

Welsh Affairs Committee

Oral evidence: [Brexit and trade: implications for Wales](#), HC 176

Thursday 3 September 2020

Ordered by the House of Commons to be published on 3 September 2020.

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Members present: Stephen Crabb (Chair); Simon Baynes; Virginia Crosbie; Geraint Davies; Ruth Jones; Ben Lake; Robin Millar; Rob Roberts; Beth Winter.

Questions 1 - 34

Witnesses

I: Sam Lowe, Senior Research Fellow, Centre for European Reform; Mujtaba Rahman, Managing Director, Europe, Eurasia Group; and Shanker Singham, CEO, Competere.



Examination of Witnesses

Witnesses: Sam Lowe, Mujtaba Rahman and Shanker Singham.

Q1 **Chair:** Good morning, all. Welcome to the Welsh Affairs Committee in the House of Commons and to the first evidence session for our inquiry into post-Brexit trade arrangements and their implications for Wales. We are delighted this morning to have a very high-profile, distinguished panel of witnesses in front of us. We are joined by Mujtaba Rahman, Shanker Singham and Sam Lowe. Before we get into any of the questions, if I could ask the panellists to very briefly introduce themselves and we will take it from there.

Mujtaba Rahman: My name is Mujtaba Rahman. I work in a firm called Eurasia Group. We advise investors on the European political economy. I am the lead analyst for Brexit.

Shanker Singham: I am Shanker Singham. I am the CEO of Competere, which is a trade consultancy. I have practised international trade and competition and regulatory law for about 28 years now; I have led the market access and WTO practice groups for two large global firms; and I have been an adviser to the US Trade Representative and to the former UK Trade Secretary.

Sam Lowe: I am Sam Lowe. I am a senior research fellow at the Centre for European Reform and I have some other hats as well. As a Llanelli boy, I am quite honoured to be here.

Q2 **Chair:** We are delighted that you have joined us, Sam. Thank you very much to all of you. Before we get into any of the specific lines of questioning, I will perhaps start by asking you as a panel—in very broad terms and without getting into numbers at all—if you could give us a sense of the importance that we should place on post-Brexit trade deals. Are we guilty in this place of overstating the importance of trade deals or understating the importance of trade deals? To what extent do they move the dial at all in terms of growth and prosperity for the United Kingdom?

Mujtaba Rahman: We cannot overstate, frankly, the implications of trade for economic growth. It is absolutely imperative for us to think through the UK Government's agenda, both regarding the EU but also the rest of the world, as they attempt to fashion trade agreements with the rest of the world as the transition period comes to an end at the end of this year. It is absolutely important.

Shanker Singham: As a high-level issue, sometimes we think of trade agreements just purely as commercial agreements. They are not if your trade policy is part of your foreign policy, so there are geoeconomic uncertainties that policy should communicate. The economic gains of trade agreements are quite difficult to model now because, while we have fairly good models for estimating the gains of tariff reduction and border barrier reduction, we do not have particularly good models estimating the



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gains of some of the behind-the-border barriers that can be reduced through trade agreements.

Modern trade agreements deal with behind-the-border barriers. They deal with all kinds of things, such as services and intellectual property. Much of it relates to your domestic regulatory environment and the domestic regulatory environment of your partner. That is where the biggest gains, in terms of the economic gains, can be made. You could do a very basic deal, let's say industrial goods tariffs only, and it would probably not move the needle massively, given the fact that industrial goods tariffs at a WTO level are relatively low.

On the other hand, if you do a deal that is very comprehensive and deals with services and good regulatory practice, and that lowers distortions both in your own market and in the market that you are negotiating with, I think the gains there can be significant. We do not have very good tools to model those kinds of gains. Certainly when the US was a participant in the Trans-Pacific Partnership, for example, the International Trade Commission reported on the potential economic gains of that agreement and concluded essentially that the tariff gains were relatively easy to model, but the behind-the-border barriers, other gains from the TPP, were very difficult to model.

We do not always have good mechanisms, and Treasury Departments tend to underestimate the gains from trade agreements. The New Zealand-China agreement underestimated by about 500%. I would say there are significant gains, but it depends entirely on the depth and the comprehensive nature of the agreement.

Sam Lowe: It is a difficult one in that I would agree with Shanker that it is quite difficult to model the impact of free trade agreements, especially when you are looking at the dynamic effects, the knock-on effects on competition and productivity. Economists try to do that, but we have a very poor understanding of what drives productivity anyway, so trying to model that in a trade agreement is quite tricky.

However, it is also true to say that, at the aggregate level, we should not be expecting very big numbers. I am using the EU modelling for its own trade agreements here, because I know if we talk about UK modelling it gets caught up in the British Brexit debate. If we use modelling that is completely unrelated to Brexit, if you think about the EU-US negotiations on TTIP that began in 2013, that was going to be probably one of the biggest agreements the EU had ever done and it was estimated to increase UK GDP in that context by 0.35%. That does not sound like very much, but for a trade agreement that is a lot. If you are looking at EU-Canada, we are talking about 0.03% as to the benefit.

However, I would say that this is true of all supply-side reports. If you look at the aggregate numbers, you are not going to get huge figures, but it does not necessarily mean that it is not important. I would say yes, it is still important for the UK to have a trade agreement with the EU,



which does pull out some bigger numbers because of its proximity and size, but it is also important for the UK, for many reasons, to have a trade agreement potentially with New Zealand, with Australia, with the US, so long as the terms are right, because when you start to add that all together, it does start to become meaningful and it is meaningful to businesses.

Something that is sometimes missed out of the debate on trade agreements is there is sometimes a cost to not having a trade agreement. A recent example of this, we can look to the US when it comes to lobsters in Maine, in that the EU had a trade agreement with Canada that allowed lobsters to enter the EU tariff-free from Canada, but not from the US, because the EU did not have a trade agreement with the US. This led to Canadian producers of lobsters or catchers of lobsters becoming much more competitive when it came to their sales to the EU vis-à-vis their US contemporaries. This has led to the US and the EU working something out recently, with the EU agreeing to reduce tariffs on lobsters on an MFN basis for everyone to address this. Not having a trade agreement does sometimes have costs as well if everyone else then goes ahead and does it.

Q3 Chair: Picking up on the theme of a deep and comprehensive trade agreement, which is obviously what the UK Government are trying to negotiate with the EU, could you give us a sense of where you think we are up to with these negotiations? We are well used to hearing different noises being made and being reported on in the press over a number of years now, and it does feel like we keep going around the same mountain. How does that feel to each of you? Is there still a more than 50% chance that we land a trade deal with the EU by the end of the transition period, or how is it looking?

Mujtaba Rahman: We currently assign a 55% chance to an agreement by the end of the year. I would say in light of recent developments, so developments over the course of the last 12 to 24 hours, there is probably strong downward pressure on that number, not enough for me to flip the call and say a no deal is now our central scenario, but it is certainly enough for me to have real concerns that we are losing confidence in that 55% number.

There are three real reasons underlying that. The first is to do with lack of progress, the second is to do with lack of time and the third is to do with lack of trust. I will work through each of those very quickly. In terms of lack of progress, after the high-level meeting in June when Boris Johnson met the institutional heads in Brussels, I think there was a real cautious optimism in Brussels that progress could now be made on the substance, that the face-to-face meetings would allow for informal soundings in a way that had not been possible in the first few months of the year, that private dinners between Michel Barnier and David Frost would also help to unlock the negotiating process. The fact that the negotiating rounds had become a bit more intensive, the two sides were



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meeting more frequently, that would also facilitate progress on some of these core substantive issues.

In actual fact, that has not happened at all. There has been progress on what one senior negotiator described to me as “lateral issues”, things like social security co-ordination, some issues related to the energy sector, the UK’s possible participation in a number of EU programmes, but not at all on the core issues of state aid, fish and governance. On state aid, the EU needs to know what the Government’s plans are going to be regarding their domestic subsidy regime. Unless and until that happens, I simply do not think a deal is possible.

It is worth reiterating that protecting the single market from what Europe perceives as unfair competition is a collective concern for the EU27, for all of the member states. This is not just a concern for the institutions in Brussels or Michel Barnier. All of the member states are very aligned on this question, and that is for the simple reason that their trade with each other and their interaction with the single market far outweighs their bilateral trade with the UK. Unless they are absolutely convinced there will not be an unfair competitor on their border, they are not going to sign up to an agreement at the end of the year, so there needs to be some movement on this question of state aid and there needs to be some visibility around what the Government’s plans are going to be at the end of the transition. At the moment, that has simply not been provided. The issue has not moved at all.

On fish, I think there has been some progress. Both sides have moved off principle. They are now talking about some of the detail, so it is not a debate about coastal sovereignty versus historical rights, but there is some discussion about numbers, about zonal attachments, so where the fish can be caught, what fish can be caught. There is a negotiation on fish, but I understand the two sides are still very far apart and people are sceptical that a convergence can be found, given how far apart they are on some of those details. I will not get into governance now; I am happy to in the question and answer session. I think on that issue there are also a number of outstanding concerns, specifically regarding dispute resolution and the EU’s desire to be able to cross-retaliate across sectors.

If I talk very quickly about time, I think this is now the single biggest concern in Brussels and across EU capitals, that negotiators are simply going to run out of time. There is a formal round next week. I think nobody believes there will be any progress next week, based on some of the hostility and briefings and counter-briefings we have seen from both Michel Barnier but also Downing Street over the last 24 to 48 hours.

The next negotiating round is then 28 September. That is just two and a half weeks prior to the 15 and 16 October European Council, which Michel Barnier has articulated as the deadline for an agreement to be reached. I understand in Brussels, in recognition that 15 and 16 October deadline is unlikely to be met and that leaders will not be able to sign off on a deal



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at that time, there is some discussion about a second European Council at the end of October.

There are also some rumblings about Michel Barnier potentially introducing an agenda item at the 24 and 25 September European Council to be able to brief EU leaders and inject a bit more political momentum into the negotiations, as well as a possible high-level meeting between Boris Johnson and EU institutional heads prior to the October council to again inject a bit more political momentum into the talks.

There is a willingness, I think, in Europe to use three opportunities to create a bit more time, a bit more momentum and a bit more energy behind the talks, but the point is even if that does happen, it is still very hard to see the negotiations running beyond the end of October. If the negotiations do run beyond the end of October, I think it gets very difficult to implement the agreement by 1 January for the simple reason that once you have reached a political deal, you have to convert it into legal text, scrub the legal text, so both sides have to look at the legal text, make sure that it is consistent, translate all of that into the European Union's languages and then give the European Parliament enough time to deliberate and sign off on the deal.

David McAllister, who is the European Parliament's Brexit point person—he is not a Brexit bore, I think it is worth saying that—has said publicly and clearly that the EP, the European Parliament, would need to see the deal by the end of October at the latest if it is going to be able to sign off on the agreement and have it in place by 1 January. I think there is a lazy narrative that the negotiation can run into November and that, if the politicians want an agreement, the technocrats will find a way to deliver that deal by 1 January. Frankly, I do not think that is right.

Now that the Government have decided not to extend the transition period, creating additional negotiating runway is very, very complicated. It would effectively mean a new treaty has to be negotiated using a different legal base. That would require new negotiators, a new mandate and a ratification process. You simply cannot do it in the time available. The window to strike the deal is between now and 31 October, I think. As I say, I think there is growing scepticism and concern in Brussels and, frankly, all across Europe as to whether that is doable in the timeframe available. The last very quick point—

Q4 Chair: Mr Rahman, picking up on that point, from what you are saying, what you are describing is that this time around, at this point, there is a very real cliff edge approaching that cannot be fudged.

