HOUSE OF COMMONS

Exiting the European Union Committee

Oral evidence: The progress of the UK's negotiations on EU withdrawal, HC 372

Wednesday 13 December 2017

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Watch the meeting

Members present: Hilary Benn (Chair); Mr Peter Bone; Joanna Cherry; Mr Christopher Chope; Stephen Crabb; Jonathan Djanogly; Richard Graham; Peter Grant; Stephen Kinnock; Wera Hobhouse; Jeremy Lefroy; Craig Mackinlay; Seema Malhotra; Mr Pat McFadden; Mr Jacob Rees-Mogg; Mr Stephen Timms; Mr John Whittingdale; Hywel Williams.

Questions 302 - 375

Witnesses

I: Professor Alexander Türk, Professor of Law, King's College London; John Cassels, Partner, Competition, Regulatory and Trade Law, Fieldfisher LLP; and Dr Scott Steedman, Director of Standards, BSI and Vice President (policy), International Standards Organisation.

II: Katherine Bennett, Senior Vice President, Airbus UK; Rod Ainsworth, Director of Regulatory and Legal Strategy, Food Standards Agency; Angela Hepworth, Director of Corporate Policy and Regulation, EDF UK; and Dr Ian Hudson, Chief Executive, Medicines and Healthcare Products Regulatory Agency.

Examination of Witnesses

Witnesses: Professor Alexander Türk, John Cassels and Dr Scott Steedman.

Q302 **Chair:** Can I begin by welcoming our witnesses before us this morning for the first of two panel sessions on EU agencies? They are Professor Alexander Türk, professor of law, King's College London; John Cassels, partner, competition, regulatory and trade law, Fieldfisher LLP; and Dr Scott Steedman, director of standards at the BSI and vice president (policy) of the International Standards Organisation. Can I apologise for having kept you waiting? We had other business to conduct.

Professor Türk, I am aware that you have to leave at some point. The Committee understands entirely when you have to get up and go. It is our fault, so you are not to feel bad about it at all.

We have a lot of questions and a lot of ground to cover, so succinct questions and succinct answers would be really helpful to us. Can I begin by asking you, quite quickly, if you would care to list what, in your view, would be the principal agencies it is very important that we continue to participate in, or have a relationship with, as a country?

Professor Türk: There is no order of priority or importance I attach to that, but I would have thought the European Chemicals Agency was important. The European Aviation Safety Agency is important. The European Food Safety Authority strikes me as a very important agency to be participating in. The European Medicines Agency is also important as far as standards are concerned. Then there are all the financial services agencies, like ESMA, the European Banking Authority and the insurance authority. All those agencies have to do with particular standards, access to market and financial services. Then there is the question of the railway agency: the ERA might be of importance.

There is probably a long list. One would have to consider what the order of priority was. One could also list the European Maritime Safety Agency in particular for the UK, dealing with ship pollution and standards around that. If I take that further, one could say Frontex might be an important agency. That would be of second tier importance.

Dr Steedman: Good morning, everyone. I am here as director of standards for BSI. On behalf of stakeholders, the three organisations that we would argue are of vital importance to the UK economy that I am concerned with are the three European standardisation organisations: CEN, CENELEC and ETSI.

John Cassels: Good morning, everyone. I guess the question is what level of participation the UK should have. I agree with Professor Türk: in terms of economy and economic activity, medicines, aircraft, chemicals, food and banking are the sectors where it would be good to have some level of ongoing engagement. One could debate what that level is. This is where engagement with the agency is somewhat tied up with the legal structures that we have to regulate those industries.

There are some other ones that might seem to be smaller agencies but we think are strategically important. Just to give you some names, there is the Agency for the Cooperation of Energy Regulators. Because energy flows across borders, we think that is a critical one. There is one for gas in particular. There is a Body of European Regulators for Electronic Communications. We live in a data world. Regardless of the legal regime for the economy, that is an agency where we think a strategic partnership would be good. There is one that is to do with large-scale IT projects for freedom, justice and security. Again, it does not sound that interesting, but it is one where the law drives you to have some kind of

strategic partnership, because people move across borders. There is EASA, which we have mentioned. The European Defence Agency would be an important one to have a strategic partnership with, as would Europol.

Chair: That is very helpful. Thank you very much.

Q303 **Stephen Kinnock:** A number of the agencies that you have just listed there, gentlemen, do not have provision for third-country participation. Some have provision, for example, for international organisations to be on them, but clearly the United Kingdom would not be in that category. Some that really stand out in this context are the European Medicines Agency, EASA and the European Environment Agency. This is to all three of you gentlemen, so please feel free to answer. What would be the right approach to trying to find the way towards a strategic partnership? How long do you think that would take? Is there any precedent for these agencies creating the basis for third-country participation when they do not have that anywhere in their founding statutes?

Dr Steedman: The three standardisation organisations in Europe are used by the European Union, but they are not European Union agencies. They have a membership of 34 countries, including countries outside the EU, EFTA countries and accession countries. There is no provision in their statutes at present for a country with a political relationship that the UK will have with the EU post Brexit to remain a member. Our strategy, based on our stakeholder engagement, is to seek a change in those statutes to fill that vacuum, such that a country that is fulfilling the rules of CEN and CENELEC continues its full membership.

The critical point here is that standards are not regulation. These are private organisations used by the European Commission, but they are comprised of one member per country and it is in their hands as to whether membership can continue. The confusion between standards and regulations is widely seen in the media today. It is a very awkward problem, because we are bundling up two things. One is voluntary, industry and market-led, pro-competitive activity, and it is confused with regulatory activity. From the perspective of the standardisation organisations, CEN and CENELEC, we have a plan to seek to continue UK membership of those organisation, on behalf of our stakeholders.

Professor Türk: It depends on which model of general participation or engagement with the European Union is envisaged. The EEA EFTA states have a very comprehensive relationship and they participate in the internal market. That bilaterally gives them access, through the annexes and protocols of the agreement, to over 30 agencies. You will see Norway being a member of many of those agencies, or at least an observer, but all have no voting rights. They sit around the table, but with no voting rights.

Switzerland has access to agencies via bilateral agreements. Switzerland sits on four or five of those agencies, precisely the ones that I have

mentioned. Then you have bilateral agreements. EASA has a provision, article 66 of its basic regulation, that allows third countries to participate, and Canada has a bilateral arrangement. Again, as far as I am aware, it does not sit as an observer. These arrangements are like bilateral recognition, or almost like reciprocal arrangements for the aviation sector.

Beyond that, as you rightly said, there are not really any arrangements whereby other countries participate in the work of the agencies. That would have to be a bespoke arrangement or a bilateral agreement. That can take time, so it is a time factor you are looking at. I would have thought you are looking at years of negotiating those bilateral arrangements.

John Cassels: I will focus a little on one agency and talk through some of the issues that are relevant to that. REACH, the chemicals regulation that applies across the European Union, is about registration and evaluation of chemicals before they are placed on the market in the EU, regardless of whether they are manufactured in the EU or imported into the EU. The question there is what kind of relationship we should be after with ECHA, the European chemicals regulatory agency. In REACH, assuming that the UK is coming out of the single market, the Swiss type of model might be one that is relevant.

Switzerland is in EFTA but outside the EEA. Switzerland does not have REACH. If the UK chose not to have REACH, so not to be party to the European chemicals regulatory regime after exit, we may not need to have a close relationship with ECHA. We could have our own system of chemicals regulation, but businesses that wanted to import into the European Union would need to have some kind of presence within the European Union. Generally for third countries at the moment that is done by the way of an only representative, so it is an OR effectively. You set up something inside the EU. That is one way of fixing it and ensuring that chemicals can travel across borders.

Another way would be to have a closer relationship with the internal market, a Norway-type arrangement. We were just discussing this out there. Norway has a number of close relationships with a wide range of EU regulatory bodies, because it is part of the EEA. It takes quite a full role in these bodies, regardless of whether it has observer status, and pays for that privilege or obligation, whichever way you want to look at it. There are a number of different models and it is down to us to choose, effectively.

Q304 **Stephen Kinnock:** Looking at the next phase of the negotiations, which is going to focus on the transition period, the European Union has made it very clear that the transition period will, in effect, be a carbon copy of the status quo. It has said it will have the same jurisdiction, budgetary enforcement and supervisory mechanisms. Is it your understanding that, assuming that will be what is agreed between the EU and the UK, our

current participation in the agencies would not change during a transition period?

John Cassels: As a matter of law, that is what the EU will require and ask for. As a matter of fact, it might be something quite different. Since the Brexit vote we have already seen that the UK secondees, let us say, and the UK's influence within certain institutions, as a matter of fact, is lesser. For example, less account is given to UK voices in decision-making within the European Commission in competition law. We have seen very clearly that has diminished. We need to think about the legal position, which is that the EU will ask for full and ongoing submission and engagement to the EU agencies. As a matter of fact, we need to be thinking about where we want to end up and be cognisant of the fact that our influence within these agencies might go through a dip. In fact, after Brexit it might be greater or lesser. We just do not know.

Dr Steedman: From the international standards perspective, the system is entirely integrated. As the UK, we are a leader in international standards development organisations and in the European organisations. As I say, these are not EU agencies. In an integrated system, the United Kingdom economy depends on a catalogue of industry standards. Year on year, 95% are now international and European, and these are complementary, not a binary choice. The European standards that we work on with our 11,500 UK experts from all walks of life contribute to areas of the economy where international standards are not working. It is not a binary choice.

