House of Commons

International Trade Committee

Oral evidence: The work of the Department for International Trade, HC 436iii

Wednesday 11 July 2018

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Watch the meeting

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

Questions 211 - 351

Witness

I: Rt Hon Dr Liam Fox MP, Secretary of State for International Trade and President of the Board of Trade

Examination of witness

Witness: Rt Hon Liam Fox MP.

Q211 **Chair:** Secretary of State, I welcome you to the meeting of the International Trade Committee. A very interesting week. Good to have you with us in many ways, I can say.

I will just kick off by asking you how the decision agreed at Chequers last Friday, if accepted by the EU, will affect your ability to make trade deals with non-EU countries after Brexit? What is happening?

Dr Fox: Thank you, Chairman. I am sorry to have upset your babysitting arrangements today.

The Chequers agreement was designed to be, first of all, a credible offer to the European Union to take negotiations forward. It had to respect the referendum: no customs union, no single market, no freedom of movement, no ECJ jurisdiction. Its aims were to maximise continuing trade with the EU while allowing us to take opportunities of other trade agreements, to minimise friction at the borders and to ensure no hard border at the Northern Ireland/Ireland interface.

Q212 **Chair:** Has it achieved all those things? No border and no customs union.

Dr Fox: We think it is possible to do that within the agreement. It is, of course, an offer to the European Union and it is up to the European Union now to respond and we hope that they will respond positively to that. In terms of our future trade agreements, yes, we think it is possible to negotiate independent trade policies after we leave the European Union. Of course we will have to see what the final positions are.

Q213 **Chair:** Could I just clarify one thing? Policies or trade agreements?

Dr Fox: Trade agreements. It will depend on the European Union's response to what we want.

Q214 **Chair:** All was rosy in the garden after Chequers from what you said. What happened to the former DExEU Secretary and what happened to the former Foreign Secretary? They didn't have this enlightened understanding of Chequers that you seem to have, Secretary of State.

Dr Fox: Not for me to comment, Chairman, since it is not within my departmental remit.

Q215 **Chair:** Has Cabinet collective responsibility and discipline been restored?

Dr Fox: The members of the Cabinet who could not accept collective responsibility are no longer members of the Cabinet.

Q216 **Chair:** If you find yourself unable to make trade deals in the short term, medium term or long term, would you consider resigning yourself or would you feel that the job of the Department for International Trade is so important in promoting trade that trade is more important than trade deals?

Dr Fox: I have never regarded failure as an option.

Q217 **Chair:** If failure occurs, what happens?

Dr Fox: That is a hypothetical.

Q218 **Chair:** You do not think of any possibilities that could happen, there is no plan B?

Dr Fox: When I go around the world and people show the enthusiasm that they do for looking at opportunities for increased trade with the United Kingdom, that is what reassures me.

Q219 **Catherine West:** Given that traditionally you have taken a similar position to Mr Johnson and Mr Davis, why is it that you didn't take the same course of action that they did, given that Chequers does seem to run contra to many of things that you have stood up and talked about publicly for the last 18 months?

Dr Fox: I have said what the agreement was meant to achieve and I believe in collective responsibility.

Q220 **Catherine West:** If the customs agreement means that it does prohibit other trade deals with other parts of the world, you would just carry on?

Dr Fox: I don't believe it does.

Q221 **Catherine West:** Isn't that cakeism?

Dr Fox: I think it is an assessment based on what our officials have made of the contents of the agreement.

Q222 **Chair:** Secretary of State, if you find yourself in a situation where you have no border in Ireland you can only achieve that by being inside the customs union under the single market. In that situation you cannot have your own trade agreement, it would be an impossibility. The circle the UK Government is refusing to square is the promise to the Conservative Back-Benchers of no customs union, no single market and the promise to Ireland and the European Union of no border in Ireland. You say you cannot square that circle?

Dr Fox: We have said that we are leaving the customs union and we are leaving the single market, not least because 80% of the voters who cast a vote at the last general election did so for parties who said they would respect the referendum, which meant not being in the customs union or the single market.

Q223 **Chair:** Therefore, will there be a border in Ireland?

Dr Fox: We have said that we want there to be no hard border between Northern Ireland and the Irish Republic. We have also said that we cannot accept one of the EU's options, which was to put a border down the Irish Sea. I am a Conservative but before anything else I am a Unionist and I believe in the unity of the United Kingdom.

Q224 **Chair:** What difference would there be in having a border in the Irish Sea and a border in the island of Ireland? Would one be a hard border that would rend the UK asunder and would the other be a very soft border that wouldn't matter to Ireland, because you cannot have it both ways? You cannot say a border in the Irish Sea is a huge edifice that is going to rend UK asunder, but then say a border in the island of Ireland is—

Dr Fox: Ireland is not part of the United Kingdom, Northern Ireland is. So Northern Ireland must be treated as a part of the United Kingdom in terms of what we do in our laws.

Q225 **Chair:** My final point to you at the moment is if you do have a border on the island of Ireland you are imperilling and putting at risk a possible transition agreement, which has huge implications for manufacturing in the United Kingdom. If you have that hard border, you are risking the UK being out of the European Union with no further transition agreement in March 2019. Is that a risk you are prepared to take?

Dr Fox: We have said we don't want there to be a hard border in Ireland.

Q226 **Chair:** You want everything, but you realise some of these are mutually exclusive. You cannot have all the things you want. You have to give on some things.

Dr Fox: The model that was set out by the Government after Chequers is designed to ensure the integrity of the United Kingdom and designed to ensure that we can reassure the European Union that there would be no way in which the integrity of the single market would be undermined.

Q227 **Mr Fysh:** How likely, in your assessment, is the EU to accept this customs arrangement solution?

Dr Fox: That is, of course, impossible for me to say at the moment. One can imagine what might be the sort of objections that might come forward but what I hope we achieve is that we focus the debate on the economic wellbeing of the EU 27 and not on the abstractions of the Commissioner. We need to get away from the arguments about the purity of ever closer union and get towards working solutions that will make trade continue to be possible.

Q228 **Mr Fysh:** Does the EU have similar arrangements with any other nation and any other of its neighbours?

Dr Fox: No, this is a completely unprecedented set of options being put forward, but then no country has ever left the European Union before and, of course, there are no clear mechanisms set out under the Lisbon Treaty about exactly how a country would disaggregate from the European Union. Everybody is in a position where this is a new situation that needs to be dealt with, which is why I say the Government have put forward what I believe to be a credible proposition for the European Union, and I hope they will deal with that. I think we need to understand across Europe what some of the implications would be if we are unable to get an agreement and we move to a no deal scenario. The pain that would occur would not be evenly spread across Europe and you could see it having a disproportionate impact on economies such as the Netherlands or Belgium or Ireland. That is why I say it needs to be about the EU 27. It needs to be about the actual countries with elected Governments that need to get prosperity and jobs and trade if those politicians want to get re-elected.

