

Exiting the European Union Committee

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

Wednesday 10 January 2018

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Members present: Hilary Benn (Chair); Joanna Cherry; Stephen Crabb; Mr Jonathan Djanogly; Peter Grant; Richard Grant; Wera Hobhouse; Stephen Kinnock; Jeremy Lefroy; Craig Mackinlay; Mr Pat McFadden; Mr Jacob Rees-Mogg; Emma Reynolds; Stephen Timms; Mr John Whittingdale; Hywel Williams; Sammy Wilson.

Questions 455 - 545

Witnesses

I: Professor Richard Whitman, Head of School, Professor Politics and International Relations, University of Kent; Fredrik Erixon, Director, European Centre for International Political Economy; Dr Stephen Woolcock, Associate Professor in International Relations, London School of Economics.

Written evidence from witness:

– [Dr Stephen Woolcock, Associate Professor International Relations, London School of Economics](#)

Examination of Witnesses

Witnesses: Professor Richard Whitman, Fredrik Erixon and Dr Stephen Woolcock.

Q455 **Chair:** Good morning. Can I warmly welcome our witnesses? I wish you a happy new year. This is our first evidence session of 2018, with Fredrik Erixon, director of the European Centre for International Political Economy, Professor Richard Whitman, head of school and professor in politics and international relations at the University of Kent, and Dr Stephen Woolcock, associate professor of international relations, London School of Economics.

We have quite a lot of ground to cover and a lot of members of the Committee who want to ask questions, so as succinct answers as you can offer would be really helpful in enabling us to cover all the ground. We are going to be looking at the CETA experience, but also at broader issues of co-operation. I want to begin with some fairly brief questions, to which it would be helpful to get brief answers.

If we had a CETA-style deal, am I correct in saying that there would still be customs and rules of origin checks between the UK and the other member states of the EU?

Dr Woolcock: Yes.

Fredrik Erixon: Yes.

Q456 **Chair:** Yes, and you agree on that. Would that be compatible with maintaining an open border with no infrastructure between Northern Ireland and the Republic, if there had to be checks?

Fredrik Erixon: Could you specify that question a little?

Q457 **Chair:** The Government's clearly stated intention—the phase one agreement that was reached—says that they want to maintain an open border between Northern Ireland and the Republic of Ireland, with no infrastructure, so that goods can move freely between the two countries—between part of the UK and the Republic of Ireland. I am trying to be clear: if it was a CETA-style deal—and you confirmed that there would be customs and rules of origin checks—how do you square that with maintaining an open border?

Dr Woolcock: It would be quite difficult. Theoretically it might be possible. CETA includes a chapter on customs procedures and customs co-operation. That includes all sorts of provisions that seek to speed up the passage of goods across borders and pre-clearance of goods going across the border. In the very optimistic scenario, if you achieved everything set out as an aim in these customs co-operation provisions, you might conceivably not have very much of a physical border, but it is still questionable as to whether the EU would accept something without any kind of check.



HOUSE OF COMMONS

Fredrik Erixon: CETA was never constructed in order to deal with border issues between neighbouring countries. Canada is pretty far away so that was not a point for negotiation in the agreements, which is why for the UK you should not look to CETA as an inspiration or guide for what type of border agreements you want to have concerning the Irish issue. You should look much more to, for instance, the relations between Sweden and Norway, France and Switzerland, and how in practical terms these issues are dealt with there.

Q458 **Chair:** In what way would a CETA-style deal be different from the UK remaining in a customs union with the 27 member states?

Fredrik Erixon: There is a pretty substantial difference. You are not a member of a customs union when you negotiate a free trade agreement with the EU, so there is a substantial difference between them, both legally and practically.

Q459 **Chair:** Do you want to spell out a bit more what we would lose as opposed to what we would gain by that kind of arrangement, compared to what we have at the moment?

Fredrik Erixon: Under the assumption that a free trade agreement between the UK and the EU would contain no tariffs—there would be a zero-tariff agreement with 100% coverage—the tariff issue is going to go away. The other issues that become important are all the practical administrative issues of trade and how you deal with them: the application and granting of approval of authorisation to traders to trade without inspection checks and without a control for each transactional trade that goes on, for instance. They also include the difference in rules of origin: the extent to which you can import from a third country and assemble or put more value on that particular product in the UK, in order to ship it to the European Union.

In all those instances, it basically means in practical terms that a customs administration is going to have a lot more to say to individual companies that want to trade with the European Union. It will want to inspect.

Q460 **Chair:** Would a CETA-style deal increase, to some extent, barriers to trade compared with the position currently for the UK?

Fredrik Erixon: Absolutely; there is no question about that. But there is a difference between being a member of the single market and having a free trade agreement with the EU.

Q461 **Chair:** Turning to services, as I understand it, there is a little bit in CETA about services, but there are a number of restrictions and so on. Let us take the example of the UK financial services industry. What impact would a CETA-style deal have on the ability of UK financial services companies to carry on doing what they are doing at the moment in terms of selling their products into the 27 member states?



Dr Woolcock: CETA includes a specific chapter on cross-border services and a specific chapter on financial services. This is slightly WTO-plus, not significantly WTO-plus. There is nothing like equivalence. There is no mutual recognition of regulation established in the CETA agreement, although there may be possibilities to negotiate that. There is certainly nothing from the conclusion of the agreement. Access in financial services would be much less than currently within a single market.

I may come back to this later, but there is an MFN clause in the chapter on financial services, which is worth bearing in mind. In the CETA agreement there is an MFN clause, which means that, if the EU offers anything more to another party such as the UK in a bilateral negotiation, that has to be extended automatically to Canada, Korea and Singapore for that matter. This represents a bit of a constraint in terms of what the EU is likely to agree to on financial services.

Q462 **Chair:** The Government believe that it will be possible to negotiate this new deep, special and bespoke arrangement between now and the end of March 2019. Given that the Government have said, "CETA on its own is not good enough; we want"—as it has been christened—"CETA-plus-plus-plus," is it feasible to do in that timescale?

Professor Whitman: It would be a very tall order, particularly because it would not just be a templated or cookie-cutter deal in terms of taking what CETA was and doing a "change all" for the UK, for some of the reasons that we have just discussed. If you think about the timescale for CETA from the definition of the mandate through to where we are at the moment, which is not fully ratified, you would be looking for something that went into the transition or adjustment period and beyond, most certainly.

Dr Woolcock: That is broadly correct. It depends obviously on the degree of ambition. If it was a CETA-pure or maybe CETA-slightly-minus, that could possibly be negotiated. Once there is a precedent, that would clearly influence negotiations and make it a bit easier, but anything like a CETA-plus or CETA-plus-plus, which I think the Committee wants to discuss, would take a lot longer.

Q463 **Richard Graham:** Can we just explore that last point about what the impact on other free trade agreements between the EU would be were the agreement with the UK to include services in great detail? How does that come to pass?

Dr Woolcock: This is the MFN issue—the most favoured nation clause. There are different uses of the most favoured nation clause. In the WTO system, there is a most favoured nation clause in article 1, which means that whatever you offer to your most favoured nation has to be extended to everyone else. That is a bit different from the MFN clause in a free trade agreement. The MFN clause in a free trade agreement means that, if you offer something to another free trade partner, you have to extend that to the initial partner.



HOUSE OF COMMONS

In other words, the MFN clause in the agreement between the EU and Canada means that, if the EU or Canada offers better provisions vis-à-vis the United States or any other party, they have to be extended automatically to the EU or to Canada. This does not cover the whole of the agreement; it covers parts of the agreement. It does not cover tariffs, for example. It covers investment, cross-border provision of services and financial services commitments.

Q464 **Richard Graham:** Teasing that out a little, one of the differences between Canada and us is that Canada is much more protectionist. Were there to be an agreement on, say, completely free exchange of services between the EU and UK, as there is at the moment, are you saying that would automatically mean Canada would open up its entire services sector to anything from the EU, as a consequence of the clause in its agreement with the EU?

