House of Commons

European Scrutiny Committee

Oral evidence: EU Withdrawal, HC 763

Tuesday 3 July 2018

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Watch the meeting

Members present: Sir William Cash (Chair); Richard Drax; Mr Marcus Fysh; Kate Green; Darren Jones; Mr David Jones; Stephen Kinnock; Andrew Lewer; Dr Philippa Whitford.

Questions 578 – 672

Witnesses

I: George Hollingbery, Minister of State for Trade Policy, Department for International Trade, and Crawford Falconer, Chief Trade Negotiation Adviser and Second Permanent Secretary, Department for International Trade.

Examination of witnesses

Witnesses: George Hollingbery and Crawford Falconer.

Chair: Good afternoon, Minister. Good afternoon, Mr Falconer. It is very nice to see you. First of all, I am going to ask David Jones if he would be good enough to ask the first question.

Q578 **Mr David Jones:** Good afternoon. I would like to start by discussing the implications of the so-called backstop arrangement. As you know, the joint report in December last year committed the UK to full alignment with the rules of the customs union in the absence of otherwise agreed solutions to avoid a hard border in Ireland. The Commission's version of the backstop would keep Northern Ireland in the customs union and in the single market for goods, but that, as you know, has been rejected by the Prime Minister, who said it was not an arrangement any UK Prime Minister could ever support. The Government's temporary customs arrangement would see it applied to the UK, but the Commission of course has raised concerns about that. From the point of view of a trade negotiator, which would be the more preferable solution, if either?

George Hollingbery: To whom is the question directed?

Mr David Jones: I think it is directed at Mr Falconer in the first instance.

Crawford Falconer: As we made clear to the Clerk, when it comes to Brexit matters, my Department is not really a Department that can answer you reliably on questions relating to Brexit. It would be more a matter for the Department for Exiting the European Union. As a Department, we give our best advice to the Government on all matters that deal with international relations, international negotiations and the consequences thereof. Those matters, as you are well aware, are being dealt with directly with the EU. As regards the Department for International Trade, that is something DExEU and the relevant Ministers are dealing with.

I am a humble trade negotiator, a genuinely humble trade negotiator. I am used to the question, "Would you prefer to be barbecued or boiled?" Those are the kinds of options trade negotiators usually get. Our job will undoubtedly be to deal with third countries once the United Kingdom has settled its relationship with the European Union, and we will do it effectively.

Q579 **Mr David Jones:** Yes, but if either of those two options, i.e. the UK version or the EU option, were to be adopted, how easy or otherwise would it make your role as a trade negotiator in seeking to cut trade deals with third countries?

Crawford Falconer: As I say, I am not really in a position to give you an answer to a matter that is, at the moment, unresolved and unfinalised. It is already clear from the terms of the withdrawal agreement that the United Kingdom will be in a position after March 2019, on the assumption we have an implementation period after March 2019, to enter into, negotiate and conclude trade agreements. The assumption that we are working on and I am working on is that we should be prepared to do so. We do not look for the easy route; there is no easy route.

Mr David Jones: That is probably just as well, in the circumstances.

Crawford Falconer: But when it comes to our task it is quite clear that we need to have effective and meaningful negotiations. The withdrawal agreement clearly envisages that that will happen, and that is what we are committed to ensuring will happen.

Q580 **Mr David Jones:** As you know, there has been criticism of the so-called backstop arrangement, in that it would effectively keep the United Kingdom tethered to the customs union for the duration of its operation and would undermine the operation of an independent trade policy post-exit. Do you agree with that analysis?

Crawford Falconer: That is a political matter that is subject to debate. It is not something that I, as an official, am in a position to comment on. We, as officials, will do our jobs effectively.

Q581 **Mr David Jones:** Yes, I understand that, but clearly you will have a role in negotiating agreements with third countries. I quite understand that you are not in a position to speculate or, indeed, to opine as to policy, but at some later stage you will have to deal with the consequences in terms of negotiating with third countries. Would you say that it would make it more difficult for an independent trade policy to be pursued or would you be able to work around it?

Crawford Falconer: I am not going to comment on what at the moment is hypothetically an option on the table. That clearly has a way to go before matters are resolved, so I am not working on any assumptions that things will be expansive or otherwise. Our task is to make sure that, no matter what the Government decide in this matter, we will be in a position to negotiate effectively with third countries. We are scoping out those opportunities at the moment, and that is what our responsibility will be. As and when that is clear, we will be in a much clearer position to give you an answer as to how we are going to go about doing that. But right now that is the most that I can say.

Q582 **Mr David Jones:** Are you able to say how a selective application of the common commercial policy would impact upon the UK's ability to negotiate and conclude trade agreements with third countries?

Crawford Falconer: I am not quite sure what you would mean by "selective application", but, to give you an example, in the withdrawal agreement there is very clearly a provision for the common commercial policy to apply during the implementation period. But it is also very clear in article 124(4) of the withdrawal agreement that, irrespective of what the common commercial policy otherwise might mean, the United Kingdom during the implementation period has the full power to negotiate and conclude trade agreements. As far as we are concerned, and as far as the Government are concerned, for the lifetime of the implementation period we have the full power to negotiate and conclude agreements. We will not be able to put them into effect until after the implementation period.

That is very clear. That gives a very clear sense of what the political capacity for us to operate is for that period. That is solely for the implementation period, but that is a clear direction as to what the Government's expectations are that we will do.

Q583 **Mr David Jones:** If the Government's proposed backstop arrangement were to be agreed by the EU, is it not the case that the only area in which the UK would have any scope for a separate trade deal would be on services? Perhaps, Minister, you could comment on that.

George Hollingbery: Like Crawford, I very much take the view that this is not strictly a matter for our Department. It is better directed at this stage to Steve Baker, the Minister from DExEU.

I have to restrict myself on this point, but the political direction in the Department is to prepare the country for pretty much any eventuality.

We have to have our WTO schedules in place; we have to work out how we are going to transit existing trade deals and how we are going to deal with future trade deals. We have an Exports Minister, who is there to create relationships around the world to make sure we can export effectively. It is within that context that we are working to deal with all those issues that are needed to create continuity, so business can be reasonably certain of where we will end up.

As to the consequences of potential hypothetical situations, it is not for us to comment. Our job is to sit here and make sure the Government and the country are ready for the deal that comes out of the other end.

Q584 **Mr David Jones:** Clearly your Department is preparing for every eventuality.

George Hollingbery: The eventualities that are required are that we will be able to negotiate free trade deals, in whatever sense that comes to us, and that we will be able to transit the free trade deals we already have.

Q585 **Mr David Jones:** That depends on the framework of the agreement the Government come to with the EU in terms of customs and the common commercial policy.

George Hollingbery: I imagine it would.

Q586 **Mr David Jones:** Can you foresee any country in the world wanting to do a free trade deal with the United Kingdom on services alone?

George Hollingbery: All I can say is that we will deal with any circumstance that arises when it arises, and we will deal with that situation as it comes in front of us.

Q587 **Mr David Jones:** Yes, but you can answer that question. Can you think of any country in the world that would be willing to have a free trade agreement with the UK on services alone?

George Hollingbery: At the moment, I am afraid I am not in a position to give you an answer on that. We are dealing with hypotheticals here, and as far as I am concerned we have a job in hand and I know what that job is.

Q588 **Mr David Jones:** It must be very difficult to do your job when you are dealing with so many hypotheticals that you cannot actually make a decision as to which way you are going.

George Hollingbery: Indeed, it is a difficult job at the moment to prepare for the unknown, but the Department is very heavily focused on those things that we know will be required as and when the deal is finalised.

Q589 **Mr David Jones:** Given that one eventuality might be a partial tethering to the common commercial policy, you are unable to give us any indication at all as to whether you have made an assessment as to whether there is any country in the world that would be willing to do a free trade deal with the UK on services alone.

George Hollingbery: I can be quite clear that I have not made such an assessment.

Q590 **Mr Fysh:** I just wanted to clarify something. Is it the Government's position now that they do not know whether they will be in a customs union with the EU or in the single market with the EU?

George Hollingbery: I am not sure I entirely understand the question. Are you asking whether I know the outcome of the deal that is to be brokered with the European Union?

Q591 **Mr Fysh:** It is the corollary to Mr Jones's question. He was asking if you know whether it is Government policy that we are going to remain in the single market, a customs union, a common commercial policy or a common external tariff. Are we not clear about those things?

George Hollingbery: The Prime Minister's public pronouncements on these issues are well known. She has set out her red lines and those will be well known to the Committee already. On this particular issue, that is as far as I can go.

Q592 **Mr Fysh:** Why, then, is the Department not able to prepare and say that we will be able to do independent free trade deals?

George Hollingbery: The intention of the Government is well known. I will just repeat what I have said. The Prime Minister has set out her red lines: we want as frictionless borders as possible; we want to be able to negotiate free trade deals around the world; we want to see an end to free movement. All these issues are well known, certainly to this Committee. If you want any details about the ideas that are to be negotiated in the deal we wish to do and the deep and special relationship we want to have with the European Union, you should be addressing those questions to DExEU.

Q593 **Mr Fysh:** But DExEU Ministers yesterday did not know what No. 10 was talking about when it was making briefings to the press on these matters. How are we supposed to think that the DExEU Ministers would have any idea about these matters now?