Q229 **Mr Fysh:** It is fair to say, isn't it, that no other set of countries has a free circulation of trade between them unless they are part of a customs union? Is that what is really meant by the term "common customs territory"?

Dr Fox: No, because it relates only to the regulations required for friction-free trade at the border, not even all regulations of all goods, never mind services and data, for example.

Q230 **Mr Fysh:** Would there not, in that case, be the need for checks still to be made about different types of goods if there were different regulations? How is that going to happen without the full single market rather than bits of it that are deemed to be relevant to particular bits of trade?

Dr Fox: In coming to the new customs facilitation model, HMRC looked at the total trade that occurred at the present time and estimated that around 4% of UK goods trade in 2017 was of imports of intermediate—that is unfinished—products for which tariff differentials with the EU could arise as a result of an independent UK trade policy. It might help, Chairman, if I give some of those HMRC numbers. 74% of our goods trade in 2017 was with the EU or exports to non-EU countries for which tariff differentials at the UK border are not relevant under the model. Of the remaining 26% of goods trade—that is imports from non-EU countries—13% of the total currently face zero EU MFN tariffs and 4% come from EU FTA partners or from less developed countries. Tariff differentials are unlikely to emerge in those areas because the UK is not likely to increase its tariffs as we leave the European Union. Of the remaining 9% of UK goods trade where tariff differentials are more likely to arise, 5% of the total is in finished goods where it must be, by definition, where we assume that they are likely to pay the correct tariffs at the UK border. Only 4% of this trade is estimated to potentially be subject to the regulations and the rebate mechanism. As an example, a carburettor or a battery that may end up in the EU and not the UK might be liable for all or part of EU duties.

Q231 **Mr Fysh:** I have had conversations with representatives of some of the larger member states in Europe and their customs authorities. One of the concerns that they have raised with me is their perception that as things stand there is a large amount of trade that is imports from the rest of the world that comes into the UK and it makes its way into the EU without having been declared properly in that process. They already feel very vulnerable on that front. In particular I am thinking of, for example, small packages containing textiles, that type of thing. They think they are already haemorrhaging a lot of potential tariff revenue that way. What makes you think that EU would ever agree to some sort of honesty-box solution whereby they agree for the UK to collect its tariffs for them?

Dr Fox: It would be written into treaty for a start. Large amounts of trade are dependent on trust and people obeying the rules. Obviously that is something that we would want to discuss with the EU. As I say, this is our initial and credible offer. They will want to come back on that and these issues are issues for HMRC and the Treasury in particular to take up.

Q232 **Mr Leslie:** Obviously, Secretary of State, I would like to go a little bit further, but can I just take the opportunity to say how delighted I am that you have come around to the idea of a common rulebook for goods? I think this is progress. Could you just share your enthusiasm for this with the rest of the Committee?

Dr Fox: As I said, we looked at what were the credible offers we could make to the EU and what was workable and we decided that of the options that were available to us, EEA-plus was not acceptable because of free movement, that the EU's default position of FTA-plus was unacceptable as they would insist on a border down the Irish Sea and that a facilitation model was the one that best met all the criteria the Government had set.

Q233 **Mr Leslie:** You are keen on the common rulebook for goods?

Dr Fox: That is the way that we think we maintain the maximum access to EU trade and allow ourselves to have an independent trade policy. None of the options available 100% was able to meet all the tests that the Government had set.

Q234 **Mr Leslie:** You are just giving out the vibes of enthusiasm of somebody left polishing a piece of waste of some sort.

Dr Fox: Your interpretations are entirely your own.

Q235 **Mr Leslie:** If we are in a common rulebook for goods, Secretary of State, it would be difficult for you to do trade deals externally beyond the EU on goods, wouldn't it?

Dr Fox: That would depend on the level at which we applied regulations. If it were all the regulations on goods in every respect, that clearly would have a diminished offer, but it is not; it is only on goods rules that are required at the border. For example, SPS but not on things like labelling.

Q236 **Mr Leslie:** The common rulebook kind of means common rulebook. I was interpreting it as really the area where you are left to work is free trade agreements perhaps in services. I was interpreting the reason for you to still have a Department for International Trade is if you are not realistically going to have much wriggle room for non-EU FTAs on goods. Perhaps it is enthusiasm for trade agreements and services that you are now focusing on. Do I have that wrong?

Dr Fox: As I have said to this Committee before, if you look at our trading performance, 61% of our trade outside the European Union is in services. If you look at the IMF projections of 90% of global growth being outside Europe it is very likely that a high proportion of that demand will be in services. Again, as I have said in this Committee and elsewhere, the real advances in terms of UK potential trade gains lie in things like the Trade in Services Agreement and other forms of liberalisation of trade. In fact, in discussions elsewhere we have been very focused on what access to service markets might mean for the UK, including places like China.

Q237 **Mr Leslie:** I am worried that it is a bit theoretical, the idea of free trade agreements in services. Can you name me a bilateral comprehensive free trade agreement on services from somewhere else in the world?

Dr Fox: We have said often that if you are looking for a comprehensive FTA, for example, you have to make all things available. If we are making less of an offer on goods regulation, we might have to make a bigger offer on market access elsewhere.

Q238 **Mr Leslie:** You cannot name another services FTA anywhere?

Dr Fox: We are not looking for replicating here what has been done elsewhere.

Q239 **Mr Evans:** President Trump is coming on Thursday and Friday. We are looking forward to the visit. Are you meeting him?

Dr Fox: I am. It is not that I am being reticent about giving information, it is just that, as everyone around the Committee will know, sensitivities around movements and meetings is high.

Q240 **Mr Evans:** Do you expect to talk about trade with him?

Dr Fox: I would imagine that was a likely topic.

Q241 **Mr Evans:** Do you think he will be disappointed by the Chequers deal?

Dr Fox: I think that in terms of the US their main attention at the moment is their trade friction with China and the implementation of the section 232 agreements already in place on steel, the potential section 232 implementation on automotive and the section 301 on Chinese IP. There is a tendency in Britain to think that Brexit is the most important issue for everybody else in the world and the further you get from Westminster the less true, I believe, that becomes.

Q242 **Mr Evans:** They talk of little else, as you know, Secretary of State.

Dr Fox: I believe that in Missouri the bars are filled with people talking about Brexit.

Q243 **Mr Evans:** I suspect they are not talking about chlorinated chicken either, but as far as a trade deal with the USA is concerned, the President wants to do one, he has put us at the front of the queue but chlorinated chicken cannot be part of that. I do not think anybody in Britain is going to lose any sleep about not being able to buy chlorinated chicken but how about other goods—this is not services—coming from America to the United Kingdom? What else is now not going to be allowed to be imported in the United Kingdom by the Chequers deal?