Dr Woolcock: It means that the EU has to offer what it has offered to the UK to Canada.

Q465 **Richard Graham:** Does Canada have to offer it to the EU?

Dr Woolcock: No, because Canada has not negotiated with the UK.

Q466 **Richard Graham:** Does that also work, for example, in terms of some of the earlier agreements between the EU and Vietnam or South Korea? Is there a similar MFN phrase?

Dr Woolcock: There are MFN clauses in the EU-Korea and EU-Singapore agreements—I am looking at Fredrik—but not with Vietnam.

Q467 **Richard Graham:** How is the Korean one affected by the EU-Canada deal?

Dr Woolcock: If the EU offers something better to Canada—

Q468 **Richard Graham:** Was the Canada agreement better than the one with Korea?

Dr Woolcock: Not substantially, I do not think. I was trying to get the text for the EU-Korea agreement, but it depends a bit on where the MFN clause comes in the EU-Korea agreement.

Fredrik Erixon: There was not any consequence for the EU-South Korea agreement following from the EU-Canada agreement. When we get into services it gets complicated because what we are negotiating is a binding. It is not the actual openness of an economy; it is the extent to which a Government bind themselves to not do anything that will disturb market access for another country in the future.

Q469 **Richard Graham:** I do not really see the connection. If there is an agreement between the EU and Canada that is in one way more open than the agreement between the EU and South Korea, under what Dr Woolcock was saying, that would automatically become a change in the EU-Korea agreement, would it not?



HOUSE OF COMMONS

Fredrik Erixon: Yes, but the thing is that the bindings are pretty much “copy and paste” from each agreement to the other and they basically follow, in this case, the financial services bindings that EU countries have made in the World Trade Organisation, which means that the additional market access, from a binding point of view, that comes from a free trade agreement is actually very small.

Q470 **Richard Graham:** Is that true for investment as well as trade? My understanding of the EU-Canada deal is that there are, as there almost always are in FTAs, restrictions on investment—i.e. certain sectors that are not open to being bought by foreign companies and so on. Is this MFN clause equally applicable to the terms of investment as the terms of trade?

Fredrik Erixon: Yes, indeed, if you are talking about investment in services, not investment in general.

Dr Woolcock: Can I come back in to clarify? The MFN provision applies to specific commitments—in other words, a listing of sectors that are covered. As Fredrik was saying, they are broadly similar to what is covered in the GATS—in other words, the WTO agreement.

Where there is a bit of a difference is if there is a negotiation of a mutual recognition agreement, or let us say an equivalence agreement. If the UK were to negotiate an equivalence agreement with the EU for the regulation of financial markets, that would not be extended on an MFN basis.

Q471 **Richard Graham:** Does equivalence have an impact on the applicability of any MFN clause?

Dr Woolcock: No, equivalence would not be covered by MFN. The fact that the EU recognises the UK does not mean that it has to recognise Canadian financial regulations.

Richard Graham: That is a fairly significant caveat to the earlier comment that an EU-Canada deal would automatically be affected on the MFN clauses by any more detailed agreement with the UK.

Q472 **Mr Djanogly:** Are we therefore saying that these MFN clauses apply to only certain types of agreement? We have been talking about FTAs. For instance, would this apply if we had a Ukraine-type association agreement?

Dr Woolcock: By “we”, do you mean the EU?

Mr Djanogly: No, the UK with the EU.

Dr Woolcock: It would depend on what is in the agreement.

Fredrik Erixon: An association agreement contains a free trade agreement. If the free trade agreement has an MFN clause with specific



HOUSE OF COMMONS

application to certain areas of that agreement, it will have to be activated when you negotiate with another country.

Q473 **Mr Djanogly:** Are you able to say whether, in relation to financial services, there would be more benefit from a Ukraine-type association agreement or an FTA?

Fredrik Erixon: If we are talking about financial services more specifically, or other areas where the MFN clause applies in FTAs, there is not a substantial difference between an association agreement and a free trade agreement.

Q474 **Joanna Cherry:** Mr Erixon, you wrote an article back in March 2016 saying that the Canada-EU trade deal is no model for Brexit. In that article you said CETA “raises several questions, and the most obvious one is why the UK should aim for a trade arrangement that so obviously would reduce its current market access and increase the cost of trading with Europe”. Would you care to elaborate on why you said that, and do you still hold that view?

Fredrik Erixon: I still hold that view. Let me preface this by saying that I am not particularly hostile to Canada or any other country, but we have to bear in mind that, with these types of agreements, free trade agreements as we know them—and Canada has been billed as perhaps the most ambitious free trade agreement, at least for the European Union—we are still talking about agreements that, in my view, are WTO-plus agreements. We start from the World Trade Organisation agreements and we add bits and pieces that have proven to be difficult in practical trade between two countries or entities in the past.

They are not very ambitious, simply because these agreements tend to be done between countries or entities that are pretty distant from each other. We are not talking about countries negotiating free trade agreements if they are deeply integrated in each other’s economies through value chains and supply chains where there is a lot of cross-border trade for the same type of product or service.

That is the position that the UK finds itself in. It is very much integrated in value and supply chains all across Europe, and therefore should aim to negotiate an agreement that is much better in terms of market access and rules than CETA.

Q475 **Joanna Cherry:** How does the UK’s trade with Europe compare in size with Canada’s trade with Europe? By Europe, I mean the European Union.

Fredrik Erixon: If I remember it from the top of my head, I think UK export to the EU is about eight times the size of Canadian export to the EU. In services, it is even more. We are talking about different types of countries and trading relations.

Q476 **Joanna Cherry:** In that article, you also said, “CETA’s design reflects the



industrial profile of trade between Canada and the EU". How does the industrial profile of trade between Canada and the EU compare with the profile of trade between Britain and the EU?

Fredrik Erixon: Not much. If you look at goods, the key export goods from Canada to the EU, representing a surprisingly large share of all exported goods from Canada, will be in commodities: gold, pearls, oil. These are not the types of products that the UK exports to the EU or vice-versa. In services, Canadian export to the European Union is heavily dependent on tourism and transportation, with a very small pocket for business services. For the UK, business services are probably the No. 1 interest in terms of services exported to the EU. We are talking about two countries with different trading relations with the EU. The one agreement will not reflect the interests that the UK has right now, vis-à-vis the EU.

Q477 **Joanna Cherry:** You also made some comments in that article about how CETA's provisions on services compare with the provisions on services that the UK currently benefits from by virtue of its membership of the single market. Can you say a bit more about that?

Fredrik Erixon: Yes. Again, we are talking about two different types of reality right now: if you are a member of the single market; or if you have a free trade agreement with the EU, which means that you will not automatically have, under a CETA-style free trade agreement, a right to export a service to the European Union in areas where a service is going to be regulated. It is going to be subject to the approval of authorities in the European Union for financial services and many other services. We have to go into each type of service to figure out the extent to which this is going to represent a problem for current services export from the UK to the EU.

Q478 **Joanna Cherry:** In that article, you also said, "A UK trade arrangement based on CETA would seriously reduce Britain's current market access in Europe, and the gap between current and future market access will only grow as Europe deepens its single market for capital and the digital economy". Is that a view you still hold?

Fredrik Erixon: Yes.

Q479 **Joanna Cherry:** Can you elaborate on why you hold that view?

Fredrik Erixon: It is simply because, as the EU continues to deepen elements of its own single market, the legal differences between trading under the rules of single market membership and trading under the rules of either the World Trade Organisation or a free trade agreement become larger and larger. As we have seen for a pretty long time now, in areas such as financial services, telecommunications services and digital services, there is a tendency, not just in the European Union, but in other parts of the world, to regulate these areas in a way that makes it more difficult to trade with third parties outside that territory.



