

International Trade Committee

Oral evidence: UK-US Trade Relations, HC 481-i

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Members present: Mr Angus Brendan MacNeil (Chair); Mr Nigel Evans; Mr Marcus Fysh; Mr Ranil Jayawardena; Mr Chris Leslie; Emma Little Pengelly; Julia Lopez; Faisal Rashid; Matt Western.

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Witnesses

I: Shanker Singham, Director of Economic Policy and Prosperity Studies, Legatum Institute and Samuel Lowe, Campaign Lead, Brexit and Trade Policy, Friends of the Earth.

Examination of witnesses

Shanker Singham and Samuel Lowe

Q1 **Chair:** Good morning. Can I call on the witnesses to give their names and organisations for the record, starting on my left?

Shanker Singham: I am Shanker Singham. I am Director of Economic Policy and Prosperity Studies at the Legatum Institute.

Samuel Lowe: Samuel Lowe. I lead the work on trade and Brexit at Friends of the Earth.

Q2 **Chair:** Thank you, both, and thanks for coming to the Committee this morning. Gentlemen, the International Trade Secretary has suggested that by 2030 a UK-US trade agreement could deliver a significant boost to jobs and growth, while some others have argued that an ambitious EU-US Transatlantic Trade and Investment Partnership would have delivered no more extra disposal income than the equivalent of an extra cup of coffee per person per week. Can I ask the pair of you what concrete economic benefits you see from a UK-US FTA? Can I start with Mr Singham first?

Shanker Singham: First of all, we have to understand the economic context in which we find ourselves. Measures of global economic output, particularly things like industrial output, have been down for some time, including pre-financial crisis. You have Secretary General Angel Gurría of the OECD, for example, saying that we need to do something to get off



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this low-growth path that we are currently on. That is the context for this whole process. I think it is important to note that we are not in a process where the economy is doing really well and now we are looking for extra gains in trade.

The issue of the economic gain from a UK-US deal is difficult to answer without knowing what the agreement will be. What we have suggested is that this is precisely why the agreement has to be a comprehensive agreement that deals not only with the goods trade, but with everything, particularly services, and goes much, much deeper into services liberalisation. Obviously the UK is the second biggest exporter of services in the world. This is a huge interest to the UK economy. The US also is a major exporter of services. We believe that if you can do that, if you can have a comprehensive agreement that lowers the barriers to services and trade between the two countries and aligns the two on regulatory issues, then in our view a services agreement where you have regulatory alignment between the US and the UK around a pro-competitive regulatory system is a game changer.

Q3 Chair: What, or who, would be the arbiter in a trade agreement such as this?

Shanker Singham: Like other trade agreements, you would have a dispute settlements chapter that would have ordinary arbitration mechanisms for dispute settlements.

Q4 Chair: Would that not mean ceding your self-sovereignty, which has been a huge part of Brexit?

Shanker Singham: Every trade agreement has a dispute settlement chapter and we are indeed also under the WTO dispute settlement mechanism as well, so it would not be any different. I would not envisage a US-UK—

Q5 Chair: Are you saying every trade agreement includes a ceding of sovereignty?

Shanker Singham: Every trade agreement includes a dispute settlement mechanism for Government-to-Government disputes.

Chair: Is that a ceding of sovereignty?

Shanker Singham: No more so than you currently have, which is what you have in the WTO.

Chair: Which is a ceding of sovereignty?

Shanker Singham: The difference between the dispute settlement mechanism in a trade agreement and what might be called a court system, if you will, is that you are not ceding sovereignty, in the sense that you can continue with your regulation. In fact, there are many areas where the EU is in present violation of the WTO but continues with its



regulation. The only difference is that you will have to pay for that in terms of the trading relationship between the two parties.

If what you mean by ceding of sovereignty is any effect on your ability to legislate, regulate, whatever, then to some extent, yes, the arbitration mechanism has an effect on that. If you mean are you restricted in what laws you can promulgate or regulations you can promulgate, no. You can continue to do that, but if you are in violation of the agreed set of rules, then you will have to pay for that violation any compensation to your trading partner whose interests you have hurt by your violation.

Q6 **Chair:** Thank you, so it is cash or sovereignty. Mr Lowe.

Samuel Lowe: I think when talking about the potential economic benefits of a potential UK-US trade agreement it is important to understand the context within which we find ourselves. Shanker is right that if you are to realise greater benefits from trade it is about the removal of regulatory barriers. But we are in a bit of a conundrum as the UK now, insofar as there are two regulatory superpowers in the world at the moment. There is the EU and the US, and their regulatory regimes do not align. There is a third on the rise in China but it is not quite there yet. I refer to them as regulatory superpowers because their buying power allows them to essentially set rules beyond their own borders because companies have to align to sell in.

The UK is currently within the EU's sphere, but if it was to pursue a deep agreement with the US it would have to extricate itself from that. That leads to a relationship and it points to the necessity for what we would describe as a harder Brexit, or at least a removal from the regulatory sphere of the EU, so as to give ourselves the flexibility to negotiate this new deep trade agreement with the US.

What that means economically is that I would argue that when considering, say, a simple agreement with the US just on tariffs, the impact would be negligible. I think the CEPR study on TTIP 2013 and the impact of a UK-US agreement found that the long-run benefits were around 0.04%. But a deeper agreement, which this study found would be an increase of 0.35% by 2027, cannot just be understood as that increase because it also has to be weighed up against the impact of removing yourselves from the EU's regulatory regime.

I would argue that a deep agreement with the US would have a negative impact on the UK insofar as it instigated an extrication from the EU's regulatory regime, because the implications of that are far bigger. We have all seen the long-run forecasts on this. I should emphasise that forecasts are not precise; they are an indication of magnitude and direction. But I think even the chairman of Economists for Leave put the impact of leaving the EU—the long-run negative impacts—at around 2%. The upper range as has been forecasted for TTIP of a UK-US agreement was 0.35%. The thing also to consider within that is that it assumed 25% removal of non-tariff barriers between the two partners, and 32.5% in



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some areas, such as chemicals, cars and ICT, but it assumed it for the whole of the EU. What we are talking about here is just UK-US. Because of the difference in the regulatory regimes of the EU and the US, when we remove barriers with the US, in some areas we will by necessity have to put them up with the EU.

Q7 Chair: Are you saying that because of this idea of the world having one, two or possibly three regulatory superpowers, you cannot play everybody's game? You have to choose what regulatory superpower you have to align yourself with. Is that your argument?

Samuel Lowe: What I am saying is that particularly between the UK and the US, and particularly in regions where there are technical barriers to trade, or SPS, which is food and plant hygiene, if you were to move towards a more US approach, there would be some quite hefty barriers for UK exporters to the EU going forward. When discussing the economic benefits of a UK-US trade agreement, you have to take that into account and that is something that I think has been missing from the discussion.

Q8 Chair: This idea that we will be open to world trade for everybody and the UK will be open and we will be trading freely—all of this you say is difficult because of this idea of regulatory superpowers?

Samuel Lowe: It is difficult if you want to do deep agreements. You could potentially still stay broadly aligned with the EU regulatory system and do a tariff deal with the US. As I said, average tariffs between the UK and the US are around 3%. The impact of doing so would not necessarily be that great on a grand scale. But if you want to discuss regulations, non-tariff barriers, there are decisions to be made, and it is a political decision, really. Do we see our future, from a regulatory perspective, with the EU, or do we want to do what I refer to as the transatlantic pivot?

The other thing to mention in terms of economic impacts is that aggregate impacts are generally quite low—this is the guilty secret for most people who work on trade, which is that trade agreements do not deliver much aggregate growth. Anything over 1% is massive in terms of long-run growth, and most trade agreements are little more than rounding errors in terms of your long-run impact. But beneath the aggregate you do have sectorial impacts and they can be quite acute. Take, for example, the proposal put forward in the Legatum paper and ignore the impacts of leaving the EU on services for a second. Essentially, we leverage agriculture to get a good services deal with the US. On the aggregate level that might not produce very much, but acutely that could lead to, in this scenario, the productive services sector of the UK benefiting and agriculture losing out.

But within that, that has regional implications as well. If you think about where cows are in the UK, as a very rough metric, not many are in London or Manchester, but quite a lot are in the south-west. There are quite a lot in the rural areas. You could see a situation where such an approach would lead to remain-voting cities, for example, benefiting at



the expense of leave-voting rural constituencies. That is intensely political and I think has not particularly been considered as part of the debate.

Q9 Mr Nigel Evans: Even though you are talking relatively small percentages, you are talking of a trading atmosphere where we are talking multi-billions. We have a surplus with America—I think it is £40 billion to £50 billion—which is clearly great. Do you believe that even the process of doing a trade talk with the United States of America could be used as leverage to doing a trade deal with the European Union, and that they would be more keen to do one?

Samuel Lowe: It is an interesting question and you are right about percentages disguising essentially quite big numbers. I think it would be unwise to hastily rush into a negotiation with the US. As Friends of the Earth, and personally, we have no issue in principle with an agreement with the US, but it is about sequencing. One of the reasons for that is the US's objective in this—and this is what you hear from inside Government as well—is to drive a wedge between us and the EU from a regulatory perspective. It is the proposal that was put out in this paper so there is obviously some thought about it here as well. It is to drive that wedge not for our benefit, not for the UK's benefit, but to increase the US's leverage over the EU in the international bodies and in future negotiations with the EU.

