House of Commons

International Trade Committee

Oral evidence: Continuing Application of EU Trade Agreements after Brexit, HC 520ii

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Watch the meeting

Members present: Angus Brendan MacNeil (Chair); Mr Nigel Evans; Mr Marcus Fysh; Mr Ranil Jayawardena; Mr Chris Leslie; Julia Lopez; Catherine West; Matt Western.

Questions 85 - 149

Witnesses

I: Professor Andreas Dür, Professor of International Politics, University of Salzburg, and Hosuk Lee-Makiayama, Director, European Centre for International Political Economy, Brussels

II: Dr Peg Murray-Evans, Lecturer in Politics, University of York, and Dr Clair Gammage, Lecturer in Law, University of Bristol

Examination of witnesses

Professor Andreas Dür and Hosuk Lee-Makiyama

Q85 **Chair:** Can I firstly ask the panel to introduce themselves for the record, please?

Professor Dür: I am Andreas Dür, Professor of International Politics at the University of Salzburg in Austria.

Chair: Thank you very much for coming

Hosuk Lee-Makiyama: Hosuk Lee-Makiyama, Director of the European Centre for International Political Economy.

Q86 **Chair:** Thanks for being on the panel today as well.

Professor Dür, you are one of the people responsible for compiling the design of trade agreements database. What does the database tell you about the scope and the extent of the EU free trade agreements and how they affect the UK?

Professor Dür: According to our database, the EU currently has 41 trade agreements with third countries, so this number diverges slightly from other numbers that are in the public domain, because I am counting as well agreements that are only provisionally applied at the moment. I am also including agreements like EU-Japan and EU-Vietnam that are basically concluded and will be implemented very soon. So this is the set of agreements that is of interest to the United Kingdom in terms of Brexit.

What does the data set tell us about the scope and depth of these agreements? Basically one has to distinguish two sets of EU agreements that are still in force, so there is an earlier generation of trade agreements that were signed up to 2010 and they are not particularly deep, so there are very few of these agreements that are quite ambitious. Among them of course is the European Economic Area, the bilaterals with Switzerland and to some extent also EU-Mexico and EU-Chile, but for the rest these agreements are rather shallow.

There are 10 agreements that have been signed since 2010 that are quite deep, so that starts with the EU-Korea trade agreement and they are very ambitious, so they are among the most ambitious trade agreements that exist at the moment across the globe. They cover everything basically from tariffs to investments, competition policy, procurement policy and so on. In terms of the effect on the United Kingdom of course the effect should be the largest of these really deep agreements. "Deep" here means that they go quite considerably beyond what the WTO stipulates in the WTO rules, so this is what should be of real concern to the UK.

Q87 **Chair:** What is the percentage of UK trade that these 41 agreements that you have counted cover, and what is the effect on UK trade of not having those 41 agreements to operate on? Trade would not vanish, but presumably it would decrease.

Professor Dür: Definitely trade would not vanish, so what are we talking about? We are talking 15% to 17% of UK trade that would be covered by those agreements and there is of course huge variation across agreements. Among those 41 a very large number is of hardly any concern to the UK, so they are quite minor trade flows that are concerned here, so when I am thinking about CARIFORUM for example.

Q88 **Chair:** What would be the effect on that 15% to 17% figure if those 41 agreements were not in operation for the UK or if the UK came out and was apart from those 41 agreements? What would happen to the 15% to 17% of trade then, do you think?

Professor Dür: It is very difficult to estimate this exactly, but what we see from our econometric assessments of the effect of the deep trade agreements, we see that a deep trade agreement on average increases trade by about 30%, so we would be talking about at the maximum a decline of UK trade to these countries of 30%. As I said, not all of these agreements are really deep trade agreements, so that really concerns the most recent agreements that are very deep and have this potential to increase trade by about 30%. Some of them are very recent so they have not even been fully implemented, so this is also in a sense a loss in potential trade in the future, so UK trade to these countries would increase as a result of these agreements and this increase would not be seen if these agreements are not grandfathered.

Q89 **Chair:** Just to clarify, it would not be inconceivable that this 30% drop, or this 15% to 17% was to fall to 12% to 14%, or 10% to 12%?

Professor Dür: Something like this one could imagine, yes. That would be plausible, given the estimates that we have, but of course it strongly depends because as we know from our models and a lot of work in economics, the gravity model shows that trade flows are highest among countries that are geographically close and that are of large size. So if you talk about the trade agreement between the EU and the Caribbean countries, for example, the impact of that trade agreement on extra trade flows is going to be negligible. Many of these agreements have little commercial value, to put it lightly, in the aggregate, at least.

Q90 **Chair:** So some are of little commercial value, but which are the most important of the UK's FTAs for the UK to grandfather? A final question from me.

Professor Dür: It depends of course on what the exact objectives of the UK are but if you imagine that the objective of grandfathering here is to reduce the aggregate macro-economic effects, one would look for the deep trade agreements, so mainly the recently signed trade agreements and trade agreements with countries with which the UK has considerable trade flows.

Basically one would look at trade agreements with Norway, Switzerland, as we said the European countries, and then with Korea, Japan, Singapore, South Africa, of course Canada that I missed, and Turkey. These would be the key trade agreements to look into.

Q91 **Matt Western:** For Mr Lee-Makiyama, you recently said that there are only seven countries that are not party to a preferential trade agreement or are currently negotiating one. How did you arrive at that list of seven?

Hosuk Lee-Makiyama: If you look among the UN members who, first of all, do not qualify for GSP, which is a unilateral concession that the EU and many other countries, by the way, give to developing countries, you can immediately remove 92 countries from that list. Among them some are LDCs that also qualify for what we call Everything but Arms. They can almost unconditionally export their products to EU countries on the basis of their list of their least developed country status.

On top of that, we have several regional agreements with developing countries in what we call the APC group—African, Pacific and Caribbean countries—and so in the end there are very few countries who do not have at least some form of preferential access to the single market. In addition, we have also all the countries who are in the neighbourhood who have some form of association agreement or DCFTAs and so forth. So you essentially end up with a very small group of countries who are at least not attempting to negotiate an FTA with Europe or who already have preferential access on the basis of their developing country status, and this is how we arrived at that very small group of countries.

There is a little bit of caveat to that, because the world does not consist only of UN members. We have also some customs areas, for example, like Macau and perhaps the most famous example is Taiwan, which is not recognised, and therefore the list is slightly longer if you look at the WTO members, but in all it is rather peripheral in showing that the trend essentially towards the fact that everyone is trying to secure two basic markets, the United States and the EU and increasingly also China, which is unfortunately reluctant to do FTAs.

The second caveat I would add is perhaps that some of the negotiations have been there for quite some time without any progress. It is not necessarily due to the fact that the EU is not willing to do them, and there are a number of reasons, for example, why certain countries cannot move forward—India, for example—which is essentially due to domestic political constraint. They just cannot sign any free trade agreement as the domestic politics look at the moment; it does not matter if it is EU or any other entity. In addition, you have some agreements that were maybe a little bit premature and most of them are region-to-region agreements, for example with GCC or ASEAN—GCC is the Gulf Corporation Council, ASEAN being the Association of Southeast Asian Nations—where it is really difficult to negotiate with an entity that barely exists, at least as a trading entity.

Q92 **Chair:** All countries of course have access to the European market. Some as you say have preferential access to the European market and EU members of course have full access so if the UK was to crash out with a hard Brexit its access to the European market you are saying would be the same as Belarus, Cuba, Kazakhstan, Libya, North Korea, Russia and Venezuela?

Hosuk Lee-Makiyama: Pretty much, yes, and the United States as well, because we do not have a TTIP at the moment, and all the other countries that have not been successful in negotiating a free trade agreement with Europe.