George Hollingbery: That does not change my earlier reply. In the end, this is a matter for DExEU. If you have not had satisfactory responses from DExEU in an area of its responsibility, that is a matter for DExEU and for you to inquire of DExEU about.

Q594 **Mr Fysh:** To what extent should Mr Falconer be involved in negotiations with the EU directly at this stage, given that he is the only one in the Government who actually has any experience of trade negotiations?

George Hollingbery: I can speak to the direction that the politicians might point Mr Falconer in, but I will let him talk for himself in a moment. As far as we are concerned, there is a huge amount of work to be done with the EU: about negotiating around our WTO tariffs, about our relationship as we leave the European Union, about the TRQs and so forth. There is plenty on Mr Falconer's plate to be negotiating with at the level of the European Union, but perhaps you would like to fill in a little more.

Crawford Falconer: I was not hired to negotiate with the European Union. I will not give you a view on whether I am delighted or relieved not to be so responsible. The reality is that I was essentially hired to deal with trade negotiations that the UK will enter into with third countries, but of course I work in a Department that is part of a joined-up Government. As a Department, we naturally give advice on where we think the implications are of various possibilities. While the people who work with me and the teams that I am operating in are preparing for the prospect of actual negotiations with third countries, because that is our primary responsibility, we are also giving the best advice we can about what the implications of various options will be more broadly. We are not completely in any sense remote from that, but we are not principally responsible for managing the relationship with the EU or for exiting the EU. But we give the best advice we can on that process, and sometimes I am even involved in that.

Q595 **Mr Fysh:** Do either of you actually think that Cabinet members who are involved in setting or discussing some of these processes are sufficiently aware of the consequences of particular decisions with regard to the deal with the EU?

George Hollingbery: Mr Falconer is clearly not in a position where he can answer that, so let me try. I read the papers; I listen to the news; I see comment; I live and work in this place. It seems to me that there is plenty of advice being offered and journalists offering opinions for most people to have a fairly thorough understanding of the consequences of all sorts of options.

Q596 **Chair:** I will tell you one question I would like to ask in this context. Marcus Fysh has asked what part you expect to play in the negotiations. You have said that you will play a role not with the EU but with third countries. Mr Falconer, can you tell me whether you were invited to the Chequers meeting that is taking place on Friday? Are you going to be there? By general accord, you come with an enormous reputation in this field. I do not want to embarrass you, but that is what they say. I have been talking to a lot of expert trade negotiators, and they talk about you in very esteemed terms. I am interested to know whether you were invited to the Chequers meeting.

Crawford Falconer: No, I have not been, and I am not in the habit of turning up to meetings where I am not invited, especially somewhere as august as Chequers, so the answer to both questions has to be no, clearly. But I do not want it to appear as if that is me endorsing some sort of view that I have been left out of the only interesting party in town, and that I am bitter and twisted about it.

No, it would be extraordinary to imagine that I would be invited. That is dealing with the intimate nature of the relationship between the United Kingdom and the European Union. As I have explained, neither I nor my Department are at the centre of that process. We are part of the machinery of government that is involved, and there are many parts of the machinery of government that are involved, but there are a handful of people who are the key officials in that exercise and any meeting of that kind is essentially a political meeting. I have no idea what officials are going to be present, but I would imagine there are not many of them. It would be perfectly normal that the few who are there would be those who are closest to that action, who understand the detail of it and who have been involved in it 24/7.

You do not really need a part-timer to come along and proffer a view. I am not trying to make sure I do not get an invitation, you understand. I am an official; I will do what I am told. I have not been, but I do not, myself, see anything extraordinary in that fact.

Q597 **Richard Drax:** Mr Falconer, you should be there. That is my personal opinion. It is rather desperately needed that you are there, in my view. Minister, forgive me, but you have not really been able to answer our questions. Would it be fair to say that you cannot answer our questions until, if and when a decision about our future relationship with the EU is made? Whatever you say to us now in answer to these questions could be sub judice. "Sub judice" are the wrong words, but you have not been given permission to speak to us.

George Hollingbery: Shall we say it could be subject to misinterpretation?

Q598 **Richard Drax:** Exactly, the Prime Minister says that you cannot tell the Committee what we want to know, because you do not know yet. Is that a fair assessment?

George Hollingbery: I am afraid there is some genuine truth in that. Until we have a clearer picture of what the White Paper contains and what it is we wish to negotiate with the EU, I am going to find it very difficult to tell you what programmes we are undertaking and how we will implement what that White Paper effectively instructs Departments to do. Until that point, it is not right for me to anticipate what might or might not happen or what potential problems there might be in a particular option, because it is only the option that is finally agreed that I will ultimately be interested in.

Q599 **Chair:** Will we be able to come back and ask you further questions after the White Paper?

George Hollingbery: That would be fine, Mr Chairman.

Q600 **Richard Drax:** Would it be fair to say this? As the diligent Minister I know you to be, along with Mr Falconer, you will be doing all you can to inject your view or at least seek a view from the Cabinet Ministers, so it in some way guides you—and you, Mr Falconer—as to the direction of travel. I assume you are contributing in some way. That is my question, I suppose.

George Hollingbery: The Secretary of State for International Trade is a Cabinet Minister. He sits there. He will take part in the discussions and I have no doubt that his views and the views of his Department will be injected into those discussions.

Q601 **Richard Drax:** I am sure they will, but you are an intelligent man. I am sure you will go to the Minister and say, "Look, I have spoken to Mr Falconer. Mr Falconer has spoken to me. If we do not get this, we are not going to have that. We want this. We want this". Surely you are pushing, pushing and pushing to help the Cabinet make up its mind.

George Hollingbery: Information is fed in from many angles. Yes, I have an input. As a Minister of State in the Department, I have a role to play to talk to the Secretary of State and discuss the various options that might come forwards, but in the end it is down to the Secretary of State to make his mind up about what he inputs to that meeting, and he will do so. I do not wish to seem evasive, but the simple fact is that we are dealing with a considerable number of hypotheticals here.

It is also entirely proper for me to say that, after a week and a half in the role, you would not expect me to have gone over every single detail of trade policy. I have read extensively, and I have to say I am very grateful to have had this meeting, because it has forced me to reach into a lot of trade policy that I might not otherwise have seen. I am very grateful for the opportunity to have read around for this meeting. But it is not right for me, at the level I find myself, to say that it is my role to be advising Cabinet as to what to do. It is very much for the Secretary of State to take his views and the views he has accumulated from around the Department into that meeting to reach a collective decision, which of course is what we all hope will happen at the weekend.

Q602 **Richard Drax:** I have one further point, and then you will be glad to hear that I will belt up. It has been made very clear by the Prime Minister, in speeches and things she has said in the House of Commons that you and I have both heard, and the country has heard, that we are going to leave the customs union and single market, et cetera, and that we will be a third country negotiating our own trade deals. That to me, and I think to most people, is absolutely crystal clear. Would you agree with that?

George Hollingbery: I know the words well. You will know that I have spent some time around the Prime Minister. She has repeated those terms on many occasions. They seem fairly straightforward to me. I am sure she repeated them again in the Chamber yesterday and means what she says.

Q603 **Richard Drax:** On that basis, your job is pretty easy. You know exactly where you are going: we will be a third country and we are going to strike deals. Let us get on with it.

George Hollingbery: Let us just say that we will have the final script from which to work when it appears next week.

Q604 **Mr Fysh:** Why is the Secretary of State for Business dissenting from the Government and manifesto position?

George Hollingbery: You cannot expect me to put words in the mouth of the Secretary of State or provide justification for something he has said. It is simply not my place to do so.

Q605 **Mr Fysh:** Why, when I met with him three weeks ago, did he not even have decent responses to the most basic questions about rules of origin, customs and trade facilitation? Why would he have known nothing after two years in the role?

George Hollingbery: Honestly, I cannot speak for the Business Secretary. You would have to address those questions to his Department, through his officials, to him, and make inquiries, as you will, of him. It is simply not something I can attest to in this meeting.

Q606 **Mr Fysh:** Why has your previous boss not sacked him already from her Cabinet?

George Hollingbery: I do not think that requires a comment from me.

Q607 **Chair:** Many people regard it as quite unsatisfactory that this sort of situation has developed, and that is worth putting on the record.

But I did want to ask another question before we move on to Philippa, because she has been waiting patiently for her next question. I want to address this to Crawford Falconer, if I may. Given your experience in New Zealand, presumably you worked with Mr Lockwood Smith at some point. Is that so?

Crawford Falconer: Yes.

Q608 **Chair:** You have also worked with the WTO and the OECD, so we know you have enormous experience. What does it tell you about the opportunities to liberalise trade in the UK? Listening to the BBC, one might imagine that the whole of the Brexit process is a walking disaster, but of course it is not and there are huge opportunities. From your considerable experience, for example, in New Zealand and so on, I wondered if you could give us a sense of the opportunities to liberalise trade in the UK. Do you have a sense of the trajectory on that?

Crawford Falconer: To be honest with you, I would not particularly claim New Zealand paternity for the remarks that I would make about that. They are applicable to the UK and to anybody who comes from a wide range of economies in their background. Objectively, the future of world trade and the future of economic growth is coming and will come from the Asia-Pacific region. The United Kingdom as a global trader, irrespective of the nature of its final relationship with Europe, is superbly positioned to take advantage of that fact. For obvious reasons, some people will say the reason for this occurring is not something they agree with; others will say it is something they do agree with, but the reality is that we will be in a position where we will be an independent trading nation, so we will have the option to build links all around the world. That is one of the attractions of the agenda we have.

