

International Trade Committee

Oral evidence: Continuing Application of EU Trade Agreements, HC 520iii

Wednesday 10 January 2018

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

Questions 150-206

Witnesses

I: Lord Hannay of Chiswick GCMG, former UK Ambassador to the EEC and UN, and Lord Price CVO, former Minister of State for Trade Policy.

Examination of witnesses

Witnesses: Lord Hannay and Lord Price.

Q150 **Chair:** Thank you, panel, for coming in. Can you state your name, rank and serial number for the purposes of this morning's hearing?

Lord Hannay: Sorry?

Chair: Name, rank and serial number.

Lord Hannay: Sorry—it's a bit early in the morning. I am David Hannay. I am a member of the House of Lords International Relations Committee, but I think my relevance for this inquiry relates to bits of my past. *[Interruption.]* I was involved in trade policy, both with and in the European Union, when we joined and when we negotiated from the inside free trade arrangements with the non-member states in EFTA who were not joining—Norway, Portugal and so on at that time were not joining. I was very much involved as the senior negotiator for the single market. When I was in the Commission in the 1970s, I worked for the Commission for External Trade, and we negotiated the GATT 24(6) negotiations, which were a consequence of Britain joining the customs union. We also began the multilateral trade negotiations that came to be known as the Tokyo round. So I have a bit of experience.

Q151 **Chair:** Thank you. After a slow start, that is the most comprehensive introduction I have had. It was even greeted with a fanfare from Northern Ireland. Can I ask the second witness to introduce themselves?

Lord Price: I am Mark Price, and I am also a Member of the House of Lords. My relevance, I suspect, is that in February 2016, the then Prime Minister David Cameron asked me to be Minister for Trade and Investment for the United Kingdom, and then I was reappointed to a different role by the current Prime Minister as Minister for Trade Policy. My role then changed to looking at the trading arrangements in the future between the UK and third party countries, excluding the EU.

Q152 **Chair:** Thank you very much. Lord Hannay, you wrote in October that the Secretary of State had "got his priorities wrong" by focusing on completely new free trade agreements instead of on grandfathering the EU's trade agreements. Why did you say that?

Lord Hannay: At the time, because I was worried that the Secretary of State and his Department were not giving sufficient priority to the issues of countries with which the EU currently has free or almost free trade, and with which we will therefore cease to do that on 29 March 2019, if and when we leave. I thought he wasn't giving enough priority to that. My view on that would be even stronger now, because the standstill or transition agreement that is being talked about in Brussels and on which there seems to be some sort of agreement of principle, though not on the details, will of course push back the moment at which a lot of the trade problems or events—the consequences of Brexit—come into effect. That is



because, for two years or nearly two years, we would, if I understand it rightly, be likely to stay inside the customs union and the single market.

The only one that then impacts with certainty on the end of March 2019 is the trade arrangements with these countries that are 14% or 15% of our exports—something like that—and have free trade or something like it with the European Union now, but they have it with the European Union, and it will cease to apply to us on the day we leave, even if there is a standstill agreement. My view is strengthened by that. I am not saying and would not say that the other countries—what the EU calls totally third countries—like Japan, Korea,¹ the United States, Brazil and Argentina are unimportant, but they are not as important in time priority, in my view. The consequences of going more slowly with them are not damaging, whereas the consequences of not doing what we have to do with these countries within a free trade relationship would be quite damaging.

Q153 Chair: I think Sussex University says that the EU free trade agreements cover 67 countries, and the drop in trade would be from 14% to 15% to perhaps 13% or 14%—a percentage point or two down. Lord Price, can you respond to that question and perhaps to Lord Hannay's points as well?

Lord Price: Yes, of course. Within the Department, the priorities were very clear, and the timelines were very clear as well. The first priority was to build a team that could do the work that needed to be done. At the time of the referendum, we had 45 people in trade policy in the UK. They were involved in dialogues with different countries about reducing barriers to trade. We were involved with the EU in new negotiations. When I stepped down in September, there were 550, so there was a sizeable increase in the team—almost 500 over—in just over a year.

Chair: More than tenfold.

Lord Price: Yes. Building the team in the first instance became a real priority, to get the calibre of people in, and I think that the civil service did a very good job in doing that.

The second priority then was to work through what we had to have in place for March 2019. We had to have in place our own schedules at the WTO. You cannot fall out of the multilateral trading system, so we would continue to be a member of the WTO. We needed to post our own schedules. Other countries could complain about our schedules and appeal them, but those schedules would be posted. In advance of that, we wanted to ensure that we had as many conversations as we could with third party countries at the WTO, on the basis that we wanted to move forwards. Those are all things that the Committee has talked about before, such as how you deal with carving up existing agreements and all the things around agriculture, which I know you have talked about at length.

¹ South Korea already has a FTA with the EU and Japan will shortly have one . The examples of " real " third countries should be US, Australia, Brazil , Argentina .



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We were also aware that we needed to put in place defence mechanisms for the UK and UK producers, so the team started to work on the Trade Bill, which is now going through the House of Commons. That was to ensure that the UK was able to have anti-dumping, anti-subsidy legislation, and the ability to carry over existing agreements—that was the point of your question. The third area of work was making sure that we had conversations with all Governments that currently have a trading relationship with the UK through the EU, and that we work with them to get some kind of continuity—that there would be no “cliff edge”, is the language we are using. So we coined the phrase “transitional adoption”. We will find a way of transitionally adopting everything that exists today.

The fourth area of work—very much the fourth area—would be new trading deals. The Prime Minister announced nine different groups and we set up working groups. We cannot move forward at great pace on any of those right now because we are in the EU. We took legal advice, and if we wanted to, we could do that. We could be fined by the EU, but that just is not in the spirit of our relationship, so we were clear from the outset that we would not negotiate those things and that we would do things that were within our current remit. That is how our work broke down. Within seven or eight months I visited or talked to all the Trade Ministers from all the countries that we currently have a trading arrangement with, courtesy of an EU arrangement trade deal.

Q154 Mr Jayawardena: Lord Hannay, the President of the Board of Trade told this Committee last February that grandfathering FTAs was the Department’s second priority after establishing the UK’s position at the WTO. As we have just heard from Lord Price, that is absolutely critical. Secondly, he recently reiterated that position to the Committee, adding that “there are a number of countries who said they would like to move directly to a new free-trade agreement” with the United Kingdom, but that we had made clear that that is an ambition for another day. Yesterday in the Chamber he confirmed that we will want to get continuity of the agreements that already exist, and that we will want to have as many of them—if possible all of them—transitioned before we leave the European Union. What is the problem? Is the suggestion that grandfathering is not being looked at just fake news?