Mujtaba Rahman: Absolutely. The idea that somehow this is tactical and part of the European Union's negotiating strategy to force concessions out of the UK, I do not think that is right. Of course the European Union is seeking to achieve the best deal for itself and the member states, but I think the time, process and legal constraints this time around are very real. Even with all the goodwill in the world from EU capitals, if the



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negotiations run beyond the first week of November, it gets very difficult to implement an agreement without disruption, impacting on 1 January.

Chair: If you could press through your third point, and then I am going to bring in Sam and Shanker to see whether they concur with this description of events.

Mujtaba Rahman: Absolutely. The third point is to do with the lack of trust, frankly. I do not think the private informal dinners between Michel Barnier and David Frost have unlocked greater trust between the two sides. I think the single biggest problem for the Government is that there is nobody, frankly, in Brussels or any EU capital that I speak to—and I speak to everybody—that can vouch for the intentions of the UK Government. Nobody is certain that the Government want an agreement, and that is impeding what participants call the choreography.

Neither side wants to jump first because they are concerned the other will not reciprocate. That is hamstringing the negotiations because Michel Barnier and the Europeans are defaulting to this idea of parallelism, everything needs to move forward at the same time, and that of course introduces lots of its own challenges and makes making progress on the substance much more difficult. There is a real lack of trust, I think.

Q5 **Chair:** Mr Rahman, thank you very much for that very clear and very helpful bit of analysis. Sam Lowe, do you largely concur with how Mr Rahman describes it?

Sam Lowe: I largely agree. I probably have some slight differences of opinion on a few technical issues but, on the core point of whether I think there will be an agreement, I still think it is more likely than not. Much of what has happened so far this year is not surprising at all. I wrote a piece in February suggesting that we would not get to the crunch point until after the summer and up until then there would be lots of chest beating. It is hard to argue that that is not exactly what has happened.

When it comes to the core issues remaining that need to be dealt with, I think state aid, as Mij laid out, is absolutely key. The EU need to know what the UK is proposing on state aid, and once the UK make those proposals we can go from there. On fish, maybe it is slightly naive of me, but I do also see a way through. If we are just taking one of the issues, the starting position is the EU never wanted to negotiate on quotas again and the UK wanted to negotiate every year. Surely there is a middle ground between every year and never again. It feels that it is in both parties' interests to come to an arrangement on fish, because it is something that, in the absence of an agreement, could descend into chaos quite quickly, as in fishermen fighting each other, navies having to be involved. I do not think that is in anyone's interest.

On the timing question, I agree with Mij that October is important and that if you go past early November, it starts to become very difficult. However, I am in the camp that cannot envision a scenario whereby if all



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of the EU27 and the UK agree to something later than that, a way is not found to ensure that more time is created. Technically speaking, I can work out ways to create more time, so I am sure the EU lawyers could if they were asked. They have not been asked yet, so of course they say it is impossible, but if they are asked by the EU member states to create more time I think that they could find a way, although that would be unideal, so my hope is that something could be resolved before that.

To make a broader point on what we are arguing about, because I think this gets lost in the UK debate slightly. When we are talking about enforcement of a level playing field on states for the environment and labour, I think people do not really understand what that means. To break it down, what we are talking about is that the EU want to reserve the right to withdraw concessions granted in the free trade agreement in the event of a breach by the UK of certain level playing field requirements. There is a discussion about cross-retaliation, which could take it elsewhere, but narrowly we are talking about the EU wanting the right to reimpose tariffs in the event that the UK breaches its commitments in certain areas.

What the UK is being asked to decide right now is whether to accept tariffs from 1 January, because there is an absence of an agreement, or potentially risk tariffs being reimposed in future, in the unlikely event that we breach some of these level playing field requirements. When you lay it out like that, it becomes quite obvious that, of course, you should go for the day one agreement of there not being any tariffs, even if there is a risk of them being imposed in future if we choose to diverge on certain issues, which when you look at the issues covered by a level playing field, it seems quite unlikely that we would. We are looking at environment. Do we really want to scrap the Industrial Emissions Directive? I am not so sure. On labour, do we really want to scrap those rules? I am not so sure. On state aid, has the UK ever historically been a big user of state aid? Not really. I do wonder how much of this is theological rather than practical.

Q6 **Chair:** Shanker, do you agree with Sam that there is a rational landing zone that can be reached?

Shanker Singham: I do think there is a landing zone that can be reached. I do agree with Sam that I think a deal is more likely than not. In fact, like Sam, I wrote a piece, this time in April, laying out what I thought was going to happen, what the landing zone looked like and how we could get to a deal. I do not think anything has changed since that time. I think we always knew that there would be, from the EU standpoint, a deal where the UK is essentially locked into the EU state aid rules and essentially locked into, to some extent, EU regulatory issues, which is not a bad deal for the EU. If you are the EU, you must hold out as long as you possibly can, and I think that is what is happening. If you look at the history of the negotiations, there is a history of the UK



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collapsing at the last moment and you might want to wait for that moment to arise.

I do not think there is anything surprising about the EU's position, but if you look specifically at the issues that are holding up the progress, if you look at state aid and competition, as I said in an article that was released today, first of all, what is the EU's concern with respect to state aid? The EU's concern is that the UK will subsidise its companies in ways that make them more competitive than European firms in the EU market. That is a completely legitimate concern, but there are a number of ways of solving that. The way that I think works, consistent with the UK's desire for independence and sovereignty, is not to say, "We are going to follow the EU state aid regime with the jurisdiction of the European Court of Justice." I think the appropriate way is for the UK to come up with its own anti-subsidy regime.

There is no appetite in the Government not to do that. In fact, the UK Government have already said that they are prepared to have an anti-subsidy regime, building on the WTO agreement on subsidies and countervailing measures, which has many gaps and can be significantly improved and, I would argue, should be improved. But the issue is dispute resolution. In that kind of world, you maintain the state aid regime and the UK has its anti-subsidy regime. Both are focused on ensuring that you do not alter the conditions of competition in the market through Government distortion, and both have an impact on trade test within them. If you are a company that feels aggrieved, if you are a French company and you are complaining about what you think is a UK subsidy, your recourse is through the UK administrative system.

Let's imagine that anti-subsidy regime is administered by the trade remedies body, which is where it probably belongs, then you would use the UK system. Similarly, if you are a UK company complaining about a French subsidy, you will go to the Court of Justice and you will complain about a violation of the European state aid rules. If there is a sense that there is a violation by either party, then there ought to be dispute resolution in the agreement. This is something that the EU is going to find very difficult, to have dispute settlement in the body of a free trade agreement over its anti-subsidy regime. But if you are going to do a deal on this subject—and this would be the first deal on this subject in the depth that we are talking about here, as no other trade deal goes quite this far—then you are going to have to accept dispute settlement over all of them, so I think there is a landing zone on these issues. On fisheries, I agree with Sam.

Chair: Sorry to cut in there, Shanker. I am just conscious of time, so if you just want to wrap up that point about fishing. I have a queue of members lining up to come in with supplementary questions on what you have been helpfully talking about.

Shanker Singham: On fisheries, if you are a French fisherman, you do not necessarily want to cause, by taking a very hard-line position on the



fisheries negotiations, a no-deal situation because that means no access. The best thing to do if you are a French fisherman is to try to win the negotiation when it is an access negotiation, which is what it would be if the UK is negotiating as an independent coast and coastal state. Where I think that is resolvable is that it is ultimately a number. The UK will have a number, the EU will have a number and the other member states will have a number. Between those two numbers there is the possibility of a deal, so I think even there there is the possibility of a deal.

Chair: Thank you very much, Shanker, and thank you to the panel for setting up our discussion with that helpful discussion around the current state of play with the EU negotiations. I have Rob Roberts and Geraint Davies both wanting to ask very specific supplementary questions on this topic. Geraint, are you ready? If you could keep it very brief and very concise, both in the questions and answers, please.

Q7 **Geraint Davies:** Mr Rahman, obviously you mentioned some of the complexities about having a comprehensive agreement about tariffs. Wouldn't it be easier where the EU have already negotiated a deal with Japan, for example, that we just cut and paste all the heavy lifting that they have already done and establish these bilateral deals based on what the EU have done, rather than reinventing the wheel?

Mujtaba Rahman: Given the UK's proximity, given its historical access to the single market, the EU side believe—rightly, in my view—this trade agreement is unprecedented in the level of access. The UK seeking to achieve zero-zero is also unprecedented, and not usually the starting point of EU trade negotiations. The notion of copying and pasting what Europe has done with third countries and applying that to the UK I do not think is realistic or, frankly, how EU policymakers are thinking about the negotiation.

Sam Lowe: Just to supplement that, because I agree with Mij that that is certainly true of the areas of contention, where the EU is asking for more of the UK because of the proximity and the like, and even the fact we are looking at zero for zero when it comes to tariffs is unprecedented from the EU perspective, unless you are looking at its EPAs with west Africa and the like. However, in terms of time, there will be huge aspects of the 1,000-plus page texts that are copied and pasted from EU and Japan.

For example, if we are thinking about the services schedules—this is something I want to get in because it frustrates me slightly that people talk about a goods-only trade agreement or a skinny trade agreement—what is being negotiated is a comprehensive trade agreement. It will have a section on services; it will have a section hopefully on procurement. The UK do not want that, but the EU do. It will have a thick section on intellectual property. When it comes to the services annexes where they lay out the reservations, lots of that will be copied and pasted from EU-Japan. On rules of origin, it would not surprise me if lots of the annexe is copied from EU-Japan, with some changes to areas where either the UK or the EU wants to tweak it slightly because that is how you



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do things quickly. That is how most trade agreements are done by the EU, they are based on the last one that was done.

I completely agree with Mij that, when it comes to the contentious issues or the areas where we are talking about, very different provisions from what the EU has done in the past, they are unique, they will be bespoke, but it would not surprise me if, when I go through the text, I could not find lots of areas where things are copied and pasted. Indeed, the UK's draft free trade agreement had lots of areas that were verbatim copied and pasted from previous EU trade agreements.

Shanker Singham: Clearly the UK-EU agreement is sui generis because of the unique starting point. Where I would differ slightly from Mij is that the starting point is so different that it makes it not comparable to an EU agreement with a normal third party where there are already tariffs and so forth. But if you look at the EU text and the UK text that is available, you already see the point that Sam made, that there are huge chunks of CETA and huge chunks of the Japan agreement that underpin the text that will ultimately be arrived at. It is certainly going to be incredibly valuable to both the UK and the EU to have that text available to them, but the issues that are holding up the deal are not those issues.

The issues that are holding up the deal are things like state aid, competition and fisheries, which is outside the realm ordinarily of a trade agreement. The EU want to include them within this particular trade agreement, so it is not so helpful to note that you can build a new trade agreement on previously existing models. I would end by saying that every country in the world that does trade negotiations uses precedents of previous negotiations. In fact, the US practice is simply to take the latest version, in this case USMCA, and give it to the trading partner and say, "How much of this can you do?" That is where it is more difficult. Where it is easy is you are starting off with zero tariffs and you are starting off with regulatory alignment, so that is very different from a normal trade agreement in a normal situation, and that will require slightly more specialised mechanisms to deal with that situation.