It is international, and then the European system of 34 countries is perhaps the most developed aspect of the international journey that our countries are on. It journeys on towards one standard used everywhere. This is what is happening with China, Canada, Australia and New Zealand. Of course, in the European countries we have been doing that for some time. This influence is absolutely critical.

To your question, with a vacuum in the statutes of these organisations around membership, the risk is that there is a loss of confidence. The UK could be challenged, or our experts, who are volunteers, could lose confidence in the system. By stepping away from that integrated system, we could suddenly become a follower and be marginalised in the international standards system, where we are a leader today. Even in a transition period, there is a very high risk of challenge as to why UK experts are leading all these industry market committees and why they are still there when the statutes say, "There is not a place for you".

We need to work swiftly. The messages that we have been receiving in the last few weeks are encouraging, in terms of being able to convey that to the fellow members of the European organisations and to the boards of those organisations. However, it is possible for the UK Government to act in a way that would prejudice that activity. Certainty around that is really fundamental, so that the system of the use of voluntary standards with regulation in a performance-based structure with a single standard

would continue. That is where we are going to continue. If that is the way we do that, we should get past that point.

Professor Türk: We need to distinguish between institutions, agencies and comitology committees. In institutions, in the transition, my understanding is the UK will no longer be present. In the agencies, there are now different reports one hears. Under the initial guidelines, my understanding was the UK would still participate in the agencies, but would have no voting rights, although yesterday I read in the *Financial Times* that the guidelines have changed. It is not the negotiated position, but in the EU guidelines it is foreseen that the UK will not be participating in the agencies at all. In the transition, will the UK be around the table as a participating member, as an observer without any voting rights or not at all? If it is not there at all, that would be highly detrimental.

The last part is comitology committees. I do not know which roles they play, and you understand what role they play. When the Commission makes decisions implementing legislation, for example approving medicinal products, there is a committee of member states that controls and examines the Commission's draft decisions. If the UK is not part of that, it will not understand what is going on, while still having to accept the laws. There is a model whereby the EFTA states are participating but not voting. At the very least, during the transition, the UK probably ought to be participating, even if it is not voting.

Q305 **Chair:** Mr Cassels, on your chemicals example, if we are not participating in REACH, what would a chemicals firm in the UK have to, in order to certify its product for sale into the internal market of the EU?

John Cassels: If you are going to sell into the EU, it needs to be a REACH product, basically, so it needs to be part of the regime. The way in which you do that as a non-member state of the European Union is to open a factory there, have an importer there or have an only representative there, which is a body that acts on your behalf.

Q306 **Chair:** Is that relatively straightforward to do?

John Cassels: It can be relatively straightforward to do, but it is something you need to do.

Q307 **Stephen Crabb:** Can I pursue this question about voting rights on the agency? Dr Steedman, you have talked about the prospect of a loss of influence for Britain in the standards regime internationally. Professor Türk, you sounded relatively relaxed about Britain losing voting rights on agencies so long as we had a seat at the table. Is that a sustainable steady state? Does losing voting rights not mean that influence will inevitably be lost?

Professor Türk: One has to differentiate between what formal voting rights and influence mean. These are different things. Voting rights mean you have a right to vote on whatever is decided, but, in practice, matters are conducted mainly by consensus. What matters is the

expertise that you bring to the table. Take medicines. The UK has considerable expertise in this area. Whether you have voting rights or not, how you influence the debate and how you say, "We are accepting this or not" are two different things. Not having voting rights is never a good thing. At least you need to be sitting around a table and making your influence felt.

Within the agencies you need to be clear where you want to sit. There is a management board that does the work programme and the budget, but then there are scientific committees. Norway might make quite an interesting point and say, "On the management board, we are relaxed about being observers. In the scientific committees, where the decisions are actually made, we want to be fully participating. We might not have a voting right, but we can influence the discussion through our expertise". One needs to be very careful to analyse where within an agency you want to be influential.

Dr Steedman: The catalogue of European standards—not EU; there is no such thing as EU standards—is about 20,000 in total. We participate in all those committees. Under a weighted voting system, we have significant influence, and we are a permanent member of the governance of those bodies. We take all that extremely seriously. There are about 566 UK chairmen and convenors of industry standards working committees. They are doing all this under the water, if you like.

Where our international standards come through that European filter—not all of them do, but some of them do, where there is a European interest—participation and voting in those committees is critical to our interest. It is a volunteer effort, so these people are not paid to go. We ask them to go because it is in their interest to go. To step away from that and lose our influence in the governance and voting of these organisations would mean that we would become what we call a taker country. We would have to receive other people's standards because we were not able to influence them.

Q308 **Joanna Cherry:** I am interested in the extent to which our continued participation in these agencies after we exit the European Union will involve submitting to continued jurisdiction of the Court of Justice. The reason I ask this question is that there were press reports last week in relation to EASA that said that the Government are exploring article 66 of the EASA regulations. That would establish a clear legal route for third-party country participation. However, article 50 of the EASA rules means that the Court of Justice of the European Union is the ultimate arbiter of EASA rulings. I am interested in your comments, on EASA and on the other agencies generally, about the extent to which our continued participation would mean continued submission to the Court of Justice.

John Cassels: It would depend on the extent of your participation. It is fair to say anything beyond a sliver of participation is likely to involve submitting to the Court of Justice, certainly if we take the EU's position as a position with which it will continue, at least in respect of your

participation and the treaty or agreement by which you participate in that agency. That certainly would be subject to the Court of Justice of the European Union. I have not gone through all the EASA establishment documents, treaties and whatnot, but it is fair to say, yes, it is more than likely that participation, at least as regards your participation, will be subject to the Court of Justice.

Dr Steedman: That is a very interesting question. Standards are voluntary in the UK and across Europe, so we would not see that as an issue. It may be that there are aspects of the implementation of a standard through a product in a particular country, but the jurisdiction of any dispute over that product would rest with that particular country. From the actual standards-making and implementation in the national catalogue, I would not see that as an issue.

Professor Türk: One needs to distinguish between participation and general acceptance of the outcome of an agency. Not all agencies make decisions. Take, for example, medicine. The agency in a scientific committee basically gives an opinion, which the Commission then translates into a decision. There are other agencies like EASA that actually make decisions on airworthiness certificates, for example. They would always be subject to the jurisdiction of the court, regardless of whether Britain participates or not, because it is an agency decision and EU agencies are subject to the jurisdiction of the court.

Whether the UK accepts the decision or not, that is a different proposition. The decision of the agency will, directly or indirectly, always be reviewable by the Court of Justice, so participation is irrelevant on this point.

Q309 **Mr Rees-Mogg:** The US is an associate of Europol. Therefore, Mr Cassels, if I understand you correctly, its membership of Europol could be subject to the decision of the European Court as to whether it is allowed to participate. However, obviously the United States is not accepting judgments of the European Court beyond, purely, the membership.

Dr Steedman: Correct. My point was, taking account of what the professor said, the CJEU is the ultimate arbiter of EU law. The mechanism by which the UK chooses, if it so chooses, to continue participation in agencies would be a matter over which the CJEU would, I think, want jurisdiction, and which the EU would want it to have jurisdiction, because that is a matter of EU law. As regards substantive decisions, that is a different question.

Q310 **Sammy Wilson:** Dr Steedman, you have explained that there are different levels of standards: British level, European level and international level. I think the figure you gave was 95% of standards would probably be international standards. What is the relationship between those three groups of standards? Do the international standards flow down towards British firms et cetera, or are the standards

established at the bottom and then work their way up to the international standards?

Dr Steedman: It is an excellent question. It is an invisible part of the United Kingdom's soft power in the world. It is a bottom-up system, so market-led, industry-led. The national delegation principle means that a country offers to take the lead in any international standards work. The journey that we are on as a nation, as a national standards body representing the UK, is towards one standard used everywhere.

It is our preference that our experts are working on the international standard first. Then, if there is an additional need in the European context or UK context, they work on a European standard to complement and add to that. Then, and only then, they work on a national standard of the traditional BS type. Our first goal is to work at international level, and then we augment that with our European economic needs in the European context of industry and so on. Then and only then will we have an old style British standard.

That proportion of the national catalogue is reducing year on year, because 95% of what we adopt as national standards are international and European, not "or European". We are building that catalogue up, as we are a global leader in this space.

The critical point is that these are all national standards. We adopt national standards as BSs. It is a BS ISO, a BS EN, or just an old BS. They are top down, written by our industry participants who go to the committees. Their companies and the associations support them. They support themselves, because it is in their interest. They will fly all over the world, sit in committees and argue that "This is what the standard should say". When that is agreed and voted on, it becomes international practice. The adoption of standards in countries around the world is a huge competitive opportunity for the UK. It is a bottom-up process. You have to play really hard and fast to secure your interest.

Q311 **Sammy Wilson:** We have established expertise there and dominance in particular industries, such as finance, aerospace, etc. Leaving the EU, provided we maintain that expertise—and I take it that expertise does not depend upon our membership of the EU—maybe gives us even more opportunities to become leaders, rather than diminishing those opportunities.