Lord Hannay: I think that if you compare the number of visits the Secretary of State has paid to countries in the different categories, you will see what the problem is. The problem is also that we really must not take trade policy negotiations for granted. We must not assume that when we come and say, “Could you sign all these elaborate papers to enable us to stay in the same position as we were in the day before we exited the EU?”, the country we are dealing with will fall over in excitement and say, “That’s absolutely fine.” There is politics involved too, which means dealing with people at the highest level and explaining why it is in their interest, and our interest, that this should be done. I don’t think a lot of that has been done. I do not wish to criticise Lord Price, who clearly did do a lot of it. I am talking about what is done at the highest political level with the Prime Ministers and Presidents of these countries. If you look at



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the relationship with the African, Caribbean and Pacific countries, many of which are members of the Commonwealth, those countries are quite important to us, and I am not sure that their egos were being stroked very much.

Q155 Mr Jayawardena: Don't you think then that you are in effect criticising Lord Price, because he tweeted, "That's what I did for the last year. Visited every one." He tweeted that in October last year, so that work has been done, hasn't it?

Lord Hannay: Well I don't think it has, no.

Q156 Mr Jayawardena: So you are criticising Lord Price.

Lord Hannay: I'm sorry, but Lord Price in my view—I hope he will forgive me saying this—was not in a position to do it. He was a Minister in the Department, but he was not the Secretary of State and he was not the Prime Minister. I think that more priority needs to be given, but I honestly do not want to focus too much on the past. We are talking about something I said in October, which I stand by, but what is important is the future. The future is only about 15 months. I would just like to see something I have not yet seen: I notice that Ministers are saying the right things, but are they doing them? I really wonder whether they understand that in each of these countries—there are about 65 of them—there are egos to be stroked, interests to be taken into account and serious political discussions to be held. That is necessary if we are going to be in the position we want to be in on the day we leave.

Q157 Mr Jayawardena: Lord Price, I wonder whether you could respond. This is work—building capability in the Department but also going out and speaking to Governments around the world—that you have been doing. How do you respond to the claim that grandfathering is not the priority, and that the work that has clearly been done apparently has not been done?

Lord Price: My view until September—obviously, I have not been in the Government since September—was that the vast majority of the Department's time and energy was going on the Trade Bill, the WTO and rolling over existing arrangements through transitional adoption. We had not invested huge resources in new trade agreements, because we did not have the capacity to do that.

It is worth bearing in mind the enormousness of what we are trying to do. When I was in Australia, New Zealand and so on—they have become quite expert in recent years in trying to do trade deals at pace—and in Switzerland, they said to me that, at any one time, they could probably manage four big trade deals and four improvements of current trade deals. We are trying to roll over, or transitionally adopt, 36. Then, of course, there are the trade deals that are in the process of being agreed by the EU with Japan, Korea, Vietnam and so on, and within the UK we are trying to put in place our own legislation to be able to do trade deals and protect UK producers and consumers, and we are trying to do the WTO. It

is a massive workload, so it is all hands on deck. Because of that, we had to be very focused about the sequence of these things.

I probably feel more positive than Lord Hannay that the order and sequencing of these things is understood, and that the resources that we have are, at the moment, focused in the right area. I suspect that will disappoint people who would like to see us do a very quick trade deal with America or somewhere else, but that will come at a later date.

Q158 Mr Jayawardena: I wonder whether I can go further, Lord Price, on the regulatory model and the way that it interplays with grandfathering. You told the Lords EU Committee in February that EU trade agreements vary in complexity according to “the extent to which they are bound into EU legislation and regulation.” Since on the day we leave we will still be aligned with EU legislation, will grandfathering still be simple rather than complex? Further to that, and conversely, will the complexity that you have highlighted actually impact on future renegotiations of grandfathered deals and other trade deals, perhaps including with the US, which has its own regulatory framework?

Lord Price: It is very hard to give a straightforward answer to that question. In asking it, you outlined the complexity. There is a whole range of EU agreements with third party countries. They have full FTAs, such as those with Mexico and Chile. Then you get economic partnership agreements, such as the one with South Africa. Then you get association agreements. They are all different. There are some countries where certain sectors are very important. When I was in Korea, the first thing they wanted to know was what the shape of the EU deal would be. They wanted to know that before they pressed things beyond anything transitional. It breaks down by country, by current agreement and by sector.

What makes our life straightforward—this is what we were trying to do from the outset—is ensuring that, wherever possible, we adopt what exists today to buy us the time to build change into the future. From a regulatory point of view, as you suggest, what the European Union (Withdrawal) Bill is trying to do is to adopt EU law so that on day one we are as we are. We will diverge in the future. It is natural that UK bodies will decide to do a different thing on headlight widths or whatever it happens to be, and in the future other countries will have to respond to what we do. On day one, however, we start in the same place, and that made my conversations and the Department’s conversations very straightforward. On day one, we will be in the same place and then, as we move forward, we will amend and develop things.

It would also be true to say—the Committee has covered this on a number of occasions, and I think the Secretary of State covered it when he was here in November—that a number of countries said they would like to improve on the current EU deal, because in some way or another they did not feel that it favoured them. We said, “Look, we are simply not able to do that on day one. We have all this work to do. We can adopt what exists today, we can do it on a transitional basis and we can come back to you in



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the future and look at these things, but it is in the UK's interests and yours to make sure there is no cliff edge in April 2019." Just as you are suggesting, at least when I was there back in September, we were trying to keep things as straightforward as we possibly could.

Q159 **Mr Leslie:** Lord Price, when these countries said, "We'd quite like to do this," or "We'd quite like to do that," did they all say, "Okay, that's fine, we understand. We all agree to roll over"? They all said that?

Lord Price: They all said that.

Q160 **Mr Leslie:** This was your tweet straight after you left office in September, and in October you said of those 36 countries with free trade agreements beyond the EU, "All have agreed roll over." That is your understanding: that agreements have been reached? That was a nod; could you just say it for the record?

Lord Price: Yes, of course. I have very deliberately not given any interviews since I stepped down—

Q161 **Mr Leslie:** That is why I am asking you now.

Lord Price: Somebody put out a tweet saying that all we would have would be WTO, so I simply said, "No, that isn't right; we've got all these EU agreements that will roll over." The simple answer to your question is yes. They all said that what they would like to do is to continue on the same basis as today, to have no gap—

Q162 **Mr Leslie:** Yes, but—I don't have much time—saying that that might be their intention is one thing. I don't wish to disagree with your interpretation of the meeting you had, but they have not agreed a free trade agreement rolling over. Those agreements have not actually been reached in law as treaties between the UK and those 36 countries, have they? They have not been reached.

Lord Price: But they will not be signed until March 2019. You can't—

Q163 **Mr Leslie:** So there are drafts already agreed, ready to be signed?