Q93 **Mr Leslie:** I am quite interested in these potential 759 trade-related agreements that I think the *Financial Times* did a report about recently, and I think you both commented on them in recent times. In fact one person was even quoted, Andrew Hood I think it might have been, saying that it is almost like the cessation of a country, not far off, in a way you have to start from scratch and are standing still, trying to renegotiate and re-plug into some of these things. Could you paint a picture, for the outside observer, the layperson, with your assessment of the scale of that? Which of those are particularly vital of the 759, what is the scale of the task involved? Should people be worried about it or not, or is it no big deal? Please give us your overall impression and I will follow up with a couple of specifics.

Professor Dür: First of all, I cannot exactly replicate the number of 759 because there are some discrepancies in calculating those. The *Financial Times* journalists say these are of relevance to the UK, and of course that depends a little bit on how that is measured, but overall the number looks plausible.

Looking at those agreements, one sees that they are extremely heterogeneous, so there are some agreements that may be of interest to a few companies in the UK. For example, there is a trade agreement between the European Union and Serbia on textile trade; Serbia is not yet a member of the WTO and Serbia offers here the European Union access to its textile market. Of course there may be some companies in the UK that are concerned about this, textile exporters in the UK, but for the overall economy of the UK that is going to be of really small impact. Really they are minor agreements that one should not be concerned about.

Moving to the other side I think the potentially most important agreements are the ones that have to do with aviation services, where we have agreements, for example, with Brazil or Canada and also with the United States about access to the aviation markets, so the Open Skies agreement between the EU and the US of course, and they can be extremely valuable to British carriers, especially when one thinks about at the moment the European Union has such an aviation agreement with Canada and this agreement allows British Airways to fly from any airport in the European Union into Canada and back again. So a British Airways plane can fly from, let’s say, Brussels to Montreal and Montreal to Frankfurt. So if the UK drops out of that agreement, even if it signs a new agreement with Canada, it is hardly going to cover all of the European Union. So then only Heathrow-Montreal, Montreal-Heathrow will be possible.

Q94 **Mr Leslie:** So even in that one field of aviation treaties there is a multiplicity that the British Department for Transport is going to have to really start to get out there and get these agreements going presumably by end of March 2019? These need to be in the process of negotiation now for business continuity post-Brexit?

Professor Dür: Exactly, yes. So assuming that there is not some kind of transition period in which all of these agreements in one way or another are grandfathered for a transitional period, which would be difficult because we are talking about 750 agreements here and we would need agreement between the European Union, the UK and the third country to have a protocol to all of those saying that for a transitional period of five years they just keep on going the way it is right now. If this is not the case, and this is a really big hurdle, then immediately now the UK Government does need to negotiate those agreements so that there is a continuity of business opportunities.

Q95 **Mr Leslie:** If I was a Government Minister for the Department for Transport you are advising me, "Green is on your agenda, but don't worry, it will be fine, amber is you really need to do this, red is an absolute priority." Where would you rank that as something that a Minister should absolutely focus on, on that scale?

Professor Dür: Aviation agreements I would put on the red scale, because they are really important for the carriers. Also because of course airlines schedule their flights years ahead often, and so there needs to be certainty that the flights can take place at the moment that the UK drops out of the single market in 2019.

Q96 **Mr Leslie:** Mr Lee-Makiyama, again, your assessment of which of these 759 or thereabouts we should really be concerned about. Which would you place on that scale? What is your feeling about it?

Hosuk Lee-Makiyama: I have very little to add after Professor Dür's very good explanation. Maybe I will just add one comment to that.

It is very difficult to talk about certain sectors that are more pertinent than others. Yes, from an economic point of view or perhaps from the perspective of timing, some are more urgent than others and some sectors may be more complicated than others. However, if you look across the board at all the agreements that have been signed by the European Union on behalf of the UK and the member states you will find critical agreement in almost every one of the sectors, not just from transport, not just aviation in the transport sector. We have land transport, which is essential for the nitty-gritty of trade, the really granular aspect of frictionless trade, to operate. Some of them are multilateral, some are signed in Geneva.

Q97 **Mr Leslie:** On that point, if they are multilateral agreements and we are currently party to them because the EU have done these, but we are exiting from those potential treaties, should we not be slightly more worried about those? In a way grandfathering or trying to repair a bilateral thing with Chile, Honduras or the United States is one thing, but for the UK to then refashion itself into a multilateral arrangement, that is pretty complex stuff to have to do, isn't it?

Hosuk Lee-Makiyama: I would say it depends, case-by-case. Simply because in many cases the UK is a signatory on its own accord together with the European Union, because in certain agreements the European

Union is not a legal entity, so the UK has signed it. In some cases it matters.

Q98 **Mr Leslie:** Is there a particular multilateral treaty example that would stick in your mind just as an anecdote to pull out? It is often when you bring these out in specifics that it paints a picture of how important they are. I have been looking at them. There are some fisheries ones, customs, nuclear, agriculture. Which ones come to your mind?

Hosuk Lee-Makiyama: I would say there is a critical one in almost every one of them. That is the amount of work that we have ahead of us, trying to scope out which are critical, which can be very easily transitioned into a bilateral context. Some of them, as I said, do not even need to be transitioned.

Q99 **Mr Leslie:** All sectors have red, not just amber?

Hosuk Lee-Makiyama: Yes, absolutely and the question is how red they are. What happens if they expire? Who of these counterparts will use that as an excuse to renegotiate the terms with the UK on certain aspects, and that is almost expected, for example, in agriculture and other sensitive sectors.

In other areas I do expect rather smooth sailing. One example that comes to my mind is the number of agreements we have signed on land transport, which have been signed by the UK on its own accord. There is really no interest to get the UK out of car safety standards, which have been pretty much agreed in most of the world, or the continental transport agreements that we have in the European subcontinent. They will require work, but just trying to figure out what kind of work we need and to address the counterparts and saying that we need to transition them into a new context is going to take quite a lot of time.

Q100 **Chair:** You were quoted in the *Financial Times* in May, six or seven months ago, saying that the logistics were terrifying. I am assuming you were quoted accurately and have things improved since May?

Hosuk Lee-Makiyama: No. Considering there are almost 200 countries in the world and we have signed some form of agreement with almost every one of them, let us do a little bit of maths. I think the number in the *Financial Times* is correct, 750 agreements. Just making 750 phone calls to 200 counterparts and saying, "Are we okay with this agreement? Is it something that we can just continue?" in itself is going to require quite a lot of manpower. Imagine then going to those places or having them come to London and negotiate them or even discuss them. I am not really sure how that will be done logistically.

Q101 **Matt Western:** You said it would take quite a lot of time. How much time do you think it would take?

Hosuk Lee-Makiyama: It depends on the benevolence of the UK Government and the counterparts.

Q102 **Chair:** The benevolence more of the counterparts than the UK Government, really?

Hosuk Lee-Makiyama: It depends on what kind of generosity they will show in terms of transition, in terms of just continuing the relationship. It is very difficult to assess until we sit down and talk about these agreements with the counterparts and what the future relationship is going to be. It is not only with the EU. This is the irony of the European Union, that it is relatively easy to transition into the EU and that in itself is a process that could take decades, as we know, whereas while you are in you undertake a number of commitments on the EU level, which you may not even be aware about or you may take for granted. Once you leave then all of these have to be recreated. Leaving is much more difficult than entering.

One aspect of the EU treaties is that many of them have something called the territorial principle, which means that they only apply to EU members. For example, EU FTAs contain such a paragraph saying that in an FTA, even though it is signed by the UK as well as the European Union, the benefit of the agreement is only afforded to those who have signed a treaty as a functionary of the European Union.