Dr Steedman: We are also responsible for the bilateral relations, so countries like China that are moving towards the adoption of international standards see the UK as a natural partner. Caribbean nations, Africa, Canada, Australia and New Zealand are all moving in this direction. We are already there. There is a big opportunity to push the expertise of the UK, from financial services, to manufacturing, to education, across the whole space, into that international standards landscape. The mechanism of adoption would allow us to deliver competitive advantage.

Q312 **Sammy Wilson:** Would you see the established role we have at present as being useful for the vision that the Government have of looking for trade deals in the wider world? Standards driven by the UK could help those trade deals.

Dr Steedman: Yes, absolutely. The critical point is to encourage the partner country in any trade deals to be using and adopting international standards, because that is what we are developing and using ourselves, rather than going backwards to some state that may have existed 30 years ago, where we had multiple standards and a lot of confusion for consumers and industry. It is an opportunity. As I said earlier, it is critical that in all these discussions, in all the language that we use, we are very clear about whether we are talking about regulatory recognition or standards recognition and alignment. Those are very different things, and industry sees them as different.

Q313 **Mr Bone:** When we are outside of the European Union, would it not be in the interests of everyone, including the EU agencies, to produce the best regulation? Therefore, if we have significant experts in this country, why on earth would they want to exclude us from making our points? That would improve the overall regulation.

John Cassels: It is sometimes difficult to put oneself in the position of the European Union or the UK Government. I am just a lawyer. As a lawyer, yes, of course we want to see the best regulation. The point is that everyone probably does not agree what the best regulation is. As a lawyer supporting substantial clients across the UK, Europe and the world, we like to see the best regulation.

If I could stray into what I hope for rather than what is here, one would certainly hope that there was a symbiotic relationship via which good ideas and better regulation—dare I say those words—were shared across the European Union, the UK and Europe as a whole.

Dr Steedman: The market structure that we have today, with market surveillance and so on, is based on a performance type of regulatory system, where regulation is set at the highest possible level. Industry standards are used as a voluntary means of demonstrating compliance. Of the European standards catalogue of about 20,000, only about 2,500 are linked with regulation in some way. In these situations, the message we have received is: "Why would we allow you to be influencing regulations that you will not be subject to? Why should you do that?"

In the standards space, it is a different matter, because standards are made by the stakeholders. We talked earlier about industry, but the stakeholders are anybody who is affected in our system. Any stakeholder—consumers, regulators, testing bodies, conformity assessments, government or industry—participates, and my job is to make sure we have fair participation. At the European level, there is a very strong argument as to why, in terms of the standards supporting regulation, all the stakeholders should be involved. They will all be

affected, consumers, industry and regulators alike. I see that as an opportunity, but we have had a very clear message: "Why would you be in the room when you are not going to be subject to this? Why would you have any influence on it?"

Q314 **Chair:** Mr Cassels, can I ask you a question about cost? Obviously there is a cost to our participation in all these agencies currently. I believe you have done some work looking at what might be saved. You suggested there were 21 EU agencies that would be, I think the phrase was, "completely redundant for UK purposes". The point it would help the Committee to understand is this. If, say, we were not able to participate in any of the EU agencies at all, have you done any work on trying to estimate what the cost would be to the Exchequer here of replicating the activities?

Take the example of EASA, which we touched on. First, it is fair to say that, if we were to set up a whole separate regulatory system under the CAA to assess engines, airframes, pilot training, materials and the lot, that would be quite expensive. Secondly, it would take quite some time to build that capacity.

It would just be helpful to the Committee if you can give any indication of where you think the balance of cost lies in decisions that the Government have to make about which organisations to continue to have some kind of relationship with, if not participation in.

John Cassels: Yes, absolutely. We made an estimate, based upon a 10.38% contribution to EU agency costs. There was a little bit of digging to be done, because it is not entirely transparent. We looked at the overall cost budget of the EU agency. We based 10.38% on the UK's overall contribution, with a bit of flex for exchange rates and different totals in a number of years, but that is the overall UK contribution to the EU budget. Then we apportioned that across the agencies.

As you say, we came up with a figure of overall £620 million probably that goes into those agencies. Of the redundant agencies, there is about £470 million. The million-dollar question, if it is $1 million, is how much of that would be eaten up by replicating or coming up with equivalent or different functions within the UK. That is an exceptionally difficult question. It would undoubtedly be expensive.

An area that we have not mentioned up until now that is maybe worth exploring a little bit is intellectual property. That is not a classic regulatory agency as such, so it does not have a regulatory function, but it is exceptionally important, in terms of value across the European Union and within the UK. We just looked a little at how the EUIPO operates. Do you have allocations per member state? The answer is, no, you do not. It has about 1,036 staff members chosen without reference to nationality or expertise. It currently has nine seconded UK experts.

If we think about the potential increase in the need for intellectual property registrations, again, the form is somewhat impacted by the

substance of what we end up with on intellectual property. However, it is difficult to conclude that taking back nine seconded national experts will plug the gap or fill the role for the additional work that is going to have to be undertaken by the UK Intellectual Property Office when we leave the European Union.

Just looking at that one example tells us we are not going to be able to fill UK agencies with seconded national experts coming back to the UK. That suggests that we will have to pay for new people, more people, to fill those roles. It must be right that it will take a little bit of time for those roles to be filled and, if we are going to have a different regulatory system, to come up with a regulatory system that works for the UK within an international economy. Undoubtedly, there will be a cost. I do not have a figure for you, but it will be substantial.

Chair: It is a difficult question.

Q315 **Mr Djanogly:** On that point, perhaps I am missing something, but I am just trying to identify what the loss will be in relation to intellectual property. If companies want to apply for intellectual property, they can apply to any regulatory authority in any country they want for that patent. What will the loss to Britain be?

John Cassels: I am not saying there would be a loss necessarily. You can look at trademarks, for example. I have a paper that I would be very happy to share, which was done by the Intellectual Property Lawyers Association. Currently you have EU trademarks, which apply across the whole of the European Union. Those are approximately three times the cost of applying for a national trademark, so you get coverage across the whole of the EU. That is very important for SMEs in the UK in particular.

That is fixable by changing the law here, but the question becomes how we go about preserving and recognising, if we want to, those EU trademark rights when we leave the European Union legal system. If we do nothing in our law, there will be huge damaging cost. Effectively, you will be extinguishing rights for people. I am not saying there is a loss. I am just saying, if we want there to be a system that works and preserves value, something will have to be done to the UK intellectual property system, probably to recognise EU trademark rights within the UK.

Q316 **Mr Djanogly:** This is enforcement, you are saying, in effect.

John Cassels: It is recognition and enforcement.

Professor Türk: There are two different points here. If you no longer have an EU licence or trademark, you need to replicate your own system of licensing, if you want to. For the UK, you need to establish a body that does the licensing. For that you need staff, resources and money. The licence, registration or authorisation that you obtain will only be valid for the UK.

If you do business in the European Union that will not be recognised. If you have a trademark in the UK, that trademark will not be recognised in the EU. You therefore need to go to the EU bodies to have that trademark. Then you need to apply for the trademark. You need to have your representative for REACH. You need to have your airworthiness certificate approval in the EU, so you replicate the licensing requirements for industry. You apply twice.

The cost, on the one hand, is that for your national bodies you need laws that provide the staff and the expertise to grant the UK authorisation. If you want to do business in the EU, you then need to apply for another licence, registration or authorisation.

Q317 **Mr Djanogly:** You do now anyway.

Professor Türk: No, because the UK authorisation is valid for the UK. You do not need that. Once you have a medicine recognised by the European Union, it is valid throughout the European Union. If you have your airworthiness certificate for your aircraft recognised by us, it is valid across the EU. You only need one process.

Dr Steedman: ETSI, for telecoms, is not an issue at all. If the UK we were to withdraw from CEN and CENELEC, that would be a conscious decision that we would be changing the regulatory framework of the market structure in the UK. While there would be some minor savings in terms of the fees that BSI, the royal charter company, pays on the behalf of the UK to those private organisations, the cost implication is in the UK. We would then have to set up a bureaucracy within the UK in order to choose standards that were going to be used in regulation. B

SI might do that, but, on the other hand, it might have to become a government function, because, as a country, we would be choosing standards from all sorts, and including possibly from within the UK. The fragmentation of the UK market would follow, and the costs of that would be significant, not just in market surveillance but in control and bureaucracy.

Q318 **Hywel Williams:** Mr Cassels, given the answer that you gave to the Chair earlier about moving from EASA to CAA, can you think, in professional terms, why would you do so? Why would you choose to move from EASA just to the CAA?

Chair: I am not sure Hansard will quite be able to record the—

John Cassels: In what sense, sorry?

Q319 **Hywel Williams:** You said that there would be certain implications of moving from EASA to CAA.

John Cassels: In terms of staff, why would you move from EASA to the CAA? If you wanted to live in the UK, I presume you would.

Q320 **Wera Hobhouse:** You do say you are a lawyer. I am not a lawyer, so I

need to understand about legal challenges. In the mechanism that you have just described, how would you see the legal challenges being resolved if you have two systems? There is one in the UK and then obviously the EU. You want to have standards that are recognised on either side, but there will be a legal challenge. How would that be resolved?

Professor Türk: Any kind of decisions that are made in the UK will be challenged in British courts, so you have your normal system. Any kind of challenges you have against decisions by EU agencies or the European Commission regulating the field will have to be challenged in the Court of Justice. Depending on who makes the decision, you determine which kind of court system will engage.