Lord Price: I don't know if you have time for this answer, but I will try to do it justice in a few minutes. Effectively, when we went to those meetings, what we talked about were three options. The first option was taking the existing EU agreement and cutting and pasting it, changing the names of EU institutions to the UK institutions and going through that process. The second was to have a letter of agreement that said, "On this date we will continue on the same basis and we will work toward this over a period of time," so there was an exchange of letters that said we would want to continue in that way. The third would be to go for a brand new FTA.

There were a few countries that said they wanted a brand new FTA. When we explained that if we were going to do that we could not start negotiating until at least 2019—and it was highly likely that those countries would not be the first ones we got to—they all said, "Okay, we would rather have options one or two."



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Q164 **Mr Leslie:** So you have the letters? The letters have been received from all those 36 countries, saying, "Yes, we agree, subject to signing it at one minute after midnight on 29 March 2019."? You have them all there in the Department, on file?

Lord Price: You need a bit more explanation. Some of those countries said that for the agreement to become a UK agreement they might need to get their Parliament's version of agreement to it. They knew the consequences of doing that would be falling back on to WTO. Everybody I met agreed that what they wanted to do was to make sure that the current agreement we had with that country was preserved in April 2019.

Q165 **Mr Leslie:** So, talking about Turkey and the customs union, we have an agreement between the UK and Turkey that we will keep that customs union with Turkey?

Lord Price: Turkey is complicated. I had three days in Turkey talking to the team there.

Q166 **Mr Leslie:** I know it is complicated, but has it been agreed? Just a yes or no, because you were very plain in your tweet. You had a five-word tweet, "All have agreed roll over." You have heard of the word braggadocio, about empty boasting and over-claiming. You know what that means. "All have agreed roll over." So do we have an agreement with Turkey that we will have a customs union between the UK and Turkey?

Lord Price: Let me be really clear and simple, because I think Liam answered this question last time. All of those countries have said that they want to have the current arrangement adopted in April 2019—they do not want a cliff edge—and that they will work with us to achieve that. So we are looking at what mechanisms best achieve that, whether it is an exchange of letters or a cut-and-paste of the current arrangements, but they do not want anything that is—

Q167 **Mr Leslie:** Warm words—we all know about meetings between junior Ministers and other junior Ministers. We have all been there and know how those go. I am interested in whether agreements have been reached, because it is really important. If we fall over 29 March 2019, if you want to buy clothing from Turkey, immediately you will have a 12% extra tariff on the MFN basis. If you want to buy fish products from Iceland or Norway, you will have an 11% tariff. And there is Switzerland—you can go through all these things. It is technically not the case that agreements in law have reached a treaty. I know this should be obvious. You are not asserting that those legal agreements have been signed and ratified and done. They have not been, have they?

Lord Price: For the avoidance of doubt, we would not do that until March 2019. We are on a current relationship with the EU—

Q168 **Mr Leslie:** So we can be confident and just sit back because it has all been done and is ready to be signed one minute after midnight? They have all agreed?



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Lord Price: They have all agreed, as Liam said, to go through this process, to make sure there is no cliff edge. I am sure that, with 36 agreements, lots of countries and lots of politics, some will be more straightforward than others. That is always the case. But what I can tell you is that I visited all of these countries and spoke to all of these Ministers, and they have said that they want to ensure there is no cliff edge. I have said it repeatedly in speeches and repeatedly to the press. I can say no more than somebody has said to me, sitting across the table, that they—

Q169 **Mr Leslie:** So you don't really regret saying that all have agreed roll-over at all.

Lord Price: No, that is what they told me they wanted to do.

Mr Leslie: That's fine. That was my question. Thank you.

Q170 **Emma Little Pengelly:** Picking up on some of the comments from Lord Hannay, in relation to the timescales involved, yesterday in the debate I referenced—it is in the papers as well—the idea of trying to stand still first, trying to prevent regression or a cliff edge, and then trying to build on that in terms of enhancing some of the existing arrangements and looking for new FTAs with target countries. If the agenda is first to have no regression—to stand still—and then to build on that, concerns have been articulated in relation to where the Departments is and whether that will be achievable. I want to ask a technical question. In relation to the Department, how is the process being managed?

From my background as a special adviser, I would have been very much involved in policy, and if we were handling something like that in the Department we would have set up a programme board or project board that would have timescales for what needs to be done, looking at the end point and moving backwards. It would also deal with the point raised about the multi-level requirement: the people-to-people dialogue aspect. Some issues would need to be at Prime Minister or Secretary of State level, and then obviously there are other Ministers and official-to-official dialogue, which is also critical. In terms of your experience in the Department, is that a managed process? Is there a team in place managing that programme? Critically, is there a set of timescales and a risk register? Has there been any conversation about what the risks are and how they will be mitigated?

Lord Price: It was a very long and articulate question to which the simple answer is yes.

Chair: Thank you.

Lord Price: The team looked at every country, and with every country they are working out what agreements might be needed to be given by the legislature, what might need to be done in terms of new regulatory bodies here, when we would need to put through our various Bills—trade Bills, withdrawal Bills and so on—in order to hit those deadlines. So people



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were very aware of the timeframes they had to hit on a country-by-country basis. But again—I said it earlier—the workload is absolutely huge.

Chair: Lord Hannay?

Lord Hannay: I don't want to respond to the technical aspects of the question. There is one aspect of the question which I think is often overlooked here. We are the only country in the world that has two Departments of State to deal with trade policy. One Department deals with half our exports and imports—that is with the European Union—and the other deals with the other half of our exports, which is to non-European Union states. That is a bizarre situation, and it is not replicated in any other country in the world. When you reflect on the fact that many of the third countries outside the EU that we will have to negotiate with are interested, above all, in what our future trade relationship will be with the European Union, having that split between two Departments does not make that any easier either. I really think there is a bit of a problem there. I am outside all of this. I hate throwing stones from outside it all, but I just do not see the logic of it.

Q171 **Emma Little Pengelly:** I am grateful for that clear answer. In relation to that and the timescales that have been set down in the programme management plan, can you confirm, from when you were dealing with this, that we will have dealt with each of the actions—green, amber and red? If the timescales are being missed, or are at risk of being missed, there is an amber-red and a bit of a warning sign, which then seemed to give the indication that we will not make the end destination. In terms of managing that, were the targets being met? Are there concerns? You said that the Department is under pressure. Is the Department able to work to those timescales? Is that something that can be shared in terms of that project plan around the timescales and the actions that need to be taken? What is being missed at this stage? What is the projection and what is the remedy for that?

Lord Price: I cannot speak for the Department now, but in my time there we were very clear about the dates we had to hit for certain countries, to have certain actions completed. I agree with Lord Hannay that the biggest risk, from a UK perspective, is the knitting together of what is agreed with the EU and then the knock-on implications to all these other countries. As I mentioned, when I was in South Korea, their preoccupation was, "Whatever you agree with the Europeans over cars and car manufacturing will impact on us, so only when you have agreed that will we be happy to agree to something that is at least as good." There needs to be really good communication between the Department for Exiting the European Union and the trade work that it is doing, and DIT and the trade work it is doing.