Geraint Davies: Just for the record, Chair—

Chair: Sorry, Geraint, I am going to press on.

Geraint Davies: I was not saying that we could use Japan to sort out the EU, but we could use EU-Japan to have a relationship with Japan. That was my point and it seems to have been misunderstood, but there we are.

Chair: Thank you, Geraint. I will give you an opportunity to come back to that in a few moments, but we have a lot of questions to get through.

Q8 **Rob Roberts:** If a full deal cannot be reached, to what extent might a more basic deal be beneficial? Would you consider that either side might be willing to entertain some kind of interim deal that would cover the most salient points and maybe give a foundation upon which to build and



flesh it out in the future? Would that be something that might be a possibility?

Shanker Singham: I think it is more likely than not that some sort of deal will be arrived at. It is important to note that the UK ask is not for the kind of incredibly comprehensive deal that goes far beyond CETA or the Japan deal. There are elements of the UK's ask that do go further and that are very specific to the UK-EU relationship and trying to preserve some of the current situation. I hesitate to call it a basic deal, because if you look at the text of both sides and you simply do the exercise of pulling them both together where they agree, that is not an insignificant trade deal. That is quite a significant trade deal right there.

As long as there are hooks in that trade deal for further negotiations and further developments; there are no trade agreements where the parties sort of do the deal and then disappear. They are going to be talking further, particularly in areas like mutual recognition and so forth. If there is not a deal, the parties will be talking about doing individual mutual recognition agreements in specific sectors, but the pressure—and this is pan-European, it is an issue across the EU27 and the UK—to come up with mutual recognition agreements in certain areas will be extreme on both parties. Those economic forces are not going to go away, so I think there is the possibility of getting whatever we can get by the end of the year and then building on that over time.

If you look at the history of probably one of the older negotiations, the NAFTA negotiation, there was a constant process year after year of revising the agreement, of improving the agreement, of further text, of further annexes. I would expect, certainly in this case, that if any deal is reached, it will be the starting point of building further and better. That is usually done by pressure from the private sector, so that is what I would envisage happening here.

The only corollary I would add to that is Mr Rahman's point about trust between the two sides. If there is no deal at all, the atmosphere between the two sides will be lacking in trust. That will make it very different from the normal trade agreement, and that will make it more difficult to do a deal again and to add those other elements. I think we will get some sort of agreement.

Q9 **Chair:** Mujtaba, could you respond to Rob's question about why not a slimmed down mini-deal?

Mujtaba Rahman: In the short term, I think the outcomes are quite binary. There simply is not enough time between now and the end of the year for the European Union to have a tariff negotiation with the UK, so the UK can have more regulatory autonomy and in exchange for that the EU would apply tariffs in select sectors. The distributional implications within the EU of going down that route are highly political and would take too much time. I do not think there is an appetite, frankly, to have that conversation in Brussels and across the member states. I think either



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there will be an agreement on a zero-zero deal in exchange for a degree of regulatory alignment. The UK Government will have to accept or there will be no deal in the short term. I do not see this third way.

Very quickly, to come back to the point I made earlier about creating a bridge, to come back to something Sam said, the European Commission, the European Council and the European Parliament's legal services have looked at whether it is legally possible to create a bridge to allow the sides to keep talking after 1 January, avoid that disruption and perhaps implement some version of a mini-deal. As I say, I think legally it is simply not possible to do that quickly. I want to make this point: it is important to understand the legal basis Europe would have to converge on to do that is Article 218. Article 218 does not allow for full implementation of EU law, so effectively what the two sides would have to do is negotiate a new transition period from scratch: what is the level of access; what is the degree of regulatory alignment on all of the questions we are currently talking about?

Effectively this is a repeat mini-negotiation to create a bridge. As I say, even with all of the political will in the world, there are real hard legal constraints. People in Brussels are looking at this closely and they are getting quite concerned about this. I think there is more understanding at the political level on the EU side that if at the very last moment, say late November, the UK Government ultimately decide very clearly they want an agreement, creating a legal mechanism that allows that negotiation to continue, either by implementing a smaller version of an agreement or by allowing the two sides to keep talking, the legal impediments to doing that are fairly onerous and quite high. It is just important to be very clear about that, so I think a quite binary outcome in the short term, frankly.

Chair: Sam, if you have something significantly different to add in response to Rob's question. I am very conscious that time is pressing on.

Sam Lowe: On Rob's question, I agree with Mij. There is either a trade agreement or there is not, but then I also agree with Shanker that if there is a trade agreement, it will then be built on over time. It is not static; it is not the final say. It will evolve over time and I would hope it would evolve over time into something a bit better, from my perspective. I disagree with Mij slightly on the last point, but we do not need to go into that. I think it depends which lawyer you talk to and how you ask them. I think if they are told to find a way, it is very different from being asked, "Can you find a way?" Also, I can think of ways and I am sure they could too, including returning to Article 50, because you can usually revise existing treaties, although no one wants to discuss that at the moment.

Chair: That is very helpful, thank you very much. I see Shanker wants to come back in. If it is okay with you, Shanker, I am going to press on with the questions, otherwise we are going to find out that we run out of time completely.



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Q10 **Virginia Crosbie:** Good morning, gentlemen. Thank you, Chair. I understand the challenges of modelling, but I want to drill down: if we are to operate on WTO terms, what will this mean for some of the key businesses and sectors across Wales? I will go through my questions and then perhaps you could answer them. Sam, you mentioned lobsters. We have the Lobster Pot here on the island that trades lobsters and crabs. With the impact of the groupage and Operation Brock in Kent, the agri-sector for our cattle and our sheep farms are very worried about food standards. How do you see this affecting the agricultural sector?

Of course Holyhead is the second largest roll-on, roll-off port in the UK. In terms of the logistics, how will this impact companies like Gwynedd Shipping? What are the practicalities of, for example, the containers coming to the Anglesey showground and being checked?

Lastly, Mr Rahman, you mentioned the energy sector. What will the ramifications be for the energy sector?

Sam Lowe: To begin, instead of maybe looking at potential losses, we know what they are because they are reported in the press all the time, when you see this sort of WTO-type exit from the transition vis-à-vis the UK in 10 years' time being 5% to 7% to 8% smaller than it would have been otherwise, depending on what sort of modelling you do. There is a very useful paper called "The continental divide? Economic exposure to Brexit in regions and countries on both sides of The Channel". It is a collaboration piece by some British and Dutch academics, and it looks at local labour income exposed to trade with the EU. I am not saying this is what will be lost because, of course, it is a region that will still continue to trade with the EU; it is just how much of local labour income is dependent on trade with the EU. If you look at Wales in particular, you can see that about 11% of labour income is exposed to trade with the EU.

To put that in context, if you think about other bits of the country, London is a bit lower, about 9% of labour income is exposed to trade with the EU, but then if you look at north Lincolnshire or Lancashire, you have about 15% of labour income exposed to trade with the EU. If you look at it in terms of local GDP, it is about 11.7% for Wales. The point I am making here is that it is important. This is quite a lot. If you look at it compared to other regions in other bits of Europe, you are looking largely, apart from in Ireland, at numbers around 2%, 3%. This does matter and it is important.

In terms of the practicalities, it is important to understand that a trade agreement with the EU is better than not, especially for agriculture, because we are talking about zero tariffs. That does matter, especially when you are looking at the high tariffs that the EU would apply to lamb, beef and other areas. From a practical perspective, there are things that a trade agreement could improve, but there are certain things that will happen whether there is a deal or not. To give an example, if you are exporting lamb to the EU post-Brexit, from a customs point of view you will need to predeclare, you will have to have your customs declarations,



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your security declarations, a haulier will need a movement reference number. This will be subject to risk-based inspections and could lead to some further checks. Because we are predeclaring, probably those will happen on the UK side, but then you also have to deal with this on the EU side.

From a regulatory point of view, your product of animal origin will need to enter the EU via a border control post. It will be subject to 100% identity checks and 100% document checks. The rate of physical inspection is something that, in the event of no deal, could go up to be around 50% of some products. In the event of a deal, that could be vastly reduced to near 0% because this is what the EU has done with New Zealand, so that would be beneficial, as that is the main one that could hold things up. But this regulatory friction is coming whether there is an agreement or not, and it is something that businesses do need to be prepared for. I am unsure they are.

The Government guidance on this has been quite honest. The border operating model that they published a few weeks ago applies whether there is an agreement or not, and it goes through quite a lot of this, but I am not sure it has completely cut through. I am happy to talk about this on the import side as well, but I know we are short of time. It is slightly different on the import side because the UK is going to apply some unilateral mitigation, at least temporarily.

Shanker Singham: If you are talking about WTO terms—and it is a point that Sam made at the end—and if you are not in the customs union of the EU, there are going to be these customs and regulatory issues. The question of how intense they are is the issue. Of course, a deal will help you with the less intense regulatory checks and customs checks. The operating model that the UK has released illustrates how you can use simplifications and facilitations and so forth, but the other side, the EU side, has to want to do similar things. We are hearing from particularly Eurotunnel, the Channel Tunnel, the Dover-Calais route, which is important for everybody in the UK—it is not just an issue of that locality because it carries the bulk of UK-EU trade, through either Eurotunnel or roll-on, roll-off trade. Measures are being taken on both sides to facilitate those trade arrangements, so I think that could minimise the friction that there would be, but it is important.

We have known since last July, for almost a year now, that we are not in a world where there is going to be frictionless trade with the EU. There is going to be some level of friction. That doesn't mean it is going to be completely impossible to manage, and both sides are talking about how to ensure that you have access to simplifications like CFSP, entry in declarant's records and upgrading things like the AEO programme and so forth so that traders can have an easier time of it. It is very important that trade in Wales, and elsewhere in the UK, understands the operating model that is now public and understands what it can do with simplifications. They need to be talking to their providers, their hauliers



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and so forth, and that needs to be happening. Frankly, it should have been happening from the beginning of the year. We have known since last July that there was going to be some friction, so that is important.

You mentioned Holyhead. The unique issue there, of course, is Northern Ireland and the Dublin-Holyhead route, which carries a lot of trade into Northern Ireland from GB. It goes Holyhead, Dublin and then up into Northern Ireland, and that is a significant amount of trade. The Government have announced the trader support service for small traders and others, which is a free-at-point-of-use service. I have to declare an interest here, and I am limited to how much I can add, as I am part of a consortium that has made a bid for the TSS, but if that can be made to work it will take a lot of the pressure off Holyhead for that particular route.

Mujtaba Rahman: I will defer to Sam and Shanker's remarks here on the detailed implications for trade. I am afraid that is not my area of expertise.

Q11 **Geraint Davies:** Obviously we are in the midst of a pandemic and the economy is down by 20%. If, on top of that, we move into no-deal WTO rules, what does that imply for big companies like Airbus in particular if the Government were to intervene to support it with significant amounts of money and even possibly take an equity share? My understanding is that the WTO is even more stringent on intervention and straight support for particular industries than the EU is. Secondly, I understand there is an issue about drug costs, that patent costs would go up, and under WTO no-deal rules we would end up with higher costs for the National Health Service as well. Can I ask Mujtaba first of all, please?

Mujtaba Rahman: I think that again is for Sam and Shanker.