Q103 **Chair:** Before I move to my two colleagues on the right who are very keen to come in, just for clarification, of the 759 which do you think will be easily done, which do you think a young negotiator might think, "I can make a name for myself by getting an extra advantage for my country" or have all these agreements got aspects of that in them?

Hosuk Lee-Makiyama: On a general basis—it is very difficult to draw a general case—but most multilateral agreements where more than 100 countries have signed on to a one single text are relatively easy. In some cases I would even say that it is not even necessary for the UK to re-sign that agreement, because some of them contain two signatories, the European Commission as well as the UK. So we are already covered and we are not exiting that agreement.

In some cases, it changes our commitment, and this is very true in the case of the free trade agreements that we have signed. In those cases there will be renegotiation and there will be quite a lot of political entrepreneurship, I would guess from both sides to try to change the terms of trade to their benefit. I think most counterparts of the UK have recognised the fact that they would need to transition the agreement into a bilateral context, but in the end it will come at a certain price.

In other cases, for example agriculture and fisheries, these are cases where managed trade prevails. You do not give up anything and if you can change the terms of trade to your advantage you are going to try to do so. It is not just our counterparts. It might also be the European Union or another country, a third country, who might find it beneficial to try to exploit a situation. Energy is an extremely sensitive area, and the UK leaving Euratom is one of the big question marks in terms of how is the

UK going to find the material to continue its nuclear power plants. The list is endless and it is very difficult to say, of all the agreements that have been signed in the name of the UK and the member states for the last 30 years among them, is there any general direction of which are red, amber or green? It is rather dangerous for me to even try to make such a generalisation.

Chair: Thank you. A brief question from Nigel Evans before my colleague implodes on my far right.

Q104 **Mr Evans:** You say that it is easier to enter than to leave the European Union. Tell that to Turkey, because they have been strung along for years on trying to comply with this chapter, that chapter, the other chapter and they are further away from joining now than they were at the beginning. I do not see where you get that from. I think you are being incredibly pessimistic about the dialogue that takes place, compared to, for instance, the Canadian deal that has taken eight years to do. TTIP fell to pieces with the United States of America. That has gone absolutely nowhere. Do you agree that Britain now has a better chance of doing a trade deal with the United States of America than the European Union?

Hosuk Lee-Makiyama: Let me try to answer the questions in sequence. Tell that to Turkey. Yes, I have. I have told that to the Turkish Government; the political situation between the EU and Turkey is a very interesting one, to say the least, and I do understand also that Turkey has taken certain political action. At some point you do realise you are not welcome to a club, and the question is the Groucho Marx principle applies, so to speak, but once you do enter into an accession legally speaking—not politically, but legally—you undertake the entire acquis, including all the commitment that has been undertaken in the name of the EU. That is relatively simple logistically and legally to do, rather than to separate out commitment that has been made as a collective. To use a very familiar analogy, it is very often easier to get married than get divorced. This is not a political statement about whether the EU is an easy party to negotiate accession with.

Mr Evans: As a single bloke I am not so sure about that.

Hosuk Lee-Makiyama: I will refrain from answering that question but, yes, my answer was purely about the logistics of leaving versus entering.

I believe the second important question about the ease of doing a trade agreement with the United States, I think most trade negotiators will agree that the United States is the most difficult country to negotiate with. It projects an enormous amount of influence, standard-setting power, and it also knows the attractiveness of its own domestic market. Therefore it gives very little in negotiations. At the same time, the United States is one of the best-informed business groups and trade negotiating entities in the world, which means they know exactly what they want and they have scoped it out for years ahead. They are going to ask for a number of things on the table before you even start negotiations.

Frankly speaking, the endeavour that was TTIP could have never been an easy one, because the EU is very much the same way; it is the biggest internal market in the world. It projects an enormous amount of standard-setting influence, if not more than the United States nowadays. If you put two entities together who are not accustomed to making compromises it is going to be very difficult to negotiate something that goes beyond existing FTAs.

In addition, I think one of the mistakes that took place in the TTIP negotiation is the fact that we as in the European Union had very few mutual recognition agreements or very few regulatory corporations that exist in the FTA field with the United States. That meant that we are starting from a very low level and in essence we had two entities who could not compromise, or who are not used to compromise at least, starting from a very low level and trying to deliver what they call an FTA++, going beyond the recent FTAs, and that is going to be extremely difficult.

In the sense of the UK negotiating with the United States, I would have to add two points. One is the requests that the United States still want on the table and what the UK wants are essentially some of the most sensitive issues for the United States to negotiate in an agreement. It has never put financial services up for negotiation, for example. It puts very few, almost no service sectors, up for negotiation, in its FTAs. That is where the UK's primary interests lie. The UK tried and succeeded to leverage on the other member states in presenting the offensive interest of the UK via EU as a common EU interest with all the compromises that the EU could offer and still could not get them from the United States. I am not really clear how the UK would succeed better than the EU.

Professor Dür: Without being overly pessimistic, of course it is possible to sign those trade agreements once the UK is no longer a member of the European Union, but one has to also see that Switzerland, for example, also tried to negotiate with the United States and failed, so the EU is not alone in failing. Unless you are really willing to give in to US demands it is just very difficult to conclude those agreements.

Just very quickly, because you also asked for some kind of assessment of the time this may take, in our database, we find that on average for any country in the world it takes about two years to sign a trade agreement. Many of those trade agreements are not particularly deep, so there is a lot of variation, but for lots of countries other than the European Union it takes them a long time to agree on those trade agreements, because they are just very complex so they often go into 1,000 pages and it just takes time to agree on such a long legal text.

Q105 **Chair:** Thank you. Now the admirably patient Ranil Jayawardena, who I am sure will push the session along quickly.

Q106 **Mr Jayawardena:** I would be grateful for some brief answers. Mr Lee-Makiyama, you told the Treasury Committee in July 2016 that the grandfathering of the Korea, CETA, Singapore and Peru agreements are relatively easy deals and a legal verification exercise. Do you stand by that?

Hosuk Lee-Makiyama: Yes.

Q107 **Mr Jayawardena:** So if you stand by that do you agree with the Government's approach of transitional adoption of rolled-over agreements, that on exit day it would be better to have 63 FTAs on the terms of EU FTAs rather than only a handful of new FTAs that we had had the time to negotiate, albeit renegotiated to the benefit of the UK?

Hosuk Lee-Makiyama: Well, first of all I think the UK is obliged to negotiate, legally, and it is of course in its interests to negotiate the existing FTAs.

Q108 **Mr Jayawardena:** But to roll over on day one is better than to have nothing on day one, right?

Hosuk Lee-Makiyama: I am not really sure if I understand what you mean by "roll over".

Q109 **Mr Jayawardena:** Well, the transitional adoption of rolled-over agreements rather than to have nothing on day one and start from scratch.

Hosuk Lee-Makiyama: Yes, of course, they serve as a template anyway, so it is a question about marginal adjustment, which will not take three years but it will certainly take at least a year.

Q110 **Mr Jayawardena:** Yes, that is helpful. The President of the Board of Trade told this Committee several weeks ago that some countries had said that they would prefer to move directly to a new FTA with UK but, "we have made it clear that that is an ambition for another day"—his words, not mine. That fits with what you have just said about a horizon of a year to really think about renegotiating any points that might be in our mutual interest, but once we have left the EU and can negotiate FTAs, and given that some countries are clearly very keen for a new FTA with us, how quick and straightforward do you think those renegotiations would be compared to the situation we have been in with the EU? You referenced TTIP a moment ago. You said it was never going to be an easy one. One of the reasons you said was the regulatory hurdles, but another reason of course was that trying to get all the member states of the EU to agree with the US was also a challenge. In fact, it was not even member states; it was some sub-national Parliaments had to agree it, so would you agree that we are in a much better position to conclude a deal, regardless of our regulatory barriers right now, on the basis that it would be one state with another state?