What is an example? The one I like—it is quite interesting, because it shows you the shift of economic power—is that, by 2030, something like 65% of the world's so-called middle classes will be in the Asia-Pacific region. That is up from less than 50% now. That is a massive shift in purchasing power. The United Kingdom—and not only the United Kingdom, but many developed economies and other economies—is in a position to reap the gains from that. That is why growth is so important in the global economy, and we can take advantage of it.

There have been studies done that show the UK's perception in that part of the world is very positive in trade and economic terms. Something like two-thirds of people surveyed in India said they would pay a price premium for UK products because they were UK products. Just under 60% of Chinese surveyed in this same international survey said they would do the same for UK products. The opportunity is there irrespective of what happens with our trade negotiations, but they will have a massive power to reinforce those connections. The Secretary of State is very clear on that. We need to have far more outward looking policies to promote trade and investment. The negotiations are part of that, but they are not the whole of that story. By 2050, eight of the top 10 GDP economies in the world will be outside Europe. That is the reality.

Q609 **Chair:** The figure we got recently from the IMF, and confirmed by the European Commission, was that 90% of all future growth is likely to be outside the EU. Is that more or less right?

Crawford Falconer: That is right. I am quite happy to quote those figures. They are not meant to be a binary choice. They are figures that remind you that there is massive growth and development occurring particularly in Asia-Pacific, and finding a way in which to bind into that and take advantage of that is for the future wellbeing of this economy.

Q610 **Chair:** That would include ASEAN as a whole.

Crawford Falconer: Yes. Indonesia, for instance, which is the powerhouse of ASEAN, is the key to that exercise. Indonesia is a massive economy with a massive young population. It is not exclusively Indonesia. There are smaller economies there such as Malaysia that are also very important. Vietnam is going to go in leaps and bounds as an economy. It is not a massive economy, but it is clearly going to go down a significant growth path. There are huge opportunities there, even apart from the giants such as China and India.

Chair: David, you wanted to ask one last one before I come on to

Philippa. I am sorry about that.

Q611 **Mr David Jones:** Yes, very briefly. Forgive me for disappearing. That is a very positive message. To what extent would the United Kingdom be hampered in seeking out the opportunities you have just outlined if it were to remain aligned with the European Union in terms of regulation or if it were to remain part of the common commercial policy?

Crawford Falconer: If we were still part of the EU—i.e. part of the customs union and the EEA, which the Prime Minister has made it very clear we will not be—we could still develop some links with that region. The European Union itself is developing links. Let us be very honest about that. We could still try to inculcate a culture in business to look further afield. It is not a completely binary choice. But, as it happens, when you are on your own, as it were, there are certain advantages that come with that. You can focus on your priorities, and you can move at speed. When you are brokering 28 economies, it has some advantages because you have 27 other economies, but you have to wait for 27 other economies and you have to broker those priorities.

The UK is a services economy, but it is also a goods economy. One of the things people tend to forget is that the two are integrated in value chains: goods and services go together in many ways. We can focus on areas such as professional services, financial services and high-value manufacturing in a way that allows us to pursue those particular priorities in those economies. Let us not forget food and beverage. What does the developing world want? It wants reliable, safe food and protein. The UK can do that. Once it is outside the common agricultural policy it will be in a position to be far more competitive internationally, if it chooses to be so.

There are policy decisions that will have to be made by the United Kingdom. People talk about regulation in the abstract. Nobody in this country is talking about lowering regulation; you are talking about having regulation that is high quality. The example of foodstuffs is a really good one. Internationally, people do not want lower quality; they want higher quality. If you are the UK, you want to have the advantage of getting price premia for what you are doing. You are never going to win by competing on cost. That is a very positive story. It is not an invented story; it is out there for all to see.

Q612 **Chair:** I just have one last question before I come to you, Philippa. As a matter of information, do you have enough trade negotiators in the Government at present?

Crawford Falconer: I can give you a slightly facetious answer to that question. Seeing as we are not actually negotiating anything at the moment, you could argue that we do not have a shortage.

Chair: That is understood.

Crawford Falconer: But I know what you mean.

Q613 **Chair:** I am talking about projected trajectory.

Crawford Falconer: At the moment, we think we are in close to manageable territory. The Government have yet to decide exactly what their future negotiating agenda will be. You can never be certain about how many negotiators you need until you know how many negotiations you are actually going to do. The Government have made it very clear politically that they intend to negotiate with the United States, Australia and New Zealand. They have committed to ensuring that the 40 agreements we are part of as part of the EU will become our agreements in the UK, in so-called transitionally adopted agreements. There is a lot of work we already know about. We are resourced enough to deal with those projections, but if there are additionalities—and it is highly desirable that we take advantage of other opportunities—we may well need to train more negotiators. It will not be massively more than we presently have. We have a very, very strong programme of training in place through an academy, and we bring in other countries to help us.

I constantly make the point that you do not have to have been a so-called trade negotiator for 20 years to be very good at doing trade negotiations. If you can do policy, you have political nous and you know how many beans make five, there is a good chance you can do the job. The UK produces scores of those people all the time. If you are plugged into the right business advice and the right advice from other expert groups, and you are aware of the demands that are made commercially and by citizens, you are in a pretty good place. Therefore, we are in a pretty good place.

Q614 **Dr Whitford:** Before I come to my formal question, Mr Falconer, you talked about the centre of gravity moving east from a trade point of view, but Germany does a huge amount of trade with China. Is it really the EU that stops us trading with more eastern countries, or just that we have got a bit lazy and have not been looking wider?

Crawford Falconer: There is no single explanation for things; very rarely is that the case. There are different industry structures in different economies. There are some quite good reasons why that has happened. But there is a perception that can change things. When business has been doing things in the way business has been used to doing them, that is one thing, but then all of a sudden you can provide a degree of perspective that says, "Look, there are these other opportunities out there that have not been seized before". That is what can happen.

There is not such a significant difference between Germany and the UK in some of those markets, but it is certainly true that Germany and other economies are more export-orientated than the UK is. There are lots of reasons for that, but one of them, which we are addressing and the Secretary of State is very keen to address, is to create that culture and that environment where people understand how important exporting is, and to provide the kind of economy, orientation and leadership that leads to firms taking those chances.

I am here to talk about negotiations, because that is, unfortunately for me, what I do. But there are lots of other people in my Department who are export-promotion experts; there are lots of people who are linked into domestic Departments and are trying to convey across Whitehall the message about how important it is to provide a way to facilitate investment, which builds you business connections, and to facilitate the capacity to export for smaller firms that want to export but have not got around to doing it yet, so they can learn from others who have been successful.

I am a great believer in the power of the market; do not get me wrong. But the market is not the be-all and end-all. There are sometimes ways in which you can intervene to successfully help people to follow their own interests. You can do that irrespective of negotiations. The negotiations absolutely help and they absolutely change the focus. Political direction makes a difference to how people view the world and gets them to look at options they had not looked at before. Negotiations are valuable in providing better market access, and therefore more opportunity, but also in enabling you to focus your efforts and say, "Look, here is a concerted story that you might not have heard before. What about that?" Some people will take advantage of that.

Q615 **Dr Whitford:** It is not actually any obstruction from the EU; it is about having the vision and ambition to want to export at every level of business in the UK.

Crawford Falconer: There are some policies and consequences of being in the EU that are pluses and minuses. It would be odd if one did not think that. As I say, it has traditionally been a brokering exercise. The EU has to deal with 28 member states. The UK will have the opportunity of being more focused.

Q616 **Dr Whitford:** I understand that from the point of free trade agreements, but obviously Germany does export to China, regardless of free trade agreements. We could have been doing more of the same.

Crawford Falconer: There is undoubtedly a case that the UK can and should be doing more. Right now, we are still part of the EU. As of yesterday, today and tomorrow, my Department is still urging people to do more. We believe they can do more even though we are still inside the EU.

Q617 **Dr Whitford:** My more formal question goes back to the issue of the backstop. This is for you, Minister. The Government accepted in the joint statement that any arrangement would need to apply not just to a customs border but also to regulatory alignment. Obviously, quite a lot of the discussion and confusion is about whether this would apply just to Northern Ireland, to avoid a border on the island of Ireland, or whether it would apply to the whole UK. How would such choices impact on UK trade policy?

George Hollingbery: I am afraid that I come back to the same issue. We are talking about hypotheticals. This is absolutely a matter for DExEU.

Q618 **Dr Whitford:** If we have this alignment, with the backstop, what will the impact on trade policy be?

George Hollingbery: I come back to the same answer. I gave an answer to this earlier on, which is that there are many potential outcomes from the negotiations with the EU. It is not really a matter of policy responsibility for my Department to comment on things that may or may not happen. Clearly, there are implications. There are others who can answer those questions. Until we are certain that we know what the outcome of these negotiations is, we will carry on planning to do those things we know we have to do: transitioning existing arrangements, seeking out new free trade deals over time and so forth. I am just not in the business of speculating about what might or might not be the consequences for trade of things that have not yet happened and may not happen.