Q480 Joanna Cherry: Professor Whitman, can I ask you about an article you wrote about CETA? You observed that one of the things the CETA agreement provides for is the preservation of geographical indicators. I understand that, in the CETA negotiations between the European Union and Canada, France and Italy negotiated up to 42 geographical indicators and exemptions, but the UK did not negotiate any. I know that Scottish farmers were particularly up in arms about this failure to protect Scottish beef and products like Stornoway black pudding, which are very important to the British economy and sell well abroad. Can you give us any insight into how it was that the United Kingdom failed to protect any geographical indicators when the French and Italians were able to negotiate up to 42 exemptions for things such as brie and prosciutto di Parma? Can you give us a wee insight on that?

Professor Whitman: That might be better directed at those who engaged in the negotiations, but essentially it was not a first order priority for the UK at that time. You will be well aware that, when the trade negotiations between the EU and a third party take place, the member states, in this case also including the UK, sit behind and monitor the way that the European Commission pursues and interprets the mandate that it has been given. In that space, there is the space for any member state, including the UK, to have put that as something for the Commission to make sure that it nailed down in a way that the UK was content with. It is an area that the UK did not decide to prioritise, but some other member states did. The other member states decided to push harder and the UK decided to put less priority on them.

Q481 Joanna Cherry: In future, or when the United Kingdom starts to negotiate all these wonderful FTAs that we have been told so much about, how important will it be for the United Kingdom—I am talking not just about Scotland, but about the whole UK—for the UK Government to take cognisance of the importance of protecting geographical indicators, products such as Stornoway black pudding, Cornish pasties and the like?

Professor Whitman: The question will be an important aspect; the way the UK thinks about what it wants to export and how it wants to preserve distinctiveness in terms of food and food-related products. It is going to be a big issue for the UK. The difficulty will be that other states, third parties and partners in negotiations will have the same view of their products and areas that they want to preserve. If you think about negotiations on whiskey with countries such as Japan and India, to take two examples, those are areas in which you could imagine there would be an extended and difficult set of conversations.

Q482 Joanna Cherry: Would I be right in understanding that this curious omission to protect any UK geographical products also occurred in the EU deals with Japan and Mexico?

Professor Whitman: It is a characteristic of the UK's approach towards those negotiations that it has pressed much less than other member states have. An issue for the UK as it works through a national trade



policy is going to be how it puts in place the infrastructure to think about those kinds of issues feeding their way into the mandate for UK trade negotiation, and in particular how it thinks about the interests that the devolved Governments and Administrations will have in areas such as agriculture and agricultural products, and how they feed into a UK mandate for a third-party trade agreement.

Q483 Stephen Crabb: I would perhaps ask a question to Professor Whitman in the first instance. Is Michel Barnier correct when he suggests that the logic of the UK's red lines means that, inevitably and unavoidably, the Canada-style agreement becomes the starting point for negotiation?

Professor Whitman: My answer is, "Yes, but"—the "but" being that I am not sure whether within Brussels and other member states' capitals there has been sufficient reflection on what the desired endpoint might be in terms of a future agreement between the UK and third countries. It is easier to think in terms of pre-existing relationships and therefore to measure those against what you think the UK Government's red lines are.

We are about to enter into the phase in which, not just here, but in other member states' capitals, there will have to be some pretty hard and deep thinking about what the ambition is for the long-term relationship. If you think about the three stages of doing a deal between the EU and a third country, the mandate stage is the most important for determining what the ambition is on both sides. That is where the individual member states themselves arguably have the greatest leverage in terms of setting the broad parameters.

Mr Barnier is a servant of the member states, in being the Commission negotiator who operates under a mandate, so that is his view as to the logic, as he interprets it, of the British Government's pronouncements on red lines, but that is not definitive and should not be taken as definitive.

Q484 Stephen Crabb: Is there another model that the UK Government should be pushing for as the starting point to anchor the negotiations?

Professor Whitman: We are, here and in other places, talking about CETA-plus-plus-plus, Norway-minus and so on. Those are quite good ideas to hold in your mind as a jumping-off point for what the ambition might be for a relationship between the EU and the UK, but the EU has never entered into a negotiation with a former member state that is fully compliant with all the pre-existing acquis. From our perspective, we need to be clear about our ambition in terms of what kind of a deal we want to see struck with the EU, and to be pretty clear in signalling our ambitions.

For me, it is not just the issue of CETA; it is also the issue of the SPA—strategic partnership agreement—that runs alongside CETA, which is separable but not separate from the CETA deal and covers the foreign and security policy collaboration. I would be happy to talk about that later.



Q485 **Stephen Crabb:** One writer in the *FT* said that we need a Canada-plus-plus-plus-plus agreement to overcome some of the weaknesses of CETA in relation to the UK economy. Realistically, what is the most important plus that we could hope to secure that would benefit the UK national interest?

Professor Whitman: As opposed to what we have now or what is in the CETA deal?

Stephen Crabb: What is in the CETA deal.

Professor Whitman: The problem is that, for reasons that other colleagues have already indicated, CETA is not a great jumping-off point as far as the UK is concerned. My view would be that, certainly in Brussels, it shows a certain poverty of imagination, if that is seen to be the jumping-off point in terms of what the ambition might be for a future relationship with the UK. The problem, of course, is the timescale and the ambition for the period of time over which we believe an agreement should be set out in outline terms, and the path to full negotiation and then ratification.

Dr Woolcock: In terms of the major CETA-plus element, it is not in tariffs. CETA covers most tariffs. The CETA-plus issue is in dealing with differences in regulation and all these technical issues. CETA at the moment does not address those; it does not offer mutual recognition in the way that the single market offers mutual recognition. It is something that has to ensure there is progress in dealing with these regulatory issues. If you look at CETA, as an agreement in itself there is no guarantee that it will address these issues. There have been efforts in the past to deal with regulatory divergence, including between the EU and Canada, that have not made much progress. There has to be some form of commitment to ensure that the regulatory differences that create trade costs can be effectively dealt with.

Q486 **Mr Whittingdale:** When the EU embarked upon the negotiation with Canada for CETA, did it start with any existing agreement and say, "This is going to be Norway-plus or Switzerland-minus," or did it just start off with a blank sheet of paper?

Fredrik Erixon: You can say that it started off with a blank sheet of paper, in the sense that this came very soon after the EU decided again to start using free trade agreements, because for a long time it had a moratorium on doing these types of agreements. Canada was the most advanced economy it started to talk with at an early stage about doing an FTA, so it immediately became a discussion about doing things that previously had not been done in free trade agreements.

Q487 **Mr Whittingdale:** If every trade deal that has been negotiated is essentially unique to the relationship with that country, how helpful is it to spend a lot of time looking at Canada?



HOUSE OF COMMONS

Fredrik Erixon: My short point is that I do not understand this discussion about models. I do not understand why so many people are occupied with looking at CETA or any other type of model, because these are FTAs representing a specific branch of trade agreements that exist, which are intended to be WTO-plus in most cases. Now we are talking about two economies that are deeply integrated to each other, where both sides have an economic rationale to maintain as much openness as possible. We are talking about an agreement that is going to have the purpose of trying to avoid as much disruption as possible. This is going to be a different type of agreement.

Q488 **Wera Hobhouse:** Good morning. Just to follow on from that, the assumption of the UK negotiators, at least as we get it in the public, is that we would not start from that lower basis. We would start on a much higher basis, because we are already members of the European Union. Are you saying that we do not have to start from the bottom again and then build up an agreement; that we can start at a much higher level already because we have so many alignments? If that is true, what are the main barriers to negotiating a trade agreement on services, if we are already starting on that higher level?

Fredrik Erixon: You will have to respond to a lot of practical issues, which are about how regulations and regulatory bodies operate, and the extent to which there is a similarity between, in this case, the UK and the EU that allows both sides to set up a system that gives much more real market access than otherwise would happen. You would have to go through sector by sector, issue by issue, and try to figure out these things.

On many of these things, on services and especially financial services, the end result is likely to be different from what exists right now, under the UK's membership of the European Union and the single market. In practical terms, you go through regulation by regulation, determine what type of regulatory system you as the UK want to have when you exit the EU, and then figure out whether it is possible to come to an agreement with the EU that allows for more market access, because there are similarities between your regulations. The more proximity there is between the future of UK regulation and the existing EU regulation, the easier it will be to deal with real market access issues.