Shanker Singham: With respect to subsidies, all WTO members, which would include the EU and the UK, are bound by the countervailing measures. The EU state aid regime, in many ways, on the black letter of the law, goes further than the agreement on subsidies and countervailing measures, but it does have important exemptions that don't exist in the agreement on subsidies and countervailing measures. For example, in some subsidies for particular areas, the WTO's exceptions are more narrowly drawn than the way the state aid regime is currently being operated.

One of the concerns that I think the UK Government have is the point you precisely make, which is that if we have to subsidise industry in a no-deal scenario coming out of the Covid crisis—and I think there will be defences for both of those things, frankly, in the subsidy agreement and the WTO—we may have to have the luxury of being able to maintain our own regime. I think that is very much on the Government's mind in ensuring that we have that flexibility going forward.



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Having said that, so far the state aid regime has afforded that sort of flexibility. If you look at CBILS and other legislation, they have been cleared by the DG for Competition. That is not to say they wouldn't be in the future, and that is what I think the Government are concerned about. Despite the fact that while the UK was a member state it had a reasonable road with respect to the state aid regime, once it is not a member state and if it is still subject to the European state aid regime, that may change and France and Germany may find greater flexibility than the UK in that case. I think that is a very important element to think about.

To pick up on your earlier question—and I apologise if I misinterpreted your question—we have done a Japan rollover deal. What we are negotiating now is a more advanced version of that and I expect that, in a couple of weeks maybe, we will have good news on a UK-Japan deal closing.

Sam Lowe: The UK is bound by the WTO's rules on subsidies now as an EU member. It applies in this context, so it is not necessarily useful to think of it as being distinct from the existing regime. The existing EU regime operates within that context. The EU regime probably goes further in some areas. It is certainly more comprehensive in that the WTO regime really just applies to goods. It doesn't necessarily cover services, whereas the EU regime does. Also, to put it crudely, and this is simplifying it quite a lot, it only really matters in the WTO regime if someone else complains about it. You have some types of subsidies that are prohibited, such as direct export subsidies and the like, but lots of other types of subsidies are just actionable. Another country might bring a case against you, might bring you to dispute if you subsidise in that way if it harms their producers in some way, with their exports to other third countries where they are competing with you.

There is a two-step question. There is: is it against the rules or not? Maybe, maybe not. Does anyone care? At the moment, in the fallout from the pandemic, the "does anyone care?" question is quite a big one. I think you can get away with quite a lot in the current context that maybe you couldn't if it was to become permanent.

Q12 **Geraint Davies:** Do you agree with Mr Singham that Germany and France could subsidise their industry more than we could if we were in a no-deal situation vis-à-vis the EU if we wanted to strike a deal?

Sam Lowe: Not necessarily, no. I probably think his point was a bit more nuanced, in that Germany and France could subsidise probably more than they are doing now and might continue to follow that approach. The UK could subsidise much more than it is doing now. I think there are probably differences in approach in the long run. We could see the EU being much more interventionist than the UK, and there are reasons to think that that is possible.

Q13 **Robin Millar:** I don't pretend any expertise or deep knowledge of these



things, but I have listened with fascination to what you have said so far, so thank you for that. Help me, for a start, with some context. Mr Singham, I picked up on your remark that behind-the-border matters are where the biggest gains lie. Would it be fair to say that, for any deal that we are doing, it is important to understand that this is a UK negotiation and some of those behind-the-border matters are going to be dealt with hopefully within, for example, the UK internal markets White Paper to make sure that those internal markets are aligned? The question I am driving at is: is that one of the biggest factors in determining the impact on Wales to make sure that it is aligned within a UK-wide trade deal?

Shanker Singham: This is an issue of foreign trade policy, so it is generally decided by central Government because it is an issue of foreign policy. As these powers become trade policy powers—*[Inaudible]*—where does the devolved line actually lie? I would argue that, for two reasons, it is very important that you have a single UK internal market trade policy, both because your trading partners are going to be looking at you as a whole and they want the agreements that you make to bind all parts of the UK, particularly in those trade-related deals. Then there are other areas such as precisely how, in the case of agriculture and farming, the UK's, for example, aggregate measures—the subsidy level that is allowed in the WTO—are distributed between the nations, and that is something where there is a bit more flexibility, where the individual nations can have their own allocations based on an internal agreement within the UK. There are other areas that fall into the grey area.

Very significantly, things like—*[Inaudible]*—technical barriers, trade regulation, SPS regulation, which is for animal and plant health regulation, those are very classical trade issues. It would be problematic if the four nations were to have very different, divergent views on these areas and the UK Government were not able to present a coherent single market approach.

Q14 **Robin Millar:** Thank you. I caught a lot of that. I don't know if it is just my speakers, but it was fading in and out a bit. I think that was broadly a yes, that it is an important potential barrier and that alignment helps.

Mr Lowe, picking up on a comment you made, which I thought was again very informative, about the percentage of labour that is exposed to EU trade. A characteristic of the Welsh economy, if there is such a thing, is that it is so integrated with the rest of the UK, with both supply chain and customers, that it is hard to think of a separate Welsh economy in many respects, and perhaps the discussion is more about the impact on Welsh businesses or businesses in Wales rather than the economy. In characterising the business mix in Wales, something like 95% of enterprises—I think there are about 253,000 of them—are employing fewer than 10 people. These are not global, multinational businesses. Many of them operate overseas, but they are not necessarily multinationals. Are there measures that the Welsh Government, accepting they have some administrative responsibility across the area of Wales, could put in place to help incentivise those businesses through a



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Brexit deal to trade further overseas, to trade with the EU and with other nations?

Sam Lowe: Yes, absolutely. We could talk about trade promotion and different approaches there. Some of it is about making people aware that sometimes agreements exist. If you look at preference utilisation rates of free trade agreements—sorry to use a bit of jargon there—by which I mean how much trade is actually done under the trade agreement that is in place, you very rarely see it is 100%. In some trade agreements it can be quite low, and there are many different reasons for that. Sometimes it is to do with issues of rules of origin, which I will not get into now, but it is to do with when products don't qualify for the free trade agreement because the content is insufficiently low, but a lot of the time it is just they don't have the information available. The exporter is not even aware the trade agreement exists. Quite a lot can be done to improve that, and I hope it would be.

On the previous question, the issue we are facing when it comes to the discussion of the UK internal market is a consequence of Brexit. EU membership was quite good for devolution in that it allowed more divergence within the UK market, but not to the point of market distortion, and no one ever had to question who was making the rules. Of course you might in the whole Brexit debate context, but not in the UK internal context. Now, of course, we have got to the point where there does need to be an internal market of the UK, so we are at the point of: who is deciding these rules?

My supplementary point is that this is not that unusual. For example, Canada recently had to do a trade agreement with itself because it had issues with all of the different regions there. It is quite difficult to negotiate with the US on a range of issues—unfortunately quite a lot of the issues that the UK wants to talk to them about—because they are decided at the state level. The insurance market of the US is done state by state, largely.

Q15 Robin Millar: They are a federation, aren't they, not a union, and that is one of the strengths of what we have. It is specifically to that point about the internal border. But to be clear, I am deliberately asking a general question because this message about the opportunity to trade and the opportunities that come from a Brexit deal is really important. Looking at that characterisation of the Welsh economy as being 95% with fewer than 10 employees, what sort of things should we expect or hope or push for in that deal to see those businesses in Wales encouraged?

Sam Lowe: The deal specifically with the EU?

Robin Millar: Yes, that would be a great place to start.

Sam Lowe: There is a place to start where what you are looking for is as close to the status quo as possible for market access. That is obviously not what the Government are trying to achieve, but you at least want this trade agreement to have tariff-free trade, you want it to have trade



facilitation content to at least take the edge off some of these regulatory barriers. From an agri-food perspective, you do not want these physical inspections to be at the 50% rate.

Q16 Robin Millar: Excuse me for interrupting but, by definition, status quo doesn't improve things; it maintains them.

Sam Lowe: No, it is not going to be the status quo; it is going to be worse. The best-case scenario at the moment is much worse trading than under the EU. However that does need to be communicated and managed, and then we can talk about trading with other countries. If the US removed its ban on imports of lamb from the UK, that would probably be quite good for some Welsh sheep farmers because they would suddenly have a new market they could sell to. There is an argument that they are overly exposed to the EU market. I think 95% of their exports go to the EU and, from a resilience point of view, that would create a problem if we are in the scenario we are in now when we are talking about restricting that market access.

Q17 Robin Millar: Point taken, thanks. Mr Singham, I saw your hand go up but I would like to hear from Mr Rahman as well, please.

Shanker Singham: To add to that, I think Welsh farmers and businesses should look in the round at not just the EU agreement but the other agreements that are in place. Sam mentioned the US ban on lamb. There is a very real possibility that could be lifted in the context of a UK-US trade agreement. I think there are trade promotion activities that DEFRA and other agencies can do on behalf of the Welsh lamb industry and Welsh farmers in getting access into other markets. There is also a possibility of more joint ventures with other players around the world. A number of UK lamb farmers have joint ventures with New Zealand lamb farmers. Their products don't necessarily—Welsh lamb is a very high quality product. As long as you are looking at the high quality end of the market, for which there is certainly an appetite in the US and in other places, there is no reason why they can't improve, but you have to be proactive about this. You have to be looking at those opportunities.

There are certain things that they are in control of. One is their aggressive approach to other markets. What they are not in control of is whether there will be a deal with the EU or not. That has all kinds of complicating factors that we have talked about here. Rather than just hoping for a deal, I think plan B is to look at what other opportunities you have, and they are not just selling products into the US, for example, so joint ventures and other business opportunities. I would say that is where there are opportunities, not just with the US and the lamb but in Japan and with Australia and New Zealand as well. There is opportunity, and that perhaps needs to be focused on a bit more.

Mujtaba Rahman: I broadly agree with what both Sam and Shanker have said. It is important to contextualise and maintain perspective. If you recall, official UK assessments argue that if the UK and the EU do not



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strike a trade agreement and revert to WTO terms, that would cut cumulative GDP growth by 8 percentage points over 15 years. If you think about a US agreement in comparative terms, involving full tariff liberalisation and a 50% reduction in non-tariff barriers, some of these behind-the-border measures that Sam and Shanker keep talking about, would add 0.2% to UK GDP over the very long run.

I think it is very important to keep that contextual perspective front of mind and to recognise for all the constraints and impediments to a speedy EU agreement, they absolutely exist in the context of the UK-US free trade agreement as well. If anything, if you think about the bugbear issues between the UK and the US—agriculture, pharmaceuticals, financial services regulation—I am quite sceptical that an agreement can be reached even by the end of next year, best-case scenario. In our central scenario we have articulated to clients that we have something like a 20%, 25% probability of a deal between the two sides next year and 75% beyond 2021, given some of the difficult issues that have to be worked through. I think it is important to keep that contextual perspective in mind when thinking about gains for Wales opening up some of these third country markets.

Robin Millar: Thank you, gentlemen. Challenges ahead.

Sam Lowe: Can I come back in briefly? We have been talking about lamb but I also want to put agriculture in context. If you look at the top 10 exports from Wales, lamb doesn't feature, agriculture doesn't feature. We are looking at the top being transport equipment, below that petroleum, petroleum products and related materials. If you look at where these go to, the US is quite important for the petroleum sector, but otherwise the biggest actual single country that we export to is Germany, and then the EU is the biggest bloc. I grew up in Llanelli and I played for the Calsonic football team, one of the factories there—Japanese owned. Then there is the Trostre steelworks—Tata, I believe. I am trying to think of when I am going back on the train, as you see the sign on the side.