I do not think that we would come out well if trying to use it as leverage, because I think we would end up being a pawn in a battle between the US and the EU. I think the more sensible approach is to do it sequentially, essentially: focus on the EU; focus on replicating the existing agreements we already have. There are around 40 of them and it is going to be quite difficult to do that. The experience that the DIT gets from that process of the civil servants replicating that—because they are all mini negotiations—will contribute towards putting us, from a civil service capacity point of view and from an experience point of view, in a much better place later on. Further down the road when we have resolved things with the EU, we can think about what we would want from the US—what we are prepared to give and what we want in return.

Q10 Mr Marcus Fysh: Should we as a Committee take too much notice of economic forecasting when it comes to trying to assess these matters? In particular I have examined with other witnesses in our previous inquiry the impact of the gravity model. I know Sam and I have had that conversation offline as well, but we have not come to a conclusion about gravity, which has traditionally measured the trade in goods rather than services because of the nature of the regional free-trade agreements that have been put in place during the period when the correlations that are used in a gravity model took place. Does gravity deserve the degree of religious faith that the economic profession seems to put into it?

Shanker Singham: I think, first of all, any economic forecasting about the effects of a trade agreement are very difficult to do because, as Sam said, a goods agreement alone with the US would really not do very



much. A comprehensive agreement that deals with regulatory barriers and behind-the-border barriers would do an awful lot. Border barriers can, at most, affect a country's GDP by 2% to 3% at the outset. That is the biggest gain you could have. Reduction of regulatory behind-the-border barriers, or what we call anticompetitive market distortions, which are behind-the-border barriers disguised as regulatory protection and so on, have a much, much bigger impact. If you are able to get at those—but, none of the models really look at that; they look at non-tariff barriers, which are not the actual distortions that really impact 21st century trade. Obviously when the tariff is high, then the impact of the internal barrier is much less, but as the tariff comes down then regulatory protection becomes more important. What we have seen is that regulatory protection has increased over the last few years, largely because the usual tariff protection has not been there. So I think one has to be careful about forecasting.

With respect to the gravity model, there is a relativistic issue here as well because you also have rule of law, you have institutions, you have internal barriers, regulatory barriers. These all affect distance. You have language, you have all kinds of other things, so it is not simply a question of physical distance. Very big supply chains have been managed by countries for centuries, even when transportation costs were very high. For example, on the copper supply chain in the early 19th century, the world copper price was set in Swansea because it was coming from mines in Chile up to Wales and hence the copper price was set in Swansea.

New Zealand manages extremely long supply chains in dairy that go from New Zealand to the UK. There is a deal that various New Zealand firms have with Dairy Crest. There is whey production in Holland that goes back to New Zealand and ends up as infant formula in China, so there are very, very long supply chains in the world. It is not true to say that your supply chains have to be captured within the EU. But supply chains will be captured within a customs union because of the common external tariff, so you will only see your supply chains reorienting when the common external tariff goes and when people are able to make purely economic decisions such as those within free trade agreements.

It is also not a binary choice here. I think this is really important to understand, because if indeed there were these three regulatory approaches and they had equal effects on consumer welfare in an economic sense—in other words, if the impact of these approaches were the same—then it would be more of a binary choice where you choose one or the other, but that is not the case. In fact, there are many regulatory barriers in the US that have anticompetitive effects. There are many regulatory barriers in Europe that have anticompetitive effects. It is not a case of choosing one or the other. What we want to do in order to leverage the maximum benefit for the country is to have equivalent regulatory recognition arrangements with the EU such that we can interoperate both with the EU and with the rest of the world.



This is not something we alone are facing. Every country in the world is facing the same challenge, and the EU is capable of giving regulatory recognition without being identical. This is the problem with the TTIP and the problem with other agreements that people have had with the EU. The view is that unless you are identical you cannot be recognised. That has changed. You have most recently the US-EU insurance coverage agreement that allows recognition even though it is not identical. That is a very, very interesting agreement for us on both sides, because it allows us to say the US is capable of doing an insurance coverage agreement where it is the states that are primarily the regulators, and the EU is able to do a recognition agreement where things are not identical.

This is the whole game, the ability to do this for the UK. We will be in a position that no one else will be in, which is that we will be identical on day one of Brexit. That will give us the ability to be able to do this. Of course, this is all under the WTO framework in the SPS agreement and the TBT agreement, which essentially says that as long as your ultimate goal is the same, technical differences in regulation should not defeat recognition.

Chair: Thank you. That is something we might want to continue, be it offline or maybe we could have a conversation online.

Q11 **Mr Marcus Fysh:** You have previously said to me offline that gravity is effectively the only way that the economic fraternity has modelled this sort of thing.

Chair: The gravity model of trade?

Samuel Lowe: It is thought of as the iron law of economics, and I should emphasise that the gravity model does not just account for distance; it also accounts for size. We still buy a lot from China and it is far away, but China is also quite big.

Chair: We are all in great danger of going into a Father Ted sketch here.

Samuel Lowe: Yes, it looks smaller far away. Just to clarify something that was ascribed to me as something I said: while I think that removing regulatory barriers with the US would create, from a static position of nothing else changing, slightly bigger gains than just doing tariffs in the context of what would be the divergence from the EU system that would be needed to do that, I do think that would be negative. Those were some words that were ascribed to me that I did not think were quite an accurate reflection of what I said.

In terms of models, I think you are right. It is impossible for a model to accurately assess what will happen in 15 years' time. However, they do give an indication as to, as I said earlier, magnitude and scale. Remember that this report was produced with the aim of the Government being able to talk about the benefits of TTIP. You can measure off 0.35% by 2027 against, if you use an extreme Treasury scenario, around -7.8%.



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That is probably a bit large. In terms of magnitude they do tell us something about direction of travel.

Chair: A broad brush.

Samuel Lowe: They are not accurate and there is a case of what you put in is what you get out.

Q12 **Mr Marcus Fysh:** The point of my question was that my understanding of those economic models is they are highly dependent on the gravity model element, so the factor is overwhelming—

Samuel Lowe: To get on to that, the second part of your question was around gravity specifically, and it does still hold. Sir Richard Baldwin recently wrote a book, which I think was called “The Great Convergence”. He wrote a book looking at essentially the phases of globalisation. Gravity still holds now in terms of supply chains. You have heard a few exceptions to the rule but the majority of supply chains are regional. One of the reasons for that is, yes, the cost of transporting goods has gone down; yes, IT has made it easier to manage supply chains over a great distance, but the cost of moving people is still quite high. The reason they are regional is you might have a supply chain that crosses continents but you still want to be able to send a manager around it; you still want to be able to go for meetings.

Chair: It is a time question as well.

Samuel Lowe: It is a time question. Do people want to travel on a 12-hour flight or do they want to go on two hours—

Q13 **Mr Marcus Fysh:** The essence of my question, though, is whether looking at a backward-looking factor that is based on correlations and on trade and distance broadly over the last, say, 25 years—which is what that gravity model is based on—is relevant to the future to the degree that is in those models.

Samuel Lowe: I think it is entirely relevant. I think it is relevant, yes.

Q14 **Mr Ranil Jayawardena:** I should refer members to my Register of Members’ Interests entry. Can I ask a slightly wider question, Mr Singham? The President of the United States has tweeted that he is working on a major, stronger trade deal with the UK that will be “very big and exciting” and that our special relationship “is going to be even better”. At the same time he talks about America First. Is it true that America First can also be UK First if it means lower prices for consumers, and more choice for consumers in this country?

Shanker Singham: You have to pass the US Administration trade policy, which is quite a nuanced thing, contrary to how the media are often reporting it. The Administration are very concerned about distortions in other markets, particularly China. They have made a number of statements about, “We need to ensure we deal with distortions in other markets”. That is why they famously pulled out of TPP, because they



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want to recalibrate that. They are renegotiating NAFTA for similar reasons.

There is an identity of interest between the US and the UK—they are both developed countries, both affected by distortions in developing countries, and both particularly affected by distortions in China. For example, while they have lost steel production in Ohio and Pennsylvania, we have Redcar and Port Talbot for similar reasons: overproduction of supply in China. So there is a great appetite in the Trump Administration, in the US Administration, to have an agreement that enables us to deal with distortions in other markets. It is not just here, it is throughout the world. I think that is one area of great interest.

America First manifests itself in the Buy America rules. There I think there is also an opportunity for us, which again is unique for the UK. While it is going to be very difficult to shift Buy America rules that have been with us since the 1930s, the way those rules impact international trade—

Q15 **Chair:** Are they trade-distorting rules?

Shanker Singham: I would say they are, yes. They can be very trade distorting if you have a very limited waiver policy or the trade-distorting effects can be attenuated if you have a better waiver policy. After the financial crisis in America with the Recovery Act in 2009, the waiver policy was made very restricted. It used to be that if you could prove that Buy America would lead to a monopoly and prices would go up for products, you could get a waiver. It used to be that if the product went up by 6% in cost, you could get a waiver. That 6% in product became 25% in project, so it is a very, very big difference.