Q489 **Wera Hobhouse:** The barrier is ultimately alignment or not alignment.

Fredrik Erixon: In many services, regulations and regulatory similarity is the issue.

Q490 **Richard Graham:** Mr Erixon, I am encouraged that you take a much wider approach to the issue of the negotiations in terms of the oft-quoted need to have an existing model. As you say, every agreement is new by definition. There was not a Canadian model until the Canadian agreement was reached, and so on. Assuming that the UK wanted to pursue mutual recognition, what do you think would be the greatest



HOUSE OF COMMONS

barriers to simply cloning a lot of the detail in the single market and customs union arrangements in our own agreement with the EU?

Fredrik Erixon: It is a good question, but I do not think it is possible to give a general answer, because there are so many differences, depending on what services we are talking about. Are we talking about a service where there is a substantial body of EU regulation, or a service where there is a small amount of EU regulation, but where member states may have their own particular regulations that apply? Are we talking about a service where a licence approval is the key practical matter as a barrier? We have to go sector by sector, to determine whether it is possible to work with mutual recognition agreements, in order to ease the actual market access when it comes to trade. We should bear in mind that the EU does not like mutual recognition agreements outside the single market. It has not done many of them.

Q491 **Richard Graham:** It has not negotiated previously with a former member, has it?

Fredrik Erixon: No, it has not, exactly. It has negotiated, especially with the United States, about them. It has negotiated with Canada in the past about them, as well. The European Union is not unique in that position of being in principle hostile to mutual recognition agreements, simply because it wants to keep regulatory control and there is constitutional separation between Governments, independent authorities, et cetera, which means it is difficult to agree on an automatic recognition of something when it is not in your power to make that decision.

Dr Woolcock: From an EU point of view, or from a general point of view, you have to see this in a broader context. I differ slightly from Fredrik in terms of the specific nature of FTAs, because the EU goes through generations of FTAs. CETA is important because it is the first one that was negotiated with a developed economy, although you could say Korea was the same, so the EU has a particular approach in dealing with FTAs. That shapes how, at least in the past, the EU has negotiated preferential agreements. You could say that the EU-UK negotiation would be very different.

Q492 **Richard Graham:** Michel Barnier has himself said that the EU will be ready to offer its most ambitious FTA approach, which implies that the starting point is rather different, does it not?

Dr Woolcock: The most ambitious so far is CETA or Singapore, short of the EEA.

Q493 **Richard Graham:** No, the implication of that is that the most ambitious will be this one.

Professor Whitman: We have not seen anything like it previously, and therefore we perhaps need to look at things the other way around, in terms of what we have, rather than what we are working up to. One of the reasons that CETA took such a long time was not just the



negotiations themselves, but the negotiations within Canada, because of course Canada does not have a single market. In many respects, it does not have a single market that looks like the UK single market. The provinces and territories also had to be brought along, alongside the national position for Canada. We are not in the same position in the UK, because we are already fully compliant.

- Q494 **Craig Mackinlay:** We are getting to the nub of this, in terms of mutual recognition, which is the new frontier we need to breach to get a new deal. I want to examine CETA a little more, although I am getting a bit concerned that everyone thinks CETA is a start point, as I am not entirely sure that is true. Take two European agencies: the European Medicines Agency and the European Chemicals Agency. Are you saying, within the CETA deal, if a Canadian chemicals company is producing gypsum, or God knows what, it has to have approval via the European agency? It is not accepted by Europe that the Canadian equivalent is good enough. Reciprocally, a German manufacturer of chemicals still has to get recognition under the Canadian licensing authorities. Is that the bit that is missing? Yes, there are no tariffs in doing the deal, but you still have to go through the licensing of the respective two sides of the coin, Canada and the EU, separately? Is that the bit that is really missing out of this FTA?

Dr Woolcock: Broadly speaking, yes. That is the key area, because that is where most of the barriers to market access reside. They are not in tariffs; they are in this area.

- Q495 **Craig Mackinlay:** Is this the new thinking: that, in getting a very new type of novel deal between Britain and the EU, we need to overcome the mutual recognition side of things, to say, "Yours is good enough; ours is good enough. If it is good enough for you, it is good enough for us. We will have a new arrangement"?

Dr Woolcock: Yes, and the problem is that, of course, the UK starts from complying with all the European provisions. The novelty is deciding what is not going to be relevant, what is not going to be mutually recognised, rather than working from the bottom up. That all depends on how the negotiations proceed, in terms of what can be negotiated in the interim period.

Coming back to the point I was trying to make earlier, you have to see this in a broader context. If the UK negotiates 90% of mutual recognition provisions with the EU, all the EU's other negotiating partners will come and say, "We want the same thing." You cannot see it in isolation from the relations between the EU and other major developed economies.

- Q496 **Craig Mackinlay:** I come at this with the confidence that the Canadian chemicals agency is probably doing a pretty good job and allows safe products on to the market. This could be a catalyst for a complete change of global trade and the way we do things. I have complete confidence that a US chemicals agency is pretty good, as is a Japanese



HOUSE OF COMMONS

one, and probably a Singaporean one as well. This has not really been overcome so far in international FTAs.

Dr Woolcock: No.

Q497 **Mr McFadden:** I want to continue to ask you a few questions about CETA, precisely because we have heard so much about it, at least as a potential starting point for this. Mr Erixon, on the question of goods, we have heard that CETA eliminates almost all the tariffs. Tariffs are the easy part of a trade negotiation. In terms of Canada's profile of the kinds of goods it exports to the EU, how do they compare with the kinds of goods that we are exporting from the UK to the EU, which often involve international supply chains?

Fredrik Erixon: There is a substantial difference between Canada and the UK generally, in their trading profile—the kinds of goods and services they trade. Those differences are reflected in the UK and Canada's trade with the EU. Canada is an economy that is highly dependent on commodities and oils, and its trade balance is going to move in accordance with how commodity prices in the world develop. That is not the case for the UK, which trades in other types of goods: machinery, equipment, other industrial goods, some electronics, agricultural goods and so on. There is a substantial difference between them.

Q498 **Mr McFadden:** On goods, we are not really comparing like with like when we talk about the kinds of exports that come from Canada.

Fredrik Erixon: No. As long as you do not find gold here in the UK, you are probably going to be fairly dissimilar to Canada's export to the EU. I wish you luck.

Q499 **Mr McFadden:** We will keep searching. Can I move on to services, which are hugely important to the UK and dominate our economy? We trade at a surplus in services with the EU. Give me some idea of what the restrictions on service exports are in CETA, compared to the position that the UK enjoys now.

Fredrik Erixon: There are many differences. The best way you can do it is to consult annexe 2 in the Canada-EU agreement—it is going to be a long read. There you can find, in principle, what the differences are between being inside the single market, a member of the single market, and having a free trade agreement with the European Union.

Q500 **Mr McFadden:** You have the benefit of having read annexe 2. Could you give us a simple summary of what the difference is? Seriously, I am trying to get to the heart of the contrast between CETA on services and where we are now.

Fredrik Erixon: There is a substantial difference. We are talking about so many pages and so many issues that I will bore you if I go into these issues.

Q501 **Mr McFadden:** Let me try to get you to do it on one sector. What about



HOUSE OF COMMONS

financial services?

Fredrik Erixon: Yes, the EU has lots of reservations in those annexes, as far as Canadian access to the EU financial markets goes.

Q502 **Mr McFadden:** A reservation is a barrier.

Fredrik Erixon: It is a barrier. It basically means that the EU is not willing to bind a commitment to Canada to apply core national treatment, MFN and other principles in its policy vis-à-vis Canadian financial services exporters. All those reservations can have a real implication. It may be that they limit the real market access that Canadian banks or insurance companies have to the European Union market. It is very difficult to say, because there is a difference, what is called a “water”, between the binding and the real market access.