Dr Fox: The question there would be of implementation of different standards and the question there would be would it be possible, for example, to have a UK mark for goods sold only in the UK but not in the EU, but not the CE mark. That is something that we would want to discuss in future with the EU.

Q244 **Mr Evans:** So, any car could be imported from America into the United Kingdom—a Ford car?

Dr Fox: Not at the present time and not under this agreement unless there were to be a derogation that allowed a UK mark that identified something as a UK market only.

Q245 **Mr Evans:** Who gives that derogation?

Dr Fox: That would be something that we would have to discuss with the European Union as part of this discussion.

Q246 **Mr Evans:** So it would be a rule taken from the European Union as to whether we can import a car from the United States of America into the United Kingdom?

Dr Fox: It would depend on what was in the treaty that we arrived at.

Q247 **Mr Evans:** With who?

Dr Fox: The treaty between the United Kingdom and the European Union. That is not a discussion that I am aware has been had, but it is a theoretical discussion that would be possible to have as part of these discussions.

Q248 **Mr Evans:** It is just that the American Ambassador, Woody Johnson, was talking about zero tariffs between American goods coming into the UK and the other way around. I thought that was something that you would want.

Dr Fox: That is a slightly different matter because tariffs and non-tariff barriers are not the same. I am in favour, as Mr Evans knows, of moving towards global liberalisation where we see the gradual elimination of tariffs and of non-tariff barriers. If you look across this decade, it is not the erection of tariffs that has been the problem in the global economy, it has been the willingness particularly of G20 countries to introduce non-tariff barriers to trade, where we have seen a big increase in the numbers since 2010.

Q249 **Mr Fysh:** Just two things on that. First, on the idea of the UK-only marque, how would the EU feel about the free circulation, which is what is designed to occur through this system, of UK-marque products going across into France? How does that not create the sort of borders that you say are going to be eliminated by this process? Secondly, does the Chequers agreement not also prohibit effectively our pharmaceutical industries here working more closely with the US ones to help deliver better drugs more cheaply to our healthcare services here in the UK?

Dr Fox: It is a very good and very interesting question. We have held considerable discussions with the pharmaceutical industry. I have had discussions with them, I had them in Switzerland, I had them in the UK, and basically there are two regulatory models available. There is either EMA or FDA. There was discussion about whether there should be a UK regulatory framework but, frankly, the UK market is too small to support that and all our pharmaceutical producers are either selling into the United States, in which case they manufacture to FDA standards, or largely EMA standards. That is for them to decide. Some countries, like Switzerland, will accept both of them but I have not detected, I have to say in all honesty, any desire for UK companies currently using EMA standards to want to adopt anything else. That is just what the industry itself has told us.

Q250 **Julia Lopez:** The Chequers deal talks about a common rulebook. Do you think that is an honest term?

Dr Fox: It is a rulebook that is common.

Q251 **Julia Lopez:** The UK can introduce regulations that the EU would then also consider putting into its own market?

Dr Fox: What would happen would be at the point of exit where we had regulations already in place; there would be an acceptance of those regulations, which is not that different from a regular free trade agreement.

Q252 **Julia Lopez:** Do you not think it would be more honest to call it an EU rulebook that the UK applies?

Dr Fox: No, because under current rules, for example, if there is an EU rule or directive, it becomes applied to the UK. We have a process where Parliament can scrutinise it but it gets applied anyway. Under a common system based on treaty and dispute resolution, that does not happen and there is no automatic application of EU law to the United Kingdom as we are outside the EU treaties.

Q253 **Julia Lopez:** In reality, the EU would have a much greater sway over the regulations in this country, and we would be ceding sovereignty because we would not have a seat at the table any more. Therefore, you introduce a huge incentive for the EU to introduce further regulations which would have a huge impact on UK businesses that could be disadvantaged by this new system. Do you think that is a fair point for me to make?

Dr Fox: Parliament, unlike the current system, would actually have a lock that says we are not introducing that rule.

Q254 **Julia Lopez:** Do you think in reality that lock would be often used?

Dr Fox: That would remain to be seen. It would be dependent on how those rules were interpreted. It would have to be looked at by any joint committee that was set up, which is again common in international agreements.

Q255 **Julia Lopez:** Given that we are going to be aligned to the EU's regulations, how comprehensive and valuable a trade deal do you think we could arrange with the United States?

Dr Fox: The United States continues to be very keen on this, and this week we had two days of very good discussions. We discussed, for example, what we could do for SMEs and remove market access restrictions there, how we might look at mutual recognition of professional qualifications. We have been looking at what we might do in services. We had our first standalone session on financial services. Of course any agreement, for example, on mutual recognition or equivalence between US and UK financial services would give us a very dominant global position.

Q256 **Julia Lopez:** Has your Department modelled the benefits of an FTA under the Chequers scenario versus an FTA under a situation where the UK has a truly independent trading policy?

Dr Fox: Given that we have had all of three days, as you can imagine—

Q257 **Julia Lopez:** You were able to make a decision without having any thought to the consequences.

Dr Fox: That work is fully underway and, as I said at the beginning, the balance that was sought under this model was how could we maximise access to the current trade and access future trade possibilities.

Q258 **Julia Lopez:** How likely do you think it would be that the US would accept a services-only trade deal?

Dr Fox: I think it is unlikely to do a services-only trade agreement, if by that you mean a free trade agreement, because classically free trade agreements had to take into account most areas and that is goods and services. There are other types of agreements, mutual recognition agreements, for example, equivalence agreements that might achieve much of the same outcome in the areas that we would want, but they remain to be explored. As I think I said when I was at the Committee the last time, the trend in global trade is to move away from the concept of pure FTAs and to look to see what other tools are in the box to achieve trade liberalisation. Maybe the length of time it takes to negotiate a full FTA in the way that we thought about it in the past, a gold-plated FTA, may not be the way that we think of it in the future.

Certainly I had this strong impression at the WTO Ministers' meeting in Buenos Aires that there was an appetite to look at different ways of liberalising global trade and that the way that FTAs did it and the length of time it took FTAs meant that global trade patterns could very often have changed substantially even before those agreements came in.

Q259 **Julia Lopez:** There seems to be a substantial shift in language away from where we were a couple of years ago when we were talking quite optimistically about the idea that we could sign a free trade agreement with the United States that would be extremely beneficial to consumers in this country and to businesses.

Dr Fox: I am sure we can. There are free trade agreements and free trade agreements. The New Zealand-Singapore free trade agreement was a free trade agreement. It is arguable how much liberalisation that ushered in. What I am saying is that there are ways, I think, of getting liberalisation that in practice we want globally without necessarily the FTA being the only way in which we can do that. What is important are the results that we generate. How open will the global economy be? How successful are we in reducing non-tariff barriers? How do we get deregulation in that? How do we move towards global standards so that we are not having one bit of the world trying to write the rules for the rest? That is a major challenge for all free-trading countries.