Q619 **Dr Whitford:** But you said that you were preparing for multiple eventualities. Obviously, the Government have committed to having no physical border on the island of Ireland. Therefore, some version of the backstop that might keep Northern Ireland aligned with southern Ireland to avoid that is a real possibility. Can you not even say, in those circumstances, if you have prepared for that eventuality, whether that would cause difficulties with the UK's trade policy going forward? Would it limit you in other things?

George Hollingbery: Going forward, some of the work streams, on WTO and so forth, will undoubtedly carry on in the same vein as they are, because they will be required and we will be outwith the European Union. Others might have to be adjusted, but we will approach how to do that as and when we come to that hurdle.

I am sorry to appear and be unable to give a fulsome answer, but I do not feel we are the right people to be asking that question at the moment. This is a matter for decision by Cabinet over the weekend. We will then have a clear way forward; we will have the White Paper; we will understand the sort of world we are planning for; and we will plan for that world.

Q620 **Dr Whitford:** Some of the EU's existing free trade arrangements, which the UK will be hoping to carry across, have "most favoured nation" clauses in them. To what extent are these relevant to the EU and UK's agreement to maintain regulatory alignment?

George Hollingbery: If you do not mind, I am going to defer to officials, if you feel able, Crawford.

Q621 **Dr Whitford:** Again, what would be the implications for wider trade policy around "most favoured nation" clauses?

Crawford Falconer: I am not sure I have understood the question in relation to the transitional agreement.

Q622 **Dr Whitford:** This is still in relation to the backstop keeping regulatory and customs alignment between Northern Ireland and southern Ireland. Indeed, that might even apply to the whole UK. Once you are trying to negotiate to carry over the existing free trade agreements, obviously some of them have "most favoured nation" clauses in them. In so far as the UK is a third country, or for us the EU is like a third country, to what extent is it an issue if we have "most favoured nation" clauses with other countries?

Crawford Falconer: I am not talking about the issue itself as a backstop but, as far as the transitionally adopted agreements are concerned, they are agreements that the EU as a whole has with the likes of Korea, Canada and so on. When we transition those across, although that has to be sorted and finalised, and the details remain to be seen, essentially it is just a transferring over to the UK. I may be missing something, but I do not think there is any consequence of this that is affected by whatever the terms of either the implementation period or the backstop would be.

During the implementation period, for instance, those agreements do not need to be transitioned across. They just need to be transitioned across, to be ready to go at the point at which we have an independent trade policy. Whether that is at the end of March 2019 because for whatever reason we have not secured an implementation period, whether it is at the end of 2020 at the end of the implementation period, or whether it is at some other point after a backstop, whenever that may be, it does not really answer the fundamental question that they themselves are not tangibly changed. They will be essentially the same agreements that they are now. You may have some more technical reason that I have not come across.

George Hollingbery: I suspect Dr Whitford has in mind a particular effect of "most favoured nation" status.

Q623 **Dr Whitford:** Yes. If we are giving special treatment between the UK and Ireland and the UK and the EU, do we not then run up against the fact that there are "most favoured nation" clauses elsewhere? Would we be seen to be giving special treatment?

George Hollingbery: I understand the question you are asking. I am not placed to give you a sufficient answer to that. May I ask that we can write to the Committee with a reply? It is a technical issue about how "most favoured nation" status triggers other issues. I am afraid I am not sufficiently ready to give you a cogent answer on that. If I can cause officials to write to you, would that be acceptable?

Dr Whitford: That would be fine.

Q624 **Chair:** On the question we were discussing a little earlier, Mr Falconer, there was some talk and Philippa was asking some questions relating to

Germany. We know President Trump has significant reservations about some of the advantages Germany accrues as a result of its currency advantage and being in the EU. In the context of the UK into the future, post-Brexit, could you give us some indication as to how that would work for us in relation to Germany? There is no doubt at all, surely, that Germany has a significant price advantage when it comes to trading. This has caused quite a lot of concern, certainly in the United States. Can you throw any light on that in the context of the UK, in relation to third countries and our global ambitions? In other words, will we be in a more advantageous position as a result of having greater opportunities available to us, as you mentioned, in the ASEAN countries and, for that matter, elsewhere in that part of the world or otherwise?

Crawford Falconer: That depends on all sorts of decisions that Governments will make in the future about the way in which the UK economy operates. But one would assume that the UK will have the freedom to develop its trade policy in the way that it considers most advantageous for itself, and it will not feel bound, or be bound, by policies presently in place that it may consider to be a constraint. To the extent that there are constraining policies on our efficiency from being part of the EU, we would presumably be freer from that.

Q625 **Chair:** Germany does have a significant advantage from being part of the European Union, precisely for the reason I gave. Is that not true?

Crawford Falconer: That is certainly how Germany sees it.

Q626 **Chair:** You mean they like it.

Crawford Falconer: Yes, I think so.

Q627 **Chair:** It is a bit of a goldmine, in other words.

Crawford Falconer: That is their choice and their preference. That is how they see the situation. That is my understanding.

Q628 **Chair:** We are all waiting for the Government's White Paper. Minister, I understand that you are very reluctant—in fact, I would say you have stubbornly refused—to answer any questions that are ultimately going to pre-empt the meeting on Friday or its outcome, and the outcome of the White Paper. While I partly understand, I hope you will appreciate the frustration of the Committee, and certainly at least one member, who became so frustrated that he decided he was not going to continue taking part in the proceedings. But you have been doggedly determined not to go beyond Friday.

George Hollingbery: You are correct, Mr Chairman.

Chair: It may not even be until after the White Paper is out, so I am not going to invite you to come back until after the White Paper has been published, on that basis.

However, Mr Falconer, in relation to this White Paper, as an experienced trade negotiator, is the UK in a stronger position negotiating new trade deals with non-EU third countries where we maintain regulatory alignment with the EU or not?

Crawford Falconer: That is another version of the original question that the Minister has given a fairly clear steer on. I would basically concur with that view. What I do feel I can say is that some forms of EU regulation are constraints to some kinds of negotiations that the EU has when it is dealing with other countries at the moment. That is a factual matter. There is no great mystery about the fact that the EU and the United States in the past tried to negotiate with each other, and the obstacles that were there were many. Some of them were because there was a regulatory difference between the United States and the EU. The idea that your regulation is irrelevant to what you do is not borne out by the facts.

The question is what the nature of that regulation is, where it bites and whether it matters to your trading partners. I am not going to answer that question in the abstract. It is a genuine question, but it is one that can really be dealt with most rationally and efficiently by being very specific about which particular regulation or particular regulatory approach, in which particular area, with which partner. Some partners do not mind; others do. As a negotiator, part of the art of the negotiation is not letting the person on the other side of the table know which particular things are your weaknesses and which particular things you really want from the other party. Part of the reason for my reticence is that there is a negotiating reality here. At this stage, before we have even actively engaged, one does not want to reveal too many cards in that regard.

Q629 **Chair:** The one card you are prepared to reveal—and you have already done it—is that outside the EU we have very significant advantages in other parts of the world. Is that right?

Crawford Falconer: What I was trying to say is that I can at least see two significant advantages. I am not saying they are the only two, but there are two that are quite significant and obvious: you have the capacity for speed and you have the capacity for focus. That means you have certain advantages there. I am not saying they are the most important things; I am not saying they are by any means the only things. But they are certainly very clear-cut advantages.

Q630 **Richard Drax:** Mr Falconer, when were you taken on in this capacity? When did your role start?

Crawford Falconer: I think I started at the end of last August. It was around about the end of August.

Q631 **Richard Drax:** That is just under a year, if my maths is about right. You are advising the Government on future trade with other countries, including the EU. You must be deeply frustrated. You have been sitting for a year waiting for some clarity, which you still do not have, and are unable to answer our questions because you do not have that clarity. As I have said before, the Prime Minister has made it absolutely clear where this country is going, and yet it seems to me, and I am sure to everyone else, that there is this huge pool of uncertainty still. I am just baffled as to how frustrated you must be, spending a year achieving probably not very much.

Crawford Falconer: Let us go back a couple of steps. I am really, really quite glad to have had a year, because we needed to build a capacity to engage in these negotiations. We are already doing things where these transitional adoption issues are concerned. We have 40 agreements that we have to have ready so they can be applied by the UK in its own right. That does not get much attention. Do not get me wrong: I am not keen on getting a lot of attention. Trade negotiators are a shy lot, by and large. We would prefer to live under a rock, if push came to shove. All that work is going on. All that work is actually quite important.

It is not as if we have been sitting there with our feet up saying, "It would be nice to have a negotiation one of these days". We have 40 of these agreements we are actively pursuing at the present time. We have increased our staff in order to cope with the future negotiations, and we have to train those staff up. We have to deal with trade disputes that are going on, and we still have to deal with normal EU business, which has implications internationally. There are plenty of things we are doing and plenty of things to keep us occupied.

Nor is there any lack of clarity about the fundamental question. As I said at the outset, there is no lack of clarity. The Government have been very clear that we will leave the customs union and we will leave the EEA. They have been very clear about that. Therefore, that is all I need to know. At the bottom line, that is all I need to know. I have staff who are preparing for the negotiations on the understanding that this will be the case. Once that happens—the question of when is perhaps a little debateable at the margins—they will be in a position to negotiate with third countries.