Hosuk Lee-Makiyama: I do not think we should confuse ratification with negotiation. Yes, ratifying an agreement in Europe can be complicated, especially after the Singapore ruling in the ECJ, but I do not think negotiation of an FTA is that straightforward for any party.

Q111 **Mr Jayawardena:** So you contend that negotiation bears no relationship to whether it stands any prospect of being ratified?

Hosuk Lee-Makiyama: It affects the quality of the offers you receive. If you have extremely complex ratification systems or if you have a very strong legislative Assembly and there is a likelihood that the word of the Executive may not be fulfilled by the country as a whole, yes, there will be a less ambitious offer. It goes without saying that if I cannot take your word for it you will not receive my best offers.

Q112 **Mr Jayawardena:** So to turn that around, if the British Government can provide certainty to other countries that we can honour our commitments that we make in negotiation—

Hosuk Lee-Makiyama: With all due respect, I think the House of Commons looks very powerful to me, as well as the European Parliament or the US Congress, in having its say against the Executive.

Q113 **Mr Jayawardena:** But with respect to the trade Bill, it is suggested that there should be rights for the Government to have a period of five years to be able to smooth things over, if I can put it like that.

Hosuk Lee-Makiyama: Which Government for which five years?

Q114 **Mr Jayawardena:** The British Government, to have powers to make sure that the existing relationships can be smoothed over for a period of five years. Some set it at five years.

Hosuk Lee-Makiyama: I am not familiar with that.

Q115 **Mr Jayawardena:** Okay, so turning to how far the EU FTAs cover trade and services, and what distinct issues arise from that, what is your view of the trade and services with regard to FTAs and will grandfathering FTAs in relation to services have any impact on our ability to liberalise services trade with America, China and others?

Hosuk Lee-Makiyama: I spent quite a long time in services negotiation and I must say that once again in a general case free trade agreements do not deliver ambitious services liberalisation. It essentially locks in existing liberalisation. It is partly due to the fact that liberalisation of services is extremely difficult to do politically, but also because of the fact that it is really not in the schedules where the barriers are; it is about regulations. Services regulations are usually not negotiated in free trade agreements in an ambitious form or in a meaningful way that liberalises considerable volumes of trade.

Q116 **Mr Jayawardena:** So to grandfather existing EU FTAs does not have an impact on our ability to liberalise the services trade elsewhere because that is another matter for another day through other pieces of paper?

Hosuk Lee-Makiyama: It does not have anything to do with the transitioning of existing FTAs. Even new FTAs including the one that the UK is aspiring to have with the United States, we should not expect too much liberalisation on the services sector.

Q117 **Mr Jayawardena:** What are the most important aspects of trade and services in your view that our City of London must retain access to? Is it not now agreed by the City, and we had some representatives from the City previously to this Committee and of course we have heard from other folk outside, that access and mutual recognition or equivalency is needed but not necessarily full passporting rights?

Hosuk Lee-Makiyama: Equivalence is never negotiated in free trade agreements.

Q118 **Mr Jayawardena:** That was not my question. My question was what are the most important aspects of trade and services? I have accepted your point about FTAs. What are the most important aspects of trade and services that you believe we should retain access to, and is it not now agreed that full passporting rights are not necessary and that access and mutual recognition equivalency is perfectly practical?

Hosuk Lee-Makiyama: You could say that the passporting is a form of the equivalence/adequacy decision, so it is just another terminology given to another group. Yes, indeed, equivalence or adequacy decisions are quite important. The problem with services is that service trading carries various types of weight and it is not just a question of, for example in the financial services sector, the equivalence for different types of business functions. You also use an enormous amount of data that must be able to flow freely, which means that you need to have an adequacy decision on, for example, data privacy for client data. In addition you need to also have a considerable amount of liberalisation of investment, because the most common way to trade in services is via investment rather than cross-border.

Finally, you have intellectual property that is necessary in order to make services work. Trademarks and copyright are essential for licensing or franchising agreements. In addition, you need liberalisation of goods because otherwise the wholesale or merchandise services will not be able to operate. I should add free movement for inter-corporate transferees and other kinds of business mobility is essential.

Q119 **Mr Jayawardena:** That is a matter for negotiation as well, but I wonder if I can turn to you, Professor. Just one last point, Chairman, if I may. You referenced issues with regards to aviation. Could you clarify for me, because my understanding is that we have a number of aviation agreements that were with the United Kingdom directly from prior to our joining the European Union and even if they had been amended to also allow the EU to in fact piggyback on the back of our deal those deals remain extant. Second, and allied to that, is it not also agreed by airlines that although there are challenges with this the planes are not going to stop flying on day one?

Professor Dür: Definitely they are not going to stop flying, I am sure, but there is a competitive issue that airlines definitely will be concerned about. As I say, the main issue is not really the access from Heathrow to

Montreal. The main question is for global carriers like BA, for example. What can they do? Can they fly out of Madrid, for example, and how will that work? Triangular flights, and so on. I think that is more of an issue given the way that the European aviation market has been structured over the past few years.

Q120 **Mr Jayawardena:** But what about the deals we had previously agreed as the United Kingdom that in fact the EU has piggybacked on? So those remain, don't they?

Professor Dür: Those would most plausibly remain in place, but as I say they just concern flights from UK territory to a foreign country, but not from any other European destination that may exist right now.

Q121 **Chair:** There is another problem with those agreements as well. The bilateral air agreements the UK has signed mostly stipulate London airports, so there is a problem within the UK if that were the case to pertain for regional areas of the UK, which is an area that some experts somewhere will look at because certainly in my political past I have raked through bilateral air agreements; such was the fun I was having five or 10 years ago.

Just to go back to the trade-related issues, can I ask you both to explain how the regional convention on the pan-Euro-Mediterranean preferential rules of origin, or the PEM Convention, operates? Can you tell us what the implications might be of the UK not grandfathering such an agreement or convention?

Professor Dür: The PEM Convention allows for diagonal accumulation of rules of origin. Rules of origin are very important for free trade areas to work, so if a company from country A wants to export to country B it needs to have a minimum domestic content to these goods and normally that domestic content is calculated as what is added to the value of the product in countries A and B. PEM allows country A to also consider as domestic content any content that is added in country C that is also a member of a PEM. Since the PEM Convention has been signed a lot of European and northern African countries, over to Moldova—that is of course a huge advantage, so it allows companies to really benefit from regional production sharing and still benefit from the low tariffs that are granted in FTAs. There is only an advantage, however, to PEM if you have a considerable number of free trade agreements, because PEM stipulates that country A can do that only if country A has an agreement with country B, country B has one with country A and country A with country C. There has to be FTAs all over this network; only then the PEM Convention kicks in. That is of course only going to be the case for the UK once it has a considerable number of trade agreements with the other signatories of the PEM Convention.

Just to add, I do not think that grandfathering is the right term to use here. The PEM Convention is a multilateral agreement in Article 5. There is an accession clause and any country that has at least one FTA with a

PEM signatory can be invited to become a party of that Convention. That will be very simple. I do not think that anybody will have any problem with the UK signing up to that and it will just become a new member of the Convention.

Chair: Thank you. Some good news indeed. Mr Lee-Makiyama.