We are not going to get a change in Buy America. We may get changes in waiver policy that could be very, very good for UK firms—in defence, for example. You talked about America First being UK First. If we are part of the US defence industrial base—and they have already talked about this for Australia, for Canada and for the UK—that would enable us to be on a much better footing with respect to a major export of the UK, which is defence.

Q16 **Chair:** Is it a better footing or an equal footing?

Shanker Singham: An equal footing. We would not face the barriers. There are huge barriers in US defence procurement and US defence trade in general, including the application of the ITAR, the export controls for defence equipment.

Q17 **Chair:** So we would not be on an equal footing?

Shanker Singham: We could get on a much, much better footing than we currently are.

Q18 **Chair:** But not an equal footing?



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Shanker Singham: Potentially an equal footing if we are part of the US industrial defence base and, with respect to procurement, if we can have better procurement terms. Procurement is a huge issue for this agreement and that is going to be a big fight, but it is something that we, uniquely, I think, have the ability to get from the US. For any trade deal you need political will; you need to have fewer defensive interests; and you need to have aggressive offensive interests, which we have in a number of different sectors.

The agriculture issue with respect to the UK and the US—first of all, there are many things that we do not produce, such as rice, peaches, citrus and all kinds of things, where the US has complained about disguised subsidisation in Europe. We have rice barriers based on the precautionary principle, which we do not have to operate. There are opportunities there.

On the flipside, we are only allowed to export pork to the US—not beef, not veal, not any of these other agricultural products. We would obviously, if we are negotiating more openness on US agriculture, want our own products to be able to get into the US market, and that is a significant benefit as well. It is not, as was characterised as well, agriculture for services. We have a lot of agricultural interests and there are a lot of agricultural barriers. In fact, most of the barriers in the US are agricultural in nature.

Q19 **Chair:** Can you explain these rice barriers that the EU has? It is the first I have heard of rice barriers.

Shanker Singham: Indian basmati rice—there is an application of the precautionary principle. The precautionary principle is everyone has—

Q20 **Chair:** It is a form of stopping GM rice getting in, is it?

Shanker Singham: It is not GM rice, it is to do with chemicals and stuff that goes into rice. The threshold that the EU now has is very, very low, which is generally the case for many things in EU regulations. Somatic cells in milk, bisphenol A, there are a huge range of things.

Q21 **Chair:** You are arguing for more rice with more pesticides coming in?

Shanker Singham: This is a very important point. We are under a WTO overall set of obligations that relate to sanitary and phytosanitary measures—the measures we take to protect animal, plant and human health. The rules generally are that your system must be based on sound science. There are many areas where the EU system has already been found in the WTO not to be based on sound science, and there are areas where the EU's own scientists have said it is not based on sound science. What we need to do is get back to the discussion of what is sound science, because while it is reasonable to say that if there is a particular product—ractopamine or whatever it happens to be—that is capable in certain doses and certain measures of having an adverse effect on plant, human or animal health, we have to be careful about not having a barrier that is so high you essentially block the product itself.



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Citrus canker is an example. If there is one fruit that is suffering from canker, the whole area of production is barred from the EU. That may be right on science but the question is: is that a proportionate response? Here is where the rubber really hits the road with regulation. If it is not a proportionate response, if it is an over-response, then it is going to have anticompetitive effects and it is going to have economic harm effects in the market. What we want to do is get a system in place between all countries—EU, US, UK—where our responses to those kinds of risks are proportionate and based on sound science.

Chair: Thank you, I am going to have to stop you there due to the proportionality of time.

Q22 **Julia Lopez:** Sam touched upon the issue of deal sequencing in his answer to Nigel. Shanker, you suggested there should be concurrent negotiations between the UK and the EU, and the UK and the US, so that trade-offs can be made. How important is it for the UK to hold exploratory discussions with the US alongside negotiations on a trade deal with the EU, and do you think there is a risk that concurrent talks could undermine the chances of the UK securing a deal with one or both of the US and the EU?

Shanker Singham: This question is really about the application of your independent trade policy, so I think you start from the perspective of what is your independent trade policy. It is what you can do unilaterally. There are certain tariff reductions you might want to do unilaterally—things we do not produce, intermediate goods, that sort of thing. There are certain things you want to do unilaterally with respect to your regulatory environment, and then there are the bilateral deals. That is absolutely with the US, the EU, other bilateral deals, novation of the agreements that we have through the EU, deals with developing countries and so on and other deals that are de novo.

Plurilaterally what can you do with existing platforms? Assuming the TPP is alive in a year and a half or whatever, can you accede to it? If it is not, we go back to an agreement called the P4 plus 1, which is a smaller group of countries but a better agreement in many ways than the TPP. Can you accede to that? There is a whole range of things you can do plurilaterally. Then in the WTO you are taking up your seat in the WTO, and what you do with that in terms of services liberalisation, which again is where a major gain is to be made.

My suggestion is that you have to move all of this forward at the same time. The EU has a track record of being more responsive on agreements when it sees that there are other options out there. This happens every time there is a difficulty in negotiations. The best example is the Uruguay Round negotiations about 1990 when there was great difficulty on agriculture because Europe was highly defensive of its agricultural interests. How did you get the EU back to the table? George Bush basically said, "I am going to have a \$5 billion farm bill. I am going to



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massively subsidise US agriculture". Then the Europeans came back to the table. That is how a negotiation works.

From our perspective, if you sequence this so that you have the EU discussion first—first, you are saying to the rest of the world that the likelihood is you are going to be regulatorily locked into the EU arrangements, and that you are going to be locked into things like the customs union, in ways that put the ability to do a trade deal with other countries in the future or be active in the WTO at risk. The rest of the world will lose interest because countries will have their own independent trade policy to operate. I think if they see that sequencing looking like the reality, they will pull back from the UK.

Chair: I detect a difference of opinion, I think.

Samuel Lowe: Yes. I am going to answer that question but can I address some things that were brought up before that, because there was a whole spiel of things that I disagree with? I would like to just get that on record as well. This idea that if we wait four or five years other countries are going to lose interest is a bit farcical. It is not the case. No other country in the world is just looking at us waiting for the UK to emerge and be a leader and a bastion to lead everyone forward. When we approach them, they will deal with us then and there.

There are a few countries looking to try to get in quickly because they see an opportunity, but that is a slightly different issue. That is with the US and I would also say New Zealand and Australia because there is a political need in the UK for trade deals to be provided because it is part of the mandate of Brexit, some would say. That is a good time to be negotiating with the UK. So there is that. But if we go back in four or five years, they are still going to negotiate with us. I do not really see that.

One of the things that have been missing from a lot of this discussion in regards to the previous question was when we talked about what we want from the US. Where is our leverage? Donald Trump has a winners and losers' policy and we are talking about it like we are going to be negotiating with them.

Mr Ranil Jayawardena: We are not losers.

Samuel Lowe: No, winners and losers in terms of trade deals and who wins and loses from a trade deal.

Mr Ranil Jayawardena: Shanker says we are going to be winners.

Samuel Lowe: I do not agree. As I put forward in my previous statement, I think the kind of deal that was put forward by Shanker where we extricated ourselves from the regulatory geography of the EU and did a sort of transatlantic pivot towards the US would be negative.

In terms of some of the things that were put forward on procurement, there is the idea that we would get more from them—the US will not want



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to set a precedent on procurement. Although the US are signatories to the WTO Government Procurement Agreement, and it is at a federal level, only 37 states are a signatory. Most of the issues when it comes to procurement are to do with the states. They are not going to take that on for us. The idea of them wanting to negotiate with us now, as I put forward earlier, is that they want to get a deal with us where they get as many of their aggressive interests as possible so as to increase leverage over the EU. If you talk to people inside DIT, they know this as well. It is not some big secret. Then when we are talking about the precautionary principle as if it is—

Q23 **Chair:** It would not be a benevolent trade deal with the US; you are saying that it will be aggressive?

Samuel Lowe: I am saying it does not matter if it was Trump or Obama. They have aggressive interests and things they would like to get from us. Even under Obama they would have done this. Their own industry has put forward things that they want, and if they can get those concessions from the UK it puts them in a much better position in regards to the EU in terms of future negotiations. It is a sensible approach to trade from their perspective, but when you add Trump on top of that it becomes even more problematic. We have been discussing the precautionary principle as if it is some bad thing. You can, of course, pull out examples with any approach to regulation where it has made a mistake or something has gone a bit wrong. The question is, is there a systemic failure in this approach?

Q24 **Mr Nigel Evans:** Can I remind you, Sam, that with Obama we were at the back of a queue for trade and with Trump we are at the front of a queue?

Samuel Lowe: I do not think that changes any of my points. The US want to gain leverage over the EU quicker than they did before. The point still holds.

But people have been complaining about the precautionary principle for a very long time. In 2013 the European Environment Agency, which is a European body but not solely made up of EU members, did look at the precautionary principle and the complaints of business. Of the 88 complaints put forward by business of saying the precautionary principle was being ill applied, they only managed to find four that were false positives, and a third of them were going to pose a real risk to human health.