The areas where there is a lack of clarity—both the Minister and I have been making that point—are what I would consider to be matters of not unimportant detail that are deeply under debate, both domestically and with the EU, which are not yet resolved. On those matters of detail, we are not in the position to give answers to those questions, because we are not the responsible Department and we are not the individuals responsible for that. You know where to go and ask those questions, and where to get the answers. On the basic, most fundamental one, there is no ambiguity. On that basis, we are gearing up to be ready for that eventuality. Indeed, the withdrawal agreement is very clear. I come back to it: at the end of March, we will be in a position to start those negotiations. The fact that both we and the EU inked that document cannot leave any doubt as to what the intention is on the part of the UK even during the implementation period.

It is very important to put the record pretty straight on that, in case we were not clear enough about it at the outset. There is no doubt about that, and that is why people still want to work in the Department I work for, because they are looking forward precisely to undertaking that responsibility.

Q632 **Darren Jones:** Due to the political reality of there being no agreement at Cabinet level as to what it is we are supposed to do about this Brexit issue, we have been somewhat dancing around each other today. For all of our sanity, I am going to ask a couple of short academic questions as opposed to policy ones and hope we might have a bit more of a conversation.

Specifically, I want to talk a bit about the EU trade deals that we wish to roll over and continue to be a part of after Brexit. The intention is that during the implementation period we will renegotiate the UK's relationship with third countries to the EU where there are existing EU trade deals, so that after the implementation period we can carry on as we are. That is correct, I think.

George Hollingbery: There is also a possibility that they will have to be used prior to that date, just to be clear.

Q633 **Darren Jones:** Quite. There are some problems around that, or some questions we might want to talk about today. First, under the withdrawal agreement my understanding is that the European Union will say to these third-party countries during the implementation period, "The UK should be treated as if it is a member of the European Union", but that is a unilateral request. Are there any other examples in the world where that method has been used to maintain a party to a contract where the definition of the party to the contract has changed? If not, are you planning for any challenges from third-party countries to that request from the European Union?

George Hollingbery: I will answer that as broadly as I can. If Mr Falconer has anything to add, that would be great. As you know, there are 40 such deals. They are a combination of all sorts of trade agreements. That is a definitional issue, but they are mostly trade agreements. There are 70 signatory countries in among all those. Some of the deals are very well known; some are less well known. A great deal of work has been done, working with those individual countries. On the point you make about EU notification, there is also room for us to be encouraging our partners in each of those potential deals to make statements themselves that they are content, and negotiations continue with all those potential partners on that basis.

As to the question of whether there is an extant exit, as it were, that drew agreements with it, I am not aware of one. I might be advised by officials that there are one or two, but I am not aware of one. The advice we receive is that the arrangements we are seeking should be tenable legally. I do not want to go into any particular detail on those, because I would be going further than I am properly briefed for. But we are working hard to try to ensure those agreements are operable by the time we get to 29 March. Every effort has been put in. Every contact that can be made is being made, and we have a reasonable degree of confidence that those negotiations are beginning to bear fruit and will continue to do so.

Crawford Falconer: I have very little to add. It is quite clear in the terms that were agreed that the Commission would take the responsibility, having made the declaration, for making approaches to the countries concerned. As the Minister has said, we are putting as much pressure as we can on that process to kick off technically, in terms of the notification. But that does not stop us, and we have been engaged in conversations with the countries concerned. If they have any questions, we urge them to get in touch with the Commission to get clarity, because it is something the Commission is taking care of. At the moment, we are still an EU member state, which is the reason why it works that way. But we are doing what we can directly, bilaterally and informally to ensure we have as much information as possible.

A number of them have made public statements saying that they are perfectly fine with this arrangement. South Africa, Australia, New Zealand and Canada are among the countries that have said that. That has been very encouraging. I have to pay full respect to the lawyers and those who are more expert in public international law and the interpretation of the Vienna convention than I am. They seem to be comfortable with this. A comfortable lawyer is a very frightening prospect in my experience.

Darren Jones: It is an expensive one.

Crawford Falconer: But that pretty much seems to be their view. Yes, I cannot answer. In trade terms, I do not think there has ever been an example quite like this. There are some to do with the post-colonial situation where different approaches have been taken to state responsibility. If I am wrong, I can write back and correct it, but I do not think there is anything comparable to the way in which this will operate. But it is perfectly consistent, I am assured, with a reading of how public international law would allow it to happen. It actually makes a lot of sense for it to be done this way.

You asked the question about whether people will have a problem with it. At the end of the day, it is an arrangement that secures the stability of their trade as well as the stability of our trade. It is not as if it is going to do us a particular favour or the EU a particular favour. It is a mutually advantageous arrangement that maintains, with the least amount of static, the existing trading arrangements. The reason I am doubtful that there will be a fundamental problem is that there is a mutual interest in making this work.

Q634 **Darren Jones:** Of the 40, how many have publicly declared that they are happy with that position?

Crawford Falconer: I do not know how many have; I can get back to you on precisely that number. As I say, I am aware that South Africa, New Zealand, Canada and Singapore have, but there may well be others that have been public. When you get private assurances from Governments, you want to be a little careful about revealing your public status. I can say that there are certainly more than those that have given us a positive indication, but I would not, at this point, be able to give you their precise names. I could get back to you if that was something you wanted and we were able to share it, which I am not sure of yet.

Q635 **Darren Jones:** Are there any who have challenged the position?

Crawford Falconer: There are a few who have asked questions and that is normal; I would not say "challenged". From the tenor of what I have seen reported, some have asked questions of clarification as to how this would work, and that is not surprising.

Q636 **Darren Jones:** Have any of the 40 tried to use this as an opportunity to bargain for changes in our relationship with them?

Crawford Falconer: I am not conscious that this particular event, arrangement or moment has made a substantive alteration to their attitude in trying to bargain with us, no.

Q637 **Darren Jones:** In terms of renegotiating our own trade deals through the implementation period, we hope that that is going to be a relatively streamlined process.

Crawford Falconer: That has been our view. We have made it very clear to all the transitional adoption economies that, as far as we are concerned, we see transitional adoption as being what it is meant to describe, which is simply transiting over the existing agreements to apply between the UK and those economies. As I have said before, sure, some people have said, "How about a bit more?" and we have said, "Nice try", but the reality is that it is the status quo we are after. We are not in the business for these transitional adoptions of renegotiating them substantively.

That remains our position and, indeed, it has to remain a matter that we put to them very clearly. As we say to them, and have said to them in the past, this was arrived at because, at one stage, there was the possibility that this would definitely happen at the end of March and that possibility has not completely gone off the table. There is no possibility, realistically, between today and the end of March that we could substantively renegotiate any of those, even if we had the will to do so. For the moment, it makes perfect sense unambiguously that we are trying to transit these across without any substantive changes.

George Hollingbery: I am sorry to interject, but I will just re-emphasise and reaffirm that point. Some of the timescales are so short that it just makes no sense, even with our major trading partners within those 40 agreements, to think it is worth potentially disrupting trade flows simply because they might wish to do some things differently. To make it clear to the Committee, the terms of the Trade Bill are set up in such a way that it can do these transits very quickly through a minor alteration, where consequential amendments are usually required to UK law or retained EU law because of definitional issues and so forth. In the way the Government legislation is drafted, you are seeing the pattern and the clear intention of what we want to do. It is an important thing that we can show to partners as well, to evidence our intentions.

Q638 **Darren Jones:** There has been a letter today from a cross-section of the services industry, representing about 4.6 million workers in the UK, to the Prime Minister about the single market in services. Have we made an assessment of how much exposure we have to services in EU third-country deals as opposed to goods?

George Hollingbery: I am not aware of such a piece of analysis.

Q639 **Darren Jones:** A lot of this relies on there being a transition period. What does this world look like if there is no agreement?

George Hollingbery: Right up front, timescales clearly become considerably shortened.

Q640 **Darren Jones:** They run out.

George Hollingbery: They run out, indeed, on 29 March and there is a great deal of work to transition these agreements to be done before then. Work is taking place at pace to ensure, as best we can, that that is possible on that date, should the eventuality require it.

Q641 **Darren Jones:** What will happen to those 40 trade deals? Do we just fall out of them?

George Hollingbery: No, what I am saying is exactly not that; it is the exact opposite. A huge amount of work is being done, including putting in place the Trade Bill, clause 2 of which is specifically there to transition these deals with provision to do it quickly, if necessary, such that if we reach 29 March we are in a position where, having reached agreement with those partners, we can put those into UK law so that transition is achieved.

Darren Jones: You may be having a series of long nights, Mr Falconer. I hope you have joined a trade union to look after your health and safety concerns.

Q642 **Andrew Lewer:** You have been quite clear about simply copying and pasting ahead of March. If there is a transitional implementation period, are the Government still looking to simply copy and paste those EU deals with Japan, Singapore, Canada and so on, or are they looking for more ambitious trade agreements with those third-party countries during that transitional period, given your reference earlier to speed, focus and the ability to make some improvements once the basis is in place on 29 March?

George Hollingbery: We go back to the reply I just gave, which is that as little change as possible is the outcome we would prefer. Clearly, it would be a great deal easier legislatively to get these agreements into place if they have not changed a great deal. We see no particular reason why they should be changed. These are agreements that we have been working with and living under for as long as they have been agreed with the EU and we see no particular reason why they should be changed, other than in essential ways to make them operative in UK law.

Q643 **Andrew Lewer:** Once that is done, would you say the Government's priority would be to work on and improve existing trade deals that have been signed over from the EU to us, or to go out and seek ones with countries that we do not, via the EU or ourselves, currently have trade deals with?