This is important when you start to think about it, because it is true UK-wide as well. If you think about who are the companies that export, and lots of them are foreign owned, the majority of them are foreign owned UK-wide, in both goods and services. The big question for me from a Welsh perspective is if our big exporters, some of the job creators in our local areas, are foreign owned, and if they are component parts of pan-EU supply chains, yes, we need to think about new opportunities. But it is essential that investment stays in Wales, that they keep these factories open and find a way to remain plugged into the supply chains they were set up to be a part of. Thinking that through is part of the bigger UK-wide discussion, but we need to think about it in the Welsh context as well.

Robin Millar: That is a very helpful point.

Chair: My plea, as ever, in the interests of time, is could questions and



answers be as concise as possible, please?

Q18 Beth Winter: Thank you for coming today, contributors. I have a supplementary on the internal market White Paper. I think all four UK Governments agree that we need a legally defined internal market to ensure that policy divergence doesn't create barriers on trade within the UK to the detriment of consumers. But from looking at the paper I think there are significant problems, and I would like to seek your views on the fact that it seems to propose a race to the bottom in which the lowest regulatory standard adopted by any of the nations would become the default standard for all. Without revisions, the proposals in the White Paper could diminish the Welsh Government's ability to deliver for the Welsh economy and to be able to legislate for regulatory issues like the environment and food safety standards. I would appreciate your comments on that paper.

Sam Lowe: I haven't read the full paper, so I am not going to comment on that, but I will comment on what you have just proposed, taking that as a given. That is how it works in the EU; you agree on a minimum level of protection and then individual member states can go further. They are just not allowed to deny products produced to the minimum standard from other member states. We often talk about how UK gold plates quite a lot of regulation, which means it makes its own regulation more stringent. If that is the approach, it still would not necessarily prevent Wales, within its own sphere, from regulating to a higher degree, but it would not be able to prevent goods entering Wales from the rest of the UK on that basis. It is a really tricky one, because I am sympathetic to the concerns, but in a way I think this is an inevitability of Brexit. We were going to have this discussion, and I hope it is more of a consensual one rather than a diktat from Westminster, but it was always a risk.

Q19 Beth Winter: Thank you. Mr Rahman?

Mujtaba Rahman: I don't have anything to add, beyond what Sam has said.

Shanker Singham: I think the way this would work is that the UK would have a particular environmental standard or a particular environmental technical regulation. Within that, there would be a negotiation with the devolved nations about whether they have the authority, which they may or may not have, depending on my earlier answers about trade-related things that need to be under central Government authority. Certainly devolved nations could have higher regulatory standards if they chose to do so, provided we are talking about things that are outside the ambit of trade-related areas, and there would be no problem with them doing that as long as they didn't erect barriers. What we are doing in the UK with our internal market is not the same, because the US is a federal system, and it is not really the same as Canada either, but you can draw examples from those places of how they manage their internal market. The US has an inter-state commerce clause, which essentially provides that states can't discriminate against each other and ensures the free



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movement of goods within the US internal market. We will have to come up with something broadly along those lines.

I want to add one thing on the previous question. There is a very important industry in Wales that we didn't talk about very much—I think Sam mentioned it—and that is steel. One of the things that we really want to do is make sure that, just as we were partially successful with the US in getting some UK products off the retaliation list for the Boeing-Airbus dispute, there are also UK products that are still on US section 232 national security lists for high tariffs. That is where there is also an opportunity with a US deal and, if we can agree some sort of bilateral, earnest, money-down payment on an agreement that has not yet been concluded, which is the language being used in the US and in the UK, that would include taking some of those products, particularly steel, off those lists, as long as it is UK-produced steel.

There is an interest in the US in not doing that, because the purpose of the retaliation list is to get political pressure on the European Commission to change the violation. That is not going to happen if UK industry is targeted, because UK industry does not have that kind of clout over the European Union anymore. There is a good argument for ensuring that UK products are off those lists, and that is beginning to be understood in Congress and in the US. That is important for the steel industry in Wales.

Very specific to your point, it is also important to note that we have committed in the US-UK negotiation, because the US asked for this, that we will not lower our labour or environmental standards for trade advantage. That is already built into UK trade policy. We are not going to lower our labour and environmental standards for trade advantage, and we have committed to that already.

Q20 Ben Lake: Thank you to all the panellists for attending this morning, and apologies that my video camera has given up on me, but perhaps it is doing you a service there. I want to go back to a point that was raised a few questions ago about the inevitability of some friction in relation to a UK-EU trade deal. As we have most recently discussed, a lot of Welsh exports are not in the agricultural sector, so it might be useful to understand a bit better some of the practical issues there are, even at the best-case scenario level of friction, with regards to any UK-EU trade deal. What practical issues might that throw up for Welsh exports, whether that is transport equipment, petroleum, petroleum products or whatever?

Sam Lowe: I am going to give you a very specific answer to this, and it is quite narrow but I think it is something that is underappreciated. Whether there is a trade agreement or not, the UK producers selling into the European Union, if they currently sell certified products to European standards, will still be able to do so. You can still produce to the European standards. What will change is that, as a British producer, you are no longer able to place that on the European market. To have it placed on the European market, the liability would now fall on the importer based within the EU. You could either set up a subsidiary there to take that on



board for you, or it will be the people you sell it to. This has some practical implications in that they have to hold a declaration of conformity. They are liable if something is wrong, so they will want to be certain that you have produced to that standard. Also, when it comes to labelling, they will have to have their address on the label on the products that are sold into the European Union. This applies whether there is a trade agreement or not.

For products where it requires third-party certification—so this is where you are unable to self-certify and where you need a separate notified body to do it for you, as for, say, medical devices—you can produce that product in the UK but, and this is where it is negotiation dependent, it is possible that the negotiation could allow for a UK-based notified body to certify that product to the European standard. However, everything else I have just said would still apply. The importer in the EU would have to take on board the liability.

As it stands, the EU do not seem to be engaging on this issue and seem to be shutting it down, so what would be required, unless this changes, is you would have to find a third-party notified body based within the EU to certify that your product meets European standards and is able to be sold. This is something that really impacts the manufacturing sector. I have talked to small businesses about this, businesses that have been trying to prepare for Brexit, and it is something they often don't realise.

Shanker Singham: Businesses need to look at broadly three or four different areas. One is customs procedures, and there they need to be looking at maximising the possibilities that apply already even under the UCC—the Union customs code, the EU customs regime—which allows for certain simplifications. I have mentioned CFSP and entry into declarant's records, the AEO programme. The UK historically has a very low take-up of the authorised economic operator programme. Germany has something like six or seven times as many authorised economic operators as the UK. That is an important programme. It is important as we move forward under the border operating model and under the plans to have the best UK border by 2025. It is important that we build in more of those simplifications and improve the UK customs regime so that it covers off all of those things. You have customs.

You also have the actual regulatory checks, so things like SPS and TBT checks. There the issue is how much mutual recognition we can actually get in this deal. At the moment it is looking like not very much, but this is precisely the area that you would want to build on, assuming we get a basic agreement or the sort of agreement we talked about earlier. We would want to go back and see what mutual recognition agreements we can get that cover technical regulation as much as possible, along the lines of the New Zealand-EU veterinary agreement that Sam alluded to earlier. Mutual recognition of conformity assessment, which is what Sam was just talking about. The conformity assessment process, that a lab in the UK can test to European standards and have that accepted in the EU,



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exists broadly in many places. The EU has those kinds of agreements with many trading partners. I am a bit mystified, to be honest, why this particular issue is such a stumbling block in the negotiations because conformity assessment is the most basic of those mutual recognition areas. The Government have proposed mutual recognition of conformity assessment.

Those are the kinds of things that businesses need to be discussing with their importers in Europe. What are the terms of trade between the producer in Wales and the importer in Europe? It may be that the terms of trade are such that a lot of these burdens are placed on the importer and then there has to be a commercial agreement between the producer and the importer about exactly who is going to bear that liability and how they are going to manage it. It is really important that Welsh businesses talk to their logistics providers, freight forwarders and so forth, and the whole customs broking industry in the UK, to figure out what is best for them and how they can simplify as much as possible, understanding that it is not going to be the status quo. It is not going to be the same as it was before. It is going to be different.

The UK Government's proposal is to make it as frictionless as possible, but there is a whole ramification of things that flow from not being in the customs union. They flow in any scenario that is not the customs union. I think that is what they should focus on very specifically.

Q21 Ben Lake: To what extent can businesses prepare, given the current state of play? How much of this preparation work could they undertake at the moment?

Shanker Singham: I think they can do quite a lot of it. The first thing is the border operating model and understanding what the UK's position is going to be. They should be talking to their logistics providers, some of whom already have quite advanced plans on how they are going to handle the border. Those logistics providers will be dealing with the relevant parties across the Dover-Calais trade route anyway. I think that is an important element, as is talking to your importers about exactly what the terms of trade are going to be, who is going to be responsible for what. As a business you have to assume worst case, which is there would have to be some testing arrangement to put goods on the EU market by the importer or by your subsidiary in the EU, if you have one. I would make an assumption that that will be the operating model going forward unless we can get at least mutual recognition of conformity assessment.

Sam Lowe: My view is that if a business plans on the basis of there not being an agreement by the end of the year, even if there is an agreement they will feel that they wasted very little time. Nearly everything they do for there not being an agreement, at least from a practical point of view, will apply even if there is an agreement so they won't have wasted money. The problem that they have at the moment is time. If they are only starting preparation now, it is probably a bit late. There is also an



issue of capacity in that the customs infrastructure industry in the UK is not large enough yet to cope with the demand. It will obviously expand. An increase in demand will lead to a spike in supply, but there will inevitably be a bit of a lag, so there will be some issues there. There is probably not quite enough time, if they want to deal with it themselves, to train up their own people.

My view is that on day one, whether there is a deal or not, lots of people will not have done it properly and it will become a question of enforcement. I think in the event of there being a deal, we know that we are going to be lax to begin with on the UK import side to allow people a bit more time. If there is a deal you will have a bit more flexibility on the EU side as well, just because everyone is getting along. If there is not a deal, I think that could create quite a lot of problems because there is going to be a lot of accidental illegality. I am not saying businesses will be breaking the rules on purpose but they will be breaking them.

Q22 Ben Lake: That is very helpful. Mr Rahman, do you have anything to add?

Mujtaba Rahman: I think that most of the clients we advise that are engaged in services trade have already made the decision to relocate parts of their business in continental Europe because they understood early on that under no circumstances, really, was single market membership deliverable. They depend on the passport and, in order to benefit from the passport, one has to be fully signed up to the single market and the Government have been fairly clear, since as early as 2017, that they would not be seeking single market membership. For those businesses engaged in goods trade, as Sam and Shanker have said, a lot of the clients that we are talking to have engaged fully in no-deal contingency planning, given how close we are to the deadline and how little progress has been made. There is limited cost in doing that but the benefits of doing so are quite substantial in the event we default to WTO MFN tariffs at the end of the year.

Q23 Ruth Jones: My question is to Mr Singham and Mr Lowe. Returning to Japan, I am interested to hear you talking about that a comprehensive enhanced trade deal with Japan will be signed off fairly shortly. I take that from what you have already said. Taking on board the need for a united UK approach to negotiations, I am also interested in what you think Wales in particular can gain from this deal with Japan.