In my time there I tried to build a close relationship. I had a lot of time with Oliver Robbins, whom I have a huge amount of time for—I thought he was incredibly capable—and also George Bridges when he was there. Robin Walker made a really good start in that job and picked things up very quickly. As Lord Hannay is pointing out, there is the opportunity for dislocation, because you have two separate teams and their work impacts



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on each other. Over the course of the next year they are going to have to find a way of working very closely, so that anything that is agreed with the EU can then be replicated with every country and deal.

Catherine West: Just to clarify and update you, Lord Price, in a reply which has been put into the Department asking for a list of the countries where such an EU agreement exists and the status of the negotiations, the Department confirmed that while it is engaging with all countries that we have mentioned and work is well under way, and that a positive reaction has been had, unfortunately—just to confirm—it is too early to confirm what this will mean exactly in a particular case or with any particular country.

Chair: Julia Lopez first, and then Nigel.

Q172 **Julia Lopez:** I want to follow up on the point Chris made. I appreciate his concern about the certainty of the rolling over of these trade deals, but would it be the case that higher tariffs would only apply if the countries concerned chose to apply them. If we said, "Well, we are not going to apply higher tariffs on your trade and we hope that you will do the same," then we do not have too much of a problem.

Lord Price: If you don't have an FTA or an agreement with the third party country, you fall back on whatever your schedule is with the World Trade Organisation. For instance, the EU has a 10% tariff on automotive parts coming into the EU. If you have an FTA with the country where you have agreed it is 0%, clearly you do not pay a tariff. Therefore, if we were to leave and did not replicate the current agreement with the country that had a zero tariff, 10% would apply, so you would find that tariff rates would go up.

Q173 **Julia Lopez:** So that is an automatic process.

Lord Hannay: That is the MFN provisions of the WTO that cut in in those circumstances. You are not allowed to give preferentials to a third country unless you have an agreement covering substantially all the trade.

Q174 **Julia Lopez:** So it does need to be bolted down legally.

Lord Hannay: Yes.

Lord Price: It does need to be bolted down legally. There is a wriggle, which the Commissioner of the EU calls "living in sin," where they agree to vary with a country in an area on the basis that they are working towards an agreement. There are areas where they do find a way around it and, bizarrely, they allow up to 10 years for that "living in sin."

Q175 **Julia Lopez:** So an exchange of letters would be enough in those circumstances.

Lord Price: An exchange of letters should be enough, I was told, on some of the agreements, but I was told that five months ago.

Q176 **Mr Evans:** Post 29 March 2019, we will be able to embark on new trade deals. Is it your understanding that prior to that date we can still



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negotiate with those countries that have trade deals with the European Union—in other words, we can negotiate with them now?

Lord Price: The principle I was working on is that we would talk to them about replicating what existed, rather than improving what existed. If we got into a conversation about improving, we felt that would qualify as a new FTA, and we would not start talking about it until April 2019. That is why we coined the phrase “transitional adoption.” We would take what existed today and transition it, and then at the right point we would come back and look for improvements on both sides.

Q177 **Mr Evans:** So the year and a half or two years—whatever the transitional arrangements are going to be—will be the breather that will give us an opportunity to look more carefully at these grandfathering rights.

Lord Price: This is where it gets slightly complicated. It was disconnected from the EU discussions about a transitional period. This was saying to all these countries, “Look, we can’t possibly negotiate 36 new trade deals. We’ll adopt what exists today on a transitional basis, and we will come back to you over the years to make improvements where we both think it is right. But what we don’t want to do is to lose a trade deal that exists today with you.” That is what they agreed that they also wanted.

Q178 **Mr Evans:** Lord Hannay, I just want one clarification. In response to the Chairman on question 1, you responded: “on 29 March 2019, if and when we leave” the European Union. Is your scepticism about the date or whether we will leave at all?

Lord Hannay: I am slightly inhibited by the fact that the House of Lords is about to take up the European Union (Withdrawal) Bill, and one of the more difficult provisions in it will be the establishment of a date, even though it has been modified slightly by the Government. I hope you will allow me to duck on that one. I shall express an opinion in the House of Lords, but I would rather express it there.

Mr Evans: Fair enough.

Chair: It looks like you have been allowed to duck.

Q179 **Faisal Rashid:** My question is to both of you. The European Council’s guidelines for phase 2 of the article 50 negotiations state that the UK “will have to continue to comply with EU trade policy” in any post-Brexit transition period. How might that affect the UK’s ability to negotiate with the EU’s current trade agreement partners on grandfathering those agreements?

Lord Hannay: I think there are two aspects. One is: how do we avoid a cliff edge on 29 March 2019, assuming that is the date when we actually leave, with or without a transitional period? That is what you are calling grandfathering. I don’t think that anyone is going to inhibit our ability to talk to all these countries with a view to getting the necessary legal agreements in place to do that, so long as we do not move the goalposts at all. That is the point that Lord Price made—we could not contemplate a completely different agreement with that country.



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The proposals that the Prime Minister put forward at Florence, which have subsequently taken more shape and appear to be agreed at least in principle by the EU27, were that there should be the equivalent of a standstill period in which we remain in a customs union and in a single market. That, I think, means, as Mr Evans said, that there is more time to think about the third country problems, but it also means that we cannot vary them during that period. We could vary them or try to negotiate variance to them afterwards, but not during that period. I believe that the EU will make it an absolute condition of getting that standstill, which I think is highly desirable, given the shortness of time, and so on, and the need to avoid the cliff edge, but they will not do so in a way which enables us to tweak them.

Q180 Faisal Rashid: Do you think that will affect negotiations with other EU trade agreement partners after, in the transitional period?

Lord Hannay: I think the problem—the first problem, which is the problem of being in the right place on 29 March—arises in particular with these countries which have free trade with the European Union, and which we might lose if it was not in place. Some of those are really substantial trade partners, like Turkey, like Korea, like Ukraine. They are bigish countries like Egypt, like Morocco and so on—South Africa; and there are others. The second problem is the timing factor with regard to new trade agreements with countries other than in that list, like the United States, like Brazil, like Australia, like New Zealand, like Argentina, and so on. I think the standstill period will actually provide more space and time for this very hard-worked Department that has been set up to actually get to grips with it.

The question will be whether there will be any inhibition on the UK in carrying out negotiations during that period. I would hope not, but I don't think we can take that for granted. We need to get that pinned down in the standstill arrangement—that we could do that.

Q181 Faisal Rashid: If we are compliant with the EU trade policy in the transitional period, I am just trying to understand how it will affect things, in negotiations with those EU trade partners. Lord Price, do you have a view on that?