Q260 **Julia Lopez:** If we were seeking to get away from that, our close alignment with the EU, whereby we are going along with what they say on standards, would give them more power to have standards that suit them and put us further away from the idea of global standards.

Dr Fox: There is a difference between standards and regulations. Standards tend to be set at a supra-national level. Most European standards will apply as much to Iceland, Norway and Turkey as they will to the EU because those standards are set in terms of ease of doing business. Regulation is a different matter.

Q261 **Chair:** Before I move on to Ranil Jayawardena, I want to pick up on a point from Julia Lopez and your response. To use a phrase that is on the go at the moment, I think Julia Lopez was correct; the rhetoric seems to have changed. Is the dream dying on a bilateral FTA with the United States of America? The rhetoric is not the same as it was two years ago, Secretary of State.

Dr Fox: If the United States wants an open trade agreement with the United Kingdom, which they say they do, then we are very happy to enter those negotiations with them. As I said, we have had some very successful rounds—including Monday and Tuesday of this week when we had the trade working group with the United States—that still show a very strong appetite to do so. If they have the appetite so do we.

Chair: We can want what we want in our appetites but there are very physical, real red lines in this situation, created by our commitments elsewhere, which will put difficulties in there. I will leave that hanging there.

Q262 **Mr Jayawardena:** I am returning to the issue about the common rulebook, which Ms Lopez rightly raised. Indeed, I think Mr Leslie spoke for a number of people who would rather we were still members of the European Union, regardless of the referendum result, in speaking about his delight for the common rulebook and Cabinet's agreement.

The question is, how will we influence these standards if we are forced to adopt them regardless, once we are outside the European Union? Ms Lopez, rightly in my view, said it is the EU on the whole that is going to tell us what to do. However, you are saying something different. How are we going to influence the EU?

Dr Fox: As I said, at the point we leave the EU we are self-evidently at identity in regulation, following the passage of our legislation in the House of Commons. That would be the normal position in any FTA, where we would agree these were the common rules that we had and then would look to see how, if necessary, countries might be able to deviate from them and what the implications of that would be.

Q263 **Mr Jayawardena:** That was not the question. The question was how would we influence the rules going forward? Say there was a rule A that said one-plus-one is two and rule A is to be changed to one-plus-two equals three, how do we influence that?

Dr Fox: I understand that. That will be subject to the oversight of the joint committee. I cannot really say more on that because that is still subject to ministerial write-round ahead of the White Paper and would be a breach of collective responsibility, and I think we have had enough of that this week.

Q264 **Mr Jayawardena:** I appreciate your candour. Could I then ask the flipside? There is this ominous warning of the consequences that will be faced if we were to deviate. What are the consequences?

Dr Fox: That would depend on the interpretation of which rules were being changed. Does it make a material difference to the understanding of the common rulebook as set out in the treaty? That has to be set out in the treaty and has to be settled by dispute resolution.

Q265 **Mr Jayawardena:** Could you give us a best case and worst case for those ominous consequences?

Dr Fox: No, I do not think I could, I am afraid. The White Paper will, in detail, set a great deal of this out. Had we been meeting next week, Mr Chairman—

Mr Jayawardena: You are most welcome to come back, I am sure.

Dr Fox: I am sure I will be invited.

Q266 **Mr Jayawardena:** May I then pull you up on something you set out earlier, which is your belief in global standards? What are we doing today to champion more global standards so that, regardless of our rulebook or otherwise with the European Union, those rules do not fetter our deals and our access to other markets?

Dr Fox: That has to be a major drive. As we take up our independent seat on the WTO that is going to be one of the major drives that we have. As you know, we are already working with a number of other countries on, for example, data and e-commerce where we do require global rules to govern a global economy. We think the adoption of global standards will be very important. The question is how you do that. Do you do that by identity of regulation, by proposed global harmonisation or by equivalence? I am a great believer in equivalence based on outcome rather than identity of regulation, which I think is prescriptive and expensive and the only people who truly benefit are lawyers. One of the trends—as I think I said when I met this Committee after Buenos Aires—is that there is a growing feel in the global trading world that we need to move to equivalence measures rather than identity of regulation.

Q267 **Mr Jayawardena:** One final question, if I may, which relates to something you said earlier around the United States. If I am not mistaken, we received evidence when we were speaking to the members of the US Congress that they might well be open to a deal on specific sectors where those deals could be done sooner than a comprehensive free-trade deal. To tackle the negative narrative that might be thrust upon our relations with the US, could you tell us what is being done today to identify those sectors that we think we could do a quicker deal on, not just at the federal level but also at the state level because, of course, there are non-tariff barriers also?

Dr Fox: The complexity of the United States and its federal structure makes any problems we encounter with our devolved Administrations in the United Kingdom look easy. That is why we have set up sector-specific discussions in our working groups.

As I said, this week we had our first free-standing financial services discussion. At this point—because we cannot negotiate anything while we are members of the European Union—it is a question of scoping out what is available and then asking what the mechanisms are by which we might achieve it. If we, for example, wanted financial services liberalisation but had to do it through a classic FTA, would we get into issues of SPS—as Mr Evans has alluded to—which might make that a much more difficult task for us, or are there other mechanisms where we might be able to move more quickly to the same goal. That is what we are scoping at the moment.

Q268 **Mr Jayawardena:** Do we need more people for that?

Dr Fox: If I have a constraint at the present time—for once, this may be the only time in my life I ever say this—it is not a Treasury constraint in terms of finance; it is the availability of the sorts of people we are looking for.

Q269 **Mr Jayawardena:** We do need more people?

Dr Fox: There will be a need to continue to evolve in that. If you are looking, for example, at specific skills that we may require, they do not really grow on trees.

Q270 **Chair:** A point of clarification, speaking for devolved Governments; the difficulty is with the Westminster Administration and not vice versa.

Dr Fox: It depends on your outlook, Chairman. If people ask me if I am a glass-half-full man or a glass-half-empty man, I simply say I am Scottish and the glass is not big enough.

Chair: As I am half-Irish, I see the respect Ireland is afforded by the UK Government as opposed to the respect Scotland is afforded by the UK Government.

Q271 **Mr Evans:** Secretary of State, you may have noticed that the Brexit-supporting members of this Committee are not happy with this Chequers deal and the other side are happier with it. The only Ministers who have resigned are Brexit-supporting Ministers. Not a single Remain Minister has resigned because they are unhappy with the Chequers deal. It does appear to me that Olly Robbins has taken control of the entire negotiation as far as goods are concerned and rammed us further away from the Brexit the people of the Ribble Valley voted for. There is an assumption that there has now been capitulation and a sell-out by the Cabinet to the European Union. How do you respond to that?

Dr Fox: I say that what we were asked to do was for there to be no free movement, no EU jurisdiction, no continued payments to the European Union, no customs union and no single market.