Having a precautionary approach to regulation—sometimes it can go a bit wrong. But is there a systemic failure with the EU's approach? No. The thing that was not mentioned is the US's approach to SPS has been typified as SPS-minus because in their own SPS chapters as put forward, say, in the TPP, they remove all reference to precaution entirely, so it is below what the WTO SPS agreement says. These are things that need to be taken into account.



When talking about whether we should be doing the US in parallel, I addressed that a bit earlier. You can look to the Australian experience of it. They did an agreement with the US very quickly because it was politically salient to do so. Then when Australia's Productivity Commission reviewed it later on, they found, "Deals that are struck in haste for primarily political reasons carry a risk of substantial economic damage. The question then is whether the economic costs of such policies are worth whatever the political gain, and indeed how the balance of properly calculated political gains and costs might look". This was a report that found that the US agreement with Australia—because it was it was struck quickly—did not include Australian aggressive interests on, say agriculture. That resulted in trade diversion away from its regional area and the US agreement did not compensate for it.

That would be my point with the UK and the US. We might get an agreement with the US that increases trade flows between the UK and the US, but will it compensate for the lost trade with the EU or the new barriers to trade with the EU in the scenario that was being put forward of the deep regulatory agreement? All of the evidence suggests not.

Q25 Julia Lopez: I would like to ask Shanker, do you think the Department is acting with the logic that you set out? On a slightly related point, one of the things that has concerned me over the past year is how often your name is mentioned. That is not a criticism of you; it is a concern of my own that there are so few people in the UK with trade expertise, and that the pool of expertise is very limited. Do you think we have the personnel and the capacity to do what we want in trade terms going forward?

Shanker Singham: The independent trade policy that I laid out is not magic. It is what every country would be trying to do, and I think they absolutely are seized of that logic and are pursuing it. You will not get everything you try to do and you will not get every deal you want to do. But if you start trying to get there you will go a long way towards an effective independent trade policy.

In terms of capacity, one of my special trade commissioners is Luis de la Calle, who was Mexico's chief trade negotiator for the NAFTA agreement. Luis makes this point that when Mexico started negotiating the NAFTA with the US, they had absolutely no capacity whatsoever. He was pulled out of the World Bank because it was perceived that he would know the US and he would know Washington. Within a few years when I started in the US on trade policy in the FTAA—the Free Trade Area of the Americas agreement—the Mexicans were so good at trade negotiations that other Latin American countries hired them to help negotiate agreements with the US.

This is an area where you learn by doing. First of all, we have more people in DIT on the trade policy side than the USTR. It is not an issue of we do not have the people so we cannot do this. I think it was a good decision to bring in a chief trade negotiating adviser with great experience—someone who has significant experience and can impart that



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experience to others. There does need to be a lot more of that because you only really learn this when you are in the white heat of battle, as it were. But I think they will get there and I do not think we should shy away from it or make decisions about how to execute that independent trade policy based on perceptions of whether we are capable or not. We should exercise independent trade policy based on what is in the national interest.

Chair: Sam, do you have any points on it?

Samuel Lowe: I think in terms of UK capacity to negotiate and institutional experience, the truth is with DIT the experience is not there yet. That is fine; we have not had our own need for a trade department for a long time and it is going to take a while to build up that capacity. There is, however, a core group of people within there who have worked on trade before. Even when the EU had the competence for negotiating a trade agreement, we still had a small trade team within BIS. Those people still exist and they are people with experience of talking to the US during the TTIP negotiations, or, if not negotiating, at least being around the process. My worry there is that potentially they are not in a position of power to make any decisions or they are not being utilised properly.

In terms of actual capacity, as it stands right now, before March 2019 we need to have reasserted our place at the WTO. I am going to be careful with language there because obviously we still are a WTO member and we need to realise what that looks like. We also have to replicate around 40 agreements that already exist. It should be clear that these are not being rolled over; they are all going to have to be renegotiated somewhat. The general feedback from other countries is that they are happy to use existing agreements as a baseline, "But here are a couple of things we would like to change".

We have a lot of people in DIT now but most countries do not do 40 trade agreements at once, even if you are starting from a baseline. In terms of capacity to do new deals, especially one with the US, we are talking about the biggest country on earth and with an aggressive trade policy and decades of experience. Do we have capacity for doing that at the same time as all of this? I do not think so, and I think that is understandable. If anything, this process that we are going through now should be used as a training experience and a learning experience.

Q26 **Matt Western:** Coming in on that, because it has been widely reported that we lack the expertise in DIT for negotiation, particularly against our US peers and how that sets us up, what you are suggesting is that we should not be expecting to do this quickly, and that this is going to take some time. It is also about prioritising that resource that we do have, and how that is best placed. Is that right?

Samuel Lowe: That is right. Specifically in regards to the US, I would say it is possible to do an agreement quickly with them but that usually means either full capitulation or it is superficial.



Matt Western: As in the case of Australia?

Samuel Lowe: Maybe all that is needed now is something superficial to say we have done it, but to do it properly will take a long time. We have constituencies in the UK, including my own in some areas, that would be very concerned by some of the US's aggressive asks. Getting the public consensus around that in order to deliver it—because it is not just a case of signing it, you then have to be able to deliver—takes a while and we have a lot of our plate at the moment. In terms of sequencing, I would certainly not have it anywhere near the front of our queue even if it is at the front of Donald Trump's.

Q27 **Matt Western:** Yes, okay. Shanker, do you believe we have the right people in the working group to achieve this regulatory realignment with the US?

Shanker Singham: Yes. I would not describe it as a realignment. I would describe it as what every other country is trying to do with respect to their trade relationships around the world, which is to find a way of having regulatory recognition interoperationally with the European system while they are also able to interoperate with the rest of the world. That issue of recognition equivalence where you have a different regulatory system is the key. That is something that is a major issue in international trade. For example, data protection regulation and data flow are a huge issue and will be for every country. A lot of the issues that we are talking about—it is not just the US that is going to bring those to us; every country that we want to do deals with is going to bring many of these issues to us.

Can we have a system globally, and it has to be a global agreement, on adequacy for data flow that enables you to have different regulations? The Swiss are trying to do this with their Data Protection Act and so forth, which is less constraining than the General Data Protection Regulation, and we will see what happens with that. This is something that lots of countries are trying to do. Having the ability to do an agreement with the US while we are more aligned on these issues is going to help us do this.

The other thing is we are not negotiating 40 agreements. These are not 40 trade agreements, these are novations of agreements. The political issue is whether the country itself that is on the other end is prepared for the UK to also be part, to gain the benefits and subject itself to the burdens of the agreement, outside of the EU. That is a political decision for them. There are countries that may say, "We do not want to do that". So far what countries have said to the UK is they absolutely do want to do that. Particularly for the seven or so that are really key for our trade—South Korea, Switzerland, and so on—they have been very conducive to moving this process forward, because of course they want to continue to have access to the UK market.

Q28 **Chair:** When you say move it forward, does that mean to trilateralise the



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agreement without any question?

Shanker Singham: Yes. Basically you would have the agreement on the same terms as currently stands. You would have some scheduled negotiations, absolutely.

Q29 **Chair:** You are saying that the agreements will be trilateralised, no negotiations, where it is just a signature at the end?

Shanker Singham: The way it would work is we say to the country, "We want to be on the same terms as the EU".

Q30 **Chair:** You say they have agreed this?

Shanker Singham: Their opinion is, "Yes, we absolutely want to do that". In fact many of them have said, "We want to go further". Israel, for example.

Q31 **Chair:** Which countries have agreed this very simple process?

Shanker Singham: Obviously that cannot happen until we are out of the EU.

Chair: So there have been no—

Shanker Singham: Discussions are going on now. My understanding is that most of those countries that we are having that conversation with have been very amenable to having the conversation because they want to continue access to the UK. I don't think the Australians would characterise their agreement with the US in the same way.

Samuel Lowe: They did. That was them.

Shanker Singham: The Australian High Commissioner has repeatedly talked about the success of the Australian-US agreement that was done in 18 months. They are both big beef exporters, obviously. Australia is able now, and does, to export beef to the US, which is almost like carrying coals to Newcastle. They have succeeded in doing it. They even sell beef to McDonald's, which is quite a successful thing, so I am not sure I would agree with that statement that it was all US and not successful for Australia.

It was less successful for Australia in things like sugar, where you have very powerful US interests. Certainly we are going to have to be ready for a serious trade negotiation with the US. It is not unusual for a country to be aggressive in the prosecution of its interests and I would fully expect the US to be aggressive in the prosecution of its interests. I think that they have a lot of vulnerabilities, though, in terms of their own levels of protectionism. We have talked about some of those areas like agriculture, Buy America, and to some extent financial services. But they have also shown willing, in the recent insurance coverage agreement, to be able to negotiate, to have the flexibility to negotiate.



Where we have industries that are very transatlantic, which is obviously the financial services industry in particular, many people in the financial services industry have said that if we can get this right—and this is the opportunity to get it right and it is a narrow window that is closing because the US Administration is moving towards the UK in our overall approach to financial services regulation—then it is a significant game changer for financial services around the world.