Lord Price: Yes, my simplistic view is that it doesn't make a difference, so we will have our own free-standing arrangement with those third party countries that is based on the current arrangements that are struck, and they will continue. So the EU is just separate. The third party countries may say, "You know, it suits our purposes that for the next two years we will continue to see the EU as a bloc," but in terms of the practicalities of signing a trade deal, it will not make any difference—or it should not make any difference.

Q182 Stephanie Peacock: If the UK were bound by the EU's common external tariff but did not automatically benefit from the EU free trade agreements, as, for instance, is the case with Turkey, how might this affect the UK bargaining leverage in grandfathering negotiations?



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Lord Price: I do not think it impacts on what the UK is going to try to do to avoid this cliff edge; but Turkey is a very different and separate case in terms of the arrangement that Turkey has. What you are drawing out is that complication that if you are part of the common commercial policy, part of the customs union, then you have to apply that. If the EU negotiates an arrangement with, say, South Korea, it does not automatically apply to Turkey. So it adds a complication in terms of Turkey, in terms of how you roll things over. One of my visits was to Turkey—one of my later visits—to try and work out how you would help Turkey. But, as you are suggesting, it is complicated.

Chair: Anything you would like to say, Lord Hannay?

Lord Hannay: No, I have nothing to add on that.

Q183 **Catherine West:** Do you have any views on the customs union debate from yesterday in the Commons? It is a very practical question.

Lord Price: I can only speak personally now, and the views I will express I did express in some comments in a speech I made in the House of Lords. I voted to remain; if I was asked to vote again today, I would vote to remain again, but I respect the decision that has been made and I have been on a journey. That journey has taken me to visit, obviously, EU countries, and to Norway, to Switzerland, to Turkey and beyond, and I have come to the conclusion that, in my view, the best economic answer for the UK is to leave the EU as we are planning to do—to not be in the customs union and not be in the single market, but rather to negotiate a comprehensive free trade agreement that will give the UK flexibility. I think there will be bumps in the road—I don't think that is going to be easy—but I think that if you take a five or 10-year view, there is every reason to believe that the UK could have a strong trading position, with a degree of independence. That is where my visits and thought process have taken me. For the reasons that have just been drawn out about Turkey, being part of the customs union is very restrictive. You can be part of the single market only if you are committed to the four freedoms, and it is very clear from the vote in the referendum that the UK is not committed to the four freedoms. So that is the logical journey that I have taken myself on.

Lord Hannay: I would slightly differ from that, in the sense that hanging over all this is the calculation about the risk to our trade—nearly half of it—that goes to the current EU27 and the potential benefits to our trade from better trade agreements with countries like the United States, Argentina and Brazil, and I cannot for the life of me see any circumstances, in the near to medium term, in which the loss or the risks to the first are outweighed by the gains to the second. I find it hard to believe that there will be no risks to the first in the sort of separate agreement that it is suggested we should have, which does not include membership of the single market, does not include membership of the customs union and does not include the four freedoms.



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By the way, on the four freedoms, it is quite bizarre to follow the debate about that. The most insistent person on the unity of the four freedoms was called Margaret Thatcher. She spent a huge amount of time, quite correctly in my view—I was her negotiator on the single market—saying, “It’s not just about goods; it’s not just about people; it’s about goods, services, capital and people.” She made it an absolute requirement, for example, of moving ahead on monetary matters that everyone should liberalise capital movements, and she made a huge issue out of the fact that the failure to liberalise transport services—cabotage for lorries, freedom for cheap flights and things like that—was an integral part. So we were the people who invented the unity of those four principles pretty well, and now we find it very inconvenient because we want to break them up.

Q184 Catherine West: Now let me ask the question in a different way, because we all know that there is the technical answer and then there is the politics. In relation to the island of Ireland and the complications, there is the technical answer, but there is also the political reality, and I am wondering whether you have any light to shed. We have discussed this a number of times in the Committee, but I would be interested in your individual views.

Lord Hannay: I don’t think that I have seen spoken or written on paper a technical answer to the Irish problem. I have seen words about regulatory alignment, which would seem to mean that in the “all else fails” circumstances, we would continue to apply the customs union and single market. The Government keep saying that that is not what it means, but they have not said what it does mean. I think there is actually almost certainly an in-built contradiction within the agreement that was reached in December as far as Ireland was concerned, and until we can see the technical aspects of that agreed by the UK and by the European Union 27—it is them we are talking about, not just the Irish, although obviously the Irish Government is a hugely important component of that—

Q185 Chair: Is it the Irish problem or the British problem, as the Irish might look at it?

Lord Hannay: I think it’s both. The Irish themselves, I think, underestimate the extent to which they would have a problem or could have a problem, because they are required or would be required to apply all the legislation of the European Union to everything that comes from a third country. That is the requirement, and quite a lot of that, in their case, comes from third country Northern Ireland, or would do. So I think there are problems there. I don’t want to say that they are insoluble. I don’t know enough about it to know whether they are soluble or not. I am merely saying that, up to now, no serious technical solution that would solve them has been put on the table.

Of course, if the standstill period is agreed, that leaves another couple of years to work that out. It does not become an immediate problem because we stay in the single market, we stay in the customs union for the standstill period. So the Irish problem does not emerge in all its difficulty



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on 29 March 2019, but at the other end of the transitional period, but that does not mean to say it is not serious.

Catherine West: Lord Price?

Lord Price: I think, as a Committee, you have had lots of evidence on this and you are probably far better informed than I am. The only thing I can say from a practical point of view is that Ireland has a significant amount of trade with the UK, which is recognised on both sides.

It is very hard to see the final shape of that agreement until you see the final shape of the EU agreement. Most new EU FTAs are virtually tariff-free—98% or 99%. Of course, that will have a huge bearing on the ease of the movement of goods. Services are a different case.

Europe is wrestling with lots of issues around the movements of people and areas that are fractious. As a Committee, you are far better informed than I am, frankly, on the ins and outs. I think it is probably too early to say how the Ireland discussions will go until we are further down the track with the EU discussions.

Q186 **Chair:** I have a minor point for Lord Price before we move on to Marcus Fysh. Given what you have said about customs unions and non-customs unions and the UK following its own path, on the island of Ireland, therefore, a hard border is just unavoidable.

Lord Price: I don't know. I think it is very hard to say. If you find you get to a place with the EU where you agree that you don't want any tariffs on goods, then clearly there is a different requirement from if you do say you want to apply tariffs on dairy products or whatever.

Q187 **Chair:** If the EU does that to a third nation, the UK, under MFN, it is going to do that to every other nation.

Lord Price: No, not if it has a free trade agreement with the UK. That would stand apart from every other nation.

Q188 **Chair:** But it is dependent on getting that free trade agreement. It dependent on avoiding a cliff edge. You said earlier that it is not in the UK's interest to go near a cliff edge at all.