Sam Lowe: That is a good question. I agree with Shanker, I think an agreement with Japan will be resolved. It will be largely based on the EU-Japan trade agreement. However, there will be some differences. It is likely that the UK will have slightly worse terms on agricultural access in that, on the quotas issues, it is likely that the UK will be offered whatever is left of the EU quota or tariff at the end of every year. However, in some other areas the UK deal will go further. There will probably be quite a comprehensive chapter on digital, similar to CPTPP. There is talk of doing something quite innovative on financial services, similar to what



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the UK is currently trying to do with the Swiss on mutual recognition in certain areas.

I can't answer what it will mean for Wales specifically, but it is a case of looking at which Welsh companies are currently thinking they could benefit from the EU-Japan agreement or are benefiting from the EU-Japan agreement and then rolling that forward and having a look at whether the terms of trade have improved, stayed the same or become worse.

Shanker Singham: I think it is important to note that the reason the UK-Japan agreement is probably going to be the first one that is signed outside of the scope of the rollover continuity agreement and as a separate FTA is largely because of Japanese pressure on timing. They were anxious to lock in a deal with the UK that goes a lot further than the EU-Japan agreement. They were not terribly happy about the EU-Japan agreement on things like data and digital and so forth, and they wanted a better arrangement with the UK.

That said, I think a lot of Welsh businesses do similar things to other businesses in the UK, and they will benefit particularly in the digital area and in some of the access that the UK has negotiated. I don't want to prejudge this, because it is not fully concluded yet, but there will be access that is over and above what is in the EU-Japan agreement. It is a case of looking at what your sectors are and determining whether that applies to you or not.

It is important not to look at the Japan agreement as a separate, "What can we do with getting our products into Japan?" It is part of an overall trade policy that includes Australia, New Zealand and the US. The US is a separate agreement but the three bilaterals—Australia, New Zealand and Japan—are precursors and necessary preconditions for the UK's accession to the CPTPP, which gives you access to a much bigger market and a much more liberalising platform agreement. That is also an opportunity for all businesses, including Welsh businesses.

Sam Lowe: On the inward side, the Japan agreement is also important because Japan is, I think, the third biggest investor in the UK after the EU, as a combined entity, and the US. They were really annoyed and really quite upset by Brexit, and they saw it as a betrayal of trust. In a way, concluding this agreement with Japan goes some way towards resetting at least some of that relationship and regaining some of that trust. Of course, that is important for some businesses in Wales because they are Japanese owned.

Ruth Jones: Thank you, both. That is helpful.

Q24 **Simon Baynes:** How should any future trading models reflect the importance of agriculture in Wales? Maybe Mr Rahman could start on that, please.



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Mujtaba Rahman: Again, my area of expertise is European political economy, so for detailed discussions on trade implications I will defer to Shanker and Sam.

Shanker Singham: With respect to agriculture and trade, I should disclose that I am a commissioner on the Trade and Agriculture Commission. We are certainly looking very closely at these issues. I cannot go into great detail about that, but it is something that the commission has high on its radar. How do we support UK farmers? That falls into two buckets. One is the offensive bucket, which is how do we make sure the UK farming sector as a whole—and the Welsh farming sector specifically—is as competitive as it possibly can be? The elements of that are to lower trade barriers that the UK agricultural industry faces around the world. That is one bucket. We have already discussed the lamb ban in the US. That would be an example of a trade barrier that we would want to remove and we can do that through our US negotiations.

We also want to make sure that farmers have access to the best technology possible in terms of synthetic biology and so on. The UK has some of the most leading universities that cover these areas, so that is also a very important element of reducing the costs and making farming more efficient in the UK, which also has beneficial environmental impacts. That is in the offensive bucket.

In the defensive bucket, it is certainly very important for Welsh farmers and for UK farmers, in general, to have a deal with the EU of some kind. I take a slightly different view from Mr Rahman on the legal issues of getting to a deal. If you look at the EU's track record, particularly in organisations like the WTO and so forth where they were in violation and, in some respects, are still in violation of some of the schedules that are supposed to have been notified and so forth, there are ways that can be found as long as a political deal, which is the most important aspect of a deal, can be found within the timeframe. If the parties are in agreement on a trade deal in November, or even December, I believe that ways will be found to ensure that the implementation of that deal is viewed in a slightly different way than the actual locking down of the deal.

But with respect to farmers—the defensive part, getting a deal—one area where there will be a significant legal problem, if there is no deal, is the negotiation of what tariff rate quotas apply between the UK and the EU, because that has not been concluded yet. That also takes you into the WTO in terms of the tariff rate quotas that you have with your trading partners. The EU, even if there is no deal, will be a trading partner of the UK, will be a fellow WTO member, and we must negotiate, if there is no deal, a tariff rate quota for our agriculture in the EU. That is a complex negotiation at the best of times. That is the one area where there is a potential problem in solving this.

The final element of what we can do for farmers is making sure that they are fully aware of the benefits that exist as a result of the UK's forward



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trade policy agenda and their products are properly promoted by AHDB and the other elements in DEFRA that are focused on trade promotion activities, to make sure that they are able to reorient supply chains to some extent, which certainly will be necessary if there is no deal, and that they are ahead of the curve on those kinds of issues and are not just waiting and hoping for a deal to arrive.

Sam Lowe: We just have to be blunt about it. The EU agreement is incredibly important to Welsh agriculture. If you look at where exports currently go, it is largely the European Union. While you can talk about diversification in the long run, and I would support diversification in the long run from a resilience point of view, at least in the short run that is going to cause a problem. If you look at some of the modelling on pricing, if there is a WTO Brexit you would expect the price of lamb in the UK to collapse. That could be good for consumers in the short run, but that is because they are going to have difficulty selling into the EU, so it is going to get dumped on the UK market. Or to combat that you are going to have to just slaughter the sheep. This is something Michael Gove has referenced before. Ensuring tariff-free trade in lamb is important to lamb farmers.

In terms of other objectives on the more positive side—we have discussed the US—the thing about this ban is that it is one of those ones where technically it should not be related to trade talks with the US in terms of the trade agreement. It is independent of that but, of course, politics does come into it and you do wonder if it is something that could be resolved outside of a trade agreement. You would hope so but, politically, you get the idea that maybe the two issues are linked.

In terms of other countries, because I know you often see Welsh sheep farmers being very concerned about New Zealand. This is somewhere where we maybe just need to have a more serious discussion as to what is the actual likelihood of a trade agreement with New Zealand when it comes to the impact on Welsh lamb. As a starting point, New Zealand already has access to a tariff-free quota to the EU as a whole for lamb that it does not fill. It is currently not making use of some capacity it has to export to the UK.

In the short run you would not expect, even if there were a UK-New Zealand agreement, for there to be a big influx of lamb from New Zealand to the UK, and maybe that changes the discussion somewhat within Wales if you know that. The reason for that is when you look at New Zealand and Australia and their trade policy, it is largely built around resilience. They already have the consumers in China to satisfy most of the demand for their exports at the moment, but they want to know that if that changes in future they have the ability to export elsewhere. It is about creating optionality. They are not looking to dump all of this on the UK market on day one. They just like to know that they could sell here in the future if demand elsewhere drops for regulatory reasons or political reasons, or the like.



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The other defensive issue that always comes into this is food safety and food standards, particularly sanitary and phytosanitary issues, and this is when you get to talk about the US—the hormone beef, the chlorinated chicken. The UK has decisions to make here, because if the UK wants a trade agreement with the US, my view is it will have to concede on hormone beef and chlorinated chicken. That is the only way it gets done because that is just not something that gets through Congress. The UK could hold the line on medical pricing and lots of other things. Sorry, that is going to have to change. That is a decision that has to be made. It is a domestic decision: is that something people want to change?

But then you also look at pricing and you realise American beef is not that much cheaper or, at times, cheaper at all than British-produced beef, and that is the farm-gate price. When you take in costs of transport, it would be more expensive, even if it were allowed in.

I am largely just throwing datapoints into this discussion because, if we are going to have it, we need to be a lot more serious and get beneath the headlines.

Q25 Simon Baynes: That has anticipated my second related question, which was how is it possible to ensure that food standards are not compromised following Brexit given that exporting food is a key area for the Welsh economy? I do not know, Sam, whether you want to add anything to that. If not, I will go back to Shanker. Mr Rahman, again, I imagine you will not be contributing on this, unless I am mistaken.

Sam Lowe: To add briefly, on hormone-treated beef specifically, the UK does have an issue in that the EU is already in breach of its obligations here. Shanker referenced it earlier, I think. The EU lost a case on hormone beef to the US and others, and it kept the ban because it is the EU. If you are the US and the EU, and China to a degree, you see that they break the rules quite a lot, and they get away with it because they are big.

There is a question as to whether the UK can retain that ban post-Brexit without opening itself up to further retaliation from the US, in particular. We will be in breach of our WTO obligations if we were to keep that ban on hormone-raised beef.

On chicken it is slightly different because the case was never concluded, so that is not necessarily as big a part of the discussion unless the US decided to pick it up again. But these are all things that need to be considered. As it stands, we have this surface-level argument of will you, won't you, when if we want a trade agreement with the US we will have to. If we do not want to do that, maybe we have to think differently about our relationship with the United States and our ambitions for it.

Shanker Singham: In terms of these products that we have been talking about, if you look at the beef hormone case—as Sam pointed out, the EU lost the case on beef hormones—it is important to note that, in



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the beef hormone case, our own UK vets essentially lobbied against the hormone beef ban because they did not think it was based on sound science.

The SPS regime is that you can have standards, you can have regulations to protect animal and plant health and so forth, but they have to be proportionate, they have to be based on sound science, they have to be necessary, all of these things, in order that they are not trade barriers. That is the concern that people have.

When the EU lost the dispute on beef hormones, as part of the negotiation as a result of US retaliation, it was agreed that there would be a so-called Hilton quota, which is the high-quality beef or non-hormone treated beef quota. The US already has into Europe a Hilton quota, as does Argentina and a number of other beef producers. I am not convinced that there is a giant market out there of US beef producers desperate to get their beef into the UK above and beyond the Hilton quota.

As a point of principle, the US Administration will want the UK to comply with the SPS agreement, and that would mean you cannot maintain the ban on hormone-treated beef. The UK, I agree with Sam, does have a choice to make. But the choice is if you are going to seek to lead in the WTO and you are going to seek to lead in terms of global trade policy, along the lines of the Prime Minister's Greenwich speech in February, then you are going to have to comply with the rules and you are going to have to comply with the SPS rules.

On chlorinated chicken, the issue is not a food hygiene issue because the food hygiene argument goes the other way. If the UK and the US have a deal, you can expect the US Administration to say, "We are not going to allow any product in here that is not treated with pathogen-reduction treatments" and that is what the Canadian beef farmers found. They got extra access in CETA for the European Union, where you cannot use pathogen-reduction treatments, and then they found that all their beef would be blocked in the US if they did not use pathogen-reduction treatments. On the food hygiene side, the argument is the other way because incidences of campylobacter are much higher in Europe than they are in the US, for obvious reasons. We do not use those pathogen-reduction treatments.