Samuel Lowe: Just on the replication I would like to push back slightly. You suggested that Switzerland has said it is happy to do it. Switzerland will not be easy to replicate. They are multiple bilateral agreements. You have also got with the category—

Shanker Singham: Our agreement with Switzerland, not the Swiss agreements with the EU.

Samuel Lowe: You also have Turkey. That is not going to be easy. You have the EEA EFTA countries: Norway, Liechtenstein, Iceland. That has got freedom of movement involved. My point here is not that it is impossible to do, it is that it requires a lot of time and energy and it requires a lot of capacity. It is not just enough to say, “We will happily roll that over”. It is a process and it requires energy, essentially.

Q32 **Matt Western:** The capacity side, I do not know what that looks like. What does it look like? What are we talking here?

Samuel Lowe: It is difficult to know. For a long while I did not know who in Government was in charge of replicating let’s call them the European area-type agreements, the ones that hover around the EU: Switzerland, Turkey, EEA. Recently one of the Trade Ministers was in Norway, so I am assuming that is now in DIT’s remit.

There are big political questions here. Norway currently has freedom of movement with the UK. How joined up this thinking is across Government—it surprises me that it is not in the remit of DExEU because it seems that it is so interlinked. The other issue with this replication that I think people have not spoken about enough is that even if we replicate the agreement with Korea, for example, our businesses may no longer be able to use it. That is because there is a chance, say for cars, that they no longer qualify for it. At the moment in order to qualify for the agreement you have to have 55% local content—big, local, EU—in order to qualify for the agreement. Once we have left the EU we may still have that agreement with Korea but I think the last time I checked only about 41% of the local content of cars exported from the UK is in the UK, so we would no longer qualify for that agreement and it would be of less value.

This can be mitigated. We could arrange for diagonal accumulation to allow us to continue to use EU imports and account for them as being from the UK for the purpose of qualifying for this agreement. But that would have to be negotiated within the UK-EU treaty and the UK-Korea treaty, but also the EU would have to reopen its agreement with Korea so



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as to write it into there. I cannot see that happening from the EU's side, where the consequences of not doing so is most likely that supply chains get repatriated to the EU.

- Q33 **Chair:** Before we move to Mr Ranil Jayawardena, Shanker, a lot of ifs and showing willingness there in your response about the 40 agreements with other countries. One of the questions I asked the Department of International Trade was: if the UK crashes out without a hard deal and the people are showing willing—showing willing can be a feint in a trade negotiation because there is a lot of positioning. But if the UK crashes out without a deal with Europe and these agreements are still showing willing, with how many countries will we have higher trade barriers from March 2019 onwards?

Shanker Singham: If you do not novate those agreements, if you are unsuccessful in getting them, then obviously you will face higher barriers to those countries.

- Q34 **Chair:** How many countries of the 193 that are in the United Nations and the 160 or whatever at the WTO?

Shanker Singham: You are assuming we are leaving the EU on the common external tariff?

- Q35 **Chair:** On the hard Brexit. Some are saying, in the words of the Prime Minister, no deal is better than a bad deal. It is a tortured phrase and maybe trade illiterate, but we will leave that to one side. If we do walk out or drop out or are kicked out or leave on whatever basis with no agreement, with how many countries worldwide will we have higher trade barriers?

Shanker Singham: You will be on WTO terms with the rest of the world. You will have MFN agreements with the rest of the world. I do not think anyone is suggesting that that is a good situation to be in.

- Q36 **Chair:** Whether it is a good situation or not, I am looking for a number. It would be useful to have a number of the possibility of that.

Shanker Singham: The EU has about 40 agreements with various countries.

- Q37 **Chair:** So you are looking at 67 countries?

Shanker Singham: Yes, it is about that.

- Q38 **Chair:** Those 67 countries have what volume of the UK's international trade?

Shanker Singham: It is a significant volume. We are not suggesting that the goal here is to leave the EU with no agreements with anyone.

- Q39 **Chair:** I am looking at you as an expert to inform the debate that if the UK was to go and crash out of an agreement with Norway on the terms of a hard Brexit, will these 40 still show willing? We are talking about 67



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countries where we will be trading with higher tariffs. I am asking what percentage of UK trade is that internationally.

Shanker Singham: That is a significant amount of UK trade.

Q40 **Chair:** 70%, 80%?

Shanker Singham: About 60%—60% or 70% of UK trade, including with the EU itself, obviously. The issue is what are the tariffs that you are talking about. They vary very dramatically between different things. Certainly in industrial non-agricultural market access they are quite low.

Chair: I do not have time to go into that at the moment, but we will have higher tariffs.

Q41 **Mr Ranil Jayawardena:** Can we probe the Australia-US trade deal a little further to help us better understand the prospects for Britain? My understanding is that Australia-US trade increased 76% since striking their FTA. In doing so, however, Australia and the US reduced their trade with the rest of the world by US\$33 billion. My contention is that it really does not matter where trade goes. My contention would also be that our trade with the EU will not reduce after Brexit. But even if it did, what lessons can the UK learn from this and in your view does it matter where our trade goes so long as it goes up and benefits the UK by creating more jobs and more opportunities and lower prices for consumers?

Shanker Singham: First of all, it is a non-zero-sum game. Trade is a non-zero-sum game. There is a lot of discussion of deficits and surpluses but these are less important concepts because it is not—these would be important concepts if it was a zero-sum game but it is not. You are right to say that what we want to do is to use—the purpose of a trade agreement is to increase import competition. The purpose of increasing import competition is to improve consumer welfare and to improve the economic environment in totality.

The barriers to that are traditionally tariff barriers, non-tariff barriers and regulatory barriers. All of our trade agreements and all of our discussions with countries should be aimed at reducing all of those barriers. If we succeed in doing that we will drive up import competition, we will create wealth and we will grow our economy. That should be the touchstone of what we are trying to do.

Q42 **Mr Ranil Jayawardena:** In the context of the US-Australia deal, that was struck in one year is my understanding.

Shanker Singham: Eighteen months from the start.

Q43 **Mr Ranil Jayawardena:** Eighteen months. Less than two years. That is very promising news in my book. Would you agree and how long should a UK-US deal take, therefore?

Shanker Singham: It depends on our posture, basically, and it depends on their posture, so what you need for a trade deal to be quick is political will, the heads of state on both sides to really want to do the deal and to



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drive their negotiators to get a deal. That is what you have with the US right now. You may not have that in the future, and we have just heard about previous presidents taking different positions, so that is a limited time window that you have. With the Australia deal, as Alexander Downer has said, you need to decide whether you are in fact a free trade country or not. If you are, if you have fewer defensive interests and more offensive interests and you are able to manage the defensive interests that you have then you will be in a position to do trade deals more successfully.

The US-EU deal, the TTIP, slowed or failed on a number of grounds. One of those grounds was the initial starting point of the EU on agriculture, and as we all know it has improved, certainly, but it is very defensive of agricultural interests and it is very difficult to do deals with countries if you are defensive on agricultural interests. However, but it also failed on the regulatory side. I have always suggested that we could have had a success with the TTIP on the regulatory side if we had essentially said, "Look, can we at least agree the manner in which we promulgate regulation and take the same things into account?"

Here again the US and the UK are in the vanguard of this, because the US through its A-4 Circular looks at cost-benefit analysis on regulatory promulgation. It is starting to go towards the area where you are looking at market impacts. The UK also does that; the CMA has done very good work on the effect of regulation on competition and is often held up as one of the best jurisdictions, so again we could do that. All of these things are driving towards a faster agreement, but it is clear that if the UK presents as a smaller version of Europe, in other words regulatorily locked into Europe and just smaller, then the interest of the US in the UK is less, not only because it will be perceived to be hard to do a deal but also because from the rest of the world's perspective the assumption is that the UK with its pro-competitive disposition, rule of law, common law and so on will regulate in ways that are more aligned around those goals. For example, one of the big issues in the EU-US deal, the TTIP, was the approach on standards. CEN, CENELEC and ETSI do not take a lot of foreign input. The US has a voluntary standard-setting approach. So all of these things will determine the speed of the agreement.

Chair: Moving forward can we have shorter answers because time is going to be very difficult as we move on?

Q44 **Mr Ranil Jayawardena:** Mr Lowe, if I can turn to you, you may wish to pick up some of those points, noting Chairman's request for shorter answers nonetheless, but can we also look at services more generally with you? One of the most important aspects is undoubtedly services and the Australia-US two-way services trade increased by 151% following their FTA and FDI has more than doubled. Would you not agree that that is really great news for UK trade opportunities with regard to a future UK-US trade deal?



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Samuel Lowe: I think it is still important and is still slightly being ignored by my colleague—

Q45 **Mr Ranil Jayawardena:** But would you agree that is really positive?

Samuel Lowe: Would I agree that is good news for the UK? I do not think it tells us anything about the UK.

Q46 **Mr Ranil Jayawardena:** So you do not think we could get as good or a better deal than Australia has?

Samuel Lowe: I do not know, and you have just thrown numbers at me without context, and I think that is what is important here.

Q47 **Mr Ranil Jayawardena:** They speak for themselves, Mr Lowe.