Q503 **Mr McFadden:** We keep hearing about CETA as the most developed agreement yet, and a great step forward in trade negotiations. Why do you think the Prime Minister was so negative about this in her Florence speech, if it is such a developed agreement? She said, “Compared with what exists between Britain and the EU today, it would nevertheless represent such a restriction on our mutual market access that it would benefit neither of our economies”. Why was she so negative about CETA, if it is praised elsewhere as being such a good model?

Fredrik Erixon: I do not know. I can only say that, if she had asked me, I would not have said that CETA is a very good model. I do not know why it was praised.

Dr Woolcock: It is mostly on the regulatory recognition and equivalence question. That is where the main difference lies. In a standard FTA, even with another developed economy, you have to start from the bottom up to negotiate those equivalence or recognition agreements. In the EU, the UK already has access, so it is up here. In an FTA you have to negotiate your way up. The UK is trying to negotiate its way down, by having some kind of regulatory divergence.

Q504 **Mr McFadden:** If the Chairman will indulge me for one last question, I want you to explain a piece of EU phraseology to us, which I think we are going to hear a lot more about this year. That is the term “dumping”, which relates precisely to this question of regulatory divergence. What does the EU mean when it talks about “dumping”? It is not a phrase we hear or use very much in our own political dialogue on this regulation issue.

Fredrik Erixon: I think you are referring to comments from Michel Barnier.

Mr McFadden: Yes, and others.

Fredrik Erixon: He has referred to a policy development in the UK where you reduce certain types of regulations, on environment, social standards, labour rights and working conditions, you cut taxes, especially



HOUSE OF COMMONS

corporate taxes, and you compete with the EU and other countries on a basis of dumping the standards to such a degree that it becomes a competitive instrument for you. I think that is what he is referring to.

Professor Whitman can say something here, because it also comes up in the strategic partnership agreement with Canada. There is a development across the world of attempts to deal with these issues in different types of agreements with other countries, including free trade agreements. I imagine there will be a component of this in the total agreement that emerges between the UK and the EU when it exits.

Q505 Mr McFadden: Given that divergence or alignment is so central to this, do you think this issue of dumping, or whatever phrase is used, is going to be significant in this phase?

Fredrik Erixon: I do not think so. I do not need to tell you, but I do not read the political mood in the UK as if it is about to embark on a development that is completely different in environmental or social standards from what it has right now. This is why I do not think this is going to be an issue. What Michel Barnier and others have done is to perhaps lay down a political marker and engage in negotiation tactics, rather than deal with a substantive issue that will be there. There may be complications here and there in the relations between the EU and the UK on these issues, but I do not think they are going to be large.

Chair: Can I just make a plea? The acoustics in this room are pretty awful, and if everyone could speak up that would be really helpful.

Q506 Stephen Kinnock: Thank you very much, and good morning, gentlemen. It seems that the nub of this issue is the phrase that the Secretary of State has used, which is "CETA-plus-plus-plus". I guess what everybody is trying to understand is what those pluses are. It seems safe to assume that it means you have CETA as a baseline, and you then try to build services into it, because that is the big piece that is missing. Of course, 80% of the British economy is in the services sector.

I want to drill down a bit into those services areas. Some of those big services that are missing from CETA are air transport; broadcasting; professional services; there are issues around data protection, which affect all of them; telecoms; mutual recognition of professionals. Take one of those areas: air transport. Currently, UK airlines are free to operate routes both between and within other EU member states, but under the EU-Canadian air services agreement Canadian airlines are only allowed to operate routes in Europe if they start or end at a Canadian airport.

Can you give a sense of what it would take, if we have had CETA as a baseline, to negotiate air transport services as one of the pluses? How likely is it that the UK could strike a deal for air transport services that gives us the same access as we currently have, if we have CETA as the baseline?



HOUSE OF COMMONS

Professor Whitman: That is a negotiation issue. Sorry, this is not a satisfactory answer, but you can only see it in the context of the rest of the agreement. In other words, if that were a UK priority, it may get it, but it may have to accept less in other areas in order to get it. It is ultimately a broader negotiating issue, in which there will be linkages between the different topics.

I can say a bit more on professional services and some of the others. On professional services, CETA establishes a procedure for negotiating mutual recognition of professional qualifications in all the professions, but it establishes a procedure only. The CETA-plus would be using those procedures in order to negotiate a series of mutual recognition agreements.

Stephen Kinnock: For each sector, sector by sector.

Dr Woolcock: Yes, for each sector, and that would be driven by the sectors. The professional bodies would have to agree to negotiate. The machinery in CETA provides the channels through which that can then lead to a fully fledged mutual recognition agreement for those professions. CETA-plus is not about an agreement that can be negotiated and is black and white; it is about how you use the procedures in the agreements.

Q507 **Stephen Kinnock:** I want to try to connect each of these services sectors to the negotiation and ratification process. The European Union is looking to have a split approach, where you have sole competence and then mixed agreement. The mixed part would be subject to Article 218 of the treaty and to ratification in 35 national and regional Parliaments. Is it correct that each of those services areas would be the pieces of this puzzle that would have to be ratified by 35 national and regional Parliaments?

Dr Woolcock: That relates to transport, because transport is not exclusive EU competence. Most of the other cross-border services—financial services and the rest—are exclusive EU competence, but transport is not. That sets transport a bit apart, as well as energy. Provided a UK-EU agreement was within the limits of exclusive competence, you would not have the same difficulty ratifying the mixed agreement.

Q508 **Stephen Kinnock:** You said transport would be mixed, so that would require 35-Parliament ratification. What about broadcasting?

Dr Woolcock: It is also mixed.

Q509 **Stephen Kinnock:** What about professional services?

Dr Woolcock: I do not think that is mixed, in terms of cross-border provision of services, but I would need to check.

Q510 **Stephen Kinnock:** What about the data protection elements? Are those mixed, or do you think they are sole competence?



Fredrik Erixon: If you mean data protection regulation, that is exclusive competence.

Q511 **Stephen Kinnock:** That is exclusive competence. What about telecoms?

Dr Woolcock: They are exclusive competence.

Q512 **Stephen Kinnock:** Looking across these, some would not require full national ratification, and some would. Connecting that to the issue of timing, we assume that the EU withdrawal agreement will contain a chapter on the future relationship. That will probably have a fairly high-level scoping and principles of what the future relationship will look like; it will not have much detail. We will be starting from not much detail as soon as we leave the EU in March 2019, and then we have a maximum of two years. You have said that air transport, broadcasting and one or two others would require national ratification. Is it feasible or credible to think that you could negotiate the terms in each of those services areas and these plus-plus-pluses, and get them ratified by 35 national and regional Parliaments before the end of the transition period?

Professor Whitman: Colleagues may disagree but I cannot think of any example where that kind of timescale has operated.

Q513 **Stephen Kinnock:** I wanted to touch on the issue of rules of origin. The EU takes a pretty strict position on rules of origin to ensure that foreign components in different goods and products are carefully regulated. I wanted to ask particularly about the automotive sector. Under the Canada-EU deal, the first 100,000 vehicles exported from Canada to the EU can get preferential access to the EU, as long as their foreign content is less than 70% of the value. Is the negotiation around rules of origin also something that would go into a package that has to be ratified across all the Parliaments, or would the rules of origin component be exclusive competence?

Dr Woolcock: That is exclusive competence. That is a rather special case because of the linkages between Canada and the US in the automotive sector. The 70% non-Canadian origin was specifically provided for that case. Normally, the value of content in the rest of the CETA agreement is 45% to 50%, insofar as value of content is used.

Q514 **Stephen Kinnock:** I do not know if you have done any sort of impact assessment—I hesitate to use the term, because it has become quite controversial—but it would be useful to have your sense of impacts on some of the industries we have talked about, such as air transport, with airlines such as easyJet and Ryanair, if we move to a Canada model, or for our automotive sector, which employs thousands and thousands of people across the UK. I am not asking for a scientific answer to this, but it would be useful to get your considered view on the impact on these sectors, if it were to be a CETA-type deal, particularly considering what we have just said about rules of origin and market access.