Hosuk Lee-Makiyama: It shows the importance of rules of origin and cumulation. Just to put it in a real-life context, most companies do not qualify for the preferential agreements that we have signed, simply because rules of origin are just too time-consuming. In complex products, for example, electronics or machinery, you do not even attempt to do that, simply because it just takes too long. Your product will be obsolete by the time you figure out where your product is made and you can prove it on paper, which means that for the high-value added industry that the UK excels in, to minimise the cost of rules of origin is extremely important. I am thinking, for example, the car industry, heavy machinery as well as the cutting-edge ICT sector that exists here in the UK. In addition, for example, an industry like fashion depends on having liberal rules of origin in order to access third markets, so this is essential. Most SMEs do not use preferential agreements at all, if they are even aware that they exist.

The second point I would like to make about rules of origin, just to simplify a little bit from the excellent explanation we just got, is that it is not just PEM, it is every one of our agreements. Let us take Sunderland as an example, a car made in Sunderland that utilises many parts that are made, for example, in Japan or in other countries. If they are entered into a car made in Sunderland and exported to let’s say the EU, you would not still get the duty cut simply because, for example, the engine is made in Japan.

Even if Japan, EU and the UK all have free trade agreements with each other, unless you can agree on what we call diagonal cumulation or alternatively full cumulation, you do not get the duty cuts simply because you cannot count the Japanese engine into that agreement, even though Japan and the EU have a free trade agreement and the UK and EU have a free trade agreement, all parties involved in building that car have a free trade agreement, you just do not qualify because you do not live up to the rules of origin unless you have the rule of cumulation, which must be diagonal.

Most free trade agreements are bilateral, which means that if we build a car here in the UK and want to sell it to the EU and we use an engine from the EU, that is fine, we can count that. But if you use it from another country, for example, in this case Japan, it is not going to qualify for duty cuts. This is essentially how important rules of origin are. It is a very difficult situation to be in. While free trade agreements give tariff cuts, you are subject to these rules of origin, which we cannot get rid of. It is just part of the game of free trade agreements. There is no way to get rid of it, unless you build a customs union. Then you have the common external tariff and therefore you do not need to bother with rules of origin. Once you are in, you are already in. You do not look at where the engine comes from anymore.

This is a very important point to be made. All these agreements that the EU has signed, as well as those the UK signs in the future, if the UK wants to maintain the supply chains and the good integration that the UK industry enjoys with the Continent, it is essential to change the rules of origin in the past agreements as well as the coming ones.

Q122 **Chair:** Just a final question. You mentioned the logistics of 759 phone calls, I think, to 200 countries. How many pages, when we aggregate up all these agreements, need to be grandfathered? Any estimation?

Hosuk Lee-Makiyama: I am not responsible for the article and I am not responsible for the number. I just assumed, as it is being presented by the Chair and a reputable newspaper, that it is true. But I know that some of them run for, as we heard, thousands of pages of free trade agreements; some are just one page, a memorandum of understanding; some are several documents that are linked together over several generations of text. I am not really sure it is the length of the document that is going to be the determinant of how complex it is going to be. It is going to depend on the legal situation in terms of in what capacity did the EU sign and what is the nature of the commitment and, as I said, the benevolence of the counterpart. These are the three main factors, I would think.

Q123 **Chair:** Professor Dür, any estimation? Anything you would like to add?

Professor Dür: I would guess it is about 50,000 pages at least. I can give the exact number, because I am working with those agreements in my research and we have a dataset with all those agreements as well, so I can give the Committee an exact number of pages after the hearing.[1]

Chair: We would appreciate that. Can I thank you both very much for your expertise and especially your time this morning? It is very much appreciated. As ever, I think we have learned something during this hour that we have spent together. Thank you both very much.

Examination of witnesses

[1] I started from the full body of EU agreements in the EU's treaty database (1,212 agreements), assuming that the treaties affecting the UK are a random sample from this population. The average number of pages across this full population is 48. Multiplying this with the number of agreements mentioned in the FT as being of relevance to the UK (759), I arrive at the following total number of pages: 759*48=36,432. Clearly, this is an estimate only, but it gives an indication of the scope of the work of sifting through these texts. It may also be added that many of these pages are taken up by annexes. I have the word count for each text without appendix (4,375) and can use that to arrive at an approximate number of pages just for the main texts of the agreements: 4,375/300 (app. number of words per page)*759 (number of agreements affecting the UK)=11,069 pages without annexes.
In either case, this is a considerable number of pages to sift through for the lawyers in the UK administration.

Witnesses: Dr Peg Murray-Evans and Dr Clair Gammage.

Q124 **Chair:** Good morning, panel. Can I thank you both for coming? Can I ask you both, just for the record, to give your name, rank and serial number, please, as I often say?

Dr Murray-Evans: Peg Murray-Evans, Associate Lecturer at the University of York.

Dr Gammage: I am Dr Clair Gammage, Lecturer of Law from the University of Bristol.

Q125 **Chair:** Thank you both for coming this morning. By way of introduction, can you explain what economic partnership agreements are and describe in outline those that are currently in place?

Dr Murray-Evans: Economic partnership agreements are a series of trade and development agreements that exist between the European Union and a group of African, Caribbean and Pacific countries that have had a long-standing preferential trade relationship with the EU. These agreements are reciprocal trade agreements; the ACP countries that have signed the agreements get preferential access to the EU market. Those countries are also opening their markets to EU goods trade as well on an asymmetrical basis, so the extent of their trade opening is less than the extent of the EU's trade opening. The EU gives duty free and quota-free market access to these African, Caribbean and Pacific countries.

There are about 30 ACP countries that have signed economic partnership agreements. There is a full EPA between the EU and the Caribbean regional group. There are two Pacific countries that have signed an economic partnership agreement and then in Africa there is a patchwork of different arrangements. Some countries have signed economic partnership agreements; other countries have not. The countries that have not signed economic partnership agreements access the EU market through other unilateral schemes.

Chair: Dr Gammage, would you like to add anything to that?

Dr Gammage: I think Peg has covered everything, so I will not delay the conversation.

Q126 **Chair:** Can I ask you then how important are the EU's economic partnership agreements for UK trade and of course that of the partners involved?

Dr Gammage: The importance of the agreements and the significance of the agreements varies from agreement to agreement and from sector to sector. For some of the African, Caribbean and Pacific countries, through the economic partnership agreements, they are gaining significant access to the EU markets and indeed to the UK market, without which they may not be able to access on the same scale. How significant the economic partnership agreements are to the EU is somewhat questionable. They are not as significant to the EU as they are to the African, Caribbean and Pacific states.

Q127 **Chair:** I am presuming quite a lot of this might be in citrus fruits, in perishable commodities. What would the effect on the UK be of not having these agreements?

Dr Gammage: That is a very complex question, because it depends on the arrangement that we end up with with the EU in terms of the UK's trade relationship with the EU on exit day. If we continued on some sort of transitional arrangement that sort of carries on what we currently have, then the UK can still have that same access. If we were to change and have that cliff-edge moment of no longer being party to the economic partnership agreements, collectively UK trade to the African, Caribbean and Pacific region is quite significant. It is the fifth largest area around the globe that we export to as a collective, but individually there is a different story there. Individually some sectors may be affected more than others. If you look at it on an individual basis, it does not look that significant. If you take the ACP as a whole, it is quite significant.

Q128 **Mr Jayawardena:** The 48 countries on the UN's Least Developed Countries index account for £19.2 billion worth of UK imported goods, including almost 80% of the tea we consume and half our clothing and a quarter of our coffee. The UK, unlike many southern European economies, I would contend, is in a prime position to push for more open global markets and create more consumer choice through that, as well as potentially lowering prices for our domestic consumption precisely because those imports from those developing countries do not directly complete with our own producers. What are the advantages of economic partnership agreements as compared to unilateral trade arrangements with these countries to prevent their economic development? Whoever wants to kick off.