Lord Price: That's right. The Prime Minister, in her Lancaster House speech in February last year, said she wanted a comprehensive free trade agreement with the EU. On the basis of all that I've seen, I think that would be a good place for the UK to get to in current circumstances. A comprehensive free trade agreement would solve a lot of those issues between, not only Ireland, but the UK and other European countries that trade very heavily with the UK.

Lord Hannay: I think that would depend a bit on the coverage of the comprehensive free trade agreement that we have with the European Union. If we have a free trade agreement with a coverage similar, let us say, to Norway or Switzerland, that does not cover agricultural products and food, which are outside. That would have huge implications for Ireland



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and the border there because a huge amount of the trade that is done across that border is precisely in those products.

You would really have to answer the question of what kind of comprehensive free trade area agreement it would be, which nobody can answer at the moment. Some members of the Government seem to be saying that it is absolutely fundamental to them that we have our own agricultural policy and our own fisheries policy and that is all outside any agreements we have with the European Union. That will have implications for that Irish question, too.

Chair: Tempted as I was to continue the conversation, I was going to self-censor, but I cannot censor my colleague from Nottingham.

Q189 **Mr Leslie:** To follow up the excellent question from the Chairman, if it is not through an FTA between the UK and the Republic of Ireland effectively, with the rest of the EU, you fall back on MFN arrangements and all those other things.

Effectively, straight after 29 March 2019, we have to convert from our current arrangement to an FTA, albeit a transitional FTA. In other words, the transitional period has to be a free trade agreement in order to avoid this notion of hard border. I am trying to pick up the specific question about the nature of the transitional period. It would have to be a free trade agreement because, if we are leaving or expiring—

Lord Hannay: It is a little bit difficult to answer this question now because the negotiations in Brussels have not begun on the transitional phase. The Government call it the implementation phase, though nobody else in the world calls it that because it isn't. It is what I prefer to call the standstill. It seems to me very clear that it is a standstill the Government want. When the Prime Minister made a statement on the package that was agreed in Brussels before Christmas, two little words popped up that I welcomed greatly. She said that things will be "as now". Well, I can't read "as now" as anything other than being in the single market and customs union.

Q190 **Mr Leslie:** But "as now" is a sort of temporary free trade agreement on the same basis as we have now. It would have to be in that legal form of a free trade agreement, albeit temporarily, to avoid the issue of us falling out on to—

Lord Hannay: I am not sure. I honestly think—

Mr Leslie: In order for us to avoid being a third country

Lord Hannay: I wouldn't go there—I personally wouldn't at this stage. The negotiations will be undertaken in Brussels as soon as the meetings start again, and they will be almost entirely on this standstill issue for the next three months. The legal form of it, which is I think the point you are making—frankly I don't know enough about it to answer categorically that it would have to be this or that. I think that will be the outcome of the negotiations. You can be quite sure that the European Union side will have plenty of lawyers in its team who will say what does work and what



doesn't work. The first thing, of course, is to discover whether the substance works.

Q191 Mr Fysh: To follow on from that, it seems to me that it would be possible not to do it through a formal free trade agreement, but to have some sort of draft, plan or schedule for such, which could then be raised at the WTO under article 24 of the GATT. That is the kind of thing that makes that a possibility without falling out straight on to MFN WTO terms.

We were talking about the nature of the agreements that we might make with the EU in the transitional period and thereafter. That also applies to what we were talking about regarding the nature of those discussions with third countries, and their preferential agreements with the EU that we must grandfather, or with which we must set up our own free trade agreement on a transitional or more permanent basis. When it comes to the rules of origin, at the moment we are in a customs union—the customs union—with the EU, so all the input into a product that is exported to, for example, South Korea is cumulated for the purpose of applying the rule of origin under that free trade agreement.

When Crawford Falconer came to give evidence to the Committee, he said that “we need to make sure that when it comes to a rule of origin, the rule of origin is as close to what would reasonably be expected for a single arrangement between us and the third country as opposed to an EU one. You cannot abolish the rule of origin; you obviously cannot apply an EU-wide rule of origin if you do not have that power.” Lord Price, what do you think he meant by that in the context of those negotiations about grandfathering?

Lord Price: Well, the Kyoto agreement is clear on non-preferential agreements and preferential agreements, so as a stand-alone country in trade terms, the UK will have to have rules of origin that apply to the UK. It cannot accumulate Europe within that, and therefore within all the trade agreements, the UK will have to define how it applies rule of origin, whether that is on cumulation, as you are suggesting—there are really three different ways in which you can start to define it, but that will need to be done with every country.

Your question was very clever, and when you asked before about South Korea, you are right. There are different countries and different sectors for which it will be more important—the automotive sector is clearly more important. When I was in the Nordic states, they told me that, on average, they have 90,000 components in their cars, which come from 70 or 80 different countries around the world. The team and I talked a lot to the trade team in Switzerland about how they manage rules of origin given that they have different agreements.

As I have said repeatedly, I have not been in the Department since September, but it was an area that they were very aware of. They knew that they had to resolve which methodologies they were going to work with, which countries it was most important to work with and which categories and sectors it was most important to work on. However, as you



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rightly imply, it does add a level of complexity that is not there today because of our arrangement with Europe.

Q192 Mr Fysh: To come back to what you said about the need to co-ordinate with DExEU, it seems to me that what DExEU is or is not doing in terms of talking about this matter with the European Union is quite important. What discussions do you think there have been with the EU about this issue?

Lord Price: You are right that it is critical. The Department for International Trade is not involved in the EU negotiations, so I could not possibly hope to answer for the conversations that have been had about this between DExEU and the EU. What I can say is that the conversations that the EU and the UK had at the WTO about how they move forward with agreements that have this kind of complexity in them were very constructive.

Lord Hannay: Can I just say that the discussion is concealing a rather clear distinction? If we are in a customs union, the origin issue does not arise, so if we have a standstill that keeps us in the customs union, the issue will not arise during that period. Even if we are in the single market, it will arise; as we know, Norway has rules of origin applied to its exports through Sweden and other routes. The second thing that does not seem to be being taken into account is that having to apply any origin-rule system at all to our trade with the European Union is going to be an inhibition to trade compared with what we have now. It is as simple as that. There is going to be bureaucracy and difficult paperwork and all those sorts of things. It can be done—it will be done—but it will inhibit trade and it will put costs on business.

Q193 Mr Fysh: Yes. That is why I asked the question. It seems to me very important to the future of trade agreements with third nations. That is why I wanted to understand whether, from your conversations with Olly Robbins and Robin Walker, you thought this was something that they were even aware of or focused on.

Lord Price: Yes, they were. Everyone is aware that having zero tariffs makes the situation an awful lot easier than having differential tariffs with different countries, and that having equivalence in terms of regulation makes life easier. Everyone is aware of the things that will make things easier. Interestingly, people in Switzerland, which is obviously a heavily service-dominated economy, as are we, were quite blasé. They said, "Most businesses don't bother with the bureaucracy; they just pay the tariff. It's a couple of per cent. It's easier." They just blew it away as an issue. In Norway, it was more of an issue. They took a lot of time to think, "How do we make this easy for businesses?" But I can categorically say that both DIT and DExEU understand this issue and are applying their minds to it—as of five months ago.