HOUSE OF COMMONS

Fredrik Erixon: You ask a very good but very difficult question, of course. It is difficult because the type of impact assessments that we can do are either to look at the legal differences between single market membership and the legal conditions under a free trade agreement, or economic assessments using models and economic instruments to figure out what this will imply for trade that exists today or the type of scenario we see for trade going into the future, with different legal differences.

Most of these models are created in order to assess tariffs and traditional bread and butter-type trade barriers that exist. When you go into stuff like transport services, air services and professional services, it becomes extraordinarily difficult to figure out, in real terms, the difference between a binding that you have in a free trade agreement and what exists under single market membership.

We need to go down sector by sector, and sometimes even company by company, to figure out their reality and what the different scenarios entail for them. Those who have done that for different sectors—for instance, on issues on rules of origin—say that that will be a problem for automotive production in the UK that has Japanese parts, because it is the non-European investors in the UK in the automotive sector that tend to have a significant import from non-EU countries in order to assemble and produce products here. That we know, and we know that the Japanese Government have been pretty direct in conversations with the UK Government about the problem that they foresee under different scenarios.

On air transport, you specifically referred to the difference between being in CETA and being in the single market, as to whether you, as a UK operator, can fly between non-UK European destinations. Do you have to start or land in the UK in order to fly between European countries? In practical terms, if I understand it, it comes down to the ownership of some UK-based operators and the extent to which they have European ownership that exceeds thresholds under the EU-wide agreement that exists. There has been lots of writing and commentary from these companies on how they plan to deal with these issues if there is no agreement between the UK and the EU that goes beyond CETA and comes much closer to what exists today. While that would present problems, my understanding is that they have an idea of how to deal with those problems in order to avoid serious dislocation or disruption of the type of arrangements that they have today.

Chair: That is very helpful.

Q515 **Sammy Wilson:** One of the interesting points that came out of the discussion this morning is that almost every trade deal is a bespoke trade deal based on the importance of the trade, how close regulations already are, and the impact that it is likely to have on the different economies. That being the case, one area that has caused quite a bit of controversy recently—indeed, the Chancellor and the Brexit Secretary have been in Germany this week talking about this—is financial services. How



HOUSE OF COMMONS

important are UK financial services to the EU economies at present?

Fredrik Erixon: The opinion around Europe among those who know about these things is that UK financial services are very important to the supply of capital and the supply of financial services across Europe. They are important for the competitiveness of the rest of Europe. For instance, when you look at studies estimating the UK content in Germany's industrial exports to the rest of the world, you will find that there is a surprisingly large amount of UK financial services content in that export from Germany.

This is why many large multinationals around Europe have been very direct in their conversations with Governments and the European Commission that they want to avoid a situation where the access to sophisticated financial services is disrupted. They want to avoid such a scenario. Whether that is going to happen remains to be seen, but I think there is a recognition among those who know that it is important.

Q516 **Sammy Wilson:** Given that trade agreements have tended to be bespoke because they reflect the importance of certain parts of the agreement to the economies that are negotiating those agreements, does that not call into question, in the answer that you have given about the importance of the UK financial sector to the financing of investment and trade for some of the major European economies, the demand from Monsieur Barnier at present that "under no circumstances will we allow passporting, mutual recognition or equivalence for UK financial services"? In fact, what he has said is, "In leaving the single market, they will lose the financial services passport".

Is there not likely to be an imperative in these trade negotiations, on financial services alone, for the EU to find a way of recognising that regulations and standards are similar at present, and therefore financial services must be and will be included in the deal?

Fredrik Erixon: There is no question that financial services will be included in the deal and that a financial services chapter in an agreement between the EU and the UK will most likely be substantially different from the financial services chapter that you are going to have in other free trade agreements. There is still going to be a material difference between being in the single market and having an FTA in terms of what type of access you will have.

In practical terms, it may be the case that, service for service, if you are talking about insurance or brokerage, or if you are talking about clearing or trade financing, you can find practical ways to deal with those issues in order to avoid serious disruption. That is the case. You just have to look at, for instance, financial services trade between Europe and the United States to see that, in practical terms, you can find these solutions, simply because most of that trade takes place inside the same company, inside the same bank or inside the same company structure. In legal terms, and in terms of the certainty that it would have for market access in



Europe, there will be a material difference between the FTA that comes in between the UK and the EU, and single market participation.

Q517 Sammy Wilson: We already have those close links and the same regulatory arrangements. Professor Whitman, you have said that negotiating this kind of deal over a two-year period might be quite difficult, but given where we are starting from, where there is equivalence and the same level of regulatory agreement—we are not in a Canada situation—is it not perfectly possible for the kind of deal that we require to maintain trading relationships with the EU to be struck within a much shorter time period than the Canadian deal could?

Professor Whitman: It is perfectly possible. One of the things that we have not spoken about here is the domestic context for the negotiations on both sides: in other words, the kind of issues people lobby on the EU side to have or not have in a deal with the UK, and ditto, from our side, the things that we are interested in having or not having in terms of our future relationship with the EU. The Canada case is very instructive because there was a very widespread debate in Canada about the CETA deal and what people wanted in it. There was nothing approaching that kind of debate within the EU about the CETA deal and what it might contain.

One of the ways in which we can see the difference between the two negotiations is that there will inevitably be much more debate on the continent, in the member states, among interest groups, lobbying and so forth, to get certain kinds of things in or out, which may be positive but may equally be negative. It will be the same on this side. We are potentially going to have a more politically contentious set of negotiations in terms of the domestic and cross-national interested parties in that discussion around the mandate and what it should contain within Europe than we had in the Canada-EU negotiations.

Q518 Sammy Wilson: We already have a trading relationship in goods and services. We are already doing that. It is not as if we are introducing new things or wanting to take things out that are already there. Does that not make it easier to strike a deal quickly?

Professor Whitman: In theory, yes. To come back to Mr McFadden's point about dumping, there is already rhetoric in the public domain about whether the UK might seek to get some kind of unfair competitive advantage through the nature of the deal that it wants to strike. It would be sensible to anticipate that there will be a heightened and excitable public debate in other member states, as much as there was in Canada.

Q519 Sammy Wilson: There is much hysteria about the way tariffs could be imposed on goods that we import or that we export to the EU, and about the demands that may be made for budgetary contributions, for conceding some of the four freedoms or for the role of the European Court of Justice. Given that Canada escaped all those—98% of trade is tariff-free—and that there is no requirement to make contributions to the



budget, to meet any of the four freedoms or to submit to the European Court of Justice, is it likely that, given the importance of our trading relationship with the EU, which is much more important than Canada's was, there would be conditions imposed on us that were not imposed on Canada?

Professor Whitman: You are absolutely right on the Canada deal, in the sense that no money changes hands for the EU budget, but the issue of controversy was visa-free access for citizens of EU member states, because not all EU member states enjoyed visa-free access. From the EU side—particularly for Romania and Bulgaria—it was something that the EU pressed the Canadians quite hard on to allow for full visa-free travel to Canada. Those are the kinds of issues of interest from the EU side that we expect to pop up, particularly connected to the existing four freedoms-type relationship. We would have our own view about the way in which we want to see free movement adjusted or not.

Q520 **Mr Whittingdale:** Can I quickly turn to the issue of data? Mr Erixon, you have described it as the new oil of the world economy, but you have also observed that it does not feature large in the CETA agreement. It appears that agreements around data transfer have been reached separately from the Japanese and South Korean negotiations. Is that correct? Do you see data as likely to be handled separately from the overall negotiations for a trade agreement with the EU?

Fredrik Erixon: Yes, data protection will be handled separately from a free trade agreement, in that sense. Then there are data issues that come into trade: cross-border portability of data; and services that contain a lot of data and the opportunities or freedoms that exist for you to market and contract these services in another country. Those will be dealt with in a free trade agreement or in a trade setting.