If you want to use a trademark in the European Union and there is an infringement case, issues arise that the party will bring. The question is where you enforce your rights. That is an entirely different sort of question of enforcement of jurisdiction, which is Brussels too. That is probably not part of the remit of our discussion here, but there are enforcements if I bring a challenge against you using a trademark that you are not supposed to use, or if you are using chemicals that you are not supposed to use. The member states will enforce and make sure that you are not using them.

The competent authorities in the member states will ensure that you can only use materials that are registered and notified chemicals. There will be a surveillance action brought that if you try to sell a product that is not in compliance with European essential safety requirements, by indication of standards, you will not be able to. They will be shut down. They will be banned. There will be restrictive measures taken by the competent authorities, or court actions being brought by individual companies in courts. These are your two avenues here.

Dr Steedman: There are three dimensions to this. Again, my point about standards and regulations is very important. Mutual recognition of regulatory requirement is one aspect. From the industry standards perspective, and from the consumer perspective, the closeness of that regulatory outcome is what is important. In a sense you would say that is obvious: why would you want some wildly different regulatory outcome? Mutual recognition of regulation is one aspect.

Mutual recognition of conformity assessment is a completely separate matter, and there is lots of opportunity for that. There is lots of opportunity internationally to work on test methods and so on.

The third dimension is mutual recognition of standards. For the reasons I described earlier, that is extremely challenging and not very helpful, because we are working to one standard anyway. I would encourage everyone to try to keep these separate.

John Cassels: In the enforcement of what we would call regulatory decisions, which are public decisions, there is the debate about CJEU and the route to challenge that decision. If we look beyond that to what we, as lawyers advising clients, deal with, often it is down to contract law. You put in your contract where the jurisdiction is and what the governing law is. A huge part of litigation is all about that, so parties having the choice of where to litigate and the law by which they will be bound.

Q321 **Sammy Wilson:** There may be some agencies that we still have to engage in at various levels. Given the record of European agencies, the European Commission's own view was that there needed to be a common approach. We needed to have mergers, which member states have opposed to date. We needed to have streamlining. Even if it did happen, the costs have still gone up by 6% per year. The view of Open Europe, for example, is that a lot of agencies could be dropped and you would not even notice the difference. When we leave some of those agencies will be redundant as far as the UK is concerned anyway.

Will there still not be a cost saving when we leave the EU and drop out of a lot of these agencies, even if we have to replicate some of them? Will here still not be a substantial cost saving to the UK, given the acknowledged inefficiencies of the current agencies, the redundancies of some of them and the fact that we are paying for some agencies that are not all that much needed anyway?

John Cassels: Honestly, it is very difficult to say. It is swings and roundabouts. You put something in the saving column and something else, arguably, goes into the costs column. There is an argument that leaving the EU will have a short-term hit on overall economic activity and people will relocate overseas. Whether or not you believe that, it is one of those areas where there are so many variables it is exceptionally difficult to come up with an overall figure.

All we tried to do was identify things that we could credibly stand behind, because there are figures, and say, "This is what we think it costs the UK in terms of contributions to the agencies, which we can identify. These are the ones where we think it would make sense to have a strategic engagement". There are other ones, like the ones we mentioned at the beginning, where some kind of strategic engagement, whatever that might look like, might be sensible, depending upon what you want the underlying regulatory regime to look like. Then you get into arguments such as: "If we have a regulatory regime that is a bit lighter, that might lead to cost savings". It is an area where there are so many variables it is very difficult to take a position and say either it will be vastly more expensive or there will be very significant cost savings. That is just because of the variables in play.

Professor Türk: The question is sequenced differently. First, you need to decide what relationship you want to have with the European Union. If you want the Norwegian model, because Norway participates in 30 agencies, that will cost a lot of money, so you are not saving that much.

You might want the Swiss approach, in which case Switzerland participates in four agencies, so there will be cost savings. You might not want to participate, or you might want to have a Canadian model, in which case you participate in no agencies whatsoever.

It is a question of the relationship that you want to seek, and then you need to decide which agencies you want to engage with. Obviously engaging in agencies means you can influence the process, but often the quid pro quo is that you have to accept European Union rules, and that is why you are sitting in the agency. It is first the question of what relationship, and then what you want to participate in, if that makes sense.

Q322 **Stephen Kinnock:** The stated position of the British Government is that they want us to come out of the single market and the customs union. I was very interested in one thing that was said, which is that the view in these agencies, in the Commission and through comitology will be, "Why should we allow you to influence the shaping of regulations to which you will not be subject?" Can you give an example or more specifics on this loss of influence that you talked about, and something more specific on its impact? We have talked about the cost of these agencies, but it is also the value in terms of influence. Would you see that influence primarily through comitology or the agencies, or is it a mixture of the two? Professor Türk, I think you mentioned comitology in your first intervention.

Professor Türk: If we consider agencies have been mainly driven by technical expertise, it is important what kind of technical expertise you bring to the table. The UK brings a significant technical expertise to the table. For the EU, it will be a loss if that is no longer available. It is equally a loss to the UK because, if it is out of that, it can no longer tap into those networks that drive scientific innovation and scientific expertise. That is basically the downside on the scientific influence.

To give a concrete example, if you are part of the discussion of the European Banking Authority and you are on the board of supervisors, you can influence discussions around what financial stability means, what discussions around banker bonuses mean. You might object to those, so you can say, "We do not like those", have a debate around it and say, "Maybe we should not have those". That is the kind of debate you can influence. If you are no longer part of that discussion, you will have a different regulatory regime that might be more risk averse than you otherwise want to be. In other words, the direction of what kind of regulatory decisions are taken will change. You will no longer be able to influence this politically.

If you take, for example, food safety, you might sit in EFSA. You might contribute and say, "There is good debate to be had about genetically modified organisms". Maybe there is a scientific point to be made that they are good. I am not saying either way whether they are good or bad,

but if you want to make that point you will no longer be able to do so, because you are no longer around the table.

In comitology, you are no longer part of the decision-making. There it matters, because, in many of those comitology committees, the committee has a veto decision. If the Commission does not get its majority in the committee, the Commission cannot go ahead with a particular decision. If you are not there, you have no voting rights. You are out of the picture and you have no influence over the decision.

Ultimately, if you decide on the Norwegian model, you will still have to accept the decision, even though you have no voting rights. Even if you are not in the Norwegian model and you have a Swiss model, you will still have to accept the decision, and you are still not voting or participating.

Q323 **Jeremy Lefroy:** I wanted to ask a general question about international standards, and to some extent regulation, versus European standards, and to some extent regulation. Are we moving to a world in which international standards and standards set from other parts of the world are going to be more influential than, say, standards set from within Europe?

Dr Steedman: No. We are moving towards an integrated system where countries and their experts participate in the most co-operative environment you can imagine, with all the tensions that lie there, on a vast range of industry standards, which are then adopted in countries. It is not an either/or. It is not international or European. It is international and European.

All the European countries and UK experts first look to the international community—ISO, IEC—to see whether work is being done in that area or whether we could start work in that area. If the answer is there is not enough appetite globally, there may still be appetite for European industry, and we work at a European level. We are augmenting international standards with European standards, and indeed we have our own standards, which are going into new areas of activity. Those may themselves become international standards.

It is an integrated system. That is really fundamental. On the earlier point about regulatory discussion, in the new approach model in Europe—the voluntary standards and acceptable means of compliance—where the Commission is looking to introduce some new regulation that may affect industry, product safety, environmental safety or something, it will discuss with the private standards community how it may support the implementation of that regulatory policy. Could we use a voluntary industry standard for environmental protection to support the delivery of this regulatory activity?

If you are in the room and we end up with a single standard used by European industry, in the UK and outside, that is an advantage. If we are not in the room, we will end up with a potentially different standard.

Then our manufacturers and consumers are faced with two things to look at and two production lines. It is more complicated. The journey that we are on towards a single international standard with the UK in a leading position is a very important place to be.

Q324 **Chair:** That is very clear. Can I thank you, Professor Türk, Dr Steedman and Mr Cassels, for your time this morning? You have been very helpful to the Committee.

Examination of Witnesses

Witnesses: Katherine Bennett, Rod Ainsworth, Angela Hepworth and Dr Ian Hudson.

Q325 **Chair:** Thank you very much for appearing before us today. I apologise for the fact we have started a little later than the advertised time. We have a lot of ground to cover and a lot of questions, so succinct questions and answers would be really helpful. Can I welcome our witnesses? They are Rod Ainsworth, director of regulatory and legal strategy at the Food Standards Agency; Katherine Bennett, senior vice president of Airbus UK; Dr Ian Hudson, chief executive, Medicines and Healthcare Products Regulatory Agency; and Angela Hepworth, director of corporate policy and regulation at EDF UK. You are all very welcome here today.

Can I kick off with a question to you, Dr Hudson, about our involvement in the European Medicines Agency? It has been argued by some people that, if we end up with a separate regulatory process for the United Kingdom, compared to that in the EMA, there is a risk that those looking to license and get approval for new products and new medicines may choose to do that in the EMA. It will cover a larger market of 440 million people, as opposed to the UK, which is a market of some 68 million people. Is that a concern that you have or share? If it is wrong, why is it wrong?