Q194 Mr Fysh: So when we are talking to third countries about grandfathering arrangements, are we saying to them that we are just going to have to have our own rules of origin, which we want to keep similar in terms of



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percentages to what is there in the EU at the moment? I guess, as you say, it really depends what product you are talking about, because the degree to which inputs are sourced from the EU relative to us differs, but isn't that a problem for the EU, too, when it talks to third countries? If it does not have our part of the inputs of a particular product, it could be a problem for it, too.

Lord Price: It is just as much an issue to resolve for the EU as it is for the UK in terms of the WTO and those agreements. It varies hugely. In Chile, there is not an issue about exporting motor cars. In South Korea, they are very interested to talk about the automotive sector. As you are setting out, it is very different by country in its level of complexity.

Lord Hannay: But I think you have to remember that rules of origin sound unbelievably technical—they are—but they are also a protectionist device, or they are seen by some people as that. If I may be forgiven for referring to the slightly distant past, there was a huge row within the European Union and within the Commission—I was the permanent representative at the time—over whether to apply rules of origin to the production of the Nissan plant in Sunderland when it was established. As we know, it was a huge investment and a massive British export. The French, who have a large car industry, wanted to have the Commission say that Nissan Sunderland cars could not enter the EU in free trade unless they had x per cent of local content. Fortunately, the single market commissioner Lord Cockfield said that that was illegal and would have nothing of it. The investment was made, and there was no application of any such provision. I use that as an example to show that rules of origin are not just a technical matter for the lawyers or officials to sort out; they also can be used as a device for impeding trade.

Q195 **Chair:** Hovering around in this area, earlier there was this idea that countries are quite happy to roll over agreements. A particular aspect of the Korean agreement was referred to us by Sam Lowe from the Centre for European Reform. The rule of origin that 55% has to come from the European Union is possible when the UK is in the European Union, but is not possible when the UK is not in the European Union. I can see the Koreans being very keen to roll that over, because it would just mean one-way traffic. I can see you nodding your head, Lord Price. Is that your understanding of that as well?

Lord Price: You are right; all those things cut both ways. There are opportunities and there are disadvantages. That is why you need to work through. It is why the South Koreans were particularly interested in seeing the deal we reach with the EU before committing themselves to the future shape of an arrangement with the UK, but you will find that replicated in every country. In some it will be around fruit and vegetables, and in some it will be around the automotive industry, but you are right to say that the balance of advantage to some extent starts to swing, and we have to be aware of that.

Q196 **Chair:** On the Korean deal, is it a fair comment to say that it is understandable why the Koreans would be keen to roll that over, because



it would make things even more advantageous to Korea?

Lord Price: Because they get access to the UK market on the same terms and theoretically the rules of origin disadvantage the UK, but we are aware of that. The UK Government were aware of that; the officials were working on it. There was a particular conversation going on about how you would ensure that there was continued equality if the UK has an independent trade policy from the EU. But you are right: unchanged, unfettered and with no thought, it would give South Korea an advantage over the UK. I am pleased to say that sides were not looking at this stage for any particular advantage—they just wanted continuity of trade—but what you are rightly picking up over this and tariff-rate quotas and other things is the complexity in unpicking ourselves from 40 years of collaboration with the EU.

Q197 **Mr Fysh:** I just want to follow up with one last question. To what extent do you think the EU is prepared to enter into a diagonal cumulation agreement that would allow us to continue to pool our potentially different rules of origin for the purposes of third party agreements that we already have?

Lord Price: That would be one for DExEU. That would be a conversation that they have. I was not involved in that conversation.

Q198 **Julia Lopez:** You told the Lords EU Committee, “When I was in Japan, I made the point that the UK’s interest is in making sure that there is an EU-Japan FTA that we can look to roll over in some way to the UK.” I was wondering how you see that working.

Lord Price: There is a set of agreements being negotiated currently by the EU. Vietnam is one; Japan is another. On those, the commitment that I made to the EU Commissioner Cecilia Malmström was that while we were a member, we would still be committed to ensuring that those trade agreements were pushed forward. I also said to both her and the countries I went to that we would want to use that as a blueprint for a future UK deal, and so it was on that basis—we were going to support what was being done now, but also we would use that as a basis for a future UK agreement.

Q199 **Julia Lopez:** To what extent are they thinking about the UK as they have those negotiations with Japan? Are we still an active part of the negotiations?

Lord Price: The UK still sits in the EU trade FAC. There was an increasing level of sensitivity about things that might happen beyond our time, but the relationship, I have to say, was a really positive one. EU Trade Ministers and the Commission were aware of some of the things you have drawn out about tariff rate quotas and how we deal with a number of issues, and that needs to be done jointly. I felt that the relationship was very good and very straightforward.

Q200 **Julia Lopez:** If I may, I want to ask you a slightly different question. We have discussed some of the complexity that we might face as we go through withdrawal from the EU. It has been suggested by some groups



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that we could unilaterally apply a zero tariff. When you were at the Department for International Trade, was any research ever undertaken as to what the impact on UK producers would be if we went down that route?

Lord Price: I did not find anybody in the Department who thought that a good idea. It has been mooted in some corners, but of course it would not allow the UK to effectively negotiate any trade deals. If you were to just say, "We'll unilaterally reduce all our tariffs to all the countries in the world," what incentive would there be for them to reduce their tariffs for our producers? It just did not make any sense, so as far as we were concerned, it was discounted out of hand; we would not do that. That's the most I can say on that.

Q201 **Mr Fysh:** Is there not a difference between saying that we will not have any tariffs, and that that will be our bound situation, and having a unilateral approach that is not on a bound basis, such as the Australians do? They have cited that as being a good starting point for the openness to free trade that allows them to rapidly do free trade deals, where they look to enhance their interests in different areas. I am a bit concerned about the idea that that was just dismissed out of hand, because I think it should have rational consideration given to it.

Lord Price: A number of papers were put forward that people read. I found myself in a position of finding it very hard to think how you do a trade deal with America if you have given America full access to all goods and services, with no restriction in the first instance. It is great for the British consumer, but somewhat challenging for the British producer. I could not see the logic for doing that. I was more persuaded by the fact that this is going to take time, and we should be negotiating, as the fifth largest economy in the world, with all these countries and should try to find reciprocal arrangements wherever we can in terms of tariff reduction and recognition of standards. That was my approach. It is where officials got to, and generally, I think it was accepted as being the right way forward.