Q272 **Mr Evans:** If there is free movement, by whichever mention of name—because we know everyone is fearing this mobility thing is the next red line to be crossed—will you resign?

Dr Fox: Free movement would not be acceptable. To have free movement would be, in my view, a betrayal of what the people voted for in the referendum.

Q273 **Mr Evans:** Even a fudged free movement?

Dr Fox: Mr Leslie mentioned services agreements. For example, in services agreements there is nearly always some mode for movement that goes with that. Can people move from one place to another? Is there, for example, free intra-company transfer, can you move people within it? That classically goes with that. However, that is a million miles away from what we have had as members of the European Union, which is the ability of EU citizens who have no job to come to the United Kingdom and to utilise our public services whether or not they have ever contributed to them before. That is what is unacceptable.

Q274 **Mr Evans:** If any EU citizen has a job offer, post-Brexit will they be able to come here, whoever they are?

Dr Fox: That is dependent on what the Government determines on its post-EU migration policy. My personal preference is that as we leave the European Union we have an opportunity to create a level playing field for global talent. Businesses should be able, within the constraints set by migration policy, to choose individuals from any part of the world who fit the requirements for their employment. That is my personal view. We have not come to any agreement on the future EU migration policy yet but, as I say, it is an area where I have a strong personal preference, which will not surprise Mr Evans.

Q275 **Chair:** Thank you. Before we go to Faisal Rashid, do you accept, Secretary of State, that on Treasury figures the UK has been in deficit since 2001? The one area of those living in the UK who are not in deficit, and are in surplus, are EU migrants who contribute more to the UK pot than they take out of the UK pot as opposed to the rest of the citizens. When we talk about migration, we must be very careful with the bleed-over that these kinds of arguments have. You would accept that fact from the Treasury that migrants pay more in than they take out?

Dr Fox: For me, Mr Chairman, this is a question of democracy. The British public have—

Q276 **Chair:** With respect, Secretary of State, I am asking whether you accept the fact from the Treasury that migrants pay in more than they take out. You said they come to use services. It can bleed over. I am making sure you also accept the fact they pay more in than they are taking out.

Dr Fox: That may well be true but that is not the point. The point is that the public have voted in a referendum to end a system of free movement and that system of free movement has to end.

Q277 **Chair:** One of the consequences of that will be a greater deficit.

Dr Fox: No, I disagree with that. That is dependent upon what the migration and labour policy will look like post-Brexit and whether the Government decided to have a policy that was not about free movement, for example, but about the movement of labour that was required by British business. That is why I said to Mr Evans that I think giving preferential access afterwards would be a missed opportunity for us to have a level playing field with any potential imported labour from around the world.

Q278 **Chair:** Before I move to Faisal Rashid, I think those Treasury figures need to be checked and understood by all Departments, including your own.

Dr Fox: I am sorry, Chairman, but I do not think that is the question. The question is not whether any particular group—

Chair: With respect, Secretary of State, the question was what I asked. You did not answer the question I asked; you answered another question.

Q279 **Faisal Rashid:** Secretary of State, thank you for coming. You have called

Australia and New Zealand your second-highest priority in free-trade agreements. We can see Australia counted for 1.2% of total UK exports and 0.5% for imports and overall it is 1.2% of UK total trade. I want to know how likely a deal with Australia and New Zealand is in light of Friday's plan.

Dr Fox: The Prime Minister spoke to the Prime Minister of Australia over the weekend who suggested he was still very keen to do a deal with the United Kingdom. I will set out to the House of Commons shortly the procedures the Government will follow for new free-trade agreements. Subsequent to that, we will set out the order in which we intend to consult on those agreements.

Again, I had rather hoped I would be able to tell the Committee about both those points this afternoon but as yet I do not have technical clearance to do so. However, I hope to do so to the House of Commons before we rise for the summer recess.

Q280 **Faisal Rashid:** I appreciate you cannot divulge much information. However, when we are already doing 1.2% just with Australia, why are they your second-highest priority countries? What opportunities are you looking for?

Dr Fox: When we look at countries with which we want to do an FTA, it is not purely economic. It never is, there is always a strategic element in that. We have a great deal of overlap with Australia and New Zealand, for example, in our legal system. We have a very common understanding of how we want free trade to be. We see that every possible opportunity to liberalise trade should be taken. Sometimes it is because it is the biggest economic opportunity, as in the United States. Sometimes it is because we think we can achieve that and there is a strategic element involved, as in Australia and New Zealand. Sometimes it is a combination of both. For example, as the Prime Minister said at the weekend, we are exploring with the CPTPP countries what that might mean. As an abstract example, if you look at the 11 CPTPP countries their GDP, plus the UK, would be very similar to the EU, minus the UK, in terms of GDP. You can therefore see where liberalisation takes you.

We see the UK's role—the question about global standards was mentioned earlier—as pursuing liberalisation wherever we can. We think the current trend of the silting-up of the global economy has to be put into reverse. Sometimes that will be with partners of very high economic value, sometimes the value will be less, sometimes we will see opportunities in growing markets that may not be evident yet and sometimes there might be a strategic element to be taken into account.

Q281 **Faisal Rashid:** This is all based on assumptions, it looks like.

Dr Fox: As we are talking about the future, it has to be based on assumptions, not on facts.

Q282 **Faisal Rashid:** You might be aware that Australia and New Zealand have both recently opened formal trade negotiations with the EU. Therefore how likely is it that the UK will be able to have a deal with those countries that is any different from what the EU secures?

Dr Fox: We have no idea. Again, because we believe in trade liberalisation, we would like the EU to come to a deal with Australia and New Zealand, but we will explore that on a bilateral basis. However, they have also made it clear that they are not against us exploring CPTPP, of which they are both members, at the same time. In fact, there might be an overlap were that to happen in terms of the processes themselves.

Q283 **Chair:** A minor point, Secretary of State: when we started discussing that business in Australia and New Zealand was the most important thing that could happen, it seemed the Home Office had a huge role. What is the joined-up thinking or messaging in Government on whether five-year work visas would be better than two-year work visas, which would be one of the quickest changes that could happen for international trade purely under the auspices of the UK Government?

Dr Fox: Visas are always one of the more sensitive elements in these negotiations themselves so they would have to wait for negotiation.

Q284 **Chair:** When you find the Home Office is blocking trade, what do you do? Do you make representations to the Home Office? Currently, in my neck of the woods, in Northern Ireland, we have fishing boats tied up that cannot sell stuff internationally because they cannot get crews.

Dr Fox: Of course it has to be a whole of Government judgment about that balance.

Q285 **Chair:** Do you make representations to the Home Office so we can trade more?

Dr Fox: I make regular representations to the Home Office.

Q286 **Chair:** On such matters?

Dr Fox: On such matters.

