HOUSE OF COMMONS

International Trade Committee

Oral evidence: Continuing application of EU trade agreements after Brexit, HC 520 iv

Wednesday 24 January 2018

Ordered by the House of Commons to be published on 24 January 2018.

Watch the meeting

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

Questions 207-286

Witnesses

I: Guillaume Van der Loo, researcher at the Ghent European Law Institute (GELI), Steven Blockmans, senior research fellow and head of EU Foreign Policy Unit, Centre for European Policy Studies, and Silvia Merler, affiliate fellow at Bruegel. Brussels.

II: Rt Hon. Greg Hands MP, Minister of State for Trade Policy, Department for International Trade.

Examination of witnesses

Witnesses: Guillaume Van der Loo, Steven Blockmans and Silvia Merler.

Q207 **Chair:** I invite the panel to state their name, rank and serial number for the record, please.

Silvia Merler: My name is Silvia Merler. I am an affiliate fellow at Bruegel, which is an economic policy think-tank in Brussels.

Steven Blockmans: Good morning. My name is Steven Blockmans. I am the head of EU Foreign Policy at the Centre for European Policy Studies, in Brussels, and professor of EU external relations, law and governance at the University of Amsterdam.

Guillaume Van der Loo: Good morning. I am Guillaume Van der Loo. I am a researcher at the Ghent European Law Institute, Ghent University, and I am also a researcher at CEPS in Brussels.

Q208 **Chair:** Thank you for coming this morning. A former Trade Minister has told us that the Government are looking at a transitional adoption of EU trade agreements by means of, one, cutting and pasting the original agreement and, two, an exchange of letters with the third country concerned. How feasible and potentially effective do you think these two approaches—cutting and pasting and exchanging letters—might be for the UK to continue to operate within free trade agreements?

Guillaume Van der Loo: On the first option, I think the cutting and pasting is not realistic or feasible for several reasons. First, if you copy and paste the existing FTA between the UK and a third country, there are legal and political problems. The legal problems are that you also need to address the technical issues such as tariff rate quotas and so on—these were all discussed in the previous sessions. The political problem is mainly that if you want to have these trade agreements in place one minute after 29 March 2019, you will have to negotiate, sign and ratify them and it will depend on how it works out here and in third countries before that date. You need to negotiate that while you are still a member state. These are the main problems and the main reason why it is not realistic.

I think that the second option is more realistic, but it would require close co-operation with the European Union; it is the idea that the EU and the UK figure out how the UK can remain on board in the existing FTAs, how you can transition it. The EU and the UK have to figure out how to address the technical issues. Then you can go to the third countries and say, "This is how we see the UK remaining on board" and you propose an exchange of letters and hope that the third country accepts this and signs the exchange of letters.

Q209 **Chair:** This is an obvious problem for the UK, but also for the European Union, in that some of the rules of origin may be for things that are currently coming from the EU, perhaps in a manufacturing chain or whatever. There are huge issues for the European Union in this as well when dealing with a third country. You would imagine anybody awake in a third country was going to extract concessions from both the European Union and the United Kingdom.

Silvia Merler: I think you are right, in the sense that many of those issues are really bilateral—and you had a previous witness give evidence on this who did an excellent job. Some of these issues are imposing a trilateral dimension to bilateral FTAs, so there are issues that may present problems for both the UK and the European Union. The first—correct me if I am wrong—is that while for the European Union those agreements will remain in place, they may have to be changed if the third country asks for it, but this is not the case for the UK. The UK is bound to reach out to all those countries and find a solution.

Steven Blockmans: The exchange of letters is certainly the preferred option but it does require co-operation between the EU and the UK. This is a damage-control exercise on both sides.

Chair: The EU and UK?

Steven Blockmans: That is right, yes.

Q210 **Chair:** You say that the exchange of letters is preferable to the cutting and pasting. Is that because the cutting and pasting does not work, effectively?

Steven Blockmans: No, I think it is for the political reasons that have already been mentioned. That type of agreement would have to go through a ratification process, which is lengthy, might not finish before Brexit day and might complicate matters in case there is a gap between midnight on Brexit day, which would mean that the UK falls back to its WTO position, and the entry into force of that agreement. It is rather wishful thinking simply to scrap any reference to the EU and its institutions and member states and replace those references with the UK. As you have said, Chairman, it does open the opportunity for third parties to exploit vulnerability on that side.

Chair: We have seen that exploitation at the WTO with the TRQs. Nine countries rubbed their hands and thought this is an opportunity to get both the UK and the EU. It is going to be various but, as I said, anybody awake in another country has an opportunity here on both.

Q211 **Julia Lopez:** We had Lord Price, a former Trade Minister, before us recently and he suggested that one of the ways we could get around the difficulties that you have highlighted would be to "live in sin", which would effectively mean that we had interim agreements under article XXIV of GATT for up to 10 years. Do you think this is plausible as a mechanism for rolling over EU-third country trade agreements?

Guillaume Van der Loo: It was not entirely clear what Lord Price was referring to, but I think "living in sin" means that other WTO members have problems and, for example, that whatever the legal instrument will be it does not fall under the requirements of Article XXIV. The UK, and maybe the EU, would just ignore the complaints and hope that they figure it out before member states take action, which takes a long time if you have to go through the entire dispute settlement process. This can be the case but the most important thing is that you do not need, in the first instance, to convince the other WTO members; you need to convince the FTA partners of the European Union.

Coming back to what was said before, you need to set things in motion now, not after the date of withdrawal or during a transitional period. If you want to have these FTAs in place on the date of withdrawal, you have to do this now and you have to go through the European Union. The European guidelines also mention, with regard to the negotiation of Brexit, that the EU and the UK should have a common approach towards third countries. I think you need to use this and have a common approach with the European Union, go to the third countries and propose a solution, based on an exchange of letters, which would be the easy option.

A more difficult option would be a protocol. The third countries could say, "The UK can remain on board through these FTAs but we want a protocol." This also happens in the accession context. If a country joins the European Union it will go to mixed agreements, because most EU trade agreements are mixed, and they also have to accede to these mixed agreements. They have to sign a protocol to accede to these agreements. Linking this to the Brexit context, third countries might be required to have a protocol to have the UK as a member of the existing FTAs. This would be the more burdensome procedure because you need to ratify this protocol and then you have the same problem as the first option. That they just accept and sign the exchange of letters is the easy option.

Steven Blockmans: May I come back to the question of living in sin? Under WTO law there is a general assumption that whatever arrangements are made between states are acceptable to all member states until challenged. From a Government perspective, and I think also from the EU's perspective, living in sin might be a practical safety valve for a temporary period. Not so for a business, I would argue, because the legal regimes and legal uncertainty that it creates may expose them to vulnerabilities and to future disputes.

The way we are looking at the WTO presumes a functioning dispute settlement mechanism. As we all know, with the US Government now trying to hold up the appointment of new members of the appellate body, thereby reducing the composition of the DSB almost to its minimum of four members—at the moment it is four members but in future it will be three—there is a risk that that judicial mechanism will not work anymore. That would maybe allow for a continuation of the "living in sin" scenario, but it would not take away the problems that business may face.

Silvia Merler: The other witness you had with Lord Price pointed this out very effectively. From the perspective of ensuring a smooth transition, what you want to ensure is as much certainty and clarity as possible on what will be the framework in which this trade will happen. The idea of the living in sin potential situation is really challenging because it does not ensure this kind of clarity for them.

Coming back to the possible options, it seems to me that there is a very important political dimension to all this, because all the options that would seem to be more favourable in ensuring a smooth transition for the UK also require quite a lot of goodwill on the part of a lot of partners—the European Union on one side but all your FTA partners on the other side. One thing that may be important for them—actually, I am sure it will be important—is to understand what the UK's relationship with the EU will look like before they commit themselves to any form of agreement. They are introducing a trilateral dimension in all those FTAs, which will be important.

Q212 **Chair:** I have a brief question for Guillaume Van der Loo. Accession is changing the shape of the EU and Brexit is changing the shape of the EU, in a different direction, of course. You have mentioned that accession to trade treaties required protocols. Does the third country in question often use that as a point of leverage, or in practice have they been quite accepting of the change to the shape of the EU in the instance of accession and that perhaps my paranoia that the EU, at least, will be damaged by Brexit with exploitation by third countries maybe not as great as it was with the TRQs at the WTO?

Guillaume Van der Loo: There are no problems so far with the protocols I mentioned. Sometimes it takes a while before third countries ratify the protocols that add the new member states to these mixed agreements, but generally there are no problems.

Q213 **Chair:** There is never any change in the larger substance of the agreement?

Guillaume Van der Loo: No.