Dr Hudson: First of all, the Government have outlined a preferred approach of continued collaboration with the EMA. You will have seen the letter in the *Financial Times* back in July and subsequently repeated. That is the negotiation intent: to continue that ongoing collaboration through the European Medicines Agency system. If that is not achieved, there is a lot of work going on in terms of what the contingency and the alternatives may be. The UK will put in place an appropriate regime to ensure that patients are protected, industry can bring drugs to the market and we continue to have a global role.

In that environment, we will look to be as pragmatic and flexible as possible, while ensuring patient safety, and make it as attractive an option as possible. While we want to continue that collaboration, if that proves to be not possible, we will want to see what the opportunities are

to make a regime for the UK as attractive as possible, whilst protecting public health.

Q326 **Richard Graham:** Katherine, good morning. The UK is a member in our own right of the International Civil Aviation Organisation, ICAO. As you have said in earlier evidence to the BEIS Select Committee, that is where we work with the US and China, for example. In terms of our membership of EASA, both you and Paul Everitt made it absolutely clear that continuing membership would be very important to the UK's aerospace industry. How do you anticipate the relationship will go forward, given that there is an article 66 for third-party members to possibly apply through, and there are of course non-EU permanent members of EASA?

Katherine Bennett: International regulation is the key and I tried to make that point at the BEIS Select Committee. For aviation, global regulation is the future. The influence that the UK has in ICAO is really important, as you say, Richard. We have enormous influence in EASA. We are the largest aviation nation, sector and market in Europe, and it would seem a shame for us not to continue that influence. I believe that there are ways we can continue that influence. Listening to the panel earlier, I can see that this country has huge importance in influencing regulation.

What we have seen, and the Government have not fully commented on this yet, is that the UK can remain very influential in EASA. We would like it to remain a full member, for various reasons. The first one is we do not want duplication of regulation. I do not think anyone wants that. In our sector, safety is overbearingly the most important thing that needs to be adhered to. Not to have voting rights would be a shame for this country.

My company can manage. As you know, we are a very European-based organisation, and we will have influence through other member states. However, on behalf of the British aviation and aerospace industry, it would be much more preferable to have full influence.

Q327 **Richard Graham:** Am I right that the US, China and Canada are permanent members of EASA?

Katherine Bennett: I do not believe they are, no. It is a European Union body, so once we are out of the European Union we will not be full members. No, the other countries are not members. They are members of ESA. All these acronyms are part of this life of Brexit. Other countries are members of ESA, which is the European Space Agency, but not of EASA. The FAA, as has been reported in the papers today, has strong influence in EASA and work very closely, as do the Chinese authorities. The most important thing is for us to work on an international scale, in terms of influencing safety regulation around our industry.

Q328 **Richard Graham:** That is helpful. We must check our own information,

Chairman, because the briefings we had stated that the US, Canada and China are permanent representatives. That is something we should follow up on. Katherine, what is your understanding of what the British Government have been doing so far, in terms of their discussions with EASA or the EU in general about our continuing relationship?

Katherine Bennett: They have been doing a lot of work. My organisation and the aerospace industry in general have been having regular dialogue with the Department for Transport and of course the UK CAA. They have gone into the nth degree of detail and should be credited for the work they have done in this area. I also talk regularly with the FAA and EASA. We are really going through the detail. Maybe now we have moved to the next stage of the Brexit situation, some of these details can be gone into. Personally, I have spoken to several Ministers and officials on this topic.

The other important thing to say is that our supply chain may be more impacted by not having such influence on EASA. We do not want double regulation. We do not want double costs for UK suppliers. That might be the effect in the long term.

Q329 **Richard Graham:** In terms of other bodies that we are currently members of, specifically the global navigation satellite system, i.e. the development of Galileo, there are some suggestion that British companies have been losing out recently. What is your understanding?

Katherine Bennett: Obviously we are still members of the European Union. UK-based space companies can bid for work through the organisation called ESA, European Space Agency. We are hearing that, quite rightly, European Commission officials are saying, "If you are no longer part of the European Union, UK work cannot be undertaken on work that is funded by European Union taxpayers' money". Various companies have had letters saying, "Can you guarantee that this work will not be done on these shores?"

That is possibly a European Commission official being very zealous and following the rules, and we have explained this to the British Government. We have said we need some clarity on the long-term future of relationships with these important space programmes. Other extra-EU countries are members of ESA, Israel for example. There are ways round this, but it is a concern. Going back a little bit to what I maybe said to a previous Select Committee, it is a sort of mindset. We need to ensure that they really understand the importance that British space companies can provide.

Q330 **Richard Graham:** I understand the European transonic wind tunnel is not an EU body but is valuable to the aerospace industry. As far as I understand it, our membership of that would continue. Is that your understanding?

Katherine Bennett: Yes. That is a body that the UK, the Netherlands Government and the German Government support. It is really important.

Wind tunnel testing is something we are very good at in the UK. That is just perhaps the good old days of Europe. That is a way that certain member states that have this specialism can continue to work together. The Government have confirmed that is the case to us.

Q331 **Richard Graham:** Lastly, in a worst-case scenario, have you looked at what would happen if we resorted, for example, to WTO rules? As I understand it, on civil aircraft, they eliminate tariffs so long as they meet WTO rules of origin with inward processing relief provisions. Is that your understanding? What would be the impact in that worst-case scenario?

Katherine Bennett: Civil aerospace is tariff free because of this WTO plurilateral agreement, so that is fine. Even if we go back on WTO rules, it will not affect us. We are more concerned about what we call the non-tariff barriers. That is where we are hoping that the Government will ensure that inward processing relief is incorporated. We are looking at how exporting our wings can be done in the quickest way possible, so minimising tariff barriers, such as paperwork at point of exit, is really important to us. Every single thing we produce in this country is exported to the EU, so we are really affected by potential non-tariff barriers.

Q332 **Richard Graham:** In summary, it is much better to try to avoid that, but in the worst-case scenario you have done your research and you could carry on.

Katherine Bennett: Yes. We are a big enough company that we can manage. We have the IT we can put in place. This takes me back, Richard, to talking about the supply chain. That is where it is important that the industry as a whole and our suppliers ensure that we cannot have anything that holds up our production line.

Q333 **Joanna Cherry:** I wonder if I might continue, Ms Bennett, with the issue of your particular industry. I think what you were telling my colleague there is that people in your industry do not have a concern about tariffs, because tariffs are not an issue. It is the non-tariff barriers and the safety issue that is central. That is correct, is it not?

Katherine Bennett: Correct.

Q334 **Joanna Cherry:** I just wonder if you can help me, because I have been in correspondence with the Department for Transport on behalf of a constituent who has a business in this area. He is very anxious to establish whether it is the Government's intention to remain a member of EASA after March 2019 as an associate member, and the Government's intentions in relation to replacing the existing EU-US bilateral agreement on the regulation of civil aviation safety. I am afraid I am not really getting any detail from them. I have a letter from 15 November that says that the continued membership of EASA will be a matter for negotiations, which of course does not really take me very far. It confirms that there are discussions on replacing the US-EU bilateral aviation safety agreement. My constituent obviously needs a bit more

reassurance than that.

Given that you are so high up in the industry, can you give us any more detail about what the Government are doing in relation to EASA? There were reports in the press last week that they are exploring third-country participation in the agency. I wonder if you have any more information on that, because I know my constituent and his employees, and I am sure others, are very keen to know the answers to these questions.

Katherine Bennett: I am pleased to hear your constituent is writing on these topics. There are two separate things there. One is the ongoing membership of EASA and the other is the air safety agreements. The second one is more related to airlines, so it is not necessarily my area of competence. On EASA, we have said to the UK Government it is really important that the UK remains involved in EASA as much as possible. We have a UK expert on every single technical committee of EASA, so the involvement is at a very high and significant level. We are really good at aviation regulation in this country, and long may it continue.

Perhaps the danger for your constituent is any loss of influence, because we will no longer be a full member, unless the UK Government manage to negotiate that we are then a full member. We have talked about Norway and Switzerland before on this panel. Neither Norway nor Switzerland is a full member of EASA, so they have no voting rights, but there are ways of having a lot of influence. I am sure that we will eventually continue to have that strong influence.

Of course, companies such as your constituent's and other aerospace companies are having to avoid potential pitfalls that may happen with us losing that influence. There is a risk that companies may move their certification people to work in an EU member state to ensure that they continue to have the influence. Not being a full member means that you do not have final voting rights at the top level of the committee, but we will have full influence through the other committees. You need to ask the Government what they are doing on this, but from discussions I have had they are very committed to ensuring that we, as a country, retain a lot of influence.

On the air safety agreements, as I said, it is not necessarily my area of expertise. It is more for airlines, but there are a lot of older agreements that existed before we were members of the EU that we can fall back on. Airlines are working very closely with their counterparts in other countries to ensure that aircraft continue to fly and provide the public the service they do.

Q335 **Joanna Cherry:** I wonder if I can just follow up on that. I noticed that when Simon Henley of the Royal Aeronautical Society gave evidence to the BEIS Committee he said that he had spoken with the FAA. The FAA's view was that, unless it knows by January, next month, which way we are going to go in terms of the regulatory regime, it will start work to assume we are not going to be a member of EASA. Therefore, it will

have to start recertification work, because it cannot afford the interruption to its own aerospace.