Q521 **Mr Whittingdale:** The necessity of acquiring a data adequacy recognition of the UK is of such crucial importance that you think it will be dealt with possibly earlier and separately, and be put in place long before any broader agreement is reached.

Fredrik Erixon: That is a good question. This is going to be complicated, and there are several Governments in the EU that are going to raise concerns about data protection in the UK, and especially the use of mass surveillance techniques. One country in particular, Germany, has had huge problems with the UK in the past on these issues, in a similar fashion that it had a huge problem with America at the start of the TTIP negotiations, with the NSA spying scandal, and the court case in the European Union that came up at that point regarding data protection in America and the safe-harbour agreement that existed between the European Union and America before.

The starting point will be that the rest of the EU wants to have an adequacy recognition of the United Kingdom, but it is going to raise concerns about mass surveillance and what the Government are doing on



these issues. Whether that can be dealt with in practical terms, I cannot answer, but I probably would be very surprised if there were no recognition of adequacy of the UK, providing that more or less the current regulation that applies in the UK will apply after Brexit as well.

Q522 Mr Whittingdale: Presumably, concerns that you say exist in Germany about the possibility of giving the security services a greater right of access to individuals' data and emails are concerns that probably would have been pursued through the European Court of Justice even had we not been leaving the EU.

Fredrik Erixon: I think most Governments are going to hesitate to make a legal point of it. When it came up, it was basically the recognition that, if Germany and a few other member states had applied the same standard for data protection that we wanted to apply vis-à-vis the United States against other member states in the EU, the UK being one and France being another, there would be complications on data transfer and data portability inside the EU, simply because what the UK, France and some other Governments in Europe have done is pretty much similar to what existed in America.

They did not make a strong legal point of that, either at that point during the conversations about what was going to follow on the safe-harbour agreement, or during the final negotiation points of GDPR. It came up as an issue there, but they were not pointing out that basic integrity standards in the UK were so poor that there could be no common data protection regulation in the EU. It may be that they are going to press on this issue now.

Q523 Mr Whittingdale: Could that result in them requiring a stronger standard of data protection in order to grant an adequacy recognition than would have been the case had we remained in the EU?

Fredrik Erixon: Yes.

Q524 Chair: On that point, when we met the tech sector, our understanding was that the issuing of a data adequacy decision is a regulatory function of the Commission in respect of a third country. When Ministers from DExEU came to give evidence, they referred to a data adequacy agreement. Is it your understanding that there would be no obstacle to this issue being dealt with in the negotiations: in other words, the Commission agreeing through the negotiations to give that data adequacy recognition rather than insisting, "No, that is a matter for us subsequently, once the UK has become a third country"? Can you shed any light on that?

Fredrik Erixon: If you look at what happens between the EU and Japan and their free trade agreement, this issue is right up that street. It is part of the conversation between the European Union and the Japanese Government. It is impossible not to talk about it when you are talking about so many other issues.



HOUSE OF COMMONS

Chair: There is not an obstacle to it being part of the agreement. That is very helpful.

Q525 **Craig Mackinlay:** Data is an intriguing point that I do not think we have quite solved yet. I am just wondering how we cope, under current rules, with Britain's relationship with the Five Eyes around the world and staying compliant with EU rules. I do not know how that exists, because I am sure there is data transfer at a higher level than probably any of us know, to be honest with you. The other issue I have never quite understood is, where you have call centre operations outside the EU, which are very commonplace, how that data transfer is currently allowed and regulated, as well as the operations of big internationals like Google. How is this currently within the acceptability ambit of EU rules? It has been overcome. If it can be overcome for those institutions and examples, I cannot imagine that it cannot be overcome for a non-EU UK. Do you have any thoughts on how those things are overcome?

Fredrik Erixon: If you do not get an adequacy recognition for the EU, you can still transfer data in and out of the EU. It is just that you need to do it under specific arrangements, model contract clauses and other opportunities that exist. They are going to raise the cost for taking data across borders. We have seen that it becomes almost prohibitive for smaller firms to engage in transactions with other countries that imply a transfer of personalised data. If you are a big multinational, you are going to find a way to deal with it. It is going to cost you money but you are going to find a way to deal with it. If you are a small company, it is another thing.

Q526 **Craig Mackinlay:** What is that cost?

Fredrik Erixon: It is impossible to say. It depends entirely on what type of company you are and what country you are. There are studies trying to estimate the effects on GDP and trade coming from different types of regulations against data portability across economies. If we take a study that was done by my institute looking at different elements of what is called the GDPR—the regulation that kicks in now—for several countries around the world, we are talking about a GDP effect that could be 0.1%, 0.2% or 0.3%. It is not immense.

Q527 **Jeremy Lefroy:** Good morning. As I understand it, any agreement would tend to have two parts: it would have the free trade agreement and it would have some kind of strategic partnership agreement. What would you see going into an SPA as opposed to the free trade agreement with the European Union?

Professor Whitman: If you look at the SPA that exists between the EU and Canada, I would hope that the UK and the EU would have much greater ambition than that current agreement. You would be looking for something like an SPA-plus-plus-plus-plus-plus—I do not know how many pluses you can add on before it gets too ridiculous. As to the rationale for that, if you take a look at the ambitions set out by the Prime Minister in her Florence speech for a security treaty and the ambitions set out in



HOUSE OF COMMONS

the future partnership paper for foreign policy, defence and development, the provisions within the existing Canada-EU SPA do not come close to what the UK or the EU want to have in terms of a relationship.

Q528 Jeremy Lefroy: What is included, for instance, in the agreement with Ukraine in that silo, as it were?

Professor Whitman: The Canada strategic partnership agreement is the most ambitious one, so it is a good one for us to take a look at.

Q529 Jeremy Lefroy: Is it more ambitious than Ukraine?

Professor Whitman: It is, because it essentially seeks to co-ordinate or align policy between the EU and Canada in the areas covered by the SPA, which would be political co-operation—in other words, foreign and security policy—as well as broader sectoral co-operation: things that flank trade policy, such as sustainable development, investment and judicial co-operation. There is quite a lot in there, but the Canada one is essentially about mapping out areas where you might want to further develop the relationship, which is reasonably well developed for a third-country relationship but not close to the kind of relationship that the UK already has, which is a fully plugged-in type.

Q530 Jeremy Lefroy: An SPA is, in effect, nice to have but completely unenforceable, as opposed to the free trade agreement, which has to be monitored and enforced through its own institutions.

Professor Whitman: They are separate agreements but they are not separable, in the sense that the SPA sets the context and looks at the broader rationale as to why and on what grounds you are going to collaborate. The CETA deal is very detailed in terms of covering trade between the others, but the Canada SPA is very aspirational. The UK would probably want something that is much more nuts-and-boltsy, looking at the ways in which the UK already collaborates and probably wants to preserve a lot of that collaboration, and how to make that work. There will be a great temptation on the EU side to slap that kind of label on it, in terms of, alongside a trade deal, something that has “strategic” and “partnership” in the title or as an aspiration for that kind of deal.

Jeremy Lefroy: Would anybody else like to comment on that?

Fredrik Erixon: No, I think that is right.

Q531 Jeremy Lefroy: With areas such as aviation or scientific research, where would you see them fall? Would they fall within the harder part of the agreement, which is the trade agreement, or would they be in the more aspirational part?

Professor Whitman: I think they fall in both, in the sense that they are the hard aspects in terms of where there is already collaboration going on, but the SPA is also the aspiration around the next generation or the next set of issues where you want to seek closer alignment or closer co-operation.



Q532 Jeremy Lefroy: With an SPA—and I realise that we are talking about very different models—is there any kind of enforceability? 10 years down the line, if there has been, in an SPA, a desire to move together on certain issues and nothing has happened over that period of time, is there any provision in existing SPAs for saying, “Hang on. You said you wanted to co-operate in this area. You have not. We need to see some action on that”?