Q214 **Mr Leslie:** To follow up about living in sin and the nature of whether we can just fudge this question of, "If we don't have a rolled-over FTA then don't worry about it for a little while," I think you were making the point, Dr Blockmans, that it might be okay for Governments but for business this is not something you can just sweep under the carpet. Can you elaborate a bit more on why it matters? There is a danger that in politics we will all say, "Right, there is a solution; we can just fudge this; we can leave it." Can you give us some examples for a particular manufacturer or a type of business of what the risks are, in tangible terms, that come along if you do not have that legal certainty roll over? I want to delve into that a little bit.

Steven Blockmans: First of all, it is unclear for an importer into the UK what type of tariffs would apply to goods imported, what legal regime is applicable and what quotas they could exploit under which legal regime. Some of the written evidence that was given, especially by the Wine and Spirit Association, gives some very concrete examples of how different markets and regimes that have been negotiated in separate EU trade agreements with those countries may result in different tariffs being added to imports from those countries.

Q215 **Mr Leslie:** Could that potentially be retrospective if the agreement comes in later and there is a gap? I am trying to think of the potential liabilities for the business.

Steven Blockmans: Until challenged, of course there is an opportunity to keep on trading. If no dispute is brought before a court, one can live in sin as business as well and assume a continuation of the legal regime as it existed. There is a time lapse there.

Guillaume Van der Loo: If the UK would go for the second option, so the EU and the UK find a way that the UK remains on board on the EU FTAs, they present this to the third party and the third party accepts this, for example Canada or Korea. The EU and the UK were willing to convince Canada that there was no change for Canada with regard to market access to the EU and the UK together, and the EU and the UK anticipate all the concerns that the third countries can have. If the UK just remains a contracting party to these trade agreements, I think the UK in this deal is covered by Article XXIV GATT and it would be very difficult for other WTO members to find the legal grounds to object to this. Even if they did find one or tried to find one, before they can invoke it it goes through the entire WTO procedure, which is a very long period. For legal certainty this is not a major concern.

Q216 **Emma Little Pengelly:** I have a couple of questions about some of the practical aspects. It seems from the evidence we have taken that there are different types of categories, for want of a better term. We have heard of living in sin, and it seems to be turning a blind eye to the fact that some of the formal aspects of these agreements have not been fully processed or fully ratified. From a practical point of view, the agreements that we are looking at that are currently in place, the second category, which is greater than that, is those FTAs that are currently under discussion, negotiation or agreed but not yet ratified with the EU and third countries. For that category, do those FTAs begin to operate at that point where there is broad agreement? Is that covered by this idea of living in sin or turning a blind eye scenario? There is clearly a significant number of fairly well developed agreements in this category. Does that start to be practically implemented at that point or do they just wait until the formal ratification? What is the status of that?

Guillaume Van der Loo: Can you repeat your question, please, because I don't understand?

Emma Little Pengelly: Basically, we are looking at those deals that are agreed. We are looking at grandfathering all the FTAs that we currently have. I think we have been told that that amounts to about 11% of our trade with the rest of the world. However, there seems to be another category that accounts for about 25% of our trade with the rest of the world, which is covered by EU FTAs with the rest of the world that are either still under negotiation or agreed but not yet ratified. What I am asking is for that second category, that 25% from our point of view, in relation to the trade relationship, is that not implemented at all until the formal point of ratification or at the point where there is broad agreement about that? Does that start to be the trading relationship until somebody objects to that? What category is that in? Does that fall into the living in sin category?

Guillaume Van der Loo: No, that is something completely different. For EU trade agreements the procedures are very clear. Most trade agreements are now mixed, so it will only enter into force if all the member states and the third country have ratified it and notified the ratification. However, as you know, most of the trade agreements can enter provisionally into force, which means that all the provisions of the agreement falling under Union competences can enter into force and in the meantime all the member states also ratify it. For example, CETA has entered into force provisionally and member states are now ratifying it, so this is all quite clear and there is legal certainty on that. This is something completely different at the level of WTO.

Q217 **Matt Western:** Apparently the *Financial Times* has seen documents but is certainly reporting that draft European Council negotiating directives concerning the transition period stipulate that the UK should not be able to roll over EU trade agreements "unless authorised to do so by the Union". In your view, how likely is it that the EU will give the UK such permission?

Steven Blockmans: It is my understanding that the current mandate for the European Commission that has been negotiated by the ambassadors of the member states of the EU, which would be adopted at the General Affairs Council on 29 January, will specify this point but not, as far as I understand at least, in the way that you describe it. The European Council conclusions seem to suggest that there will be a roll-over—there is broad agreement on this—and that the UK would be able to start negotiations, pencilling in new trade arrangements with third countries, but would not be able to conclude those during the transition phase unless agreed to by the rest of the EU, by the Council.

Silvia Merler: It is very difficult to speculate before we can see the actual details on how binding this requirement will be, but it is something that comes down to the political dimension and what will be the priority of each of the member states at that point when it comes to negotiations on this permission. It is very difficult to say beforehand, without having read it and knowing what it will look like at that point, how effectively binding this requirement may be.

Guillaume Van der Loo: Of course, I cannot confirm the authenticity of this but it seems that this is the direction, as was mentioned before, but you have to see this in the context of the customs union in the transitional period, of course. The European Council stressed, and also the Council, that if in the transitional period the EU and the UK have a customs union, the UK will need to comply with EU trade policy and the common customs tariff of the European Union, which is at the heart of the customs union.

For example, you can compare it with the situation of Turkey and the EU. If there is a customs union in the transitional period, it will be on specific elements, most likely different from Turkey but some basic elements will be the same. Turkey has to comply with the common external tariff of the European Union and also—and this chips into what has been said before—Turkey is obliged, if the EU concludes a free trade agreement, to follow the EU's FTA policy and also needs to sign and conclude an FTA with the third countries. But third countries very often are a bit reluctant because if they already have a free trade agreement with the EU, with the customs union, they already have preferential access to Turkey via trade deflection via the European Union.

I will mention a few points that maybe we can discuss further. In the customs union, the UK is bound by the common commercial policy of the European Union, so it has no freedom to negotiate. The European Council has stressed that the integrity of the functioning of the customs union and the internal market should be preserved. To ask for an approval to negotiate or to conclude a trade agreement in the transitional period, I think it is very unlikely that third countries would want to have a new agreement with the UK in place in this transitional period. Third countries will want to know what the final outcome is after the transitional period, what the post-transitional period deal between EU and UK will be. They will already have preferential access in the context of the customs union to the UK via trade deflection via the European Union. The UK still remains bound by the EU's trade policy in the context of the customs union.

I think it is very unlikely that a third country will want to have an agreement in force in this period. The UK can negotiate on the terms of the post-transition period deal, but this has to be clear at the point when they start to negotiate within the transition period.

Q218 **Mr Fysh:** To take you back to your comments about Turkey needing to agree a free trade agreement with the third parties who are parties to the EU's FTAs, in the transition period would you see it as necessary that the UK is a sovereign nation and not formally part of the EU in order to be able to do that? Would you agree that a third country would not be able to sign such an agreement with us unless we were a sovereign nation and had that sovereign power? How do you see that interacting with the nature of what the transition period is from a sovereignty perspective?

Guillaume Van der Loo: Sovereignty and being a member of a customs union is, of course, not the same. You keep your sovereignty but in a customs union—and this is at the heart of a customs union; this is the basic DNA of a customs union—you have a common external tariff and all the members of the customs union have the same policy towards third countries. It will be the case that the UK cannot diverge from the EU's common commercial policy of customs tariffs within the transitional period if that is a customs union. If it was something else and not a customs union, for example a basic free trade area, this would change the situation and then the UK would have more autonomy to diverge from the EU's trade policy.

Q219 **Mr Fysh:** That isn't quite what I was asking. I was not talking about a divergence; I was talking about whether, from a technical perspective, is it not the case that the third countries to these FTAs would have to have a legislative process in their Parliaments to approve a deal with the UK? Wouldn't that in itself depend on the UK, formally speaking, not being a member of the European Union at that point?

Guillaume Van der Loo: Are you referring to a trade agreement between the third country and the UK or the customs union?

Mr Fysh: This is the grandfathering of the FTAs that the EU currently has. If the UK were to roll those over, is it not the case that those third countries would have to have a legislative process in their Parliaments in order to be able to agree that FTA with the UK?

Guillaume Van der Loo: That would depend on the constitutional requirements of the third country. If an exchange of letters, for example, was the instrument to transition the FTAs for the UK, that would be the light option and I think it can pass without parliamentary approval, but again this depends on the constitutional requirements of the third countries. But if you have a protocol or an agreement, of course in most countries Parliaments play a role in the ratification procedure.

Mr Fysh: What about the other members of the panel?

Steven Blockmans: I concur with what my colleague has just said. It would be incredibly difficult for the UK to diverge from the customs union that it is part of for the next two years, for the transition period.