Dr Murray-Evans: In terms of the advantages of the economic partnership agreements compared to unilateral schemes, the reason the economic partnership agreements were introduced was at least in part because the EU's unilateral schemes did not cover all of the countries that already had preferential access to the EU market under the previous Lomé Convention. If the EU had not signed any economic partnership agreements with ACP countries and had just moved to a purely unilateral system, then several of those countries would have lost out, because they do not quality for unilateral preference schemes.

That was one of the key reasons why the economic partnership agreements were introduced and why the UK will have to at least look at how it manages that problem, that some of these countries that already have existing access to the EU market will lose out on that access if we move to just only having unilateral schemes that are based on an objective assessment of the level of development of those countries. That is how those preferential schemes have to be organised under WTO rules.

You cannot have a preferential scheme that includes countries at very different levels of development, for example.

Q129 **Mr Jayawardena:** When we leave the European Union, you are saying, we would have to continue with EPAs rather than Britain staying unilaterally with this group of countries, so they can retain their own EPA and we could go further though, we could go for unilateral?

Dr Gammage: There is a complexity around what happens with all free trade agreements and particularly with the economic partnership agreements in this context, in that there cannot be an assumption that we can just roll over and continue to be party to the agreement. That will entirely depend on what happens with our relationship with the EU. My personal perspective would be that the economic partnership agreements have fallen extremely short of the original ambition. They are not operationalising in the way that was expected. What I mean by that is in the Caribbean, for example, trade between the EU and Caribbean has not been as it was forecasted and the Caribbean states are looking more towards Latin American as a new trade partner.

I would say that if and when Brexit happens, the opportunity is there for the UK to explore other options. I think that we need to be creative and innovative in the way we approach that. The EU has a three-tier system to its GSP, to its generalised system of preferences. We have the generalised system; we have GSP+, which has a much smaller list of beneficiaries, where trade is conditional on signing up to certain agreements based on human rights and that sort of thing. Then we have Everything but Arms, where we have a vast number of the least developed countries exporting to the EU everything except for munitions.

Is the EPA framework the best thing if we are to leave the existing EPA framework? I would say not. I would say you want to be exploring other avenues. There is one considerable constraint though and that is the MFN clause.

Q130 **Mr Jayawardena:** Can I just take it a step further and say with Britain's links through the Commonwealth to many of the least developed countries, do you think that for both parties it would be something that could be quite—relatively, shall we say—easily agreed compared to other trade agreements?

Dr Murray-Evans: It is a difficult question. Yes, there is an extent to which countries that are party to existing economic partnership agreements are likely to be keen to carry on that relationship, particularly where they have significant exports to the UK.

Q131 **Mr Jayawardena:** Or to improve it, in fact?

Dr Murray-Evans: Or to improve it, yes, absolutely. Whether that is going to be an easy process, I do not know. There are various complications. Some of these agreements have not even been concluded and ratified with the EU yet, so there is a question of what the situation is with those agreements. You might have countries within the same region that are party to a regional agreement, some of which have significant trade with the EU; others of which do not particularly; some of which are eligible for unilateral preferences; others of which are not eligible for those preferences.

You might have a situation where some parts of a regional customs union want to do a deal with the UK that is similar to the economic partnership agreement and other parts of that region do not necessarily want to do that sort of deal. Yes, I think there will absolutely be complexities. These countries will probably—or at least the ones that have significant exports to the UK—be keen to roll it over, but it will not necessarily be a straightforward process at all. As Clair said, much of it depends on the UK's relationship with the EU as well.

Q132 **Mr Jayawardena:** Sure. That was my final point, which nicely leads into that. How do you think the provisions in the Customs Bill on the continuation of EU unilateral trade preferences schemes might affect the grandfathering of economic partnership agreements?

Dr Gammage: I am going to give a typical lawyerly answer and without finer details.

Mr Jayawardena: We would expect nothing less. We would be disappointed if that was not the case.

Dr Gammage: Without the finer details, I think it is hard to say how that will manifest. There are a number of minute details that definitely need a lot of clarification, particularly around preferences and rules of origin. What is stated in the Bill indicates that you can have wholly constituted products, but there is also that cumulation process and substantial transformation. It will be interesting to see how the UK will define that kind of thing in due course. There is clearly scope within the Bill to roll out some kind of unilateral preference scheme. What I would say is it has to comply with the WTO rules, so it can be based on the enabling clause, but it has to comply with that. I think that there will be challenges in formulating something that will not constitute a challenge within the WTO framework if it tries to be too ambitious.

Chair: I am trying to figure out who gives the most informative answers, politicians or lawyers. While I am, Catherine West, do you want to come in?

Q133 **Catherine West:** On cost and timescale, because obviously we have heard a lot and quite similar sorts of things; you can have this, but obviously, as a pragmatist and as somebody who is used to being very operational—I used to run a local authority—I would like to know from say March 2019 in the projections that we have, what would be the cost and the timescale of doing what we are talking about?

Dr Gammage: The EPA negotiations started a long time ago. It was on the back of a case at the multilateral level from the WTO. When reciprocal trade was introduced, then there was a limit, that they wanted them signed by 2008, which was eight years after the initial waiver at the WTO. Only one EPA was negotiated and concluded; that was the Caribbean. We then had a process from 2008 until 2016 where a series of much smaller and less ambitious agreements were concluded and we have a couple ongoing. If you look at free trade agreements around the world, they take at least five years plus to negotiate. The EU perspective, with a fully functioning trade directorate that knows what it is doing around that negotiation and that knows what rules of origin it is using, it has its preferences set out already.

In terms of cost, the thing to bear in mind with the EPAs is they are trade and development co-operation agreements, so there is a financial package that goes with the trade concession. Under the 11th European Development Fund, which is dedicated solely to African, Caribbean and Pacific states through this and includes the EPA framework, I have the figure. It is £30.8 billion that is being supported for one particular phase. The UK has contributed 15% of that budget and we then contribute in other forms like official development assistance and bilateral aid elsewhere. You not only have the cost of trying to negotiate—which would be a cost for politicians to decide, I suppose, how long it takes—you then have the costs associated with the agreement itself, which for these includes a development finance package.

The reports that are coming out from Caribbean EPA, the first sustainable impact assessment shows us that there has been a financial deficit for that agreement, that the money that was needed to provide the infrastructure to enable this agreement to work properly has not been provided to the extent needed. There needs to be a very carefully thought-through plan about if we have trade and development bridged together, how that is operationalised.

Q134 **Chair:** There has been some criticism of these economic partnership agreements. Indeed, earlier this year, the Tanzanian President described the EU's economic partnership agreement with his country as a form of colonialism. How legitimate do you think these criticisms were and how they might they be addressed in any grandfathering of an agreement? I am seeing nods of keenness there.

Dr Murray-Evans: Yes, we have heard a lot of this sort of criticism of the economic partnership agreements. I am not always sure how helpful the language of "a new form of colonialism" is. I am not sure how much that tells us about the economic partnership agreements, but there has certainly been criticism of how the EU went about negotiating these agreements, particularly in the lead-up to the original deadline that Clair was talking about in 2008, when a huge amount of pressure was put on the ACP countries to sign these agreements. The EU wanted to include a range of additional issues that were not required to make the agreements compatible with WTO rules. The EU also wanted to include a range of clauses that were very controversial among the ACP countries.

ACP negotiators certainly have characterised the way the EU went about those negotiations as overly aggressive, considering that these were supposed to be trade and development agreements that were in their interest, designed to support the development needs of the ACP countries. I think there is certainly much that can be learned from how the EU went about these agreements and perhaps avoiding some of those pitfalls of putting strict deadlines on agreements, threatening loss of market access if ACP countries refuse to sign. I think that was what created a lot of the bad blood. That was certainly a key part of that stage of the negotiations.