Q287 **Mr Leslie:** Secretary of State, while I welcome your acceptance of a common rulebook on goods, I have to say the rest of the Chequers agreement left an awful lot to be desired—not just because it abandoned services—and in particular this rather magical concept of the facilitated customs arrangement, the FCA, which is supposed to be the solution to borders and so forth. I would therefore like to press you a little bit to get you to explain how the FCA, the facilitated customs arrangement, is going to work and in particular, how it is compatible with World Trade Organisation rules. Do you think it is something that is compatible with the legal framework of the WTO? It does not exist anyway, does it?

Dr Fox: It does not exist. However, first of all I have to take issue with the question being slipped in there that we are abandoning services. What we are saying is that services is a very rapidly changing global environment, unlike goods which is relatively stable. Not only are the services agreements very volatile at the present time and very rapidly changing but they are a much bigger part of the UK economy than goods are.

Mr Leslie: We can differ on that

Dr Fox: On facilitated trade, of course the legal view is that if the European Union and the United Kingdom both agreed on that system, it would be much more likely to be WTO acceptable. That is the advice we have at the present time. That is, of course, open to the WTO. It is a new system. The WTO is a members' system. My hunch is that if we are providing stability of trade and stability in the global economy, that is more likely to be acceptable than not. However, that is a judgment and is a judgment that would need to be checked against the WTO reality.

Q288 **Mr Leslie:** There are three areas where I am quite concerned it does not comply with the WTO framework. I am sorry for being technical, but let us just go through some of those. The General Agreement on Tariffs and Trade, GATT, Article 3 is about this national treatment principle where any WTO member has to treat imports identically to domestically produced goods, goods that basically are the same have to be treated in that domestic market in the same way. How can a track-and-trace system, which is part of this facilitated customs arrangement, be deemed fair for imported goods? You would be essentially continuing to treat those imported goods differently so how can it be compliant with Article 3 of GATT?

Dr Fox: The goods will be treated the same as they would within the same regulatory environment. It is simply that were there to be a difference in tariffs, were the UK to move to a different tariff system, then the tariffs would be collected separately.

Q289 **Mr Leslie:** Track-and-trace is slightly different from the collection of the tariff because it is about a continuing monitoring of goods as they go around the UK and so forth. That is a differential treatment of an imported good from a domestically produced good.

Dr Fox: I understand that. The mechanisms are set out in a later chapter of the White Paper. The question of WTO legality is something that, were the EU to accept this, both the UK and the EU would have to test at Geneva.

Q290 **Mr Leslie:** The second one—again, apologies for the technicality—is GATT Article 24, which is this principle of whether the facilitated customs arrangement might fetter the UK making free-trade agreements with the rest of the world. We would be levying EU tariffs on imported goods coming in via the UK, and therefore breaching that GATT Article 24 principle that any free-trade agreements have to eliminate tariffs substantially on all trade between territories. In other words, if Britain did a free-trade agreement with Brazil, the United States or wherever, and we were still collecting EU tariffs on those goods coming in, that would be not compliant with Article 24 of GATT.

Dr Fox: Of course, the rebate mechanism has never been tested. There is no precedent for that. Therefore the question of whether that would be legally compliant with 24 is a different matter.

Q291 **Mr Leslie:** That is a problem you would have to overcome?

Dr Fox: It is unprecedented. As I said in answer to Mr Fysh's question earlier, a lot of this is unprecedented. It has never been tried before. It has never been tested against WTO rules. It has never been tested against WTO legality. The WTO is a members' organisation. If the members' organisation decided that, because this facilitated trade, it was acceptable, then that would be so.

Q292 **Mr Leslie:** The third legal wrinkle—which is partly why I worry that a facilitated customs arrangement cannot get rid of customs controls—is to do with rules of origin, this notion of local content thresholds that are needed where parties to a free-trade agreement are supposed to have that common external tariff. How could this facilitated customs arrangement get rid of customs controls? For example, a car that is assembled in Britain with non-UK parts would, of course, require the EU to levy tariffs on it and for us to calculate the component parts if it were then exported on to the EU. Do you see what I mean? I do not see how the rules of origin arrangements in the FCA fit.

Dr Fox: ROO is something that would have to be part of that negotiation with the European Union.

Q293 **Mr Leslie:** We have to overcome that problem as well?

Dr Fox: It is, as I said, unprecedented. This is a system that has never been tried before. It is an attempt to be able to ensure that we do not get a hard border down the Irish Sea and that we maintain the issues I mentioned to Mr Evans, that we are outside the customs union and outside the single market.

Q294 **Mr Leslie:** To be very precise, you are not asserting that the facilitated customs arrangement solves those three problems and the border issue? You are saying you are going to try to develop it to allow you to do that but it is not solved yet.

Dr Fox: It is an unprecedented area. It is an area of WTO law that has not been tested in a system like this before. It will require us, were this to be adopted between the UK and the EU, to sort out some of those legal issues at Geneva.

Chair: It seems a leap of faith, especially when our friend, Mr Donald Trump, is doing what he is doing at the WTO. I will leave that there.

Q295 **Mr Fysh:** That seems to me to be an environment of complete uncertainty if you, as Secretary of State, have no idea whether or not that is going to be acceptable to the WTO. It goes back to my question earlier. How likely is it that the EU is going to accept this? This is never going to work, is it?

Dr Fox: This is an offer. It is what we believe is a credible offer to the European Union. It is up to the European Union now to give us a reply and that is what we await.

Q296 **Mr Fysh:** Were those particular legal problems with the potential association agreement, shall we call it, raised in the Cabinet meeting on Friday?

Dr Fox: Unsurprisingly, I cannot say what was discussed in detail at a Cabinet meeting. It would be a surprise to the Committee if we had not taken legal advice. While we never disclose what exact legal advice is given to Government, it would have been very unlikely that we did not look at potential legal issues at the WTO. There is no way, in a system that has never been tested before, to know whether the WTO will regard them as compliant. All I can say is that in my discussions with the Director General at the WTO, where we have raised—

Q297 **Mr Fysh:** How long would it take for the WTO to rule on such matters?

Dr Fox: As I was about to say, in my discussions with the Director General at the WTO they have said they want to be as helpful as possible to achieve the aims we have set out in terms of frictionless trade and no disturbance to the global trading system. They understand that Britain leaving the European Union is unprecedented and they are very well aware that it throws up some wrinkles. However, we have made it very clear—as I have said several times already—we have democratic considerations to take into account.

Q298 **Mr Fysh:** This facilitated customs arrangement, agreed on Friday, creates massive uncertainty for business about where the UK is heading, doesn't it?

Dr Fox: The best way to minimise that is, of course, to stay in the European Union. There is no change to the situation in the European Union if you stay in the European Union.

Chair: Are you—

Dr Fox: No, and that is the last thing I would be suggesting. If I was keen to leave the European Union when I voted to do so, I am keener today.