George Hollingbery: I imagine a rational person would say we would look to put in place free trade deals from around the world where we currently do not have arrangements. That is not to say that work will not be done, potentially, if there is demand bilaterally to do so, on those deals that have been agreed thus far. That would be a matter for us and the third-party country in that circumstance.

Q644 **Andrew Lewer:** Okay, well, that started off being helpful. Could I move on to something that has been the subject of considerable public interest and, indeed, protestor interest—there has been a lot of mail from constituents about it—which is the investor-state dispute settlement, ISDS, and the new version, which is the investment court system. For those completely new deals we are talking about where there has not been a discussion of whether that mechanism would be in place, what is the Government's approach likely to be about the concept of ISDS or ICS components within those future trade deals?

George Hollingbery: I do not think there is any hard and fast policy predisposition on whether free trade deals in the future should or should not include these. They have led to a good deal of contention, questions about investor-state disputes and so forth. I have discussed this with the Secretary of State briefly. The situation we face is that there are states out there where you can reasonably make a decision that such dispute mechanisms may not be necessary; that the rule of law is strong enough; that there are other mechanisms for individuals and companies to go down to claim compensation, if they need to do so. But there are states where, if you want a free and open trade deal, you might wish to have some sort of mechanism agreed between yourselves such that, if one side or the other does not trust one side or the other's legal systems, there is another avenue to go down.

Genuinely, in this instance, it would be a matter of horses for courses. It would be looking at the trade deals and with whom we want to strike them, as to whether we think it would be necessary in that circumstance.

Q645 **Kate Green:** Can I just go back to your answer to Mr Jones, Minister, of a few moments ago?

George Hollingbery: Please tell me if you think I have got something wrong, because I may well have done.

Q646 **Kate Green:** I just want to be clear about the scenario. This is what we were trying to get at. As I understand it, article 124 of the draft withdrawal agreement says that the UK will be treated as a member state for the purposes of international trade deals that it currently is part of as a member of the EU, for the duration of the transition period. If we crash out without an arrangement by 29 March next year, there will be no transition arrangement, so what is the status of these deals, which cannot be rolled over for the duration of the transition period because there will not be a transition period?

George Hollingbery: I am very happy to be corrected by officials and I hope you will understand, Mr Chairman, if I cannot recall every detail of everything at this particular stage. My belief is that we are in the middle of negotiations with those third-party countries, which we hope will allow us to adopt those agreements before exit day.

Q647 **Kate Green:** What will the EU think of that?

George Hollingbery: I believe the EU is quite well aware that we are looking to take these measures.

Q648 **Kate Green:** It does not mind that we are going to try to continue with deals that look like the deals it has negotiated for the benefit of 28 countries, even though we are either outside of the EU or transitioning out of it.

George Hollingbery: This is an area of sufficient importance that it is very important that I allow officials to advise me and write back to you. It would not be useful to mislead the Committee and, if you allow me to take that route, I will be very glad to get a note back to you very quickly.

Q649 **Kate Green:** I would be very grateful if you could do that. Could I ask Mr Falconer my next question? We have discussed, to some considerable extent, the attitude of the UK and the EU. I am interested now in the attitude of third countries, post-transition, beginning to think about the kind of deals they might wish to do with the UK as a completely standalone country in the future. Are they already beginning to give any consideration to those new trade deals when the future of our relationship with the EU is so unclear?

Crawford Falconer: Yes, they are certainly showing interest; there is no question about that. It is public knowledge that, as far as the United States is concerned, it is still showing interest. As far as Australia and New Zealand are concerned, they are showing interest and they are the only countries that the Government have themselves indicated they are positively disposed to doing trade agreements with. There are others that are expressing interest in engaging with us, at some point, when we are ready to do so. It is not as if there is any lack of interest out there; that is not our experience.

Q650 **Kate Green:** What are the constraints on taking the conversation beyond showing interest in the absence of clarity about what our relationship will look like with the EU?

Crawford Falconer: At the moment, we are a member state and there is a constraint, because we are bound by the duty of sincere co-operation. That quaint term precludes us from negotiating, because we cannot negotiate right now. Therefore, while we are fine with preparing for the transitional adoption of the 40 agreements, and while we can and do have discussions with a range of economies about international trade matters, we cannot negotiate right now. There is a very simple and straightforward answer to your question, which is that until we cease to be a member state at the end of March we cannot negotiate, and they know that and we know that.

What can be done, however, is we can talk and explain to each other what our various trade issues are, but it will not be until we have left, in March 2019, that that process can seriously commence.

Q651 **Kate Green:** In March 2019, we will both be legally able to start those negotiations and we will also need to have clarity about what our future relationship with the EU is going to look like, in order for you to begin those discussions and negotiations.

Crawford Falconer: The most important thing is what the Government will yet decide about what they want to do and whether they want to have those negotiations. I am a civil servant and, at the moment, I do not have an authorisation to negotiate with anybody at any point in time, but we are preparing ourselves on the assumption that at the end of March 2019, as and when the Government have decided what they wish to do with third countries, we should be in a position to negotiate from that date, should we need to do so. If we have the withdrawal agreement, it makes it very clear that, as far as the EU is concerned, it is in agreement that we can do so.

Q652 **Stephen Kinnock:** I go back to this issue of the 40 trade agreements that we have with third countries through the fact that we are a member state of the European Union. If we leave the EU without a deal, it means that we go on to WTO terms. Those agreements with third countries exist by virtue of our membership of the European Union, so they will simply cease to exist on 29 March and we will revert to WTO terms. This is the key question with the WTO: it is based on "most favoured nation" status and that is based on thousands and thousands of product schedules, so are the Government now going through thousands and thousands of product schedules with the WTO? The only meaningful way of preparing for there being no transition period is to be ready to go on to the WTO terms on 30 March next year.

George Hollingbery: The answer to your question is yes, absolutely. There is a huge amount of work going on at the WTO. In fact, the schedule of goods is being worked through extensively across Whitehall right now, and perhaps Mr Falconer will confirm that that will be discussed with the WTO very shortly or is already being so. There are, of course, as you say, thousands and thousands of goods in there and thousands and thousands of different rules and regulations.

It will be well known to the Committee that there are some areas of goods where TRQs, tariff rate quotas, are an issue and there are some issues to resolve there. There are arrangements agreed with the EU about how we transition from being a group member, through its membership, back into our own membership and how that is legally dealt with. Indeed, there are conversations ongoing with those nations that have issues about tariff rate quotas and the EU's approach to dividing up that allocation between the different countries as we leave the European Union. To answer your question, that work is absolutely ongoing.

Q653 **Stephen Kinnock:** To be clear, the answer to Mr Jones's or Kate's question is that it is not about having discussions with Korea, Japan or Canada, because they are irrelevant if we leave the EU with no transition deal. Our preparation for the no-deal scenario, in this context, is uniquely with the WTO.

George Hollingbery: I will say this once again, and I will confirm it, but my understanding remains that, as far as transition is concerned, we are working to take those agreements across with us before exit day.

Q654 **Stephen Kinnock:** Yes, but we cannot do that if we leave the EU with no deal, because there will be no transition period if there is no deal.

George Hollingbery: I am not talking about the transition period or the implementation period. I am simply talking about the continuity of trading arrangements across those 40 agreements and those 70 nations. We are working to have those agreed with the third parties in that agreement before exit day on 29 March or at the end of the implementation period, whichever is necessary.

Q655 **Stephen Kinnock:** But what those deals do, in essence, is give exemptions from "most favoured nation". "Most favoured nation" is the baseline, as set by the WTO, and then, whenever you get an FTA, it is essentially giving you a better deal than MFN. An FTA with Canada, Japan or Korea simply ceases to exist on 29 March, because we only have those deals because of our membership of the European Union. I am just saying we would be wasting our time talking to Ottawa or Tokyo about how to roll those deals over, because those deals cannot be rolled over if we do not have a transition period. I just want to be absolutely clear on that.

George Hollingbery: I will cause officials to write to the Committee to explain exactly what the situation is and if my impression is wrong—and I apologise if it is, but you learn something new in this job every single day, I can assure you—the record will be corrected.

Q656 **Stephen Kinnock:** Thank you very much. On the schedule of product standards, of which there are thousands, can you give an estimate of how far the Department for International Trade has got with the WTO in going through them, perhaps sector by sector, on the basis of a percentage? I do not need an exact number, but let us say there are 50,000 product schedules in the agricultural sector. What sort of percentage have you got to, so that we are ready by 29 March to go on to WTO terms?

George Hollingbery: Mr Falconer may have some advice on that.

Crawford Falconer: It is not uncomplicated, but it may sound more complicated than it is. The assumption we are working on is that for the 40—as you say, preferential—we will be in a position at the end of March to transition those across. On that assumption, if that proves to be the case, we will, as the UK, still have those preferential agreements. There will be an EU 27 agreement with the country concerned and there will be a separate UK agreement with the country concerned. For the rest of the world, so all the countries other than the EU and those countries, our exporting situation will be unchanged from our situation with the EU. At the moment, as a member of the EU, if you have a non-preferential arrangement with third countries, it will remain identical for the UK with those other countries. There is no fundamental change there either.