I think since then the EU has softened its approach and has been able to come to these more limited agreements, which are still problematic in many ways. But yes, I think that is something, if we are trying to replicate these agreements or roll them over, to definitely be aware of in the kind of approach that the UK takes.

Dr Gammage: If I can add to that, what I would say is that prior to the economic partnership agreements being negotiated, the ACP negotiated as a bloc under the Libreville Declaration, they were not negotiating as these sub-regional groups. The economic partnership agreements have created essentially imagined communities around these particular regions that do not align neatly with existing regional groups. I think that is where a lot of rhetoric around there being a colonial flavour to them has emerged from. The extent to which we can now go forward and negotiate with the ACP as a regional bloc, just back to that sort of homogenous group, I think will be quite difficult because you have the existing EPAs in place now.

For example, in the southern African region you have the SADC Party, which is considered to be a party with its own legal definition within that agreement. The extent to which the UK can go forward now and try to negotiate individual regional agreements that do not align with the existing EPA frameworks is going to be quite challenging.

Q135 **Chair:** In my role as Chair of this Committee, I have met the representatives of the African Union, who have told me that they feel that there is a barrier to a common African market due to the setting up of these groups having created communities. Is that a characterisation you recognise as well?

Dr Gammage: I would be cautious to draw such a strong causal connection between the two. I think that regional integration in Africa tells its own story and it is a very, very interesting but complex one. I think that the EPAs have exacerbated pre-existing problems through their regional integration programmes.

Q136 **Matt Western:** Dr Gammage, you have previously described—and during this session—most favoured nation clauses within the EPAs as arguably some of the most difficult or troubling. Can you just elaborate a bit more on that?

Dr Gammage: Sure. Within each economic partnership agreement there is what we can an MFN clause, a most favoured nation clause. That ties back to a rule of the WTO, one of the fundamental principles, that what you extend to country A you will extend to country B, C and D in terms of how you treat a like product. What is really troubling about the economic partnership agreements is that as a trade and development framework that is there to foster development, and particularly development among countries in the global south, is that the clause stipulates that where either party tries to negotiate new trade agreements with a global trading country or region that constitutes 1.5% of global share in merchandise export for trading goods, the other party to the agreement, if better preferences are secured, can request that they have the same preference extended to them.

What that means is say, for example, one of the economic partnership groups then negotiates a really good deal with Mercosur, for example, the EU could then say, "You have had a better preference from Mercosur. You have offered them better terms of trade and we want the same". How does this then cause a problem for the UK? The UK would fall within this category of 1.5% or higher if it continues to be the fifth strongest economy in the world, which it should do, which means therefore that if we try to create economic partnership agreements and try to offer better terms of trade, in theory the EU could invoke the MFN clause and say, "You have established better terms of trade with the UK and we want those terms of trade". If they do that, that then means that we lose the competitive edge under the FTA that we have then created with those countries, which defeats the purpose of it.

Q137 **Matt Western:** And potentially damaging to those countries as well.

Dr Gammage: Absolutely. The EU response to that is those MFN clauses are to prevent better terms of trade being negotiated between places like Australia or New Zealand, but the adverse effect of it is that it does constrict also south/south co-operation.

Dr Murray-Evans: Presumably that would be a key barrier to ACP countries wanting to agree to any better terms with the UK, because they would essentially be agreeing to the same terms in relation to the EU because of the MFN clause.

Q138 **Matt Western:** How is it possible to address the issue if you cannot grandfather?

Dr Gammage: That is the million dollar question. It is really difficult, because unless we formulate a different form of preference, for example, if we were to abandon the economic partnership agreement model, which is totally feasible, we could do that when we exit, we could try to create a more transformative unilateral preference scheme to capture some of the countries. Most of them will fall under the categorisation of a preference country. They will have a different scale. Of course not all of them are least developed countries, some are just classified as developing. There is no restriction on what you can do in terms of rolling out EBA perhaps to a more elaborate format, so making it available to more countries. The EU model is not something that we have to follow.

GSP, for example, they originally had something like over 170 recipients, 170 beneficiaries. When they revised GSP, it then fell down to something like 80. We could reformulate the forms of graduation and the concept of graduation. There are lots of different ways we could to it. I do not think that replicating the economic partnership agreement model will work as effectively as perhaps some people think it will, because of these minute details within the agreements that we committed to as an EU member state.

Dr Murray-Evans: Some sort of expanded or region-based unilateral preference scheme as well would also address this issue about regional integration in Africa and avoid creating the same kind of patchwork of different agreements that you have in different parts of Africa.

Chair: That was the plea I think I heard from the African Union.

Q139 **Julia Lopez:** A lot of my questions have been answered. I would like to drill down on how desirable is it that we do grandfather these EPAs. If we grandfathered them as a sort of emergency stop-gap measure, how easy would it be to then subsequently withdraw ourselves from it and draw up a new scheme?

Dr Gammage, you talked about the idea that we could have a more creative trade solution with the Caribbean. Can you elaborate on that? What kind of agreement could we draw up that would fulfil trade goals as well as development goals?

Dr Gammage: The main concern, for example, drawing on the CARIFORUM EPA, is that it is more of a services agreement. We have liberalised services and trade there, but services was what the Caribbean wanted. They were the only EPA region to want to negotiate on services, but what has happened, because of EU regulation, is that a lot of the services are not able to be exported to the EU because of certain barriers in place. They have sort of de facto access, but they cannot access the market. The first thing to do would be to be asking the question, "On exit day, what will our regulatory disciplines look like?" If we grandfather, my concern is, even for a small or short transitional period do we then become complacent with that and effectively then adopt the EU regulations and disciplines that are in place? If so, that then draws back to the question of what is the point.

If we are going to change it, then we have to think about giving more meaningful access. How do we do that? I think it needs to be a multi-stakeholder approach. We were talking previously about how one of the biggest failings of the EPA process was that consultation was not meaningful. They had select groups being invited, it was not as representative or as democratic as it could have been, so engaging all different types of stakeholders.

The other thing that has come out from the Caribbean experience is that small and medium enterprises are not accessing the preferences available under the agreement, because the paperwork is so complex. Under the EU's recent review of regional trade agreements, which was released last month I think it was, there is now a shift towards trying to do it electronically and sort of educating SMEs on how you can access the origin principles and everything online so that you can figure out how you can electronically get everything out. If we are to have trade agreements in place and to have preferences in place, you want your exporters to be able to access the preference.

There needs to be some careful thought given to how we can educate exporters, educate businesses, because from an academic point of view, we are very interested in the high-level stuff, but what is meaningful to businesses is how they get their goods in and out, how their services move in and out. It is around making sure that whatever we negotiate is hopefully better than what is currently in place. The ACP market is very important politically and financially to both sides and I think that it is ensuring that whatever we put in place does not harm those markets in any way so that they can be integrated into the global economy properly.

Dr Murray-Evans: I would agree that if we grandfather or otherwise replicate these agreements in the short term, there is a danger that we just get locked into that model of doing this. Because these countries are not a huge priority in terms of the UK's trade interests, more broadly I think there is a danger that we do that as a short-term fix just to make sure that these countries do not lose out in the short term and then they kind of get forgotten about in the storm of other trade agreements that we have to do. We should think about what is the best now, while the issue is on the table.

Dr Gammage: A transitional agreement has to be in place for these countries. We cannot just go off the cliff-edge on exit day and have nothing in place, because there have been statistics out from the Oxford Group that for say Bangladesh, if we reverted to MFN tariffs, the cost for Bangladesh to export to us would be phenomenally huge. We have to have something in place on exit day if it is not some kind of official agreement.