Q220 **Mr Fysh:** Again, that is not what I am saying. What I am saying is the pure technicality of the roll-over of the current FTA on the same terms requires, does it not, an agreement of an FTA between the third country and the UK? In that case, is it not necessary for the UK to be outside of the European Union, not necessarily outside of a customs union with the EU but it has to be a sovereign nation at the point it does that and there has to be a legislative process in the third country? I am not convinced that an exchange of letters is enough to make that a legal document that would—

Steven Blockmans: Unless it is a protocol, as Guillaume has just mentioned.

Silvia Merler: The processes of third countries will differ from country to country. I won't discuss that because I am not informed, but as far as the UK is concerned, as Dr Blockmans was saying earlier, it would not be able to sign the agreements that it was discussing with those countries over this period. As far as the roll- over is concerned, the lawyer colleagues on this panel are probably better informed and more knowledgeable than I am about the technicalities of it.

Guillaume Van der Loo: The approach can be different from country to country. If the EU and UK, as discussed before, come up with a specific solution to keep the UK on board, some countries maybe will say, "Yes, of course we want a transition and we don't want to make life more difficult than it is," and they do it with an exchange of letters. Other countries may have objections and say, as you mentioned, that an exchange of letters is not enough. They want to have a kind of protocol that has to go to Parliament for approval, so it could be that some countries will follow one option and some countries follow another option. That will also depend on the legal instrument that is chosen to grant transitions.

Steven Blockmans: Is the timeframe of the transitional period itself, which is supposed to be very short, sufficient to negotiate such deals in depth?

Q221 **Chair:** Picking up on a point that Matt Western raised about the roll-over of agreements the EU is authorised to do by the Union, what are the positives and negatives for the European Union of rolling over or not rolling over those agreements to include the UK as a third party? There must be consequences there as well.

Steven Blockmans: It provides legal continuity, at least with the transition period, and clarity in the relationship with third countries.

Q222 **Chair:** If they decide to roll over?

Steven Blockmans: That is right, yes.

Chair: And if they decide not to roll over?

Steven Blockmans: If they decide not to roll over, the vulnerability to which the EU would be exposed is the possibility that a third party says that the EU's market has shrunk by 64 million consumers. Depending on the composition of the trade agreement itself, that may be quite harmful in designated sectors.

Silvia Merler: Countries will be different. Some third-party countries might have agreed to concessions in their FTAs with the EU because they had in view the access to the EU market and they may not be willing to agree to the same concessions with the UK because the UK is not such an important market for them. At the same time, there might be countries whose primary interest was the UK market when entering into an FTA with the EU and those countries may well bring up the question with the EU. It is difficult to generalise this because it will depend on country to country and what their incentives and domestic priorities are at that point. It is not something you can generalise for everybody.

Chair: Thank you for spelling that out.

Q223 **Faisal Rashid:** My question is to all of you. There is a suggestion of the so-called Guernsey model, involving the insertion into the UK-EU withdrawal agreement of a clause stating that, for the purposes of agreements with third countries, the EU treaties would continue to apply to the UK during the post-Brexit transition. How feasible do you think it would be, if you all can give us a view?

Guillaume Van der Loo: I have to say I am not an expert in the legal status of Guernsey and UK law or international law. I think the main point that the authors of this proposal make, what they suggest is only in relation to trade agreements and to third countries, is that the UK would be considered as a member state vis-à-vis the third countries and only for that. This is very difficult and relates a bit to what we discussed before. The EU and the UK need to go to the third countries and find a way that the UK will remain a member of these agreements and how you deal with the technical issues to keep the UK on board. But this is something completely different—still being considered as an EU member state and that the treaties still apply because, as has been mentioned, only in relation to trade agreements or agreements with third countries would the treaties apply to the UK. I think this is very unrealistic and I don't see it as feasible, but the basic point is that you go to third countries together, the EU and the UK, and you come up with a solution and you hope that they will accept this.

Q224 **Faisal Rashid:** Do you think it is feasible?

Guillaume Van der Loo: Yes, but not in the way that you say that the EU law still applies so that the EU treaties still apply only in relation to a third country. I think this is a legal science fiction.

Steven Blockmans: I think it is a legal fiction in a way, although the model seems attractive at first sight. It would make the UK not a Crown dependency but at least a dependency of the European Union, just like Guernsey is a dependency of the Crown of Great Britain. A legal fiction exists in the fact that the UK will have exited from the European Union and is no longer a member state but, at least for the application of those third-party agreements, will be considered as such. There are examples and the authors of this proposal point out that paragraph 3 of article 1 of CETA makes such a provision that could be applied.

It comes with a number of complications, of course. For goods this may be an attractive model but for the adjacent areas in order to be able to regulate the free flow of goods in that respect, it would have to come with an acceptance of the EU's VAT regime. It may make inroads into the free movement rules for persons. It has some knock-on effects that, to my mind, have not been studied sufficiently yet.

Q225 **Faisal Rashid:** Is this something the Government can explore?

Steven Blockmans: I would assume so, yes.

Silvia Merler: I would agree with what has been said in the positives—the fact that it would allow for a simpler process—and the negatives in the sense that I am not a lawyer but as far as I understand it, Guernsey can negotiate its trade agreements but it has to have the UK's permission for doing that. If we transpose this into a UK-EU relationship, it would mean the UK can negotiate its own trade agreements but it has to have the EU's permission to do that. Correct me if I am wrong—I am not a lawyer so I may be wrong on this—but this is how I understand that the Guernsey-UK relationship works.

Steven Blockmans: If I might add, it would come with the obligation of a financial contribution and judicial oversight, which in the view of the current Government may be anathema to its political goals.

Silvia Merler: It is really important to stress that it does not necessarily solve, from the third country's perspective, the issue of the importance for them to know what the UK-EU relationship will be in trade terms. That remains, in my view, a stumbling block for the third countries to agree to any concessions.

Guillaume Van der Loo: This idea, in the context of the customs union, ignores the consequences of the customs union we just discussed.

Q226 **Matt Western:** Talking about stumbling blocks, we have heard that rules of origin and cumulation are a potential stumbling block in rolling over the EU's trade agreements. What are the options for resolving this issue?

Silvia Merler: Rules of origin are absolutely a key issue of international trade in general because of the role they play in allowing us to establish origin for the purpose of applying preferential treatment to specific goods from specific countries that meet specific conditions. That they are very important in the conduct of international trade needs to be understood. Currently the UK, being part of the customs union, does not need to have rules of origin in its trade with the EU, so the EU applying an external tariff. Once a specific good enters the EU territory there is no limitation to the inputs that the UK producer can use in their manufacturing of goods that they can sell on to the continent. It is not a problem at the moment but it would be if the UK were to leave the EU and have a preferential relationship with the European Union.

Rules of origin are not a problem in two possible senses of the word; they are both extremes. One is that if the UK remains in the customs union it would be as it is now from the perspective of who is a third country to whom. The other is if the UK just drops off without any preferential treatment, which obviously it would not want to do because in that case there would be no need for rules of origin because there would be no preferential treatment that has to be applied according to the rules of origin. For everything in between there would have to be rules of origin for trade between the EU and the UK.

Currently the UK, being in the EU, is also a member of the PEM, which is the Pan European-Mediterranean convention on rules of origin, which basically covers EFTA and some 19 other countries. It is very important because it allows diagonal cumulation, which is what we say when essentially we establish potential cumulation of origin across more than two countries. In this case it would be the UK, the EU and a third country that is also a member of PEM. It is important for the UK because 11 out of its 20 non-EU FTA partners are members right now. Six out of the top 10 also are members of PEM, if you look at only the countries covered by FTAs that are not members of the EU. An important portion of UK trade is currently covered by this convention.

Establishing some form of diagonal cumulation would be one option to the rules of origin. Alternatively, the other option would be to reduce the requirement of local content, which is essentially the cornerstone on which the rules of origin are based but that is politically more problematic. Essentially what you are saying is that in the eyes of your partners you might be increasing the risk of trade deflection to a reduction in the requirement on local content.

Chair: We have just come up against time. I apologise to the panel and thank them for coming here this morning to share their information and knowledge—it is a great help to the Committee. Thank you very much. We have the Minister in the room so we are going to change our panels, but thank you to the three of you.

Examination of witness

Witness: Greg Hands MP.

Q227 **Chair:** Good morning, Minister. Thank you very much for appearing before of the International Trade Committee this morning. Your presence is appreciated. Can you give us your full rank and serial number for the record and how you want to be introduced for that purpose?

Greg Hands: I am Greg Hands, Minister of State for Trade Policy at the Department for International Trade.

Q228 **Chair:** A speech in itself almost. Do you have a few words that you want to start with, or maybe not? There was some to-ing and fro-ing between your Department and the Committee yesterday, so if you have a statement that is fine.

Greg Hands: Thank you, Mr Chairman. With the permission of the Committee, I would like to make a brief opening statement.