What will technically change is that we, the UK, will have to have schedules of our own, which are our UK schedules, as opposed to them being part of the EU 28 schedule. The Government have been very clear that their intention as regards our own schedule is that it should remain essentially identical to what we had when we were a member of the EU. In other words, if it had a 10% tariff on motor vehicles as part of a common external tariff, it will have a 10% tariff on motor vehicles as the UK. While, as a bureaucrat, I would like to give you the impression that we are burning the midnight oil toiling over page after page—and I am not saying that it is straightforward; it is not—the fundamental assumption is that the creation of our schedule for goods will be essentially identical for the vast majority of products.

As the Minister has said, where there is a more labour-intensive exercise is on about 4% of that schedule, where we have agricultural tariff quotas that we share with the EU 28. It is not simply a matter of shifting a 10% tariff from one schedule to another schedule; we have to arrive at a way of partitioning those common quotas so that a certain amount is owned by the UK and a certain amount is owned by the EU 27.

Q657 **Stephen Kinnock:** On that point of tariff rate quotas, you will recall that in the original Council decision there was a specific statement that the UK could only go about the divvying up of those tariff rate quotas on the basis of authorisation by the European Union. Do you still see that as being the case? We cannot go ahead with addressing the issue of TRQs until such time as we have the permission of the European Union to do so. If that is the case, what impact does that have on our negotiating stance?

Crawford Falconer: The original form of words that was in the draft has changed. The word "authorisation" has been removed and we are quite comfortable with its removal. What matters is that that final decision now makes very clear that it addresses the authorisation for the EU 27 to open EU 27 article 28 negotiations, as they are technically called. The practical consequence, irrespective of the form of words that is now used, is that the EU has imposed no obstacle to us proceeding with trying to finalise our schedule with the other members. We feel that that situation gives us sufficient basis upon which to continue the process of preparing for what we would call the certification of our schedule as we leave the EU.

Q658 **Stephen Kinnock:** I have one other point. You mentioned earlier regulation, and smart and high-quality regulation. I must say it is very welcome that you made it clear, therefore, that the United Kingdom's negotiating strategy cannot be based on dumping or on any kind of race to the bottom. But is it not the case that EU regulation is the gold standard? Most global regulatory bodies, from food safety to ISO, will, generally speaking, apply the EU's regulatory standards. You seem to be saying that the UK will try to go up the value chain in terms of regulatory standards as part of its negotiating strategy, but is it possible to go higher than what the EU regulatory standards are anyway? Will we not simply be continuing on that basis in terms of that regulatory alignment, if that is going to be our strategy vis-à-vis third countries?

George Hollingbery: I am not sure I have a great deal to say. From a free trade point of view, you are basically saying, as Mr Falconer properly said, that one of our great advantages is that people want to buy our goods because they are of a higher standard and so forth and, therefore, Chinese consumers and Indian consumers have a brand recognition that includes that higher standard. Therefore, why would we want to go further on regulation?

Q659 **Stephen Kinnock:** Mr Falconer seemed to be saying that we will not win if we try to undercut the EU, have a race to the bottom or go for a cheap negotiating strategy. We have to go for a high-quality strategy, up the value chain. That is very welcome; that is great. My question is this: what is our comparative advantage if the global gold standard for regulation is the EU? If our strategy is to stick with the global gold standard, what is our USP going to be outside the EU, if, even when we are outside, we are still aligned to the global gold standard you mentioned?

George Hollingbery: From a business and strategy point of view, it leverages on existing brand values, so we need to keep on talking about and dealing with things at a high regulatory level and make sure that our products are of a very high quality. The reason people want to buy our products overseas in places like India and China is because they have already accorded those brand values to them and, therefore, it is extremely important to remain consistent in those values. We are not talking here about reflecting the fact of whether the EU or the UK has higher values and why we should push up the chain if the EU already has as high values as we do. It is about extant brand value out there, extant value in the mind of consumers and people who buy our products. They see it there already and we cannot afford to undermine it.

Q660 **Dr Whitford:** On the issue of tariff rate quotas, looking at the WTO position, it has been reported that some WTO members, including Australia, New Zealand, Canada and the US, see the splitting of tariff rate quotas as an opportunity to renegotiate their access to the UK and are not happy that they would not have the flexibility that they have over how much of a certain product they sell in the UK and how much they sell to the EU. What would happen if the UK was unable to negotiate its own schedule?

George Hollingbery: Again, as the experienced trade negotiator he is, I will probably leave the substantive part of this to Mr Falconer. However, I am advised that it is possible to carry on trading and it would probably be likely that people will carry on trading whatever had or had not, at that moment, been agreed. Nobody is going to stop trade just because you have not agreed absolutely what it is that you are going to do formally between yourselves, and some disputes have been running for an awfully long time. Nobody wants to be running in a rules-free environment. We want to know what the rules are and we want to base our responses on them, but we can reasonably expect that trade flows would continue while the disputes continue. I will let Mr Falconer elaborate.

Q661 **Dr Whitford:** Before I move over to Mr Falconer, do you mean, then, that the UK would establish an uncodified or unagreed schedule if that happened?

George Hollingbery: The EU has come up with a methodology for splitting these up. That will be what they put forward as the solution for this to work, and I imagine that we would work within that framework.

Q662 **Dr Whitford:** But those countries and, indeed, several others, like Argentina and Brazil, are not happy with the EU methodology, so is there not the potential that we get stuck into quite lengthy negotiations?

George Hollingbery: Yes, I suspect so. A trade negotiator will probably give you a better answer, so why do I not let him try?

Crawford Falconer: I can probably give you a longer answer. Our preference is that we try to resolve this before March 2019, and that would be the sensible and sane thing to do. We have been in extensive discussion with those exporting countries over these tariff rate quotas now for a good while. I asked my team how many meetings we had had, and they think we have had at least 50 high-level meetings with them, so we are trying very hard to deal with it, because we do not want them to be disadvantaged compared to where they were before.

That is a genuine attitude on the part of the UK Government, but they, understandably, see that it is going to, as you put it, differentiate what was once a common arrangement into something that is being divided. The real question is how you fairly divide the pie. You are right: they will try to pull the blanket to their side of the bed, and we will try to pull the blanket back so that it is nicely balanced across the bed. At a certain point, we will have to try to take decisions to resolve it. These are not, in the overall scheme of things, a vast part of our tariff schedule, but they are important to those trading partners, and they are important to various sectors of the UK economy and to various consumers in the UK economy.

We will eventually resolve it; I do not have the slightest doubt about that. I prefer to talk about trying to do it by March 2019, so that we can present our schedules for certification at that point and have resolved within that the tariff rate quota issues, which at the moment are only 4% of that tariff schedule, that are subject to some form of contention.

In answer to your question, it is true that, if we did not resolve it by then, there is nothing that stops the UK from continuing to trade on the basis of what we assert are our schedules. We could continue in negotiation with the countries concerned during that period of time. That is not unknown in the WTO; it is quite a common occurrence, in fact. We would prefer not to do that, but if we have to we will do it. In reality, if we have a withdrawal agreement from the end of March, as far as the third countries, the UK and the EU 27 are concerned, in commercial terms nothing has changed, because on the ground we will still maintain the common tariff quotas at EU-wide level.

Therefore, if we are engaged in continued negotiation beyond the end of March, commercially nobody loses, so there is no immediate pressure on anybody to be particularly contentious. If we are out of the EU at the end of March 2019, the pressure to reach a result would, commercially, be greater and I am reasonably confident that that would happen.

Of course, there are two negotiations that third countries have to have. They have to have a negotiation with us and with the EU 27. Clearly, we do not control the EU 27 negotiation. We are entering into this with a mindset that we want to achieve a result and, while I cannot predict the precise timing, I think that is something that will happen; it is not a fundamental problem.

George Hollingbery: Can I clarify what I said? I am absolutely with Mr Falconer on this. Our intention is to get this sorted out, in due course, in proper order and to get it done as soon as we can. I am not suggesting for a moment that we have any intention of not trying to do so, but I was asked a question about whether it is possible to continue without and my understanding is that this has happened. However, as far as the Department is concerned, we will be pulling out all the stops to make sure that it is done in a timely fashion.

Q663 **Dr Whitford:** We totally understand that. We understand that we are not aiming to be out without a transition deal, et cetera. As you said right at the start, Minister, it is important to look at all eventualities, which is what this Committee is also trying to do. If I could follow up, Mr Falconer, what are the risks to the UK of a given WTO member trying to take action against the UK if there was an unagreed schedule? If we get into a lengthy and combative fight over TRQs, how could that then affect our future bilateral trade agreements with those countries, if we have ended up with quite bad blood between us?

Crawford Falconer: To give you an example, the EU itself, of which we are a part, has had uncertified schedules for periods of time longer than a decade and it has accommodated that fact with continuing negotiations. They have been with various countries. The changes that they have made to their schedules have not been agreed by parties and they engaged in quite lengthy negotiation, but they were not particularly contentious. It is theoretically conceivable that we will have those negotiations. I have no reason to believe they would be deeply contentious.

As I say, it goes to our mindset. We have been very clear with them that, if the methodology we have proposed effects some particular disadvantage for them, we will look at the situation. Unsurprisingly, we have not been convinced so far, but if they bring evidence to us that says, "The way you are planning to do this is really prejudicial to us", we would look at whether we had a better way to deal with their problem.