If we are exiting in March 2019, would you agree with me that companies in this sector in the United Kingdom need to have concrete information pretty soon about the British Government's intentions? Otherwise there is a risk, as you have already said, that they may choose to relocate. They need that certainty in advance of March 2019.

Katherine Bennett: Yes. The FAA has been very public. Just overnight, there were reports from Michael Huerta, the agency director, that he has given the UK Government a month to give more certainty. "Certainty" is a word used a lot at the moment, and that is important. My company, Airbus, has considerable influence anyway because of our other member states. Yes, for the aviation industry as a whole we need some more information on what the future prospects may be. I have had a lot of discussions with Ministers and the Department for Transport, and they really understand the detail. It is maybe just another part of the negotiation as it continues.

Q336 **Mr McFadden:** We have gone around this course quite a lot, but, Katherine, I want to stay with this issue of EASA and ask you a couple more things. Can I pick up on where Joanna Cherry left off? Can you tell us a bit more about the FAA statement that is reported in today's press? What is it that they are worried about when you say they have given the Government a month? A month to do what, and what is it that they might do if they are not happy with whatever happens in a month? What is their locus in this?

Katherine Bennett: Obviously I do not speak on behalf of the FAA, so you probably need to ask them. From what I understand, their position is that, because this country is currently a member of EASA, all the maintenance and repair stations that are operated in this country are regulated by EASA. If there is no certainty that we will continue to be in EASA, they may have to re-establish a whole set of systems of new repair stations in this country. That would create additional burdens and extra cost and have an impact on US airlines being allowed to fly in and out of this country. That is their point, and they have been quite vocal on this.

Q337 **Mr McFadden:** I have another couple of questions on this area. Obviously you represent a big household name in Airbus, but the UK aerospace industry is a lot broader than that. We have a very important part of that around Wolverhampton, which I represent, with thousands of employees engaged in component manufacture, not for companies that are household names, even though they are really important to the industry here. Could you just explain for the Committee why EASA is important to component manufacturers based in the UK? What does it do and what does it cost us for that function?

Katherine Bennett: It depends which level of the supply chain they are in. If they are manufacturing components that are a key part of an aircraft's design, they have to be certified by EASA. Companies in your

constituency have to make certification applications. At the level of what we call design authorities—another expression is POAs; it is all to do with the design authorities—23% of EASA's applications are done by UK companies. We need to ensure that they can continue to apply for those accreditations.

The process will continue, especially if we have the transition period where the status quo is pretty much the same. That is okay, but we, as an industry, have a responsibility to help suppliers in Wolverhampton to know how to get through this minefield.

Let us not forget the CAA does know what it is doing too. It still exists, but a lot of its expertise is now in EASA, which is good for this country. We have a lot of really good aerospace engineers doing these certifications. We do not want to go back to the old days. I know the CAA does not want to be rehiring loads of certification experts. This is one other problem that may be worth flagging to the Committee for you to potentially ask a Minister. How will any cost that the CAA might have as part of going through this transition period be met? Will the British Government be paying for that?

Another point to make is that 70% of EASA's funding is actually from industry. We get charged, so your suppliers get charged, for certification applications. Industry has a very strong voice in EASA, as well as the Government.

Q338 **Mr McFadden:** If I can summarise your evidence in terms of the options going forward, your preferred option is basically the same as now: full participation with voting rights, if possible. Correct me if I am wrong on any of this. Your second choice, if that was not possible, would be some sort of associate membership where we try to maintain informal influence, even if we do not have voting rights. Can I ask you about what might happen if the Government's red line on jurisdiction of the European Court of Justice meant neither of those two were possible, because they would mean continued jurisdiction of the ECJ over those parts of the industry? What is the current difference in capabilities between what EASA does and what the CAA does? What would we have to do in this country if neither associate membership nor full membership were possible?

Katherine Bennett: I do not think it will happen that there is no deal and we do not get associate membership, because Norway and Switzerland have associate membership, and we are such a large aviation industry.

Q339 **Mr McFadden:** But they do not have the hang-up about the ECJ jurisdiction. They have not set out a red line about that.

Katherine Bennett: On that, Switzerland has an arrangement that on ECJ issues there is a way round it. There is a separate process that can be followed for any issues like that. I am not here speaking on behalf of

the whole aerospace industry, just my company. The chief executive of our trade association has said, if we were to have a no deal that would affect the EASA membership, it would be chaos.

Q340 **Mr McFadden:** I am not talking about no deal in terms of the broader future relationship. I am simply asking about this scenario where, on this occasion, we could not take part because we did not want to follow ECJ judgments any more. Whether that is Switzerland agreeing autonomously to shadow the ECJ, or Norway more directly, if the UK said, "We so object to the ECJ that we will not do that", I just want to know what the CAA would have to do. What would it cost to replicate what EASA does?

Katherine Bennett: It would have to hire in a whole load of engineers who can do the certification. It would probably have to set up an office in Brussels and in Germany, where EASA is based. It would have to have a shadow office. There would be a lot of extra cost, and I understand it has no appetite to do that.

Q341 **Mr McFadden:** Are the engineers you spoke about, who are British and are working for EASA, employed directly by EASA or are they CAA?

Katherine Bennett: I think they are mainly seconded.

Q342 **Mr McFadden:** Could the CAA get them all back?

Katherine Bennett: It could, but they are doing very important work for global regulation, so it would not be a good idea. I would imagine it is much better to have these people working in EASA, but that is a matter for the CAA.

Q343 **Chair:** I have one final follow up on that. Are there a lot of ECJ rulings relating to what EASA does?

Katherine Bennett: I am not aware of that, sorry. I will come back to you. It is a Good question.

Chair: I was just trying to understand how big a problem it was.

Katherine Bennett: I can find out.

Q344 **Chair:** That would be extremely helpful. We have put a lot of questions to you and I want to bring in our other three witnesses. First of all, if I could ask you, Mr Ainsworth, what would be lost from not continuing to have the relationship we have at the moment with the European Food Safety Authority? How are you preparing for that eventuality?

Rod Ainsworth: Good morning. At the moment, as a member of the European Union, the UK participates in the advisory forum for EFSA. I will use the acronym, if that is okay. I know you have been bombarded with them, but I will use that one. We participate in the advisory forum. The advisory forum in a sense sets the work programme for EFSA. EFSA is primarily the risk assessment body for food safety and other related issues, nutrition for example, for the European Union.

In the Food Standards Agency's world, in other words in the world of food safety regulation, EFSA provides the risk assessment function to a harmonised, comprehensive European regulatory system. If that risk assessment function is lost, the UK and the Food Standards Agency will need to build capability to create the means to conduct risk assessment. That is part of our contingency planning.

The primary way in which EFSA conducts that assessment function is through the production of opinions. Those opinions are published, and therefore they are available for all to see. Of course, it does not provide the data on the basis of which those opinions are founded. Sometimes it is a bit like seeing the answer without the workings. One would lose some of the access to that data, but the opinions are published.

Q345 **Chair:** What kind of relationship would you, as the FSA, like to have with EFSA after we leave?

Rod Ainsworth: We enjoy a very close relationship at the moment. In its work, EFSA relies on an international body of expert scientists. The UK currently supplies a lot of scientific expertise to EFSA. I would be surprised, regardless of the detail of the relationship that the UK ultimately has with the European Union, if we do not continue to have a close working relationship with EFSA through that scientific capacity, provided the UK continues to maintain its current level of expertise and capability in that area.

Q346 **Chair:** I must say it is quite striking this morning the extent to which UK expertise is to be found in a number of the agencies and bodies that we have heard our witnesses talk about this morning. That is really quite striking. Can I ask about the rapid alert system? Would we continue to have access to that if we did not have a formal relationship with EFSA?

Rod Ainsworth: The rapid alert system is the means by which member states notify each other of potential threats to food safety. The rapid alert system has a public-facing dimension, but it is limited. It is accessible, in a sense, to third countries, but the amount of information that is available is limited. If we are not a member of the European Union or of one of the other groupings that afford access to the rapid alert system, we will need to develop our own capacity to gain intelligence about threats to food safety.

Q347 **Chair:** That sounds like replicating what EFSA currently offers. You said a moment ago that, in a sense, others have access. Are you suggesting that those are not associated with EFSA?

Rod Ainsworth: The rapid alert system is entirely separate from EFSA. EFSA is risk assessment.

Q348 **Chair:** No, I understand that. I am just trying to get clear. This is about a country or an organisation identifying there is a risk and everyone else around Europe needs to know about it. Would we still get access to it?

Rod Ainsworth: Not full access, no.

Q349 **Chair:** We would get partial access.

Rod Ainsworth: We would be made aware of incidents affecting the UK and UK companies. We would not see the data illustrating that there are incidents affecting other member states of the European Union. To put that in context, we currently make use of the rapid alert system as part of our surveillance to identify potentially risky products that may be appearing on the UK market. We would lose that particular way in which we complete our surveillance jigsaw. We will need to find an alternative way of doing that if we lose access to RASFF.

Q350 **Chair:** What would be the alternative way of finding out, as you said, through intelligence, that there was a product in another country that might be appearing on the shelves here in the UK?

Rod Ainsworth: Our current contingency planning takes the form of building a lot of bilateral relationships with those who are the sources of information for us, in the event that we no longer have access to RASFF.