This session of the Committee relates to the action being taken by the Department for International Trade to ensure continuity of agreements concerning trade of which this country is part by virtue of our membership of the European Union. It is the stated desire of this Government that the effects of these agreements, and all of the benefits that they bring to this country, our enterprises and our citizens, continue following our departure from the EU. It is largely the responsibility of the Department for International Trade to ensure that this takes place and to secure agreement from the relevant third-party countries to EU FTAs that they are content to continue these arrangements with the United Kingdom.

I would like to take this opportunity to outline to the Committee some elements of this process that I hope will aid the understanding of the process and inform some of my answers. First, I would like to emphasise to the Committee the progress that we have made to date. The response from our trading partners has been very positive. There is wide recognition of the value of these agreements and the contribution that they will continue to make to global free trade and prosperity for all parties. Britain's role as a champion of free trade and the part we, as a nation, have played in shaping the EU's wider free trading agenda continues to pay dividends.

I can announce today that none of the more than 70 nations with whom we have held discussions has any interest in disrupting trade flows or erecting barriers to trade where none currently exists. The majority of our engagement is taking place through official-level discussions complemented by face-to-face discussions by the Secretary of State and the ministerial team. With a number of our most important trading partners these discussions have progressed to a technical stage. While I do not wish to pre-empt our discussions with partner countries, I can say that we are confident that there will be no disruption to trade with those countries covered by the agreements. Once our Trade Bill has passed into law, we will have the ability to transition these agreements into UK law.

It must also be noted that the agreements that govern our trading relationships with these countries are often substantially about trade but can include other aspects governing our relationship. While we are currently participants with 11 nations in traditional free trade agreements through the EU, many of the countries with which we have opened dialogues are covered by other agreements, including mutual recognition agreements, economic partnership and association agreements and so on.

There is a diversity of agreements and I would like to acknowledge that while our overall trade policy is clearly the responsibility of the Department for International Trade, some of those agreements that have a trade element but are not explicitly trading agreements fall under the auspices of other Departments. For example, the lead on economic partnership agreements is taken jointly by DIT and DfID. Association agreements have a political element and are led on by the FCO. Our agreements with the EEA, Switzerland, Turkey and the European microstates, which are the Faroes, San Marino and Andorra, are the responsibility of DExEU. Finally, we are working closely across Government to ensure that we deliver the best outcome for the United Kingdom.

Q229 **Chair:** Thank you very much, Minister. I am sure there will be great joy in Brussels hearing that our agreements pay dividends, there is great value to these agreements, these agreements bring benefits to citizens and indeed they are so good the UK wants to continue them.

Your chief trade negotiator, Crawford Falconer, told us that countries with EU trade agreements have agreed to roll over these agreements with the UK, but he added, "What people say today sometimes changes tomorrow." How can we be certain that they won't change their minds?

Greg Hands: That is a good question. You have to look at the big picture. The first thing to say is that it is very much in the interests of these partners for the trading agreements to continue. South Africa, for example, has a trade in goods surplus with the United Kingdom of £640 million. South Korea has a trade in goods surplus with us of £169 million. Switzerland has a trade in goods surplus with us of £1.7 billion. There are huge trading connections and while we focus on what is in the UK national interest, I think all of our partners recognise that continuing these agreements is very much in their interests and the interests of their businesses.

The second thing I would say is about the capacity constraint. If one were to sit down and renegotiate all of this—a number of our partners are also engaged in extensive trade negotiations—I think the capacity constraints on both sides would kick in, and the time constraint that we have to have this done by 29 March 2019. All these factors feed in so that ensuring continuity in our trading relations in this technical process is the natural thing to do.

Q230 **Chair:** You will be aware of the nervousness in one of our largest trading partners, Ireland, and I think you met last week with the three leading Fianna Fáil politicians: the shadow Foreign Minister in the Opposition, Darragh O'Brien, their Brexit spokesman, Stephen Donnelly, and the party chair, Niall Collins. Ireland might be concerned about the UK changing its mind. What sort of approach do you think the UK will be taking to Ireland, given their nervousness, in the next period? What changes will we see with trade between the UK and Ireland?

Greg Hands: Ireland is a massively important partner for the UK, as we have seen in the first phase of the negotiations with the European Union. As you know, Mr Chairman, I think we have come to a satisfactory outcome. We are pleased to have got to that position at the end of the first phase of the negotiation. Ireland is in itself a very important trade partner for the UK. DExEU leads on trading relations and the future of trading relations with Ireland, but in terms of the wider EU-third party FTAs I think it is in everybody's interests for those trading arrangements to continue and for this technical process to continue.

Q231 **Chair:** Can you envisage, or would you want, any barriers between UK and Irish trade going forward?

Greg Hands: No, I don't think it would be in anybody's interests for there to be barriers to trade between the United Kingdom and the Republic of Ireland. That has been stated clearly as an explicit aim of HMG policy on numerous occasions over the last year and a half. It certainly is not my desire to see any barriers to trade between the two.

Q232 **Chair:** Given that we are in a period of change, what you have said about Ireland, and change in the constitution of the UK, how would your approach to Scotland differ from that of Ireland?

Greg Hands: As you know, Mr Chairman, trade policy is a reserved matter. We enter into all of these talks to seek the best possible outcome for the United Kingdom as a whole. That is our objective. We talk and we liaise regularly with the devolved Administrations and with businesses in Scotland, Wales and Northern Ireland.

Q233 **Chair:** I am talking about in the event of an independent Scotland, as we have an independent Ireland. How would you differ between those two?

Greg Hands: I know your interest in this matter, but I would say that that question was decided decisively in the referendum of September 2014. The possibility of an independent Scotland is not a factor that is part of my consideration.

Chair: Thank you very much. There seems to be no change there.

Q234 **Mr Leslie:** I am a bit confused, Minister, because I thought you were of the view that all of these 40 FTAs, all 70 countries have agreed to roll over. That is what you retweeted from your predecessor Lord Price—"All have agreed roll over". Have they now not? You are not quite there yet? You said you were hopeful, and confident.

Greg Hands: What I can say is that we have the agreement from more than 70 in principle to do so. Nobody has raised an objection. Our partners have agreed in principle to seek to ensure that continuity. We are now getting on with the technical aspects with some of those partners of how we do it.

Q235 **Mr Leslie:** I am worried that you are rolling back a little. In October you retweeted Lord Price's tweets, "All have agreed roll over". You said, "Enjoyed my predecessor Lord Price setting the record straight on transitional adoption of EU trade deals post Brexit #factsmatter", in your tweet, but they have not actually all agreed. You are talking about in principle, you are caveating, you are saying it is your aspiration, but there are no actual agreements yet.

Greg Hands: This is a process. That is the first thing to recognise. Secondly, in that tweet exchange between Lord Price and Sky News—I think it was Sky News—there were a number of other extraneous factors that were introduced. If I remember correctly, the Sky News journalist started asking Lord Price, "Who are you? Are you perhaps some kind of interested lord?"—perhaps some entirely different kind of lord rather than the former Trade Minister. He eventually had to say that he is indeed the former Trade Minister, my predecessor. There are a number of facts to correct in that exchange.

Q236 **Mr Leslie:** You were not agreeing with him when he said, "All have agreed roll over"?

Greg Hands: What I am saying is that of the more than 70 we have spoken to, nobody has given any principled reason not to do this.

Q237 **Mr Leslie:** Wait a minute. You quoted South Africa a minute ago. In *The Times* last week Rob Davies, the South African Trade Minister, said that there will have to be a renegotiation of agricultural quotas, sanitary standards. It doesn't sound to me as though South Africa has agreed roll-over, or am I wrong?

Greg Hands: I don't have the exact quote in front of me. A lot of what I think he is referring to is the possibility of future trade agreements that may cover other things. Don't forget, rolling over the existing trade agreements, and very careful on this, does not preclude doing a future trade agreement with that party. That is very important to understand. Can I answer your question very specifically? When the Secretary of State was in South Africa—I think it was late August or early September—he signed a memorandum of understanding with SADCA, which is the overall group in the economic partnership agreements. It is not just an agreement with South Africa. If I remember correctly, it is also with Botswana, Mozambique and one or two others as well. There was a specific memorandum of understanding where both sides agreed to do precisely that, to roll over the existing EPA, the SADCA EPA.

Q238 **Mr Leslie:** We have a roll-over agreement with South Africa on the free trade agreement that the EU has made? We have that already in legal text?

Greg Hands: It is a memorandum of understanding. I will leave it to the lawyers—

Q239 **Mr Leslie:** Can we see that?

Greg Hands: Yes, of course. You follow me closely on Twitter, Mr Leslie.

Mr Leslie: I do.

Greg Hands: If I am not mistaken, I tweeted that as well. I also tweeted the text of the similar agreement with CARIFORUM that we negotiated in late October in Brussels. If you go back to my Twitter feed, you should find all of those documents there.

Q240 **Mr Leslie:** I am taking the message from you that this is an absolute copper-bottomed, concrete pledge, that all 40 of these EU FTAs will be rolled over and done one second after midnight on 30 March 2019. That is where you are?

