looking at whether you do that in the context of a trade agreement or not. One of the things that the Trans-Pacific Partnership would have done, which was quite advanced, is basically banning requirements set up that countries could put in to say that you have to have data localisation requirements. Russia, for example, has just brought in a new law that means that you have to have a physical footprint in the country to store that person's data, which is quite backwards looking from a liberalisation perspective. There is a question mark about how much that is needed for privacy and protection purposes or it is just to gather information on who is using what data in your country.

I think that this is something that will have to be discussed anyway outside of a trade agreement between the US and the UK, between the UK and EU. Despite the fact that there are some different starting points, the UK is slightly closer to the US approach than it is in other—I would not say the EU overall but certain countries. I see that as a big potential opportunity between the UK and the US, but there is a big complicating factor about what arrangements we come to for adequacy in data protection standards going forward between the UK and the EU.

**Mr Nigel Evans:** Chairman, on the Russians protecting the privacy of their own citizens—

Q100 **Chair:** A final couple of questions just briefly on EFTA. This Committee has a report suggesting the UK Government should at least explore the possibilities of EFTA and left it quite loose. Do your own organisations, British American Business and the Institute of Directors, have any particular view on EFTA?

***Allie Renison:*** As part of our Brexit report last month, we called on the Government to consider the case for rejoining, not so much as a basis for relations with the EU but to govern relations between the UK and EFTA countries. But it was very clear that it was calling on the Government to examine the case because I think there are benefits and trade-offs. On the one hand, there is the benefit that many if not all of EFTA's trade agreements, at an EFTA-wide level and individual sort of Iceland and China free trade agreements, have that sort of accession clause. The UK could effectively piggyback and negotiate its way on to that, but it is clear from talking—and I was in Geneva recently to see EFTA—that the way that they approach services liberalisation is not as ambitious as I think the UK would want to do. I know the Norwegian Government are very keen to potentially participate in the Brexit negotiations. It may be that we end up needing to do a free trade agreement with EFTA rather than joining itself.

***Jeffries Briginshaw:*** Our members are still posing their mitigation ask as single market access. You might say that is not realistic.

Q101 **Chair:** Would they prefer to stay in the single market?

***Jeffries Briginshaw:*** They would, and remember there is a lot of US businesses invested in here who use the gateway mechanism of Britain to the European Union. You could say that is not realistic but in a way I think our members have said, "It may not be but ask us what our ambitions are. They are to do business in a single market, so if you ask us what we want, we want single market access."

Q102 **Chair:** Would the IoD also want, as British American Business do, to remain in the single market?

***Allie Renison:*** We have moved on and are using the starting point that the Prime Minister is. There is a lot to be fought for within an FTA framework.

Q103 **Chair:** Regardless of the Prime Minister's words, do you have a preference as to a single market or not?

***Allie Renison:*** Not necessarily a preference because it is so different by sector. I will give you an example. One of the arguments that was deployed during the referendum was about this idea of sovereignty and control. It was very clear from looking at some of the evidence given by UK financial services regulators that there was a discomfort with the idea of having effectively 80% of the market potentially regulated with no input by representatives from 20% of the market. For example, that tension between regulatory control and market access is much more finally balanced in financial services than it is in chemicals and pharmaceuticals.

**Chair:** Thank you very much and thank you both for your attendance this morning. It was a very good panel indeed. Thank you all.