Q299 **Mr Fysh:** Some of your colleagues in the Cabinet do want to remain in the European Union, don't they?

Dr Fox: It is immaterial what people want when they look at the fact that all of us in the Conservative party were elected on a democratic manifesto that said we were leaving the European Union, we were leaving the customs union and we were leaving the single market. To the people who do not understand that, I will give them a dictionary and ask which of the words "democratic", "referendum" and "binary" they are unfamiliar with.

Q300 **Mr Fysh:** Indeed, because it appears that through this Chequers agreement the Government seems to be opposing itself to the people of the UK who voted to leave these structures. This is a completely impractical arrangement. The EU is never going to agree to it in a blue fit. They are going to say, "customs union". Honestly, how much do you think your Cabinet colleagues, other than you, understand about trade?

Dr Fox: What is very clear is that we have been given an instruction from the British people. Under that instruction it is our duty to try to find a way in which, with that instruction in mind, we can maximise our trade with the European Union that we have at the present time, we can maximise our trade outside and that we maintain the other elements. That is not an easy task but we believe this is a credible offer to the EU. It is up to the EU now to make some concessions in terms of the position we have already adopted if they want to have a practical solution to the problem we face.

One of the outcomes that is not on the table is the UK remaining in the European Union. I have to say that I still have conversations abroad where people say, "Is Britain really going to leave?" We are really going to leave.

Q301 **Mr Fysh:** What if they just say, "No, it is clearly unacceptable. You are completely mad"? What if they say, "customs union"? What are you going to do then?

Dr Fox: We cannot stay in the customs union. This is a credible offer to try to take forward some of the issues—

Q302 **Mr Fysh:** Some of your colleagues in the Cabinet want us to stay in the customs union though, don't they?

Dr Fox: As I said, I think that is democratically—

Q303 **Mr Fysh:** Mr Hammond wants us to stay in the customs union, doesn't he?

Dr Fox: I am certainly not going to be drawn on individuals. It is immaterial. People have to—

Q304 **Mr Fysh:** Mr Clark wants us to stay in the customs union, doesn't he?

Dr Fox: Some people—

Q305 **Mr Fysh:** Is this set up to fail so that we stay in a customs union?

Dr Fox: If we are unable to get an agreement then we will leave with no deal. The other part of what we agreed at Chequers was to step up no-deal preparations.

Q306 **Chair:** That is very interesting. What I just noted from what Chequers have done—what you were saying today—was that I thought no deal-Brexit would be dead, given all that industry has said about it, but you are saying a no-deal Brexit is very much alive today?

Dr Fox: We do not want to have no deal.

Chair: But there is a real possibility; there is a lot of uncertainty.

Dr Fox: But the Prime Minister has said that no deal is better than a bad deal. That remains and we are stepping up our no-deal preparations, and we will pass legislation in the House of Commons next week, which enable us to make a reality if we have to leave without an agreement.

Q307 **Chair:** In what scenario can you imagine a Government negotiating a deal that would be worse than no deal? Would you not just stop at no deal?

Dr Fox: A deal that kept the United Kingdom in a single market or the customs union—against the will of the people—would be worse than no deal, in my personal view.

Mr Fysh: May I give my apologies. I am not walking out because I do not want to talk to you further, but because I have another meeting. I apologise, I need to go to it.

Chair: I am sure that these conversations can continue offline, and will.

Q308 **Mr Leslie:** I am not going anywhere, I have plenty of questions for you, and I am astonished, Secretary of State, that you essentially say you would rather have no deal at all and leave, go back on to WTO rules, than accept the customs union. When the customs union was merely ruled out by the Prime Minister in her red lines in Lancaster House—it was not on the ballot paper—just as an actual matter of fact, the customs union was not on the ballot paper.

Dr Fox: No customs union and no single market were in the manifesto of the Conservative Party.

Q309 **Mr Leslie:** But you did not win a majority in Parliament at the last election so your manifesto is immaterial.

Dr Fox: Both major parties said they would respect the result of the referendum of leaving the European Union, which requires us—

Mr Leslie: Which did not say on the ballot paper—

Dr Fox: —us to leave the customs union.

Q310 **Mr Leslie:** Can you just explain why you feel that the referendum requires leaving the customs union?

Dr Fox: Because I believe the referendum wanted us to take control of our borders, our laws and our money and remaining in a customs union means we would be rule takers.

Q311 **Mr Leslie:** You believe that, but it was not on the ballot paper, was it, factually?

Dr Fox: You asked me what I believe and I tell you.

Mr Leslie: No, but was it on the ballot paper—yes or no—leaving the customs union?

Dr Fox: For the Conservative Party it was said—

Mr Leslie: I am talking about the ballot paper—

Dr Fox: —in our manifesto no customs union—leaving the customs union and leaving the single market. I do not understand why that is a problem.

Q312 **Mr Leslie:** I am worried about this sort of kamikaze attitude that because you have a particular belief, whereas the referendum ballot paper in 2016 did not say, "Leave the customs union" did it, as a matter of fact?

Dr Fox: The customs union is a legal entity of the European Union. The single market is a legal entity of the European Union. We voted to leave the European Union and it is quite confusing to me then; I am told that on one hand the process that we are describing is too complex and on the other hand, that it is kamikaze.

Q313 **Mr Leslie:** You can be complex and kamikaze at the same time, Secretary of State, as you are demonstrating amply. I am just quite concerned that—let us just say for sake of argument, Parliament insists that a customs union should be part of your negotiating strategy. Is that the point at which you resign?

Dr Fox: We have explored my resignation rather too much already. As far as I am concerned, the electors who elected me said no customs union and no single market, and I have no intention of voting for either of them.

Q314 **Catherine West:** Last week we heard—and I am sure you read all the minutes of our Committee, as good Secretaries of State should—from the head of cargo at Heathrow and a number of other experts in logistics. We do have to separate ourselves from your colleagues' approach to business, which is what Mr Johnson said, and we do have to get real about the implications in the real world of these discussions. In the evidence session last Wednesday the head of Heathrow and others did say—this may not have been their words, but the implication was—that at the borders, the preparations are not ready for if we burst out without a deal. I am wondering what the Department is doing if these rows continue right down to the wire, and in the end Mrs May walks away? That is a serious concern for logistics companies specifically in relation to, for example, the fact that right now we have smuggling problems with weapons, which are used in our constituencies by young people, sadly, to kill one another. We have problems with drugs, which come in, which are not being adequately dealt with at the borders. One of the concerns that this Committee has shown through its questioning is about what will happen if suddenly we burst out without a deal and our borders are not prepared for that?

Dr Fox: That is why we do not want there to be no deal. HMRC have already increased their expenditure considerably but you would have to ask HMRC about the details of their expenditure and their expenditure plans. I believe that there will be a section that deals with that in the White Paper. Government accept that this is a novel structure that is being suggested, but the whole point is that we are able to guarantee the continuance of trade, without the increase of risk.