Professor Whitman: There is the possibility to rescind the agreement on both sides, and there is also the prospect to suspend the agreement. In fact, one of the bumps in the road for the negotiations between the EU and Canada was the human rights clause that the EU wanted to insert, to be able to suspend the agreement if Canada moved away from what the EU thought were certain human rights compliances. Quite rightly, I think, the Canadians treated that as pretty insulting, so there was a kerfuffle and an agreement was reached, which is much more even-handed in terms of both sides’ requirements to comply. Essentially, it is very nice to have. It is important to have politically, but I do not think it performs the same kind of function as CETA does in providing a structured means of moving along in terms of the issues that you want to address.

Q533 Jeremy Lefroy: We have to watch very carefully that not too many matters of fundamental importance to the UK are put into that category, as opposed to the harder category of a free trade agreement.

Professor Whitman: Yes, and we should think about the process of ratification as well. It is something that we want to go through fairly quickly to make sure that it does not look like a mixed agreement, because the SPA is also a mixed agreement and therefore, at the moment, it is provisionally in force, as CETA is. There are some pretty tricky things that fall into the SPA, such as judicial co-operation, which you would probably want to have outside that deal, given where the UK is at the moment in terms of its existing co-operation with member states through the EU.

Q534 Stephen Timms: To go back to the earlier questions about the exchange of personal data between the UK and the EU, you told us that the exchange of personal data is being covered in the current Japan-EU negotiations but, as I understand it, it is not covered in CETA. I just wondered whether you know why it was not included in the Canada negotiations. Given that it was not, are we to take it from what you were saying earlier that, for example, Canadian small businesses cannot realistically expect to exchange personal data with companies and individuals in the EU?

Fredrik Erixon: Canada has already been recognised by the EU as having adequate data protection rules. Japan has not received that recognition, so that is why.

Q535 Stephen Timms: Was that prior to CETA?



Fredrik Erixon: I do not know when the first recognition decision took place but, given the fact that we have negotiated over a pretty long time on the EU-Canada agreement, I am pretty sure that there have been new decisions on recognition, or at least monitoring of data protection in Canada, that have led the EU to be confident that the adequacy decision will still be valid.

Stephen Timms: That is very helpful.

Q536 **Wera Hobhouse:** Excuse me if I repeat what I previously wanted to find out about the big issue of alignment and divergence. How do other non-member countries deal with the process of keeping aligned into the future? Could you maybe describe how that works with non-EU countries?

Dr Woolcock: There are different ways of doing it. There is alignment with international standards, so you have a body of international standards, which can represent one aspect of alignment, but international standards are usually voluntary. For example, in the car sector there are certain international standards that more and more economies are using, so alignment with these standards can be facilitated by all the countries agreeing to make use of these international standards.

Alignment with regulatory requirements means some degree of approximation and harmonisation. It just depends. In the EU, you have a fairly high degree of approximation but then mutual recognition of regulatory standards. In other agreements, this does not go as far, so there is not the same degree of approximation, and recognition is only on a sector-by-sector basis through mutual recognition agreements. Does that help?

Q537 **Wera Hobhouse:** Yes. I am trying to get my head around how these things go into the future, but you are saying this would always be through a sector-by-sector agreement.

Dr Woolcock: In the future, dealing with these kinds of barriers, these so-called non-tariff barriers or regulatory barriers to trade, is a continuous process. It goes on all the time because all countries change their regulations. They change their standards. The only way to deal with it is through consultation, dialogue, peer-review mechanisms and discussions in specialised committees. If you want a harder agreement, you reach a formal mutual recognition agreement, which means that you recognise that the other country is producing to your regulatory requirements.

Q538 **Wera Hobhouse:** It would inevitably take more time than the things that we have now in place as members of the single market.

Dr Woolcock: It is a continuous process, and the conclusion of any agreement, whether it is CETA or whether it is UK-EU, is only the start of the process. Everything then has to follow on from that in order to ensure that there is continued alignment.



Q539 **Emma Reynolds:** Following that point, one of the Prime Minister's red lines is not to have the European Court of Justice as part of our jurisdiction, but there would have to be some sort of arbiter of the very natural regulatory divergence that there would be post Brexit, given that we would then make our own regulations and the EU would continue to make its own. What kind of arbiter would there be if the ECJ was not there?

Dr Woolcock: Exactly, and this gets back to the point about regulatory dumping. The way it would work is through a fairly complex procedure where you would have testing facilities in one country, so in the UK. These exist now. They would be accredited by the EU as complying with all the procedures necessary in order to check and test a product to ensure that it is consistent with EU standards, and then there would be regular controls and monitoring of that process.

Q540 **Emma Reynolds:** We are not taking back control, really, in that case.

Dr Woolcock: It depends. If the UK wants to have the recognition, it has to go through that procedure. If the UK says, "We are not going to comply with this regulation or this standard," it does not get automatic mutual recognition or guaranteed access.

Q541 **Chair:** Professor Whitman, you referred earlier to security and foreign policy. You also very briefly touched on the fight against terrorism. What kind of model or arrangement should the UK be seeking in these negotiations to ensure the maximum continued co-operation between the United Kingdom and the 27 member states of the EU?

Professor Whitman: It is not the Canada model, in the sense that this is an area in which there has been a convergence and working together between the EU and Canada. As the point was made earlier in terms of borders and proximity, clearly the UK and the EU needs are going to be different. There is also the issue for the UK with the current embeddedness within information sharing and so on for security purposes. If you take the framework in which that is covered currently between the EU and Canada within the SPA, the UK wants something separate and separable in that area.

Q542 **Chair:** I understand that. I am just asking you to take this opportunity to set out what you think we should be looking for.

Professor Whitman: I do not think there is an existing agreement that you should use as a template, so you are essentially talking about something bespoke.

Q543 **Chair:** What form could that take in terms of what we are seeking—a plus-one arrangement?

Professor Whitman: That would be a better way to think about it. Essentially, it is something where the UK is as embedded as possible but also recognised as being a non-member state. Outside of what we have been talking about in terms of trade, it is one of the trickiest areas of



work and one that requires quite a lot of energy and effort on the back of a clear determination as to what the objectives should be in that area.

Q544 **Chair:** One could certainly argue that there is a very close and shared interest between the EU and the 27 member states on these questions. I suppose my final question to you is: to what extent do you think there is an appetite on the part of the 27 to agree to something that would clearly be completely new and that involved continuing with as close a co-operation as was possible, bearing in mind that we had formally left the institutions?

Professor Whitman: In the area of security?

Chair: In security, foreign policy and the fight against terrorism.

Professor Whitman: I think, at the moment, there is not really a great deal of thinking going on in other member state capitals as to what that might look and feel like. It is something that is worth worrying away at in terms of what the other member states' ambitions might be. The problem is that, when you start to look at the institutional plug-in and the legal issues in particular, when you look at internal security-type stuff, there are lots of complications if you are a non-member state. It is quite difficult to imagine how you can square, in particular, the legal obstacles of being outside the European Court of Justice jurisdiction, to allow you to do something that is very close to what you currently do.

Q545 **Chair:** In that, one would separate out co-operation on exchange of information, the Schengen information system and so forth, which currently can only be shared with other EU member states, where that oversight applies. When it comes to foreign policy, it is currently by unanimity. I am interested that you said that not a lot of thought, as far as you are aware, has been put into this in European capitals. Given the shared interest, is that surprising, in your view?

Professor Whitman: The issue is that, when you look at the relationship between non-member states and the EU in this area, it has been fairly black and white as far as the EU is concerned, particularly embeddedness within the institutions and, crucially, involvement in the decision-making processes about policy. That is where I see a lack of imagination, where you can imagine a status that exists for the UK that is different from the status that exists for any other third country, bearing in mind the UK has been part of formulating all the policy that is currently in existence, is a full participant in the CSDP and so on. Most of the things that have been thrown up have been more connected to the obstacles and, if you look at the existing third-party involvement, it seems pretty unsatisfactory. It is in that space that people are not showing their cards.

Chair: That is extremely helpful. On behalf of the Committee, can I thank you very much for coming to give evidence to us today? It will really assist us in our work.