The separate issue underneath that is the animal welfare issue, which people are concerned about. That is a separate discussion. That is a discussion in what is known as the three sisters of the WTO, which is the Codex Alimentarius, OIE and IPPC—particularly in this case OIE—to look at animal welfare standards and whether they should be voluntary or should be hard standards and how the SPS agreement links into those. I am not convinced there is a vast appetite in the US that they will say, "No, we will not do a deal at all" if we do not get these issues resolved. It certainly will make a deal much more difficult if the UK is going to take



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the position that we will be in violation of the SPS agreement. That will be a problem that is in the US negotiating mandate.

In terms of poultry access, there are vast amounts of organic poultry in the US, the size of Wales, that can go to the UK. It is also important to think about pricing. The beef price in the US market, as Sam pointed out, is not significantly lower than the UK. They are both quite high in terms of global standards. There is not that massive difference in price that some people are very concerned about.

Simon Baynes: Thank you very much, gentlemen. Thank you to the three of you for your contributions today.

Q26 **Rob Roberts:** Sorry, I had to duck out and I am hoping that my questions have not already been asked and answered in the preceding period. There was a statement by the Department for International Trade talking about a trade deal with the US and how that would benefit Wales with access to lamb products and reduced tariffs and red tape on steel and ceramics. To what extent would the panel agree with that statement?

Shanker Singham: I would agree that there are opportunities. Just on the lamb ban and the opportunities for Welsh lamb, which was discussed, if you recall, about a year ago, the possibility of getting the lamb ban removed. One of the problems is that the US has a domestic industry as well, a domestic sheep meat industry, and they have woken up to the fact that the UK sheep meat industry is potentially quite competitive with them, so they are therefore supporting the current lamb ban. This will have to be resolved. We were all hoping for a technical resolution earlier on, but this now will have to be resolved as a political matter in the trade agreement. There are certainly opportunities there.

With respect to steel and other products, there are a range of opportunities. The most important opportunity is trying to ensure that the US does not retaliate because of EU WTO violations. Looking down the road at the SPS area in particular, if you look at the European farm to fork strategy there are going to be a lot of SPS violations down the road that the US will complain about and that the EU will not change. Therefore there is going to be a lot of retaliation going forward. It is very important that UK products are taken off that list and that we get to some early agreement with the US on this.

Then you have the section 232, the national security list, which includes steel. There again we would seek to negotiate a reduction of the UK products that are on those lists. I would not underestimate how difficult that will be, but that is why it is part of the whole US-UK negotiating dynamic. There are significant opportunities there. Both the US and the UK want to come to some sort of momentum-raising bilateral statement on the comprehensive agreement they want to negotiate. I think we will hopefully see something along those lines that will put UK products, and Welsh products in particular, in a slightly more preferential position.



Sam Lowe: If you look at the Department for International Trade's modelling, which estimates what percentage the UK-US trade agreement could do for the UK, they find it is positive for all regions of the UK. A lighter agreement is a bit positive for Wales, and then a more comprehensive agreement is a bit more positive. This is in the context of the aggregate benefit being estimated at about plus 0.16%, which sounds small but in the context of trade agreements is fairly big in terms of what impact you would expect.

As with all these things, in terms of benefits it depends what you do, because when you liberalise your market, and you do so in tandem with someone else, there are increased opportunities for your companies but also some of your companies will be subject to increased competition. It does depend on the industry, the sector, how much protection you had before versus what you are going to experience in future. Beneath the headline positive numbers, there will be winners and losers. To be honest, that is trade policy but it is not just trade policy, it is nearly all Government policy. It is what intervention does. It is what liberalisation does.

Are there potential benefits? Yes, we discussed lamb. Also one of the big benefits with the US at the moment, and if we assume there is a Trump presidency—this is not a given, because he still lashes out at people under his umbrella—if you look at President Trump as running some sort of international protection racket in which he uses trade policy to increase the threat levels on other countries until they make concessions and come underneath his umbrella, in which case he recedes them slightly, there are benefits to that if it leads to the UK not being subject to the Boeing-Airbus retaliation. This has a much bigger impact on Scotland than Wales, just in terms of which industries are affected. But also if some of the steel tariffs were removed that could be beneficial for Wales.

Yes, there are benefits; there are also risks. On aggregate I would say trade policy is positive, but we should be real about what the distributional effects are beneath that.

Q27 **Rob Roberts:** In an article in *The Guardian* in June, Mr Rahman, you said that a UK-US trade deal would bring "limited economic benefit". I am interested to know how realistic the projections of economic benefits are, particularly in terms of how they would relate to Wales, and for you to justify that "limited economic benefit" statement at the same time.

Mujtaba Rahman: Again, I will defer to Sam's expertise on whether you think 0.1%, 0.2% is quite a big deal in the context of trade agreements. When you compare that to the gains or potential GDP cumulative losses of no agreement with Europe, I still think in relative terms they pale in comparison.

The only other point I would add is, again, having a realistic perspective on the likely timing of any agreement with the US. If we think striking a deal with the Europeans is complicated, I suspect it is going to be far



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more complex with the US Administration. Not simply because of the substantive issues that I mentioned earlier—agriculture, health, regulatory alignment, financial services—but also because there are a whole swathe of geostrategic and geopolitical issues that are bound up with that agreement with the US on things like digital services, tax, Huawei 5G, and the UK's position vis-à-vis China and how that aligns with either a Trump or a Biden presidency.

Eurasia Group's base case for the US election is that Biden will win. That is not high conviction probability, we are at 55% to 60%, but I do think if Biden were to win, it is going to take some time to understand the Administration's position on some of these strategic questions and then how that ultimately flows into the UK-US trade agreement.

Again, I defer to Sam on the economics and how to think about the economic modelling contextually, but one has to be realistic about the timeframe within which a deal can be struck and then what the absolute and relative gains would be for Wales, given some of the numbers that we are talking about.

Shanker Singham: Can I just add something on the numbers and the economic modelling? To be fair to DIT, they have recognised that the model does not fully take into account the effect of pooled markets and in respect of modern dynamic negotiations. It is very important that we understand that we need to relook at modelling and take into account dynamic effect, take into account the effect of pooled markets.

This is quite odd because, when we look at the US-UK agreement and we look at the economic modelling, the models are very much old-style models that involve things like revealed comparative preferences, and so forth. It is very much looking at trade in terms of, "I make a product in the UK and sell it in the US. What are the gains of the trade agreement?" It is very limited on what modern trade agreements do in terms of creating the opportunities for more efficient supply chains, for pooled markets and for all of those things. DIT's modelling review is going to focus on those areas. Rather than getting hung up on the numbers, we need to understand this is more part of the science in terms of trying to predict what the economic effects would be.

The critical thing is how comprehensive and how deep the agreement would actually be. If you look at financial services, for example, there are opportunities that the UK has with the US in financial services because of the trust that exists between the regulators in the UK and the US, which is probably a trust level that does not exist anywhere else in the world. We ought to be able to come up with things like an overseas person's exemption for the US Treasury, and the US has always resisted this but it has resisted this because it does not trust other regulators in the world. The one regulator it does have some faith in is the regulatory arrangements around the City of London. There the pooling of markets can have a much bigger impact.



When we look at the numbers on leaving the EU, we are looking at pooled markets because we are looking at the cost of leaving the single market of the EU. Naturally, those numbers are going to be much higher. I would inject a note of caution about how you use the numbers.

Trade negotiations are not run by people with modelling on their laptops deciding which country to have a trade agreement with. Trade agreements are part of your foreign policy, part of your foreign trade policy. Mr Rahman talked about geopolitics and security issues. Those are obviously very important in the UK-US relationship, and those alone would drive any US Administration towards a closer relationship in terms of trade with the UK.

The prospects for the US agreement are much higher than people think and will be potentially much faster than people think, although it will of course depend to some extent on the US election. Although a Democrat President will have to negotiate, there will be pressure from the business side to negotiate some sort of trade deal with somebody, and then you will look at a policy where there is not going to be a race to the bottom on labour and the environment, which is a very big concern of the US—not just the Democrats but across the board—and the UK is a good candidate for that.

As long as there is enough momentum built up until the US election, whether it is Biden or Trump, we can get to a deal relatively quickly. In the US there is pressure on doing that because the Trade Promotion Authority, the authority under which the US negotiate, expires next year, so there will be pressure in the early part of next year and through the lame duck Administration to move this process forward.

Q28 **Rob Roberts:** Just to elaborate on that very briefly, being aware that we are very short on time for other questions, you wrote, Mr Singham, in March in *The Daily Telegraph* that “Negotiating deals with both the EU and US will be tricky for Britain—but it does have a trump card.” Could you elaborate on that point very briefly, specifically drill down into that?

Shanker Singham: What the UK has at the moment is a lot of political power in terms of getting this deal done. It is a significant part of the Trump Administration’s agenda to do a trade deal with the UK. The UK can also play an honest broker role here with respect to the US-China trade dispute by focusing on the specific issue with respect to China, which is market distortions in China. One would expect, and the US will certainly want this, a US-UK agreement would include, ironically, the sorts of disciplines we were discussing at the beginning of the hearing on state aid and competition, but they will want disciplines on market distortions for third countries and this is obviously aimed at China.

Geopolitically, from a US Administration perspective, people are looking at the Five Eyes countries, they are looking at Japan, they are looking at other countries that can essentially create a coalition of the willing supportive of liberal market economics as opposed to the state-led China



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model, to draw people into their sphere of influence. The UK will play a significant role as long as it is committed to that sort of liberal market economics.

Rob Roberts: Thank you very much. Very comprehensive answers, all of you.

Chair: Time is pressing on. If it is okay with the panel, we are going to keep going for another 10 to 15 minutes. I would like to bring in Beth and Geraint, but I will just ask that we keep questions and answers short and quickfire.

Q29 **Beth Winter:** I will keep it brief. We spoke extensively about UK trade negotiations but, as we are all aware, four nations make up the UK, and the Welsh Government have quite significant powers in terms of trade and are very progressive in many respects. It would also be fair to say that there have been significant concerns and frustrations about the lack of involvement of the devolved nations in the negotiations to date to ensure that Welsh interests are considered as part of the negotiations. What role do you think the devolved Administrations should be playing in the UK trade negotiations, and how would it be possible to better ensure that our interests in Wales are reflected during those negotiations?

Mujtaba Rahman: It is an excellent question, and there is no good answer, frankly. Ultimately the regions do need to be involved in the formulation of the Government's policy on trade, and that absolutely should be the case with the European Union as well as with other third countries. It is about how the devolved Administrations go about making that case, ensuring they have a seat at the table, ensuring that seat is institutionalised and enabling the devolved Administrations to contribute and formulate to UK trade policy. It is not clear to me how that can be done. Ultimately, London holds the trump card. Ultimately, they are going to be the lead negotiators. You are absolutely seeing that with negotiations with the European Union. I hear and understand your concerns, but I do not have a good answer about how you can seek to influence and better institute yourself in that decision-making. I hear the concerns, but I do not have good answers.

Q30 **Beth Winter:** Do you agree with the concerns, though?

Mujtaba Rahman: Absolutely. As we have discussed, the best-case scenario for a thin zero-zero deal at the end of the year is absolutely going to have fairly substantial distributional implications across the UK to the detriment of Welsh businesses across the board. The same, obviously, in Scotland. We obviously know what is happening with respect to Northern Ireland and the protocol so, yes, I do understand and I share the concern, but I do not have a good answer for what you can do to address the issue.