Q351 **Chair:** That would be you, as the FSA, talking to equivalent bodies in each of the member states.

Rod Ainsworth: Yes.

Q352 **Chair:** Presumably they would be the ones who would be providing the information to the rapid alert system, which we currently get access to. Is that right?

Rod Ainsworth: Yes.

Q353 **Chair:** It would be additional work to replace what is currently a common system that we have access to, by having to go to each of the states individually and say, "Please can you let us know if there is a dodgy consignment of something that might end up on our shelves". Is that correct?

Rod Ainsworth: Yes, in essence.

Q354 **Chair:** That would presumably have some cost and time implication.

Rod Ainsworth: Yes.

Q355 **Chair:** As an organisation, you would rather maintain full access to the rapid alert system.

Rod Ainsworth: We have suggested to the Department for Exiting the European Union and other parts of the Government that our access to the rapid alert system is of mutual benefit, both to the UK and other European member states.

Q356 **Mr Bone:** It is very much in the European Union's interests, because it will want to know if there was something in this country. What is the great advantage of not doing it together?

Rod Ainsworth: I can see no advantage to it. The only scenario I can see in which the UK would not enjoy access to the rapid alert system is where, for other reasons, there was no negotiated agreement at all, and a number of desirable things fell as a casualty of that situation.

Q357 **Chair:** That is extremely helpful. Thank you. Ms Hepworth, first of all, do you have any concerns about the supply of nuclear fuel after we have left the European Union?

Angela Hepworth: From our perspective, that is one of the key issues that is potentially at stake in the Government's decision to leave the Euratom treaty. I should say Euratom is not an agency, but it is a separate treaty. The Government took the view that alongside leaving the European Union it was necessary to leave the Euratom treaty. One thing the Euratom treaty does is to provide for the movement of nuclear materials, components and information within the EU, so at the moment including the UK, and also from key third countries with the EU.

At the moment, we import our fuel and fuel components for the existing nuclear fleet from Europe, and the existing nuclear fleet provides something like 20% of UK electricity generation. We need to ensure that, when we leave the Euratom treaty, there are alternative arrangements in place that enable nuclear fuel, nuclear materials, nuclear components to travel between the EU and the UK, and third countries and the UK.

Q358 **Chair:** Going back to my question, in the absence of knowing what they will be, are you concerned about future supply, or do you think a way will have to be found?

Angela Hepworth: The UK Government have given us very strong commitments that this is a very high priority. They recognise that it is absolutely critical that we have access to fuel in the future, and have said it will be a very high priority to get clarity as soon as possible in the negotiations about the way in which issues around nuclear fuel will be dealt with. That is absolutely critical for our ongoing ability to operate our power stations.

Q359 **Chair:** Indeed, but whose agreement do we need in order to ensure that? We as a country can ask; who do we have to get on the other side—which bodies or agencies—to say, "Yes, that is fine"? Is it about mutual recognition? What might this alternative structure, given that we are leaving Euratom, look like?

Angela Hepworth: Ultimately, we will need to negotiate some form of agreement between the UK and the EU. It will be equivalent, if you like, to a trade agreement, but covering nuclear materials and components. It will be a bilateral agreement.

Euratom already has a number of bilateral nuclear co-operation agreements with third countries. For example, Euratom has nuclear co-operation agreements with the US, with Canada, with Japan. What would ultimately need to be put in place is some form of co-operation

agreement between the UK and the EU, governing nuclear materials. That agreement may take some time to put in place, in which case, as a short-term step, we would be looking for the UK Government to agree transitional arrangements with the EU, effectively continuing the status quo in terms of the way in which nuclear material is dealt with, to give them the time they would need to put in place that full co-operation agreement.

Q360 **Chair:** Were you surprised, as a company, when you discovered that it was the intention of the Government to leave Euratom?

Angela Hepworth: We knew when the decision was taken to leave the EU that there would be a question around continued membership of Euratom. We made the case that the best thing for the nuclear industry as a whole in the UK would be if a way could be found to stay within Euratom.

Q361 **Craig Mackinlay:** There is a new generation of nuclear power station going up in Hungary, with big help from Russia, which is quite a unique arrangement considering that we have trade barriers, if not embargos, with Russia. I can only imagine the nuclear fuel stock that is going into that nuclear power station is from Russia. How has that been overcome within Euratom? It seems bizarre that it is acceptable. We are now saying we may have problems feeding our own nuclear power stations from French material, and yet we seem to have this rather bizarre situation between Hungary and Russia. It seems to be progressing without too many problems, no matter what we may think about it.

Angela Hepworth: Different nuclear operators will have their own arrangements for nuclear fuel supply, and some of that may well depend on the technology of the nuclear reactors. In the UK, we have a fleet of seven gas-cooled reactors, and one PWR, and they have established fuel supply routes. One of the issues, as you can imagine, with fuel supply is that you have to be suitably qualified in order to provide the components. We have established fuel supply chains. It is theoretically possible to change some of that, but it would take a matter of years rather than months.

Q362 **Craig Mackinlay:** How is it that Hungary, a part of the EU, has overcome the concerns of Euratom, while dealing with a third country that is not exactly part of the international club? How has it overcome that within the Euratom rules, and yet we are now being told we have all these complications with the advanced reactors of the UK?

Angela Hepworth: Some of that is down to the requirements of the third countries in question. If you look at the relationship, for example, with the US, the US requires that, if there is going to be any movement of nuclear material, there must be a co-operation agreement in place. I do not think that is the case with Russia. Some countries will have different requirements, and it is entirely possible that, between the EU and Russia, there could be a different set of arrangements.

Q363 **Chair:** Going back to the point about the transition, the Business, Energy and Industrial Strategy Select Committee, in its recent report, said that it was "highly doubtful that the UK could deliver safeguards to Euratom standards" by 2019, and called for an extended transitional period. Is that a view that you, as a company, would share, because you did indicate that the transition would be important? Do you think two years, which is currently being talked about, would be sufficient in this particular area?

Angela Hepworth: The UK Government have said that their intention, ultimately, is to put in place a safeguards regime that meets Euratom standards. Having in place a safeguards regime is absolutely critical. There is no possibility of us being able to transfer nuclear material from the EU or from third countries to the UK without a functional safeguards regime in place, so that is absolutely critical.

The ONR has been given the responsibility of implementing that domestic safeguards regime in the UK. It has made very clear in the evidence it provided that a basic safeguards regime that meets the standards set by the International Atomic Energy Authority could be put in place by March 2019, although that is challenging. However, it has made very clear that it cannot get it up to Euratom standards within that period.

What would be needed, effectively, is a transition period where you could have some kind of co-operation between the ONR and Euratom, as we were increasing our own capability in the UK.

Q364 **Chair:** Until we have in place a system that meets Euratom standards, the fuel is not going to come this way.

Angela Hepworth: That would be a question for the negotiations between the UK and the EU. Formally, the requirement is to have a system of safeguards that meets IAEA standards. It would be question for negotiation between the UK and the EU, for a future agreement, whether simply meeting IAEA standards is acceptable, or whether the EU requires something that is more like Euratom standards.

Q365 **Stephen Kinnock:** Many thanks for those very useful answers. Following up on this point about the need to strike a bilateral agreement based on us leaving the single market and the customs union, you mentioned that Japan and the US struck bilateral agreements on that basis. How long did it take for those bilateral agreements to be negotiated and concluded?

Angela Hepworth: I am not an expert on the timing of those. I believe it took longer than two years to negotiate those agreements. I am not an expert on the details of it, so I would have to have a look.

Q366 **Stephen Kinnock:** This one is broader, to everybody. The European Union has confirmed that the transition period will in effect be a carbon copy of the status quo, just minus the institutions, so we will not be representing the institutions, but we will have to be aligned with all the

jurisdiction and enforcement supervisory functions of the EU. Do you see that transition period as being a continuation of the functions of the agencies that you have been talking about today? I am happy for anybody to answer that question, because I think it affects everybody on the panel.

Rod Ainsworth: The transitional period will be of considerable assistance to the food industry, which will have a period of time during which to make adaptations it may wish to make to its supply and other arrangements. So far as our planning is concerned, we would not expect there to be a significant change in our relationship with EFSA during that transitional period. It is likely, I suspect, since we would not formally be a part of the European Union, that we would not have a membership on the advisory forum that I referred to. But the access to the expert working groups, through our own scientific expertise, I expect would continue as it is at the moment. Therefore, I think our relationship with EFSA would not change significantly during that transitional period.

Katherine Bennett: Aircraft and engines need to continue to be designed and manufactured over the next two, 10 and 20 years so, yes, from an EASA point of view, we would expect to continue to have the same relationship. The only other agency I have not mentioned, and it was talked about in the previous panel, is REACH, so the European Chemicals Agency. That is important for us as well, as an industry, because safety is key. We do not have time to have a whole load of new chemical compounds developed and authorised, so continuing membership of that would be really important over the transition period.

Dr Hudson: A transition period could also be very useful for the pharma and medical devices industries, depending on what the negotiated outcome is. If the negotiated outcome is continued collaboration with the European system, it becomes a moot point. In the absence of a deal it could be potentially very valuable, because there will be activities such as batch release, and the siting of people to release product or who are responsible for the safety of medicines, who by current European legislation have to reside within the European Union. It might be potentially useful for them. The quicker we can get to a point where we know what the future relationship will be, the better. I would hate any transition period to result in a delay in getting to that position.