Greg Hands: It is a process but the important thing to understand—

Mr Leslie: Is it a promise?

Greg Hands: —is that every single country that we have spoken to has in principle agreed to do this and to make sure that there is continuity in our trading arrangements, but that process is ongoing.

Q241 **Mr Leslie:** No, but it is quite important. If this is not a promise any longer, we should prepare, potentially, for these agreements not to have been agreed one second after midnight.

Chair: Do we have a plan B?

Mr Leslie: The Secretary of State, in that same period of October 2017 I think, told the fringe at the Conservative Party conference, "I hear people saying, 'Oh, we won't have any free trade agreements before we leave'. Well, believe me, we will have up to 40 ready for one second after midnight in March 2019. All these faint hearts saying we can't do it—it's absolute rubbish." Do you stand by his promise?

Greg Hands: The position, Mr Leslie, is unchanged. We have said—

Mr Leslie: Nothing has changed?

Greg Hands: We have said it is strongly in both sides' interests for this to happen. Don't forget that with trade it is a two-way flow. It is as much in the interests of South Korea, South Africa and all the other 70-plus countries for this to happen. We are confident that we are in the right place.

Q242 **Mr Leslie:** No, that is an aspiration. Sorry, we don't have time to go through it, because there are other members. Are you saying that we will have all of these 40 agreements, yes or no?

Greg Hands: I am saying that there is no principled objection to doing this. There is a process starting. We are moving into the technical phase of that process and looking at texts, and so on.

Q243 **Mr Leslie:** You can't promise here today?

Greg Hands: Mr Chairman, I am not sure we are adding much in this exchange other than to say it is strongly in both sides' interests for this to happen.

Mr Leslie: You would like it to happen.

Chair: I am glad to hear it is in everybody's interests, which refers to the earlier point I made.

Q244 **Faisal Rashid:** Thank you for the answer, Minister, but I would like to continue about the roll-over of agreements. How likely do you think it is that these agreements will be rolled over, as said earlier, by copying and pasting without any changes?

Greg Hands: For reasons I outlined, for reasons of continuity, there is strong interest on both sides for these agreements to remain substantively the same. That is the in-principle starting point that we have with all of these partners. There are certain details, such as TRQs, rules of origins and so on, that need to be ironed out. There is currently a TRQ, for example, between Morocco and the European Union on tomatoes. Talking about the size of these TRQs, which I think is important to understand, Mr Chairman, this will give you an idea of the magnitude. They are not particularly massive compared to, say, WTO TRQs; they are important. The largest amount of product imported by the UK in relation to one of those TRQs is tomatoes from Morocco in the volume of £23 million. That will give you an idea. Obviously there will need to be a solution found for the EU quota, but this is not, in my view, an unsurmountable problem.

Q245 **Faisal Rashid:** Do you think that there will be some changes to some agreements but not all of them?

Greg Hands: They will remain substantively the same. In other words, the effect of the agreement should be unchanged.

Q246 **Mr Fysh:** How important is it for the conclusion of these new or transitional arrangements with the non-EU free trade agreement members to be on a bilateral basis, directly between the UK Government and the third-party Government?

Greg Hands: As opposed to—

Mr Fysh: As opposed to wanting or asking for the consent of the EU.

Greg Hands: Let me deal with that in two parts, Mr Fysh. The EU is very well aware of this process. I will refer to what Michel Barnier said in the press conference just before Christmas, just after we had agreed that we had made sufficient progress on the first stage of the negotiations. He said, "The UK needs to prepare as of now to be able to replicate these agreements". The EU is not only aware that we are doing this but they have an understanding that we are doing this. In terms of how we go about doing it, it makes most sense to do it on a bilateral basis where we are talking with our partners and looking at the text, "How can that be transitioned into a UK agreement with that third party?"

Q247 **Mr Fysh:** What is your assessment of when those basic agreements with these countries have to be concluded in order to allow them time to follow any legislative processes that they may have to ratify them properly so that they are legal agreements?

Greg Hands: That is a good question. We have to get all these agreements put into UK law by 29 March 2019, notwithstanding what may or may not be agreed for an implementation period. We are working on the basis that the transition needs to be in place by 29 March 2019. We need time under our processes and the Trade Bill has to go through both Houses and have royal assent. The counterpart may have its own domestic ratification processes. That can vary, as we have seen, for example, with the original EU agreements. Off the top of my head, I think the Canadian ratification process is around six months. The Singapore ratification process I think is shorter, at around three months. So obviously the counterparties with whom we are talking will vary according to their own domestic ratification process.

Sometimes this can be quite intricate, for example with the EU Andean agreement, which again has three counterparties to it: Ecuador, Peru and Columbia. The Peruvians point out that the Colombians have a relatively long ratification period but we are keenly aware of this. That has been part of the discussion with those 70-plus partners. It is to make sure that we are aware of their needs. We obviously need them to be able to say that the agreement is operable as we leave the European Union.

Q248 **Mr Fysh:** Finally, presumably a part of that is trying to ascertain when it can be fitted into their legislative process, because it might normally take six months—for example, in the Canadian example—but if their legislative time in their Houses has already been filled up then we need to be acutely aware, do we not, of whether that process can be fitted into their legislative timetable?

Greg Hands: I think that again shows the merit of engaging early and engaging directly with the partners. We have spoken to more than 70 of the countries, covering the 40-plus agreements and making sure that from their side they are aware—most of them obviously are—because they are used to ratifying agreements of all kinds and descriptions. Most of them are obviously aware of what their domestic ratification process is.

In the meeting I had with CARIFORUM, I met all 15, which is the 14 Ministers of CARICOM plus the Dominican Republic. Some of these countries are quite small—for example, St Vincent—and can be quite intricate in places. I am not denying there is a level of detail and granularity in this whole process, but determining what St Vincent's domestic ratification process might be is also part of that equation and making sure that we are on top of all of it. I can say, with thanks in large part to our missions abroad and the excellent people we have on the ground engaging on this, we obviously engage on a bilateral basis with all these countries as well as with the whole of CARIFORUM secretariat, using that example.

Q249 **Emma Little Pengelly:** I just want to come back on the back of Chris' comment in relation to—you have articulated it again today—your optimism and your strong desire to roll over all of these agreements in a way that creates a very smooth transition. Whenever we heard some evidence from Lord Price he referenced a potential contingency option, which we have referred to thus far as the "living in sin" option, which is the WTO article XXIV of GATT procedure in terms of potentially up to 10 years being able to operate this without the formal ratification or roll-over.

So first of all, although you have the optimism and you have the intention to try to roll all of these over, is the Department contingency-planning in a sense for that plan B in relation to possibly having to use the article XXIV procedure that was referenced by Lord Price? Secondly, it seems from the information that we have that article XXIV does require no substantive change to the existing relationship as the negotiations are taking place in order to get the continuation. Is that partly why the Department's position is, and I understand you have put out a reason around the timing of this and the time it takes to renegotiate, but is that partly the consideration where there is an intention not to have any substantive changes to those existing deals up until the point of Brexiting?

Greg Hands: Let me try to answer each part of that. The intention for there to be no substantive change is there for a number of reasons. First of all, while we are members of the European Union, as you will know, under the duty of sincere co-operation we are not permitted as such to enter into a trade negotiation, or at least to negotiate a new trade deal. That is the first thing to understand.

As I mentioned, the capacity and time constraints also strongly favour us making sure that there is no substantive change. The WTO is also someone—one also has to look at what is happening at the WTO. It is important and, of course, the UK, as we rectify our own schedules at the WTO and are strong believers in the role of the WTO in the multilateral trading system, will make sure that we are one of its leading advocates.

In answer to a lot of your questions, a lot will depend on the implementation period. We have been clear that the implementation period must have a defined end point and be of a defined length of time. Therefore, I do not see arising a case where something will be effectively in limbo for 10 years.

Q250 **Emma Little Pengelly:** Sorry, just to come back on that. Is it actively a contingency within the Department? In the sense of, "Yes, ideally these will be signed and agreed, the roll-over, everybody," however, although you do not see it lasting 10 years is it very much your plan B that if they are not agreed at the time that they need to, certainly there will be a roll-over under that article XXIV WTO GATT?

Greg Hands: If for any reason circumstances would change, then of course we would look at it, but at the moment we have confidence in what we are doing. The 70-plus countries have agreed to do this process. We are in the middle of that process. We are confident of the process. I am not in any way downplaying some of the involvement and time-consuming nature of that process, but we are confident that we are in a right place and doing the right thing.

Q251 **Faisal Rashid:** What the researchers at Durham Business Guild are saying is that not grandfathering any of the EU's FTAs, and any other trade related countries to which the EU is a party, will reduce GDP in the long term 1.1% and in the short term 2.7%. So how far does that reflect the Government's thinking about the eventuality?