Q140 **Catherine West:** One more question. The South African Trade Minister has indicated that his country will use the opportunity of grandfathering to try to get better economic partnership agreement terms from the UK. Can you explain what the particular issues are for South Africa, including the matter of citrus black spot? We know it is a favourite topic for your students, I am sure.

Dr Gammage: In terms of the SADC EPA, which we have both done a lot of work on, there are a number of issues around that. The first one is that it is effectively the trade co-operation agreement between the EU and South Africa replicated to the other countries within the group. It certainly did not manifest in the way the EU had expected it to do. We have issues around rules of origin and geographical indications, for example. Can we call an orange from South Africa a Valencia orange? We can, but you have to make it clear that it is not from Valencia.

Around the citrus black spot issue, this fungus that affects certain citrus fruits at certain parts of the season, the question is really an SPS issue. It is a sanitary and phytosanitary measure issue that arises at the WTO level. We can impose these measures and the EU uses them regularly, as do other members of the WTO. The SPS measure is used to protect plant, human and animal life or health. You put it through to say, "We have a concern. It is based on a scientific risk assessment" and in this case, that citrus black spot is going to cause plant damage because we do not have it in the EU.

I would say that if we are planning to grandfather, whatever grandfathering looks like—I am not sure that any of us entirely are sure on the parameters of that phrase, even now—what it says to me at the moment is that there will be a leaning towards the adoption or replication of EU standards, not least because we will want to be able to access the EU market and we will want the EU products to access our market. I am not convinced that if we replicate those standards we will have any different policy on citrus black spot, particularly if we want to export citrus fruits or citrus products that may be transformed in the UK but imported from South Africa, back on to the EU market.

I think there is a willingness of South Africa to engage. They voluntarily ceased export of citrus fruits to the EU. They have done that twice now. The SPS issue is a live one and I do not think the RSPS measures will look very different to the EU's.

Dr Murray-Evans: Obviously the key issue for South Africa is access to the UK market for its agricultural produce, so citrus fruits is a key one of those. One way that we could facilitate that market access and make it easier and cheaper for South Africa and something that they might want out of a new free trade agreement with the UK is to have more relaxed rules on citrus black spot. However, I am not sure how much impact that is going to have on their producers either, because the EU is still going to be a major market and their primary market for the export of oranges. They are still going to have to comply with the EU rules and if they want flexibility to either export to the UK or the EU, they will have still have to comply with the EU's rules. Then any different rules that we create for citrus black spot is also going to create some sort of trade barrier between us and the EU for that particular product.

Q141 **Julia Lopez:** If we were to change our own rules and import South African oranges and turn them into marmalade, could we not export that marmalade to the EU if we had changed our rules and it was made with a dodgy orange? That is the EU's view, it is not my own view that they are dodgy.

Dr Gammage: That is an SPS, the dodgy orange. You may have concern from farmers in the UK that because at the moment the EU space does not have citrus black spot that they would not be keen for the fungus to enter the market either. At the moment half of their citrus import into the EU comes to the UK, so we have a significant market share of citrus export from South Africa. I am not convinced that the EU would be willing. They will find a regulation; they will find some way of passing something that will act as a barrier. I am sure that they will find a way of putting in a rule of origin somewhere that if it is citrus black spot transformed, then it will not be imported under a tariff. Joking aside, I do not think that it would be something that will manifest, because I think we will adopt the same regulation.

Q142 **Catherine West:** Is that biological protectionist? Is that because they are worried about the fungus or is that because they are worried about their own oranges in Spain?

Dr Gammage: SPS is always a matter that divides opinion and it is always a question of is it protectionist or is it a legitimate health risk? It is for the WTO to decide where a challenge arises.

Dr Murray-Evans: It is certainly the argument of the South African producers that it is a protectionist measure, but you would expect them to say that.

Q143 **Chair:** Following on from Catherine, as a keen consumer of marmalade, I think marmalade is boiled, so if there is fungus there, it will be—

Dr Gammage: Yes. I do not think in reality—and joking aside—there would be an issue in terms of transforming it into something else. I think the issue will come before that. I do not think that UK farmers would want the citrus black spot, the risk of that spread in the UK. I also think that you have to think about consumer health. That is what SPS is all based on, consumer risks. How would the consumer feel if they do not have the guarantee that marmalade has not been made from oranges, that, you know— You have these other issues that may not directly link to whether the food is safe or not, it is the perception of whether the food is safe.

Chair: I wonder how many consumers worry about citrus black spot.

Q144 **Matt Western:** On SPS, which country applies SPS, not the most robustly, but the most extensively?

Dr Gammage: I do not know the exact figures. I would say that the US and the EU use SPS regularly. They are a very effective form of regulation, but I do not know the exact figure on either.

Q145 **Mr Jayawardena:** If this marmalade was from South African oranges but it got made into marmalade in another African nation, helping them develop their economy, the fungus is therefore—taking the Chairman's lead on scientific knowledge—destroyed. That then surely could be imported to the EU or indeed to the UK.

Dr Gammage: It depends on what regulations the UK puts in place.

Q146 **Mr Jayawardena:** Does the EU still block it today if it was made from those oranges but improved in another—

Dr Gammage: My understanding is that the regulation relates to the importation of citrus fruit with black spot.

Q147 **Mr Jayawardena:** In whatever form?

Dr Gammage: Yes. It is around the risk to plant life, it is around the spread of the fungus to other plants. Yes, it is biological, so if it has been transformed and the fungus is no longer there, there is no longer a risk, but I think what we are trying to say is around transferring goods from the UK to the EU, if you do not have a regulation in place on black spot in the UK and you want to export to the EU, you certainly might not be able to export lemons or oranges or whatever in their original form. In their transformed form, probably.

Q148 **Mr Evans:** Can I just ask one question on the oranges? I am so worried about these oranges. These oranges are banned from coming from South Africa into the United Kingdom because of these black spots and the fungus and the worry. Are those oranges being exported into a lot of other countries where they do not have those rules and regulations?

Dr Murray-Evans: It is not necessarily that the oranges are banned. In order to comply with the regulations, South Africa has to have extensive spraying of their oranges and then there are inspections to make sure that black spot oranges are not coming into the country. If a certain number of consignments are found to have black spot then there could be a ban in place. It is more that South Africa is forced to take measures to reduce black spot.

Q149 **Mr Evans:** Because these are the sort of oranges that when we go to South Africa—we have a lot of British people who go to South Africa—they will be in Cape Town and Johannesburg, they will be eating those oranges tonight, so there is one question.

Chair: What a healthy traveller you are.

Mr Evans: Basically, we are just touching the iceberg of the non-tariff barriers to trade and this is just one example.

Dr Gammage: Absolutely. What I would say is that the citrus fruit example, the black spot example, is not necessarily about consumer health. It is not saying that if you eat that orange you are going to become ill. It is around the spread of a pest or a disease to other plants, but what it is a very good illustration of is the way in which regulatory disciplines can be used, as we would refer to them, or non-tariff barriers, can be used to protect your market from particular risks. That would be the EU argument, but South Africa would argue, "This is an aesthetic issue. You just do not want spotty citrus fruits". There is the debate there and that is why it is really important to be clear that it is not about, “Consuming the orange is not going to harm you”, it is around, “What does the orange look like?” from the South African point of view. From the EU point of view, “Is it going to spread a pest, because we are black spot free?”

Chair: Thank you. I was ponderous towards the end about ending this because I hear Paddington Bear has tuned in with all our chat on marmalade. I am not sure if we are going on to trade talk about Peru at all, but I will maybe leave it there.

Can I thank you both for an informative and entertaining session this morning? On a serious point, you have added to the sum total of our knowledge, which is the important thing, so thank you for that. Can I bring this session to a close?