Angela Hepworth: On Euratom, a transition period would be extremely useful to provide continuity on these trade arrangements, so the ability to move nuclear fuel and components. On Euratom, it is not quite as simple as saying that a transition would just provide continuity, because there are a couple of elements that will have to be dealt with separately. Those are, first of all, safeguards. My understanding is that the UK Government's intention is to have a domestic safeguards regime up and running, come what may, by March 2019, rather than relying on the Euratom regime. I think that is right, because the UK needs to have the ability, with respect to safeguards, to stand on its own feet come 2019,

come what may, and therefore we are very supportive of the measures they are taking to take the safeguards Bill through at the moment.

The other area where the transition probably does not work for Euratom is with respect to the third-party agreements that the EU has with the US and Canada. My understanding is that, once we are no longer a member state, those third-party agreements will not continue to have force for us. Therefore, within this window, again come what may, the UK Government needs to negotiate bilateral agreements with the US, Canada, Japan, Australia.

We have focused so far on the implications for the supply of fuel. The other thing that is critical for us is the ability to access components for the existing nuclear fleet and in order to build Hinkley. We are dependent on being able to import critical components. For our existing nuclear power stations, we would have concerns if, for example, there was an outage at one of the reactors, a part had broken or we needed to import a replacement part. If there was any delay in our ability to import that equipment, it could have the effect of prolonged outages at nuclear power stations. That is the other element, alongside fuel, that we are very concerned about in the Euratom arrangements.

Q367 **Mr Djanogly:** I want to follow up on precisely the point you have just made, which is a matter of some self-interest. You are obviously investing heavily in new nuclear build at Hinkley and Sizewell, but you are also the minority partner with China General Nuclear for the investment in my own constituency, at Bradwell B. Obviously, the supply of fuel is going to be a critical issue in this, but I wonder whether other elements of the lack of certainty around future arrangements have any effect on your investment plans or the possible viability.

Angela Hepworth: In terms of the areas that could be affected for our delivery of new build, the first area we are concerned about is access to components. Some of the key parts of the nuclear reactor design we are planning to build will need to be imported from the EU, Japan or the US. There are elements where we are dependent on having those trade relationships for nuclear components, in order to be able to build the nuclear power stations.

Q368 **Mr Djanogly:** In my own case, it will be from China. Is that affected by this at all?

Angela Hepworth: The UK already has its own bilateral arrangements with China, but insofar as there is a need for any material from the EU or the US, or those places where there are nuclear co-operation agreements, that would be an issue.

The other area we are concerned about, in terms of the delivery of new nuclear projects in the UK, is access to the construction workers who will be needed to build the new nuclear power stations. We are doing a lot to train and recruit UK workers to have the construction skills they need to

participate in the projects. At Hinkley, there are going to be over 5,500 people working on the project at peak. Owing to the scale of the project, but also the need for niche specialist nuclear skills, we are concerned about our ability to draw on the foreign workers we need in order to support the construction of those power stations.

Q369 **Richard Graham:** I am just declaring an interest in the sense that EDF Energy's operational nuclear headquarters is in my constituency in Gloucester. Angela, given the incredibly close Anglo-French co-operation since EDF Energy bought British Energy—not least these important future plans for new nuclear power—can you imagine a situation in which there were any issues of nuclear safeguarding that will not be resolved?

Angela Hepworth: It is very fair to say that with France, but also with other European countries, there should be strong incentives on both sides to facilitate sensible arrangements, around safeguarding but also around nuclear trade issues. There are great opportunities for EU companies in the UK and for UK companies in the EU. Assuming economic rationality prevails, there should be strong incentives on all sides to find pragmatic solutions.

Q370 **Richard Graham:** Although you have quite rightly flagged up the areas that do need to be resolved, has there been anything in EDF Energy's discussions, either with the EU or bilaterally with the French or British Governments, that led you to any major concerns that those issues will not be resolved?

Angela Hepworth: There is full alignment between the nuclear industry generally and the UK Government about what needs to be done. I can see that good progress has been made negotiating Euratom exit issues with the EU. I know the UK Government are making progress on implementing their own domestic safeguards regime. As I said, we can see the safeguards Bill progressing through Parliament at the moment. I know the UK Government have said that they are keen to put in place a very close relationship with the EU going forward, in terms of nuclear co-operation. There is full alignment around objectives, and I can see the Government making progress against the things that need to be done.

Q371 **Wera Hobhouse:** This is a more general question to the whole panel. We heard in the previous session that we would need to set up our own regulatory bodies. We have our own Food Standards Agency already, but in other areas we need to have a parallel system, basically. Has anybody in your industry or in your bodies assessed the cost, just in terms of people, because that is obviously a resource cost? You need to employ people; you need to have the expertise. Has anybody made any assessment? We are talking about the cost of Brexit, and what we are saving and what we are not saving. Has anybody made any assessment about these costs, because we need to employ people for functions that are currently exercised in the EU?

Rod Ainsworth: As part of our planning to have in place an effective regulatory regime from the point at which the UK leaves the EU, we are having to estimate what additional capacity we will need, and therefore what the cost of that additional capacity would be. Very broadly—and I can only be very approximate—in relation to the Food Standards Agency itself, we are looking in the order of more than an additional 50 people. We have already arrived at potentially an additional 50 people, but I suspect it is significantly more than that, which we will be looking to build quite rapidly over the forthcoming period as we head towards the point at which we leave the EU. That is the UK Food Standards Agency. There will be additional implications for port health authorities, for example, and other agencies in the world of food safety regulation.

Q372 **Wera Hobhouse:** There is a cost, obviously, to employing these people. It is a significant cost, but you have not quantified that.

Rod Ainsworth: Not in any precise detail, no.

Katherine Bennett: On the aviation agency, our trade association may have done that; I do not know. For my company, we have not because, as I said earlier, we can operate through our other member states.

Dr Hudson: In the medicines world, 90% of the medicines on the UK market are nationally licensed anyway: the older ones, the generics, et cetera. We may collaborate with other European countries, but it results in a national licence, and we do a significant amount of work there. The new drugs go through the centralised route, through the EMA, but then the EMA allocates it to countries to do the work. We have led a significant chunk of that work. For those that we do not lead, we also take an interest and do look at the dossier, so in fact a lot of the work would be happening at the MHRA anyway, although it may move from the EMA to being purely national if we do not reach some sort of agreement.

The question of resources, at the end of the day, will depend very much on what the negotiated outcome is, and then if we are in a hard Brexit what regime we put in place. We have lots of contingency planning in terms of what that might look like, but it really will depend, at the end of the day, on where we are. Considering that most of our work is national work, it is not going to be such a major upheaval as in other circumstances where Europe itself does the work. A lot of it is done nationally.

Angela Hepworth: In terms of Euratom, the ONR is at the moment going through the process of recruiting new inspectors, so it will have to pay the costs of recruiting, training and employing new inspectors to do the functions that Euratom inspectors have been doing to date. The UK will negotiate with the EU over whether it purchases the equipment that Euratom has been using in the UK, in which case it would pay the EU to buy that equipment. If it does not buy the Euratom equipment, the UK will have to invest in its own monitoring equipment, and there will be

significant costs associated with that. Then there will be the ongoing cost of running the ONR Euratom safeguards regime in the UK.

Q373 **Chair:** Dr Hudson, you said a moment ago that the way it works at the moment with the EMA is that the applications come in and it farms the work out.

Dr Hudson: Correct.

Q374 **Chair:** If we are leaving—which is what the Health Secretary has said; he does not expect us to stay in the EMA, so I understand—presumably the EMA, if it carries on with a farming-out policy, will be giving that to the bodies of other member states, and the work will not be coming here. Is that correct?

Dr Hudson: The work that goes into the EMA—the new licences, for example—then goes on to the Commission. The Commission, in the current regime, issues the licence for the whole community. In the future, in a hard Brexit scenario, the work would then go into the EMA and be allocated to countries of the 27, and the licence would be granted by the Commission for the 27. Companies that want to get a licence for the UK would come to us. New active substances and new drugs that would be on the UK market would need to come to us.

As I mentioned a few minutes ago, an awful lot of medicines are licenced ultimately with a national licence: the older ones, the generics, and variations on those. A large chunk of the work is through a more national route, not the EMA route anyway. The new active substances, brand new drugs, would go to the EMA and they would have to come to us, if we do not reach an agreement to collaborate.

Q375 **Chair:** From your point of view, what would be lost from no longer having the relationship we currently have with the EMA?

Dr Hudson: The moves internationally have been more towards collaboration, sharing resource, et cetera, and that is a good thing. The European medicines network has served us all very well, in terms of a collaboration between all the heads of agencies, all the medicines agencies across Europe and the EMA. It has done a fantastic job over the years. We have been a big component of that, with a large amount of influence in the European system, as a strong national regulator, and we would then serve the UK. If unable to participate in that, yes, we would have to collaborate more broadly around the world than we do now. The preferred outcome is continued collaboration but, in terms of sheer protection of public health and support for innovation, we would be able to do that nationally, yes.

Chair: That is very helpful. Can I thank you all very much for coming today and for your answers, which certainly will help the Committee in its work?