Greg Hands: That is a very interesting question, Mr Rashid. Without getting too political here, they are pointing out the importance of rolling over these agreements and it reinforced my consternation, Mr Chairman, of the opposition parties voting against the Trade Bill, which does precisely that. So if you are right in terms of the importance of these agreements, I would certainly not be voting against the Trade Bill on Second Reading, as you did. If I can try to persuade you and convert you to vote for the Trade Bill on Third Reading, then a lot of my mission will have been completed, but let me try to deal with the substance of your question.

It is very difficult. In terms of a trading relationship with a country, what I can tell you is that the third countries would have EU FTAs. According to ONS trade data for the UK, the countries that the EU currently has trade agreements with account for around 12% of UK trade—a value of 138 billion. If you were to include the deals that are not yet in force but might be assigned before Brexit day—Singapore, Vietnam and so on—that would rise to around 14% of UK trade, or 160 billion. However, there is a massive caveat here that that is bilateral trade with that country. That does not necessarily mean to say that if the agreement were not in place all of that trade would disappear if we, whatever other trading arrangements were in place, or simply WTO rules. Obviously that trade would not all disappear.

It would not be right to say that those volumes are what would be put at risk by not undergoing this process. However, we are absolutely determined to do this process and make sure that there is continuity in our trading relations. We very much recognise the value of those deals, not just for us but for our trading counterparts, and that is why it is essential that this legislation go through Committee stage and be given a Third Reading, and I hope to see you, Mr Rashid, in the Division Lobby with me later this evening.

Q252 **Faisal Rashid:** Okay. So the question was: if these are not grandfathered, what is the Government's approach in that eventuality? So what is the plan B?

Greg Hands: Okay. I refer to where I was earlier.

Q253 **Faisal Rashid:** That was the question. Sorry, if I may just continue on that as well. I was on the Trade Bill Committee yesterday and I quoted that the Government also accept that there will be some changes on the agreements. They cannot just roll over as it is, copying and pasting, which—obviously you briefed me a little bit earlier as well. Where is the scrutiny? One of my colleagues also mentioned to an earlier panel that the third countries will have to pass legislation through their own

Parliaments if there are any changes to those agreements. So what about the UK? Who is scrutinising the changes to those roll-over agreements in this country? Are we not making a mockery of democracy then?

Greg Hands: Okay. Of course the intention is that these agreements should be substantively the same, yes? So the substance of the agreements is unchanged. Of course, there may need to be a change in some of the fine detail, some of the numbers on things like TRQs and so on, but the substance is the same. The second thing to point out, of course, is that all of these agreements have already gone through Commons and Lords scrutiny processes, as a member of the European Union, through that normal process.

For example, just last February we took CETA through. It was a Committee upstairs, and a very good debate. You might remember that your party split three ways—that is one of the reasons why I remember it so well. Certainly Mr Leslie will remember it quite well because I think he was one of the rebels. I cannot remember where you two were. It had a proper scrutiny process and a lot of questions and then there was a vote on the Floor of the House that followed on a deferred Division on the Wednesday. That agreement will have further scrutiny as we ratify CETA as well. It is important to recognise that all of these agreements have received extensive scrutiny within our normal processes.

In terms of where third parties are on their scrutiny process, that is very much a question for them and their domestic arrangements. All I can say is that there is likely to be a diversity of arrangements they have. I have already alluded to the fact, the time differences some might have and some of the complications.

Just going back to your original point that the substance of these agreements will be the same and that is the most important thing to understand.

Q254 **Mr Fysh:** Just to follow on. Given the importance of these agreements and making sure that we have them, how important is it that the UK Government does not give the EU a veto over doing those deals on a bilateral basis, which is what their draft negotiating guidelines may be trying to seek?

Greg Hands: I never normally comment on leaks, Mr Fysh, even leaks from other Governments or other bodies, so I am not going to comment specifically on that, on what may or not have been said by the Commission. All I will say is that, going back to what Mr Barnier said in December, he fully understands this process and thinks that the UK needs to prepare to be able to replicate these agreements. So the EU has an understanding of what we are doing in this space. I cannot remember the first part of the question.

Q255 **Mr Fysh:** How important is it that we do not give it a veto?

Greg Hands: The importance of the agreement is very big for the UK. You have to remember that the UK, for the last 40 years—obviously our trade policy has been conducted by the European Union—has been the leading advocate, in my view, in the European Union of getting those agreements in the first place. For example, even now in foreign affairs councils that I attend on behalf of the Government, I am making sure that the UK is as forceful as anybody in making sure that the UK is strongly behind the EU's current trade agenda—for example, with parties such as Mercosur, Australia and New Zealand—because the UK believes in free trade. We believe in others having good trading arrangements and relations, so of course the UK values these agreements. In many cases a large part of these agreements have been made in the UK.

Q256 **Chair:** Is the value of these deals not just a vote of confidence by the UK and the EU of the fantastic job that the EU has been doing in protecting GDP by up to 2.7%? This is a vote of confidence from you, Minister, in the European Union in wanting to grandfather the European Union's deals?

Greg Hands: The UK has been the leading advocate within the European Union for a free trade agenda. It would be interesting to see—I think it is an under-scrutinised aspect of what the future might be—where the EU goes with trade policy after the UK leaves.

Q257 **Chair:** Are you saying the UK and the EU need each other?

Greg Hands: I think it is clear that we need—

Chair: For working together on trade agreements.

Greg Hands: —a good frictionless free trading relationship and have a comprehensive free trade agreement between the UK and the EU. That is a clear intention statement of Government policy.

Chair: You are already making mischief as well as you can.

Q258 **Matt Western:** I would like to ask you about priorities in terms of agreeing these deals. Back in October the BBC's "Newsnight" programme reported: "The Department for International Trade is advising Ministers to focus their fire on rolling over a small number of deals, perhaps as few as four." What agreements are you focusing on and how have they been chosen?

Greg Hands: Yes. That is a reasonable question. We have not chosen a subset. Our intention is to talk to all of our counterparts. That is why over 70 have no in-principle objection. Over 70. That is everybody we have spoken to so far wants to do this. In terms of the agreements, obviously some are more valuable to the UK economy than others, but our intention is not to select a small number. Our intention—

Matt Western: There are no priorities.

Greg Hands: —is to ensure continuity in those 70 plus.

What are the most important agreements for the UK? In terms of trading volumes, and again looking at the trade data with these different counterparts, there are very important agreements with South Korea, with SADC, the South African agreement, the various Swiss agreements, the EA agreements.

There is political importance in a lot of these agreements as well; we cannot just say it is only about trade. For example, an agreement with Ukraine has trade elements, but clearly there are very important aspects of UK foreign policy and European stability policy involved in that agreement. There are very important aspects of UK development policy in EPAs, for example. If we take the ECOWAS agreement and a small country such as Benin—I think Benin is in the ECOWAS agreement. Just because the UK and Benin are not doing that much trade does not mean it does not have importance. It is of key importance for the UK's development agenda.

What I am trying to get across is that you cannot simply select these agreements purely by value to determine a prioritisation. Some have more value than others, but there is a cross-governmental aspect to a lot of these agreements. Key parts of our agenda on foreign policy and development and so on.

Q259 **Matt Western:** So there are other elements to the strategy that you are following, as you are suggesting, but not purely trade or quantifiable trade. You are saying there are factors that are coming into play?

Greg Hands: It is ultimately a whole-Government approach. I mentioned right at the beginning that we are the lead Department for most of these agreements, but for many of the agreements there is either a joint lead between us and DfID, an FCO lead or a DExEU lead, particularly with counterparts where it is inevitably very closely related to what our future trading relationship with the European Union will look like. That is why, for example, DExEU leads on some of the agreements in countries and areas that are very closely tied to the EU.

Q260 **Julia Lopez:** That leads quite nicely to my question. We had Lord Price before us a few weeks ago, as you know, and there were a few questions that he felt unable to answer because he said they were a competence of DExEU. I am concerned, as we go into the next round of the negotiation that focuses on trade, that the DExEU team may agree something that will have an impact on your ability to negotiate in future. I would be keen to know: what is the level of interaction between DIT and DExEU? What are the mechanisms for co-operation? How often do you see your fellow Ministers to discuss trade issues and to what extent does DIT have an impact on the negotiation at EU level?

Greg Hands: Okay. I think the relationship is very good. In terms of ministerial contact, the two Secretaries of State meet weekly. I meet every few weeks with Robin Walker at DExEU to talk about these. We have quite a few joint working groups looking particularly at a sectoral level. You were quite right to ask the question, because the implications of what a future trading relationship with the EU will look like could have significant implications for what our future trading relationship outside of the European Union will have. So, quite rightly, we have joint working groups generally organised on a sectoral level looking at the implications, because clearly the implications will be different in different sectors of all of these questions.

Q261 **Julia Lopez:** I just want to follow up. You alluded to the implementation period and I just want to know: from your perspective, do you believe that we must have the future trade relationship with the EU absolutely nailed down in March 2019, before we leave, and that literally will be an implementation period, where we know what destination we are working towards?