Samuel Lowe: No, the context in terms of the UK now is the question, is would having a deep, comprehensive agreement with the US be beneficial on an aggregate level? That is it, and when taking that into account you have to consider what the impact of being able to negotiate that agreement and the flexibility on standards would have on EU trade also. People seem to assume it is a one-to-one. It is not. We discussed forecasts earlier but again magnitude and scale. The most ambitious estimate for the UK was plus 0.35%. The lowest estimate I have heard in terms of damage to the UK's economy from Brexit, and this is by the chairman of Economists for Brexit, so I am using his one specifically, was 2%. That is an order of magnitude of difference, so the question should be, is it worth it? I have not heard that argument effectively put forward here.

There is also dropping in about how we could do things on standards and the words "mutual recognition" get thrown around a lot. We need to be a lot more precise about what we mean by that.

Q48 **Mr Ranil Jayawardena:** Can I just pick up on the standards point? You have already set out that forecasts are forecasts and they are very rarely right in any way and indeed you would probably be the first to pooh-pooh the Economists for Brexit—

Chair: I think to be fair the witness is saying that they are right within the band of the orders of magnitude.

Samuel Lowe: You have orders of magnitude and they give a good indication as to a direction of travel.

Q49 **Mr Ranil Jayawardena:** I think you would have been the first to disagree with Economists for Brexit before the referendum. I want to pick up on the point that you have made before about China. You have described them as the third regulatory superpower and you said they are on the rise, so in that context, it is not even the EU-US, we also have to consider the third power in that context. So isn't this demonstrating that the EU is losing power in this respect, it is becoming more globalised and Britain needs to find a way through all these regulatory frameworks so



that we can trade with the world as a whole?

Samuel Lowe: The UK will have to navigate this and it is true that China is on the rise. It is not there yet, largely because it does not import enough yet, so in order to influence standards beyond your border—a lot of what it does import is primary. It is on the rise. The paper talks about chemical regulation as well, which was an interesting segment. I would note that the Chinese are adopting the EU's approach there. They are developing Chinese REACH. We have Korean REACH, so in terms of the world regulatory superpowers the number one at the moment is the EU. It is the most aggressive in essentially forcing its regulatory approach outwards, and then the US. TTIP, for all that was said about it, was an attempt by the EU and the US to try to reconcile that in order to present a united front outwards. Yes, China is a player now particularly on standards. With the One Belt One Road Initiative in particular, they are developing their own Chinese standards and it is having an influence in the ISO and other standards bodies.

The UK is going to navigate this. My ultimate point would be that it does mean that the UK has to decide and in reality the trading relationship with our closest, biggest partner with whom we are already heavily integrated does seem to make the most sense.

Q50 **Mr Chris Leslie:** I want to pick up on one point. Ranil has helpfully started off on the regulatory choices and you have been talking, Mr Lowe, about the UK making a choice. It does seem to me that the evidence so far, which is very helpful, has drawn out this issue about the choices we have to make. I hope that that there will be a centre ground view of these things. I do not like ideological positions that say we must resist evil American imperialism and turn our heads against any deals with America, but by the same token I am deeply worried that we are potentially turning away from our closest neighbours and our best trading relationships to head towards the unknown.

On this question about the precautionary principle versus cost-benefit analysis in terms of the choice of the regulatory philosophy we need to take, Mr Singham—and I am just trying to figure out which publication it was, maybe it was a conversation with *The Financial Times*—the Legatum Institute said that we should think about moving away from the precautionary principle adopted by the EU. The institute talked about, "As part of this project the US and the UK could undertake joint analysis of current domestic markets to review and remove existing barriers to trade investment. This could work in parallel to the review by the US Federal Agency of regulations for repeal, replacement or modification required under the recent executive orders signed by President Trump." In other words, there might be opportunities in moving away from the precautionary approach to what you called "sound science"—some people would call it a cost-benefit approach—and to reviewing Britain's regulatory philosophy. I am hoping that Mr Singham can clarify this. The Secretary of State for Environment, Food and Rural Affairs said recently to the Defra Select Committee, "We do not want to see any dilution of



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environmental, animal welfare or for that matter labour standards or any of these other considerations" so I got the impression that the UK Government currently were saying they did not intend to move away from the precautionary principle. What is your understanding about the Government's position on this important philosophical stance?

Shanker Singham: Let me answer the question about the precautionary principle itself. I do not think anyone is suggesting we should not apply a precautionary principle, but there are many versions of the precautionary principle. There are many ways that it is operated.

Q51 **Chair:** I think it would be better to just answer the question, which is where is the UK Government going in respect of the precautionary principle?

Shanker Singham: Obviously, I cannot speak to what the UK Government want—

Q52 **Chair:** What is your understanding of it?

Shanker Singham: My understanding is that the overall architecture in which this operates is the WTO, the agreed WTO framework that the EU, the US, everybody, has already agreed, which is on sanitary and phytosanitary measures they have to be based on sound science. In that area and in technical barriers they have to be the least distortive of trade as possible consistent with your regulatory goal. That is a very good place to be and countries that adopt that kind of approach will ensure that their health-based regulation, their SPS-type measures, achieve the regulatory goal, the health regulatory goal without damaging unduly the—

Q53 **Mr Chris Leslie:** On the chlorinated chicken point, which is something that has been in the news quite a bit, and the SPS framework absolutely falling into this precautionary principle versus only a proven approach, again the Secretary of State for Environment, Food and Rural Affairs said, "Absolutely not, there is no way we are doing that." We are seeing the Secretary of State for International Trade next week and we can ask him about these things, but do you take the view that Britain should say that, if there is no proven instant risk from the chlorinated chicken, we should be letting it in?

Shanker Singham: I take the view that Britain should comply with the WTO rules and as a good WTO citizen as we take up our membership fully we should comply with the WTO. There are many cases where the EU does not, but the issue and the answer to your question, and one of the ways that the UK is looking at this, is the setting up of the sound science, or the Science Working Group in the US-UK agreement that the Secretary of State for Environment, Food and Rural Affairs and his opposite number in the US have set up. That is a good first step. We need to understand what the science is on these things first and then determine what we do with the science and how we craft a regulatory framework based on it.



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Samuel Lowe: Ripping off the chlorine chicken example, it is quite an interesting one because it popped up over the summer and the debate was essentially in the news that week— is it safe or is it not? In reality, in regards to Brexit, that is a second order question. The first order question is, what would it mean for the UK to diverge from the EU's approach to sanitary and phytosanitary measures? So what would that mean in practice? The answer is, if you are not fully harmonised with the EU's sanitary and phytosanitary regime, including for imports from third countries, your own exports to the EU—so our farmers selling into the EU—then have to go via border inspection posts. That is something that does not have to happen at the moment. Calais is not a border inspection post. Dunkirk is, which is a bit further south but does not have the same capacity. Also you would have to have these border inspection posts on the Irish border, so it was a bigger issue. It is quite an easy example and a simple one to speak about but when you step back—

Q54 **Mr Chris Leslie:** It opens up the question, where is Britain going to be? Which side of this argument is it going to be on the SPS?

Samuel Lowe: Absolutely. Ultimately we can make a political decision one way or the other but it is a decision that needs to be made and I think one of the reasons why the Secretary of State for Environment, Food and Rural Affairs did come back on that question was that it was something that Defra was aware of, because it has the—

Q55 **Mr Chris Leslie:** You cannot have your cake and eat it or you cannot have your chlorinated chicken and eat it, basically.

Shanker Singham: Well, no comment.

Q56 **Faisal Rashid:** Following on from this, when we leave the European Union and we form, under the WTO, a regulatory framework, is there any restriction under the WTO that restricts us in terms of dealing or having any trade deals with any other country around the world?

Shanker Singham: The WTO is the threshold. Technically all of these free trade agreements that we have been talking about are violations of the WTO because it is not multilateral but we allow free trade agreements to exist under Article 24 if they are trade-creating and they cover substantially all trade, which is important because any of these deals that do not satisfy those goals are technically not legal agreements. To the extent that these agreements advance the goal of liberalisation then WTO membership and the WTO is for them and supports them.

Q57 **Faisal Rashid:** Legatum has emphasised the importance of standards in any UK-US agreement. Can you explain what Legatum's proposed harmonisation of conformity assessment would mean in practice and would this include the harmonisation of testing and standards and what impact it will have on UK-US trade?

Shanker Singham: There is already a EU-US mutual recognition agreement from 1997 that deals with mutual recognition of conformity



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assessment and market surveillance for six product areas, of which I think two are now fully done and working. There were initially 11 products that were going to be covered by those areas to start with.

One of the difficulties of doing it is the difficulty of doing mutual recognition agreements between the US and the EU. That has been a hard process because of the way in which the relevant bodies have taken in evidence from people and have operated. If the UK is able to re-explore those 11 product areas and have a deeper agreement on mutual recognition of conformity assessments and market surveillance, I think that again is part of a win-win here from both sides. It is important to note that the process that led to the EC-US mutual recognition agreement came very much from the trans-Atlantic business dialogue. It came from businesses coming together to say that we need to have a solution to the problem and that was, I think, successfully translated into that agreement. We would certainly want to have as much mutual recognition of those bodies as we could have with the US and I think there is water in the system to have more than the EU currently does.