Sam Lowe: I share the concerns in that an effective external trade policy does require internal coherence, and it also benefits from having inputs from all of the affected regions. Also, it even sometimes gives the UK a



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stronger hand if it can say, "Well I cannot do this because of X and Y. I cannot budge on that because of the constraints I face here." The European Union does this with the European Parliament quite a lot. They say, "We cannot offer you this because the European Parliament would absolutely say no."

The issue you have speaks to a broader problem, which is that trade in the UK is an Executive competence—it depends how you view it whether that is a problem or not. There is a very limited role for Parliament, so when you think there is a very limited role for Parliament, the idea that the Government would create a greater role for the devolved Governments, you start to work quite a long way away from the status quo. That is an issue. I do not necessarily think it is in the UK's interest, but I also understand. I ask myself the question "If I was in Government, would I give up this competence?" and the answer is probably no. It is probably true of Governments of whatever stripe, they would answer that the same way. But I am not saying that that is necessarily ideal.

There is a further issue that we have not discussed here because it is clearly not relevant to Wales but Northern Ireland, in the context of future UK free trade agreements, is potentially going to have to require its own chapters when we start thinking about it properly because, although Northern Ireland is in the UK's customs territory for the purpose of trade agreements with third countries and internationally, obviously it is de facto in many ways in the European Union. UK trade agreements will cover Northern Ireland but, when it comes to demonstrated origin of goods entering Northern Ireland, there is going to be a two-step process in that you are going to have to demonstrate that you also qualify for the free trade agreement's rules of origin, which is the normal thing to do, but you are also going to have to demonstrate that the good stays in Northern Ireland. This could create questions from third countries as to how this is going to work. What about goods exiting Northern Ireland and going to third countries? How are they going to approach that?

It is in the UK's interest to involve the devolved Administrations, I just do not think they will.

Shanker Singham: Your concern is a well-placed concern, but I would say the way to look at this is that there are a lot of powers that currently reside with the devolved nations because the trade policy negotiating competence is with the European Commission. If the trade negotiating competence was not with the European Commission but with the UK central Government, as your trade policy is a matter of foreign policy all nations have a centralised approach to trade negotiations, which are done by the Executive power. The reason for that is because no trade partner is going to want to negotiate with every Member of Parliament, for example, just as no trading partner wants to negotiate with every member of the US Congress.



We can learn some lessons from the way the US negotiating process has gone forward, as well as from the New Zealand process, which is much closer to our own. In the US the Trade Promotion Authority, which is the authority under which it negotiates, has become so freighted with congressional concerns that it is quite difficult for the US to be an agile negotiator. When the US was in the TPP, they would quite often ask the New Zealanders to help them negotiate. They were quite limited in what they could do. It is quite important for the UK, especially at this moment in its trade journey, to have maximum flexibility and agility so that it can negotiate its offensive asks most effectively. We have to think about that.

Even if there is no up or down vote on an ultimate trade agreement, which is the New Zealand system—and the New Zealand system is based on our own Westminster system—there is a huge incentive for the Government to bring not only the devolved nations but also Members of Parliament themselves along with them, partly because any legislation that will have to change as a result of the agreement—and the agreement could not be ratified unless those legislative changes had been made—is obviously the prerogative of Parliament. A sensible negotiator would be ensuring that they bring Parliament along and that they explain why certain concessions have to be made in the wider UK interest, even though that may result in some distributional differences across the board.

In answer to your question, the devolved nations need to have some mechanism in order to express their concerns but they also need to understand it is not going to be the status quo because the central difference is the trade policy-making authority is moving to Westminster. That means that trade-related areas, like the SPS areas and so forth, need to be negotiated by the central authority, because otherwise you are going to fracture the UK's internal market, which will do much more significant damage.

Beth Winter: But it can be done in partnership with the devolved nations, and that is the point. It should be done in partnership. I am conscious that Geraint wants to come back in with a quick question, so thank you very much for your time.

Q31 **Geraint Davies:** Two quick questions. The first, as a supplementary to the last question, in the event the devolved nations are not involved in the negotiations, we know the European Parliament votes on trade deals and the US Congress does, but there will be very little engagement. Does anybody have any comments about the prospect of increasing the likelihood of Scottish independence and triggering the Good Friday agreement if we had Scottish reunification? Indeed, the Welsh might decide they may want independence and, given what that would mean, that is another reason to include them.

Quite separate from that, I wanted to ask what the witnesses feel about climate change and Paris agreement compliance in trade agreements. People know that global temperatures have gone up by 1% since the



19th century, but it is 2% in Europe and 3% in the Arctic, so we are losing 8,500 tonnes of ice from Greenland every second. Tony Abbott, who has just been included in the Board of Trade, has described climate change as “absolute crap” and got rid of carbon trading for Australia. What do the panel feel about the prospects of including Paris agreement compliance in the US agreement and other agreements?

Mujtaba Rahman: On the Paris climate accord, this is absolutely front and centre of all politics in the European Union. You will know the green deal, the EU’s commitment to carbon neutrality by 2050, is probably Ursula von der Leyen’s No. 1 political priority. There was a risk that, because of Covid, that was going to fall down or be displaced by other priorities. What we have seen in the deal that was reached by European Union leaders in July on their recovery fund, their recovery package for EU economies in the aftermath of Covid, the green deal is a central feature to economic recovery in the European Union.

Von der Leyen’s commitment, Paris’s commitment, Berlin’s commitment and other member states’ commitment to carbon neutrality and using the green transition as a vehicle to finance the economic recovery is absolutely front and centre. It will be a big part and a big feature of the EU trade conversations going forward. That is crystal clear. There was a risk Covid would displace it. It is clear now that that will not be the case.

Interestingly, today the French are announcing their €100 billion stimulus programme, 40% of which will be financed by the EU recovery fund. If you look at some of the details around what the French are proposing in terms of economic recovery transition, they are very ecologically focused. Absolutely that will be a central part of Europe’s narrative when it comes to trade.

Q32 **Geraint Davies:** But not the US?

Mujtaba Rahman: It is certainly a part of what the EU does with the rest of the world, and it is a feature of UK-EU relations. The US is ultimately a function of where the presidency lands in the November elections. Obviously more so under Biden than Trump.

Very quickly on Scotland. What I will say contextually is that our view of whether there is a deal at the end of the year—there is a 55% probability that I talked about—is not driven by what we are seeing in the negotiations and is more driven by a set of structural factors. One of those structural factors is Scotland, and there is concern about the momentum behind independence, given Scottish elections next year. Yes, I do think that risk is real and rising, and I think it absolutely will be aggravated by Scotland and the other devolved Administrations feeling as if their voice and their agency is not felt in the context of these negotiations. Is it ultimately in London’s interest to include those voices? Yes. Is the Government likely to do it? Again, difficult and I am quite sceptical.



Shanker Singham: Just on the Scotland point, there are obviously other reasons along the lines of what you suggested for why the Government would pay attention to what the devolved nations have to say, just as they would pay attention to what parliamentarians have to say, and there will be something of a dialogue. It is important to understand what the expectations of people are in that dialogue. It is not going to be the case that a devolved nation can rely on the powers it currently has, because of the point I mentioned before about the transfer. That is a significant change in trade policy terms, and it is not possible to negotiate trade-related areas on a bifurcated basis.

If you want to protect the integrity of your single market, that is ultimately far more economically important for most UK businesses, most of which are small businesses that trade within the UK. But the most important thing is the integrity of the UK's internal market.

What I would say about the environment and climate change specifically is that it is already part of the US's negotiating objectives for the deal, which they published in February last year, but the UK would not lower its environmental or labour standards for trade advantage. What we have now, including the Climate Change Act and all of the regulations under it, we have committed to the US—if we want to have a deal with the US—that we will not lower any of that. That is an important thing to bear in mind.

In terms of trade negotiations, there are two ways of including them. One is a border tax approach where you would essentially tax products based on their contributions to carbon dioxide, for example.

There is quite a strong impulse in the WTO both in the letter of the agreement and in the spirit, and in dispute settlement cases, not to discriminate between products based on how they are produced. The reason for that is that it very easily becomes a protectionist charter sort of thing. If you do not like competition, you find all sorts of problems with the way products are produced. It is quite important in WTO terms, so I think that would be a bad policy approach.

The other policy approach that will occur anyway, both with the US and with the EU, and with all of the UK's trade agreements, will be to include a labour chapter and an environmental chapter in the agreement. The environmental chapter will no doubt reiterate the UK's carbon neutral requirements. That is what they are doing in the context of the UK-New Zealand agreement, and the New Zealand Government certainly understand the climate change issue very well and want to include that in the environmental chapter of the agreement. That is the way I would recommend the issue be handled.

Q33 **Geraint Davies:** Mr Lowe, if we have no deal, will we have a divided kingdom and will we get Paris agreement compliance?



Sam Lowe: I do not want to make guesses as to the result of any future independence votes, and the like. Of course, failure to reach an agreement does create political momentum in Scotland in that, yet again, it is viewed that the English have done something to them that they did not want done to them and it creates problems. I am just giving that as a perspective. Reaching an agreement does potentially help the UK Government there.

In terms of your question on an up-down vote, I think there should be an up-down vote, and I gave evidence to the Trade Bill Committee. Parliament should have an enhanced role, and that would strengthen the UK's hand in trade negotiations. I do not think Parliament should be able to nit-pick every issue, but it is quite common to have a yes-no vote at the end. That should certainly be afforded to the British Parliament as well and not left to constitutional vagaries around statutory instruments in implementing legislation, which is not quite the same.

In terms of climate change, Shanker is right to point out that the US does consistently include environmental chapters in its agreements and also that it makes them enforceable, at least technically speaking. We have not seen one enforced but it could be enforced under a dispute settlement, which is different from what the EU does and is something that has created some issues with the EU's negotiations with the UK. However, it does not tend to reference climate change and that is because of Congress and the fast-track authority.

As to the US's approach on climate change going forward, it is exactly what Mij said. If we have a Biden Government, it looks very different from if we have a Trump Government. If we have a Trump Government, I would expect them to continue to disrupt the process. If we have a Biden Government, I would expect the US to re-engage.

From a UK perspective, we need to remember that the UK's hosting COP next year, so I do not see there being any incentive on the UK side to back away from our climate obligations at this point in time. Hosting COP creates a good global platform for the UK to be positive about what it has done on climate change and what it intends to do in future. I do not see the UK pursuing a trade agenda that deliberately disrupts that.

Q34 **Geraint Davies:** What about Tony Abbott?

Sam Lowe: It was quite fun to watch it play out, because you just watch these things, but we need to be clear about what Tony Abbott's role is. The Board of Trade is about trade promotion. If I am being very blunt about it, it is a ceremonial position. They do not actually do anything. He is not advising on trade negotiations; he is not leading negotiations. At the very best, he is being tasked with promoting the UK around the world. Of course you might have objections to that as well, but we should also be clear about what the role is.

Chair: Thank you very much. I am being told that we risk losing the



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room if we carry on over our allotted time any further. Forgive me, panel, if any of you wanted to come in finally, and forgive me, members of the Committee, if you had any other questions, but we are going to wrap up the session now. A huge thank you to our guests today, to Sam Lowe, Shanker Singham and Mujtaba Rahman, thank you very much as well, and to all of our Committee members. It has been an excellent, very full, very thorough session. Thank you.