The good faith is terribly important; it is not just a throwaway phrase. Things get contentious when people do not operate in good faith. We are operating in good faith and we think they are operating in good faith. You may say it is a bit naive, but I do not think a contentious outcome is likely. Sometimes these things take a bit more time than you want, so it may take a bit more time than we would ideally like, but I do not think it will get to the stage of deep contention, at least not with us.

Q664 **Dr Whitford:** Minister, as has been touched on, it is most difficult around agricultural products. Have the Government done any assessment of the impact of increasing preferential market access for these products on the domestic agricultural sector, in terms of how it would impact our farmers, lamb producers or sugar beet growers?

George Hollingbery: I know that extensive discussions continue with partners in Defra and clearly they have concerns on this issue. They input greatly into our stream of work. I am not sure I can tell you that an exact impact assessment—something that is quantifiable—at the moment has been produced, but I can reassure you that DIT officials have very extensive work streams that stretch into the future, with officials from Defra and from other Ministries, where there may be effects that could come from these issues, yes.

Q665 **Dr Whitford:** Mr Falconer, could I ask you a final question? I am aware that the drugs list within the WTO was not updated for several years, meaning any newer drugs would have been exposed to a tariff. In view of the situation of the UK and the potential of ending up purely on WTO rules, are you aware of whether that has now been updated, so that we would not have what was described to me as up to seven years' worth of new drugs being exposed to import tariffs?

Crawford Falconer: You have got me on that one, I have to confess. I will have to get back to you in writing on that. I am not aware of an issue there as far as tariffs on drugs on concerned, but if that is the case I will get back to you with a written answer on that.

Dr Whitford: I would welcome that, because the impact on the NHS would be significant. Thank you.

Chair: We have just two more questions. Kate, could we make that one fairly short, because we know what we want to get at? Is that right?

Q666 **Kate Green:** Yes. This is really a question to you, Minister, and it is about the scrutiny of trade deals.

George Hollingbery: Is this new trade deals?

Kate Green: It is during the transition period, initially, I suppose, where we may continue to see EU deals similar to the Japan deal that we looked at the other day, which may be mixed agreements or EU-only trade deals. What parliamentary scrutiny arrangements do you envisage during the transition period for both those kinds of deals and what do you envisage after transition?

George Hollingbery: Colleagues will know that those relationships are in flux. It is an incredibly difficult thing to devise, in that we will not have any direct input into the process after we have left the European Union on 29 March. It is probably right to say, genuinely, at this stage, that it is not entirely clear exactly how we will engage with Parliament. But I can tell you I have had considerable discussions with the Secretary of State and he is keen to be as open as possible. I would imagine that conversations will be had with this Committee in due course about how those deals within the implementation period of time might be progressed. I do not have any particular answer for you at the moment and that is because the Department has not yet finalised its thoughts.

As for free trade deals thereafter, exactly the same attitude persists. The Secretary of State is very clear that some of the issues with free trade deals that have been presented recently, most notably TTIP and the issues that pertain around that, were due to the fact that very little consultation had been done; very little publicity had been seen; very little discussion with the general public and, indeed, with various authorities had been undertaken; and very little effort had been made to explain to people exactly what these deals were for, what they did and so forth. First, on a wider consultation, an absolutely clear commitment will be made to widening consultation out. We will be issuing thoughts on this in due course and, I hope, reasonably shortly.

As to parliamentary scrutiny of future trade deals, again, there is an intention to allow Parliament to have its say and to register its opinions at various stages during the process. As yet, this is not locked down. There is no collective agreement as to exactly how this will happen, but the Secretary of State is absolutely clear that Parliament should be informed at all stages and consulted as often as possible.

Q667 **Kate Green:** Will we see any of those commitments translated into the Trade Bill?

George Hollingbery: Not the Trade Bill itself, no. The continuity clauses in the Trade Bill are there for one purpose only, and that is to implement the transition of the 40 agreements from the EU; it is not to deal with future trade agreements. In terms of what will happen as a consequence of the Trade Bill, we would expect that, as a minimum, Parliament will be able to see the consequences of changes and a schedule of how any particular agreement has been affected by what has been negotiated before it is ratified. This is not yet fixed; there is still some talking to be done on that. In any event, SIs will come, which will be properly scrutinised by Parliament, which will allow Parliament to have a discussion openly about any changes that require statutory instruments to effect them when they come to Parliament. That is how we see Parliament controlling and scrutinising the transition of these future deals.

Q668 **Kate Green:** As you know, a number of other Parliaments have a very specific and formal role in the process of approval of a trade deal and its eventual treaty agreement. Do you envisage that formal role being embedded in the future?

George Hollingbery: There is a determination to protect the royal prerogative and the ability to sign treaties internationally, and to leave that with the Government. There are plenty of circumstances one can envisage where that is an extremely important thing to preserve intact. We are talking here about future trade deals, not about the transition, and there is a very real determination that Parliament will be extensively consulted. Its opinion will be taken. There will be transparency. There will be a genuine flow of information up to and down from the Executive. But I emphasise that there is a determination that the royal prerogative will be maintained.

Q669 **Kate Green:** You will be aware of very wide public interest on this point. People believe that Parliament should have this formal role and they point to what happens in other jurisdictions.

Can I finally ask about the transition period? We frequently recommend matters for debate on the Floor of the House or in European Committee. We have sometimes waited a very long time for those debates to be scheduled, and sometimes they have not been scheduled at all. Would you commit to scheduling time between now and the end of the transition period for a full debate on any trade or investment agreement that might be recommended for such a debate on the Floor of the House by this Committee?

George Hollingbery: Are you referring to agreements that are nearing completion or at completion stage?

Kate Green: Yes.

George Hollingbery: I cannot commit absolutely. I would need to talk with the Secretary of State about that. I know he was very keen for both the CETA debate and the EU-Japan debate to come to the Floor of the House, and they did. I would hope that points towards his intentions. I am not in a position to absolutely guarantee it, but I can assure you I will take the case to him.

Q670 **Chair:** On that point, that took place last week. It was our recommendation there should be a debate on both of those. As it turned out, there was a bit of a farce, because we ended up with one vote in which only one vote was cast against the proposals, and I cannot exactly remember what happened to the other one.

George Hollingbery: It was passed.

Chair: It was passed, and that is the point. What I am saying is that the importance of transparency and scrutiny is complied with when you hold a debate. If you do not hold a debate, as Kate was saying, you then end up with people simply not having an opportunity to put the case. I am glad to hear that you are committed to having a complete scrutiny process for the purposes of these agreements and, at the same time, to making sure there is complete transparency in relation to future trade deals with the UK and other parties.

George Hollingbery: I am not entirely sure that is exactly what I said. I think the record will show I said something slightly different.

Chair: It depends on how you interpret what was said.

George Hollingbery: I can say absolutely that the Secretary of State has made it clear to me that he believes scrutiny of such arrangements is incredibly important.

Chair: That is extremely encouraging.

Q671 **Dr Whitford:** In the light of escalating trade tensions throughout the world, particularly with President Trump, is it still the Government's position that diverging from the EU trade defence regime would not put the UK at risk and risk the dumping of goods into the UK?

George Hollingbery: I am not sure I entirely understand. Clearly, if we are to leave the EU, we are going to diverge. We are going to have a different authority. We are going to have our own trade remedies authority and, therefore, we will diverge to that extent.

As to diverging from what the European Union is doing now—and, as far as I understand matters, we are very much not diverging from the European Union; we are very much backing what it is doing—we agree that a rules-based international trade arrangement is exactly what we all need. Trade has been the greatest progenitor of prosperity around the world that has ever been known, and we believe that it should be based on rules and we should accord with those rules. We are part of the European Union. We are taking part in the trade remedies that are being put in place by the EU and we will continue to support them.

In the medium to long run, we would hope to be able to use the contacts and the relationship we have with the United States, including the relationship we have in states across the United States, to ameliorate, produce calm, attempt to persuade that down this road does not lie any great result for anybody. We would see our role as endlessly trying to calm things down.

Q672 **Dr Whitford:** Regardless of being outside the structure, you would see the UK, in essence, keeping a similar approach of resisting this kind of trade war.

George Hollingbery: The intention of the Government will always be to promote free trade internationally, and any systematic attempt to undermine that will be met with a rules-based approach based on that wider approach of encouraging free trade internationally.

Mr David Jones: Before we end, Chairman, I just want to put on the record—and I should have done this at the beginning of the session; forgive me for not doing so—that my son has recently become employed by a company that is a contractor to the Department for International Trade.

Chair: I am glad for him.

Mr David Jones: I simply want to point out that he is an employee of Mr Hollingbery.

George Hollingbery: No, not of me, of the taxpayer.

Chair: As we are talking about personal relations, I will complete the session by drawing attention to the fact that, in 1861, the first ever, as I understand it, free trade treaty in the world was concluded. It was called the French commercial treaty of 1861. It was the idea of John Bright, my great grandfather's cousin, and may I say that that was a very remarkable agreement, because it set the course for free trade in a way that has endured to the present day? I am very glad to hear you say that the prospects for the future are good, and I have heard much the same from Mr Falconer, outside the EU. Albeit you have been quite stubbornly refusing to answer certain questions, as has been noted, that will be modified, because when we have got the White Paper out you have agreed to come back. Then we will be able to ask you some further questions and I am glad that you have agreed to do that.

George Hollingbery: I would be delighted to do so, Mr Chairman.

Chair: Thank you very much indeed and, Mr Falconer, thank you very much.