Greg Hands: It is a stated aspect of Government policy to have clarity on the end state sought at that time. Clearly it is in all of our interests to do that.

Q262 **Faisal Rashid:** Minister, a recent report by Buzzfeed News suggests that the Government want the EU as part of the post-Brexit transitional arrangements to allow for third-country agreements to apply as if the UK were still a member state. Is that true?

Greg Hands: Sorry, I am not a regular reader of Buzzfeed. So they are saying that the EU wants the UK to remain a party, what, during an implementation period?

Faisal Rashid: Post-Brexit transitional arrangements.

Greg Hands: Okay. So on the implementation period, in terms of what the EU thinks and what the EU wants, you could more reasonably put that question to the EU. What is clear for us is that we want to have an implementation period. We would do nothing as a Department that would be contrary to whatever is agreed as the terms of the implementation period.

Q263 **Faisal Rashid:** So if that is true then what is the legal mechanism where this can be taken forward in the EU withdrawal agreement?

Greg Hands: Again, I have not seen the Buzzfeed report. You are asking me, "Is that true?" and I do not have the thing in front of me. I will try to answer your point. I think this is in relation to whether the UK can have independent trade negotiations during the implementation period, is that where I think—no?

Faisal Rashid: Yes.

Greg Hands: Post?

Faisal Rashid: Brexit transitional agreements.

Greg Hands: Brexit transitional agreements. I am sorry. I wonder if Mr Leslie might—

Q264 **Mr Leslie:** I think you might have misheard Mr Rashid's question. A Buzzfeed article was suggesting that it would be the UK who would be asking the EU, during the transition, to allow third-country agreements to apply as if the UK were still a member state. In other words, after we get past 30 March, because we are not going to be guaranteed to have all these 40 FTAs there—and from your earlier answers I think it is pretty clear you are not promising that any longer—we go into the transition period, and obviously you would accept those FTAs do not automatically apply to the UK any more. We would not be able to take advantage of those 40 FTAs any more. There is a big question about our ability to access that 12% of our export benefits that we get currently from those EU FTAs. The question is that while we are in this transition period, Mr Rashid's point is, is the UK asking the EU, "Please can we still be treated as if we are a member state?"

Greg Hands: Right, okay. Sorry, now I understand the question. I apologise. I am afraid I am not going to be able to give you much joy in terms of an answer because this will all be subject to the negotiation about the implementation period. What is or is not allowed in the implementation period will be a key part, I would expect, of that discussion between DExEU and the European Union.

Q265 **Mr Leslie:** You are saying that we are in phase 2 now. This is the negotiation period where the rubber is going to hit the road. If we are in this transition period where we cannot benefit any longer automatically from these EU FTAs, we are going to be in a situation where, for instance, those other countries can sell their goods into the UK tariff free. So Korea could sell cars into the UK tariff free but the UK's car manufacturers, if we wanted to sell cars to Korea, would have to pay an 8% tariff. The first question is: you would not agree that was a satisfactory situation to be in, to have that unfairness, would you?

Greg Hands: The most important thing is to ensure continuity. From what you are saying to me, Mr Leslie, it sounds like that would be a massive discontinuity. Our objective in all of this is to maximise continuity to make sure that the provisions of those agreements remain in place. I think that provides the answer that you are needing. What else? Obviously we would act and seek to secure UK interests, and it is strongly in the UK's interest for the provisions of those agreements to still be in effect during the transition period.

Q266 **Mr Leslie:** So you will be asking the EU, "Please, may we still be treated as if we are a member state during that transition, because otherwise we will end up with unfairness?"

Greg Hands: I would say the overview is to seek continuity. In terms of the specifics of that negotiation—

Q267 **Chair:** Does that include the European Court of Justice when you have continuity?

Greg Hands: Look, you know as well as I do the Government's position on that and that the actual negotiations are a DExEU lead. What I can say is that it is in our interests, as a Department and also as a country, to have maximum continuity and to make sure that these agreements, or the substance of the agreements, continues to apply in both the UK and the third-party country.

Q268 **Mr Leslie:** I am afraid it is not good enough to say that this is a DExEU matter. It is your Department's matter because this is what happens to that 12% of our trade that we have via all these EU FTAs. If we now know, as we have established earlier on, that we cannot be guaranteed that they are all going to be rolled over one minute after midnight on 30 March, we are therefore going to be in this transitional period where we need the EU to give us permission to still be treated as though we are in those EU FTAs, because otherwise we fall out into this abyss. We just need to know that the Department is going to be asking the EU for that.

Greg Hands: In terms of the implementation period, obviously that is a matter for the negotiation. I have been quite clear that we would not want to have any discontinuity in these trading relations that are stipulated by those 40-plus agreements. Can I also just say that you are not quite right of course in saying that 12% of our trade is determined by those agreements? The counterparties of those agreements are where we do 12% of our trade with. It would not be, as I think I stressed earlier—well, you are shaking your head but—

Q269 **Mr Leslie:** You said it earlier; it was your figures.

Greg Hands: —most of the academic studies will show you that an FTA on average—studies that have been done of more than 150 FTAs—will add more than 32% to trade volumes. It would not be right to say that all of that trade, for example with South Korea, is dependent on the agreement. The most important thing is that we are seeking continuity. That is our objective. The UK would clearly not want to see anything that would lead to discontinuity in that trade relationship.

Q270 **Chair:** Just before we move on to Marcus Fysh, you think that other countries are not going to, in any way, look for an opening. They seem to be quite agreeable. Is this not just a trade gambit of not showing their hand and if there is last-minute pressure on the UK for a concession before agreement, do you have a plan to deal with that, or will you just wait and see?

Greg Hands: I think you are going to have to put yourselves in their shoes. If the—

Chair: That is what I am doing, because if the Koreans or whoever are going to open up an agreement, they are going to want something for it. If they are going to change the numbers, they are going to want something for it, and what concessions are you prepared to give? If you put yourself in their shoes, any trade negotiator from a third country who is worth his salt and looking for a bit of promotion is not going to let this opportunity pass him by, surely.

Greg Hands: Yes, I understand your question, but I think one has to understand that this process is fundamentally different. There has never been a process like this in the history of trade negotiations, because these are agreements that are already in place. There is a time limit to be able to make sure that they continue to apply after Brexit. So you would have to ask—let me just finish. Hold on, Mr Chairman. Let me answer the first question first.

You would have to ask yourself if you were in the South Korean shoes, in terms of the importance of the agreement, the arrangements that are already there, and bear in mind that obviously in the future you can return to these agreements, but in the course of the next 14 months that if you were to try to reopen that whole agreement—

Q271 **Chair:** No, the South Koreans might not want it open because the South Koreans in the automotive area find themselves at an advantage if it stays closed. It is in your interest to open the South Korean agreement. It is in their interests to keep it closed. You might want to open it to change the numbers and then the Koreans come to you and say, "We want some change from you." What are you prepared to do in that instance?

Greg Hands: What I can tell you is that the EU agreement with South Korea is popular. I have talked to the South Koreans.

Q272 **Chair:** There is no problems for South Korea because it benefits them.

Greg Hands: I have already pointed out to you, for example, I am not a mercantilist, but South Korea does have a trade surplus in goods with the UK. The discussions we have had with the South Koreans so far have been very positive. We are looking at text of the agreement but you would have to ask yourself whether somebody would want to risk the whole agreement and the whole trading relations to do that when both sides are clear that we do not want to substantively change the terms of trade.

Chair: One final point before I move to Marcus Fysh.

Greg Hands: We can of course return to this in the future. Can I just stress that point? Okay, we can agree to the continuity. The current trading relations in no way precludes the UK and South Korea from returning in the future to change those trading arrangements and enter into an entirely new independent UK-South Korea agreement at some point in the years to come.

Q273 **Chair:** So the UK automotive sector—companies such as Jaguar Land Rover, and companies like Toyota or whoever—will be looking at the UK Government's approach to the Korean agreement and you are telling me that the UK Government does not, at this point, want to open the Korean agreement?

Greg Hands: What we want to do is secure continuity in those trading relations. For the reasons I outlined, renegotiating one of those agreements may not be possible. There are also reasons of continuity. There are reasons of resources in our Department—

Chair: That is exactly what I am concerned about.

Greg Hands: —if we were to enter into 40-plus live trade negotiations and have to have them done within the space of 14 months. You have to bear in mind what is possible but also, most importantly, we have the ability to return to these agreements in the future once we have made that transition.

Q274 **Mr Fysh:** What input did the Department for International Trade have into the Prime Minister's decision to allow the inclusion of text with regard to Northern Ireland's full alignment, potentially, being an option in the future?

Greg Hands: I could not tell you specifically who said what at Cabinet, but obviously any matters in relation to trade, even if they are led by another Department, the Department for International Trade will have its say and will use its expertise to make sure that its voice is known.