If we were to say to the EU, "You can continue to export to the UK all of your goods and services with no tariffs," what incentive would there be for them to reciprocally do that with the UK? They would say, "No, we have schedules with the WTO. They apply. You're going to have to pay 25% on all of your dairy products that come into Europe." It just did not seem to be the right starting point. Ultimately, if you believe in free trade and trade liberalisation, you might work to that position over a decade or two, but that is not where I would start from.

Q202 **Mr Fysh:** What is your view on that, Lord Hannay? Obviously that history is very important.

Lord Hannay: I agree entirely. It is not a practical starting point. You only have to apply it to the United States to understand what it means. If we did that, the United States would fall about laughing because they would not have to do a damn thing. They would not believe that it was Christmas tomorrow. I do not think it is a practical way. I am and always



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have been a strong believer in freer and fairer world trade. I believe we should continue to carry that policy forward as a country outside the EU. The Government have said that that is what they intend to do. They do not always recognise just what difficulties—what headwinds—there are against that now with President Trump and his Administration behaving in a pretty protectionist way, and possibly going to behave in a much more protectionist way if they cause real damage to the North American Free Trade Agreement or if they pull out of the WTO dispute settlement procedures and so on. We will have our work cut out on this.

In a sense, who will be our great allies in keeping the world open trading system and making that freer and fairer? The EU27. They are the people who are standing by those principles. Unfortunately, our voice will not be there within their counsels. Hitherto, it has been a strong voice along with the Netherlands, Sweden, Germany, the eastern European countries and others in favour of freer and fairer trade. It will be an uphill struggle, but I believe what the Government are trying to do in terms of trade policy is the right thing in that respect.

The other thing that has to be borne in mind is that our experience long ago, before we were in the European Union, was how easy it is to be marginalised in world multilateral trade negotiations. I was a very junior member of the British team involved in the Kennedy round in the 1960s. We were pretty marginal then, but our proportion of world trade was much higher than it is now. Then, the big decisions in the Kennedy round were taken by the United States, the European Community—of which we were not a member—and Japan. In future multilateral trade negotiations—if they get going again, particularly if a post-Trump Administration goes back to what I call “classical” American trade policy—I fear we might be fairly marginal too. The people in the decisive room would be slightly different: China, India, the European Union, the United States and Japan. Would we be there? I do not know. But we were not there in 1967 when the Kennedy round was concluded.

Chair: Thank you. I have an observation on Lord Price’s comment: what might be good for consumers? If consumers lose their jobs because of trade policy, they will not be consuming very much at all.

Q203 Faisal Rashid: I have a question for Lord Hannay. In May, the *Financial Times* reported that there are 759 trade-related agreements that the UK needs to grandfather. Your response was that it was like, “Alice in Wonderland running furiously to stand in the same spot.” What are the chances of success?

Lord Hannay: I don’t know. I really don’t know.

Faisal Rashid: For both Alice and the UK?

Lord Hannay: As far as Alice and the UK are concerned, I was pointing out that we will have to put a huge amount of effort into something for which the successful outcome would be that we were standing in exactly the same place. An unsuccessful outcome would be that our businesses

were in a less good place. I cannot advance on that, frankly. That is a question that has to be put to Ministers in the Department.

Q204 Faisal Rashid: How would you respond Lord Price?

Lord Price: There are a lot of agreements, but DExEU needs to answer that principally. Within the Department for International Trade, we were aware of the things that applied to that Department and needed to be addressed, so I am afraid I would not know.

Q205 Mr Leslie: There are a lot of agreements—possibly 759—but today we have focused on the FTAs beyond the EU. I am quite taken by the idea that if it was a business-to-business transaction—a gentleman's agreement or whatever we would call it—you might be able to fudge things at the edge if you did not have legally ratified treaties and all the rest of it. But on the international level, the nature of the agreement matters, as we said in our earlier exchange. Julia Lopez asked earlier whether, if we do not have an agreement one minute after midnight on 29 March 2019, we can just agree to put the tariffs to one side. You then get into this business about most favoured nation status and the rules of the WTO.

Lord Price, you mentioned the concept of “living in sin”. I think it would be useful to investigate the notion of living in sin on a trade or legal basis. It might be okay for the two parties involved, but there are other nations that would cry foul and say, “Hold on a minute—you are agreeing to turn a blind eye to an unratified informal arrangement here, but actually there are worldwide rules on these things.” I want to hear a little more from both of you on the concept of living in sin. Personally, I think that the point about the agreement being legally made does matter. Or does it not?

Chair: To build on that, is living in sin a get-out-of-jail-free card?

Mr Leslie: Yes, because a lot of people will say that maybe that will be enough to span the period of scrambling to get all these things done—we can just bend the rules for a couple of years and cope with the consequences. You may have different views on this; I think it will matter if we do not have things buttoned down, but maybe you disagree.

Lord Price: The Government's plan, as of September when I was there, was that we would have it buttoned down—that everybody was working on making sure that the agreements would be in place to be signed in March 2019 and come into effect the day after, exactly as you are saying, so that you could continue trading on the same basis as the day before. That was the plan.

I was referring to the fact that there are some things done at the WTO and in the EU where a tariff may be reduced or an agreement with a country may be changed for practical reasons, when a technical agreement has not been given. You may want to call some people before the Committee who can talk to you more about whether living in sin is a viable plan B for the British Government, but that certainly was not what we were focused on. I



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was drawing it out more in the sense that there are odd sectors and odd times when they agree to do things that they have not legally ratified.

Chair: We might need to find a more elegant phrase.

Mr Leslie: I like it! I think it's a good phrase.

Lord Hannay: I would respond in rather the same sense. I think living in sin might be all right for Governments, but is it all right for business? I rather doubt it. I don't think businesses would like doing trade in that way. This is all about law and the application of law, and practically all the trade negotiators around the world are lawyers. They are not there to live in sin; they are there to write agreements down on pieces of paper that hold water and will stand up in court.

I would be very reluctant. I would not wish to say that there may not be some tweaks that could be done and that people could turn a blind eye to in some particular instances, but I do not think it would be at all wise to adopt that as a principle of policy.

Q206 **Mr Leslie:** So living in sin is generally not a good strategy.

Lord Hannay: No. That's fair enough.

Mr Fysh: Not if you want to be a subsequently marriageable nation.

Chair: I think we are straying far and wide here, but I will note that as a Labour or Conservative policy that we might touch on.

Are there no further questions from the panel? I thank both our witnesses for coming today. It was very illuminating to hear about the Kennedy round in the '60s, which certainly gives us food for thought, although perhaps some more research is required there. Thank you for the concept of living in sin. I have heard a little from the UK ambassador in Geneva at the WTO about the fudging around the edges. Given what our members have heard this morning, there is room for further investigation by the Committee. I hope it might be a get-out-of-jail-free card in some aspects of fudging, but maybe time shall tell. Again, thank you both very much for your time this morning. It is appreciated.