Q58 Faisal Rashid: If the UK therefore moves away from the EU conformity assessment and standard setting to US rules, what impact would that have on the UK-EU trade?

Shanker Singham: Again as I said before I do not think this is a binary question. It is not a question of choosing one or the other. If it were a question of choosing one or the other you would want to choose a regulatory system that is as pro-competitive as possible and you would look around the world and you would find what that was. That is not what we are talking about here. What we are talking about is, can you have regulatory recognition? So now I am not talking about mutual recognition of conformity assessments and market surveillance; I am talking about regulatory recognition, which is a slightly different issue—equivalence. Can you have that with the EU while you have regulation that is technically different? The WTO framework for this is very clear. The SPS and TBT agreements provide that if the end goal of regulation is the same then technical differences should not be allowed to defeat recognition. Broadly put the SPS has a higher standard and TBT has a slightly lower standard, but that is the direction of travel of the WTO. What we have to do, and we have an opportunity to do this because again we are identical or will be identical on day one of Brexit, is to build on that WTO framework in our UK-EU agreement, which is critical. We have to be able to do that while we also are able to interoperate with the US—

Q59 Chair: If it is a binary choice is the UK better off aligning itself with the US or the EU?

Shanker Singham: If it is a binary choice and you are looking to the future and you are seeing that the trade with the EU is going down, 60% in 1999 when our trade was with the single market. It is now about 40% of trade—



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Q60 Chair: There are a lot of ifs there but at the moment in March 2019 if it is a binary choice is the UK better to align itself with the US or the EU?

Shanker Singham: I think the regulatory framework in the US is more pro-competitive than the EU.

Samuel Lowe: The EU obviously. It is close to 50% of our trade; the US is around 20%. It is not a tough question. We are already heavily integrated. There are two questions there, two points. There is one around recognition of each other's standards and then there is the question around conformity assessment. On standards and the trade-off—I think my role in this Committee session is to point to trade-offs—if we wanted to accept US standards as equivalent we would have to leave the EU standards organisations. At the moment 33 countries are part of these. There are three, but they largely oversee different areas across the whole of Europe, but they include 33 countries, including Turkey and the EFTA countries, so it is not just EU countries. US Brexit does not mean we have to leave that. This is something that could happen despite leaving the EU. We could stay a member of it. British industry wants us to stay a member of it. I was looking this up yesterday and we chair about 28% of the committees, so we currently have a huge influence as the UK and UK industry over the standards created, not just for the EU but for the European area.

For us to be in a position to accept the US standards equivalent we would have had to have left that, so we are giving up a lot of influence over our closest trading partner to do that. When it comes to conformity assessment it is important to know what the issue in TTIP was and why the EU and US systems differ. The EU has essentially three standard-setting bodies. The US I think on last count has around 700. That is quite difficult. One of the issues was that if a US product has the CE mark it can just enter the EU. There is no reciprocity. Having a US standard or certification does not necessarily grant you access to the US, so there is an issue there.

On conformity assessment, the EU has lots of MRAs on conformity assessment with other countries, so this allows a conformity assessor in another country to assess products produced in that standard in that country to the standards of the EU. It just eases up the paperwork essentially, makes it all a little bit easier. The issue with the US was the US refused to take accountability for that system so it refused to provide oversight, so there was an issue there with what happens if one of the companies doing the conformity assessment does not do it right? What if there is an issue there? Who does the EU go to to complain? The US was washing its hands of that. That was the issue and why it was not agreed within TTIP and that was the thing that held up the negotiations and that will be an issue for us afterwards if we were to choose this route.

Q61 Matt Western: You say there are two major regulatory superpowers currently, which is the US and the EU and China is the third emerging one. Relatively is it possible to say that currently the US is larger or the



EU is larger in terms of the regulatory side? I am thinking here about product category and specification. To use a very simple example I remember James Dyson was very negative about the EU saying that there is a level set by the EU where his vacuum cleaners were disadvantaged by that. Do you have a view?

Samuel Lowe: I think the EU is probably the most aggressive in terms of its export globally of its own approach to regulation. I was reading up on the CEN website last night and they say a total of 87,696 European standards are now effectively adopted in third countries. That sounds like a lot. As I complained earlier about throwing numbers around without context I have not looked at how many standards there are, so as a proportion I do not know, but it is useful. Also in terms of the US's complaints about the EU's regulatory system, they are largely to do with it exporting it. I mentioned before that China is developing Chinese REACH, which is the approach to chemicals regulation. You have Korean REACH as well, which came about after the EU-Korea deal. One of the funny complaints I think that the US brings forward—it has a very useful document it brings forward I think about every March, the USTR report on barriers to trade globally and it has a big section on Europe and one of the interesting ones is that they are very upset that for whisky to be called whisky in the EU it has to have been aged for three years because they have innovative barrels in the US that can do it in one. The problem there was not necessarily the EU, it was also that Russia and Israel had adopted the same approach as well. In terms of its expansion and also the EU's GSP+ scheme, which is preferential access for developing countries and unilateral preferential access, the plus bit of it gives them better access if they sign up to certain approaches.

Q62 **Matt Western:** Can you provide the context of that figure you gave?

Samuel Lowe: Yes, I will provide the context.

Q63 **Mr Nigel Evans:** A quick question to Shanker, which is you mentioned agriculture quite a bit today. We are strong in financial services and we want to sell a lot of that to the United States. Do you think we would have to compromise a lot on agriculture to get access on the financial services?

Shanker Singham: A trade agreement will involve a lot of compromises across a lot of different areas and a lot of trade-offs across a lot of different areas, but it is not as if the US is completely open on agriculture and we are going to be defending what agricultural protection we have. They are quite closed on agriculture, and they are particularly closed to UK products. So we will be quite offensive, I would imagine, in any negotiation with the US on agriculture as well.

To answer the other question on standard setting, I think this is a fundamental difference between the US and the EU. I would say China is already there in terms of being a regulatory "superpower". They are already exporting their version of standards, which is essentially a global



standard with Chinese characteristics. That is not a good thing for the world, I would contend. It is very much a regulatory black box. People do not really understand what those standards are and it is not clear how you become certified in a number of different areas. The EU system is very much based on the prescriptive regulatory approach and I would suggest that under the WTO we have a global agreement in the Technical Barriers to Trade agreement that provides that whatever these standards are, whatever the regulatory issues are, they should not become barriers to trade. They should be the least distortive to international trade possible, and if we do not do that, if we simply allow the export of anticompetitive regulation around the world, whether it is China or it is some areas of the US and some areas of the EU, that will have a very damaging effect on trade, and that will slow and continue to contract the global economy, so it is very important. This is a really important threshold issue.

Q64 Mr Nigel Evans: My final question to Sam, you said that the UK has got very little leverage with the United States of America. Is it your view that no deal would be better than a bad deal?

Samuel Lowe: In that context I was going to make that quip earlier. In the case of the US right now no deal would be better than a bad deal.

Q65 Emma Little Pengelly: I wanted to touch very briefly firstly on an earlier point that was raised around the no deal scenario, so from our point of view on the Committee we are clearly not looking at the Brexit trade deal but deals with the rest of the world. You made reference to the fact that in a no deal, on leaving the European Union, there would be no trade deal, WTO would apply in terms of that relationship and so on. However in the 40 existing deals all the Secretaries of State have shown willing in terms of entering into or sliding across the current trade deal arrangements that we have at the moment as part of the EU into what would be the new relationship with the UK, so in that scenario where there is a no deal with the European Union what happens in relation to that slide across of those existing deals? I know there is an aspect of that about discussion of the disaggregation of the quotas and the percentages within those existing EU 40 other country trade deals. As those become the UK and 40 other country trade deals initially on Brexit, can the European Union fundamentally impact that or stop that from happening because of the conversation or discussion about quotas or can they still go ahead?

Shanker Singham: They can still go ahead. The issue there is going to be the approach and the attitude of the other country, of the third party. If they are willing to go ahead on that basis with us then we should be able to come to an agreement. It is tied on the agriculture side to the overall input quota question, which is also an issue of our WTO rectification process, so there is a read-across in that area. Ultimately our fate there really rests in the hands of those countries themselves. If they want continued access on the terms that they currently have then they will work with us to achieve that.



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Q66 Emma Little Pengelly: So in that sense, in terms of the no deal scenario with the EU and the discussions that the Government have been having with those other countries, in which they have shown willing, there is no reason to believe at this point, even in a no deal, that we could not have some form of a slide across with those existing 40 international trade deals?

Shanker Singham: It depends again whether those countries are willing to do that and no doubt the EU with some of those countries will suggest to them that it is not appropriate for them to do that and that will ultimately be a decision for those countries and their continued access to the UK market.

Q67 Emma Little Pengelly: Lastly, in relation to the scrutiny of trade deals, we understand that in terms of the US there is a scrutiny mechanism and a role to play in terms of some of the political and democratic accountability. Do you have any particular view in relation to what that should look like from a UK perspective. I am very conscious of course of that fact that, if the negotiations and the details of this get caught up too much in the political aspects, that is probably not a good thing, referring back to what you said on standards and sound science and taking an objective approach, but do you have any view at this stage about what that should look like in terms of the democratic accountability role?