Q275 **Mr Fysh:** Is it not the case, though, that if the UK were in a customs union with the EU that we would not be able to pursue an independent trade policy?

Greg Hands: In the sense that you and I understand the independent trade policy, yes, of course. If we were in the customs union we would not have the ability to do substantial significant trade agreements with other parties. That is one of the clear downsides. I know Mr Leslie wants us to stay in the customs union and his party's official policy is to leave the customs union. I know he takes a keen interest in this question, but that would prevent us having an independent trade policy in the sense that you and I understand.

Q276 **Mr Fysh:** Is the Government's policy still not to have a customs union with the EU?

Greg Hands: Our policy is to have a customs arrangement with the European Union but not to be in the customs union, and that has been laid out by the Prime Minister in the Lancaster House speech and, if I recall correctly, in the letter to Donald Tusk. I think the Florence speech has been a consistent aspect of Government policy. I imagine you might be asking the question because some of the opposition parties seem to be in a state of perpetual confusion as to whether they want to be in the single market, the customs union, in one but not in the other, but that is maybe a question one can perhaps better put to somebody other than me.

Q277 **Mr Fysh:** Would it be advisable for countries who might like to do a trade deal with the UK in the future to make approaches to the UK now, given the possibility that if we were to be forced to remain in a customs union that would become impossible?

Greg Hands: Government policy is clear. Our trading partners understand Government policy on leaving the customs union. We have set up 14 trade working groups with future trading partners to look at what we might be able to do in the future, and those discussions are informed by us leaving the customs union.

Q278 **Mr Fysh:** So when it comes to the technicalities of a customs co-operation agreement, one of the aspects that would have to be dealt with as part of that is how one deals with the rules of origin and the processes around that that a business would have to undertake. Given that the Department for International Trade is already engaged in trying to help our exporters deal with third nations around the world, what more can the Department for International Trade do to ensure that the full range of our businesses who might at the moment only do business with the EU, for example, are aware of what potential declarations, what sort of certificates and so on might be required and getting them to have those systems in place for day one?

Greg Hands: I think your question is: what are we doing to make other people aware of the future possibilities of trade with the UK? The answer is that we do a massive amount of that. Here today we are focusing on just a narrow but very important aspect of trade policy, but the Department is much bigger than trade policy; it is trade promotion, export promotion, investment promotion. There is also a lot you can do in trade policy. We have been talking here about trade agreements, free trade agreements and so on. There is a massive amount you can do in the space of trade policy to break down barriers between us. We sit down on a regular basis, on an organised basis, with key counterparts—what we call JETCOs, joint economic and trade committees. There is no talk there about free trade agreements, customs unions, this, that and the other; the talk there is about practically removing and reducing trade barriers between us.

The Secretary of State had a JETCO with India two weeks ago. I had one, for example, with Taiwan in December. In these things you can do an awful lot to remove or reduce trade barriers between us. I am constantly going in to bat for Scotch Whiskey with Taiwan, for example. They have some quite complex procedures involving lot codes on Scotch Whiskey bottles. We are constantly pushing and pushing Taiwanese authorities to change their approach and make sure that Scotch whisky can access the Taiwan market in the same way that it can access other markets—i.e. in a way that their product is tamper free and sound in terms of the product going in.

My point is that it is not just about trade agreements. Talking about the prospects of future trade with the United Kingdom, the world's fifth largest economy, a big player, big advocate for global free trade, is a huge part of our agenda as we go around the world.

Q279 **Mr Fysh:** I have a final question, just to follow on from that. To try to get our exporters ready for any eventuality, in terms of helping our companies get their systems up to speed with having to source the certificates of origin or a statement of origin that might need to be made in the future to our EU friends and allies, is that not a thing that the Department should be very much engaged with? To what extent would that be obviated by us being a party to the pan-Euro-Mediterranean convention?

Greg Hands: In terms of the practical aspects of trade and trade facilitation, it is something that we work very closely with DExEU on; where that might go. I do not want to get into that. That is, in itself, probably a whole separate hour of talks, probably with DExEU.

In terms of a relationship with HMRC, we obviously are working very closely with HMRC. One of the things I would point to you again in the Trade Bill, which you and I supported—and I still cannot properly understand why the opposition parties voted against it on Second Reading—is those data exchanging powers between HMRC and the rest of the Government, a lot of that would assist in this area. I am evangelising again for the Trade Bill. Mr Chairman, I think I can get them to vote for it on Third Reading.

Chair: Time is preventing us from taking part—

Greg Hands: A very important part of the Trade Bill is the ability to exchange information and for HMRC to seek more information from and about exporters to be able to inform trade policy, particularly in relation to trade facilitation. That is a key part of the Bill.

Q280 **Chair:** On Mr Fysh's point on the PEM convention, what is the Government's policy on that?

Greg Hands: That will be a matter for the negotiation with the European Union. That is very close to what our future trading relationship with the European Union will be.

Q281 **Chair:** So the Government have no firm line on PEM at the moment?

Greg Hands: It is a matter for the negotiation.

Q282 **Faisal Rashid:** You mentioned quite a few times about the continuity for rolling over these agreements, which is fine. I am still not convinced that those agreements will be rolled over without any changes, but if that would be the case then why does this Bill need Henry VIII powers? That is for another discussion. In trying to roll over the EU's trade agreements, how is the Government approaching the provisions for dispute resolution that they contain, such as the investment court system and the comprehensive economic and trade agreement with Canada?

Greg Hands: Okay. We did, Mr Rashid, have quite an interesting discussion on CETA when it went through Committee on the proposed ICS system. All of those matters are matters for future UK trade policy and future UK trade agreements. I was clear that it was in the national interest for us to agree to CETA. The UK has been a key part of the EU trade agenda. I was delighted that 86 of your colleagues voted with us to make sure that CETA went through. You and I can perhaps work on the 68 who did not vote for CETA. But it is very important that we have that continuity. In terms of where the UK might be in the future on any sort of investment court system, that is a matter for future trade policy.

Q283 **Faisal Rashid:** So no work has been done at the moment on how you see that moving forward?

Greg Hands: I am not saying that no work has been done; what I am saying is—

Q284 **Faisal Rashid:** What has been done then?

Greg Hands: That is not in the Bill and it is not relevant to the transitioning of the EU FTAs with the possible exception of CETA, which does have ICS provisions, but where the UK on this is going to be in the future, that is a matter for future trade policy.

Q285 **Emma Little Pengelly:** The United Kingdom has long been a positive force for free trade in the world and, as referenced by yourself, also a force for the promotion of free trade within the European Union. Although I think we can recognise, because of the constraints on time and so on, why the existing deals may have to remain the same to be rolled over, presumably in the pursuit of a better free trade arrangement we will want to revisit a number of those existing country FTAs in due course. There had been an issue that had arisen in relation to the scrutiny as set out in the Trade Bill, and the Bill does not cover potentially new FTAs, but it seemed to be less clear about what happens in the future if there is a substantive renegotiation of the rolled over FTAs. If that does happen, should it be in two years' time, five years' time, 10 years' time? How do you anticipate that coming back in relation to the scrutiny? Is the intention of the Department to put that into the basket with new trade deals and through a new process in terms of parliamentary scrutiny and so on, or is it anticipated that they will still be covered by this piece of legislation and therefore not be subject to any enhanced or new scrutiny?

Greg Hands: That is a very good question. Let me try to deal with each part of it. First, obviously in the Trade Bill there is a sunset clause of five years for the powers to be able to transition a trade deal with a party that the European Union has a trade deal with. Secondly, if we negotiate a new trade deal to replace one of these trade deals—and by the way the European Union does that quite often. The EU is currently renegotiating its deal with Mexico, which they signed in about the year 2000. Trade is always being modernised and trade policy is being modernised, and procedures. People want to put more things in there and so on. It is not an unnatural thing to happen that new trade deals will come along. If we were to do a new trade deal with South Korea, it would be a new trade deal. It would be subject to the ratification processes that we will be bringing forward in due course in relation to future FTAs. In other words, this roll-over process would not apply to a brand new trade deal or a deal that revises, in a substantive way, what we have at the moment.

Q286 **Emma Little Pengelly:** Because the legislation does give the power to have quite substantial changes, renegotiation, of those existing deals, but you are very clearly saying that if there was any substantial change the Department's view is that that would be considered as a new trade deal?

Greg Hands: If there is a substantial change after the period these deals apply as EU deals, then that would be a new trade deal.

Chair: I do not think we have any further questions. We are quite happy. Thank you, Minister. There are clear signals that come out from your Department, at least here in Westminster, that you are looking for the minimum of friction for trade at any borders and that goes for all trade works in independent countries around the world, and the goodwill of your Government and your Department in that respect, including Switzerland, South Africa, Korea and many other places. Thank you for coming along this morning and for helping us understand your Government's and your Department's view, in particular of the grandfathering of the EU's trade agreements, when and if the UK finally disentangles itself from the European Union. Thank you.