Shanker Singham: Most countries have come to basically the same place on this, which is the way to do this is to have some sort of trade negotiating authority mechanism where the Parliament or the Congress of the country gives that authority to the executive branch, to the Government to negotiate the trade deal, but that the Congress or the Parliament has the ability to vote up or down on the deal itself—not to get into the specifics of the agreement, because no country will want to negotiate with another country's Parliament or Congress, but certainly to give the Parliament ultimate say on whether you ratify the deal or not, and I think that would be appropriate here as well.

Samuel Lowe: I would agree that it would be appropriate for Parliament to ratify it. I think I would probably push for there to be more society, business and parliamentary engagement before the process begins as well, before going into a trade negotiation, before a mandate is created for it, and also some mechanism throughout the consultation. I would note, though, the UK's current approach to this and my reading of the Trade White Paper suggests it will remain the same because there is no provision in there to legislate for this, is that Parliament as it stands would not get an effective up-down vote on trade agreements that the UK had signed. The current provision is that international treaties are laid before both Houses for 21 sitting days and then if you object the Government cannot ratify it in the next 21 days but then you have to object again 21 days later. There is no mechanism for Parliament to say no, and that is something that I hope will be addressed in the Trade Bill. The White Paper suggests it will not be and if it is not addressed in the Trade Bill itself initially I would hope that there are amendments to



ensure that, because otherwise you could be signing deals with everyone and it would be an executive decision rather than a parliamentary decision at the end, which is more than exists now. The European Parliament can vote yes or no to deals, and so can the US Congress, so it is not a completely unreasonable ask, I do not think.

Q68 Matt Western: I understand that under the previous Committee that the Institute of Directors said they were not fundamentally wedded to the idea of there being investment included within an FTA with the US. How do you think we should take that forward, if that is the case? Through some sort of bilateral investment treaty or in an FTA, or both?

Samuel Lowe: Is this specifically in relation to ISDS, the Investor-State Dispute Settlement mechanism?

Q69 Matt Western: Yes, it would be, wouldn't it?

Samuel Lowe: Friends of the Earth are not a fan of ISDS, would be the suggestion. Essentially it is a mechanism that allows companies to bring cases against a Government if they feel their property has been expropriated or that they have been treated unfairly. Our issue with it is that it is discriminatory. Domestic companies cannot use it, and also it is being used to excess. Many of the cases that have been brought against countries have been on environmental issues. For example, Chevron used it to sue Ecuador for more than their health budget for the year, because Ecuador had asked Chevron to clear up an oil spill in the Amazon. So there are a lot of issues there.

From the perspective of an agreement with the US I would severely caution the UK against its inclusion, first, because I do not like it very much, but secondly in terms of what effectively killed TTIP or at least ensured that it was put on ice forever was the inclusion of this ISDS mechanism. It is an issue here in the UK, the consultation the commission did on the inclusion of ISDS in TTIP had, I think, 50,000 responses out of 150,000 from the UK on this issue. It is not popular. It is not needed, is the other issue. There is no economic evidence that it increases foreign direct investment. There is no evidence it has an effect either way. Also it suggests that our domestic courts are not able to deal with these disputes and I think in all reality, if we talk about the UK, and the US in this case, they are.

Shanker Singham: Investment protection is very important and I think in the UK-US agreement there ought to be quite a lot of common ground in terms of general approaches to investment protection to protect investors from expropriation, from actions tantamount to expropriation and so on. I am sure that the US would want to see an investment protection chapter and I think UK companies will also want to see an investment protection chapter.

The point is often made that the US and the UK do not need to do an Investor-State Dispute Settlement mechanism because you have the UK



courts and the US courts and they are more or less reliable and you can use those courts to satisfy your needs and there is some truth in that. The issue that the US had with Europe on Investor-State was not with the UK but with frankly the rest of the EU 27, court actions and decisions and how reliable those were, particularly in central and eastern Europe. I think that absolutely between the UK and the US we ought to be able to achieve a high standard of protection of investment and probably do not need ISDS in that context. I would say that if you are a UK company and you are operating all over the US there are many states where you might not be so happy about that jurisdiction. It is not all New York and Washington and some of the courts in the US are not particularly strong.

Chair: Thank you. That is a good point well made.

Samuel Lowe: Just to come back slightly, you mentioned UK businesses and I think the question was prefaced by saying the IoD were not that wedded to it, so it suggests there is at least an open discussion there about whether the UK businesses want it. I just want to point the Committee to a study. BIS at the time commissioned an enterprise in April 2013 to look at the potential impact of an ISDS agreement between the UK and the US on the UK and it had four conclusions: no economic benefit, no political benefit, some economic risk, some political risk. So the Government—a previous Government albeit—have already commissioned research on this and found no reason for its inclusion.

On the question of whether the US will push for it, my instinct previously would have been yes, absolutely they would push for it, because they do not want to set a precedent of it not being included in one deal in regards to future relationships. It is still quite unclear what President Trump's position on ISDS is in the context of NAFTA. It seems to have been something he is not wedded to, so in terms of what the US would push for in the current climate I do not know.

Q70 **Julia Lopez:** Should the UK seek to join NAFTA and how realistic is it to assume that we could do so?

Shanker Singham: There are several things that would have to happen. Both the Mexicans and the Canadians have publicly stated that they would welcome the UK to accede to NAFTA. It does have an open accession clause. Again it comes back to this issue of regulatory divergence and managing regulatory divergence, so to accede to the NAFTA agreement the UK would have to accede to the NAFTA provisions on intellectual property and on all kinds of other areas. That would by the way be the same with accession to the TPP. It is quite interesting that the congressional support in the US for some sort of UK-US deal is so great that many believe that if there is a NAFTA renegotiation and the UK is somehow a part of it that will get the whole NAFTA renegotiation over the line in Congress and that without it that may not happen so there is a great appetite for it on that side.

Q71 **Chair:** That is from the American perspective but from the UK



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perspective do you think it should join NAFTA?

Shanker Singham: I do not think it is necessary. It depends on what you are doing. If you are able to accede to the TPP and have a good trade deal with the US it is a lot easier from the Trump Administration standpoint to simply do the US-UK deal and then accede to the TPP. It would be a lot easier for us to do that. That gets you the same result. If on the other hand the TPP is not in existence in a year and a half's time then you can fall back on the P4 plus 1 agreement and you might want to revisit the issue of NAFTA accession.

Samuel Lowe: I am sure everyone follows the news. NAFTA looks like it might not be around in a year's time. It is being renegotiated at the moment and it seems very unclear what it is even going to look like. I would hesitate to suggest us joining something dripping in that much uncertainty. It seems a bit of a pipe dream to me. The US Congress is quite pro a UK-US deal. The Senate, on the other hand, is much more cautious and is quite keen to see what happens in regards to our relationship with the EU.

Q72 **Chair:** Thank you. We are coming almost to the end of the morning session. Mr Singham, I think I heard you earlier say it was difficult to do trade deals if defensive on agriculture. In that case for the UK to do trade deals as we have been talking about all morning do you think the UK has to yield tremendously on agriculture to achieve that end?

Shanker Singham: I do not think it necessarily does. In terms of our agricultural policy if you look at what our agricultural policy is the sorts of products that the US wants to get into the UK market fall into two primary buckets. There are things that we do not produce that they would want, and we talked about peaches and rice and other things. Then there are things that they do produce and with respect to those things we already have an ongoing discussion with the US in the context of agricultural import quotas, so this is figuring out what our TRQs, tariff rate quotas, are for US products coming in. We already have this discussion going on live now but in terms of subsidies which is where people are most concerned, we have very little. We use £38 million worth of voluntary coupled support so I don't think that is a barrier.

Samuel Lowe: I read that paper differently. That is certainly how I read it in terms of if there were a proposal on concessions on agriculture for the purposes of leveraging services. In terms of what the US will ask for we need to remember that we are not the end game for them. They will be aggressive and ask for everything so as to create a precedent for when they approach the EU in future.

Q73 **Mr Marcus Fysh:** Very briefly, I know that you are both great advocates of technological solutions to technical problems in trade and that the US is a leader. What opportunities are there for us to work with the US to come up with innovative solutions?



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Samuel Lowe: That was a slightly pointed question towards me because Marcus knows I am quite cynical about blockchain and airships being a solution for anything. My short answer is that in the long run—10, 15, 20 years—technology will come in that really helps with a lot of these different processes. We are working to a timeframe of March 2019. We are going to struggle to even get the existing customs system ready by then. We are certainly not going to have some new fad blockchain type solution to everything by then.

Shanker Singham: Just on innovation generally, innovation and technical development is incredibly important and it will happen if you have a regulatory framework that is pro-competitive and allows people to come up with these ideas. If you have a very restrictive regulatory framework where everything is challenged before you can seek to put it into practice you will not have an innovation-led economy.

Chair: Thank you very much. I thank the panel this morning for their views and providing both sides of an argument between the two of you. It is appreciated by the Committee. Thank you both.