Q315 **Chair:** A quick question: on no deal and deal, what would the preferred position be if we get to March 2019 or December 2020 and we have no deal? Will you look for an increased transition period to sort out some of the complexities Mr Fysh and Mr Leslie mentioned, or would you want to go and just let the complexities sort themselves out? What do you prefer because you have said a number of things about deals and no deals? What do you understand?

Dr Fox: What I prefer is that we have a realistic view across Europe, that we should put the prosperity of the people of Europe ahead of the purity of some of the arguments about the European Union and that there should not be an acceptance that we should have unnecessary disruption because political ideology is put ahead of that.

Q316 **Chair:** That is very interesting. That would indicate to me that you are now moving away from no deal and that you are looking for increased transition to prevent chaos. Is that a correct reading of what you just said?

Dr Fox: No, I would not think that was a correct reading at all. We need to come to an agreement in that time.

Q317 **Chair:** Give the correct reading of what you have just said.

Dr Fox: I hope that we come to an agreement that does not put ideological concepts of countries having to be punished for having carried out what was their legitimate right under treaty and underpinned by the other 27 members.

Q318 **Chair:** What do you consider as punishment?

Dr Fox: Concepts that say that the UK should be less well treated because it has decided to leave the European Union.

Q319 **Chair:** Is it your feeling the UK should be treated as well as it ever has inside the club or outside the club? Should it be treated like an EU member country then? Is punishment not being treated like an EU member country?

Dr Fox: This is my entire argument, that we have to start to think about the businesses and the people and the jobs and the profits, and not the ideology of the European Union.

Q320 **Chair:** So if the European Union were to treat the UK the way it treats Argentina, Brazil, Canada, Kazakhstan, the Dominican Republic or whatever, would that be punishment or would that be fair?

Dr Fox: We are looking for a full comprehensive and special relationship that reflects the fact that for 40 years we have been a member of the European Union, that we begin from a position of identity in regulation, unlike any other country that enters into a trade agreement with the European Union, and that we are the biggest market.

Q321 **Chair:** I feel we are running round a wheel here, because now you are back to wanting a deal. If you want this deal and you cannot get this deal concluded by the time limit, would you want an extension on the time limit?

Dr Fox: We go into negotiation with our position set out that we think this is the time limit within which we should finish this. We cannot go into a deal on an open-ended basis. That is not a sensible basis for a negotiation.

Q322 **Chair:** People will make of that what they will. Can I ask, Secretary of State, how will splitting the EU's existing tariff rate quotas of the WTO be resolved in time for the UK to have its own separate WTO schedules by the time Brexit occurs, if it is March 2019, if it is a two-year transition—maybe luckily it might be a 300-year transition but we will see—in the post-Brexit transition period?

Dr Fox: The negotiations are going quite well. I was in Geneva two weeks ago. I had a number of discussions with a number of countries that had expressed reservations to us. I explained what it was that we were doing, talked about the concept of technical rectification, and how we saw that applying. Of course the problem is not with the United Kingdom in the disaggregation of the EU current quotas, because what we have said from the beginning—

Chair: Where does the problem lie?

Dr Fox: What we said from the beginning, is that we wanted to see continued market access for three reasons, which I have mentioned here before. We want to see continued access for those countries that export to the United Kingdom. We do not want them to be disadvantaged. We do not want to see our own producers disadvantaged by seeing sudden shifts in market size and market share, and we do not want our consumers to be disadvantaged by increased prices, should there be a market short. That is why we have said, for example, that if country X already has 60% of the EU quota allowed that comes to Britain, that we would take that market share and call that our new quota. That fulfils, as far as I am concerned, and most of the countries we have talked to, the concept of technical rectification.

Chair: Does it fulfil country X's view?

Dr Fox: Yes, it does. The problem comes then if the EU 27 decide to make their new quota the EU 28, minus what Britain has offered because that is not a technical rectification under WTO rules; that is a modification and requires an Article 28 negotiation. That is the problem at the present time. It produces a slight paradox, in that we could be leaving and disaggregating from the EU quotas not in dispute with those countries who export to us, but the EU could find itself in a process of some dispute. The easy way for that to be resolved is for the EU 27 not to alter their EU 28 quota, but that is a matter for them and not a matter for us.

Q323 **Chair:** You seem to be making a plea to the EU 27 to make some concessions to placate WTO members. Will you be making any further concessions, do you think, to WTO members who have objected to the splitting of the TRQs?

Dr Fox: We have, if you take specific examples, countries that have publicly raised that—New Zealand might spring to mind for one. What we said to them is we are opening up the process of a bilateral FTA and it would seem unproductive to have the United Kingdom's capacity at WTO tied up in a process about TRQ disaggregation rather than be constructively moving to what the future trading relationship would be. I find that when I have had face-to-face discussions that people do understand our position.

I am being very open, it does leave a problem for some of these countries in relation to the EU 27, but Chairman, we have made very clear that that is a matter for the EU 27 to sort after we leave. It is not a responsibility for the United Kingdom.

Q324 **Chair:** We will be watching that. Can I ask you also, Secretary of State, about the value of contracts held by UK businesses that would be lost if the UK failed to accede to the Government Procurement Agreement by March 2019?

Dr Fox: The exact number is difficult to say but of course we are about—

Chair: Exact number that would be lost.

Dr Fox: Yes, but whatever Britain would lose would also be lost in the other direction—possibly even greater numbers—which is why we have said to the EU that they needed to put forward our schedules for independent GPA membership at the last Council, which they have now done for us. That is one area where we have made genuine progress since I was last in front of this Committee.

Q325 **Chair:** Taking your second point, if it were contracts coming in, that would mean higher public procurement, that would be higher cost to central Government if that agreement were not there, so you would be losing twice; you would be losing for companies coming in and you would be losing for value for money from the UK Government.

Dr Fox: One of the reasons that we want continued membership of the GPA is that we think that introduces elements of competition to help bring prices down potentially in the UK.

Q326 **Chair:** Has your Department made any assessment of the value of these contracts that would be lost, going back to my original question?

Dr Fox: I would have to write to you Chairman, on that, if we have specific numbers.

Chair: That would be welcome.

Dr Fox: I have to say that it has been difficult to ascertain exactly what that is and what the number in the opposite direction is, but if you are willing to accept the best estimates on that, then I am certainly happy to provide the Committee with what we have.

Q327 **Chair:** Yes, thank you, that would be welcome. Has any country asked the UK for any concessions in return for agreeing the accession?

Dr Fox: Not so far, no.

Chair: Can I move to Catherine West?

Dr Fox: Sorry, Chairman, because they understand that because the public procurement offer that the United Kingdom has to make is so valuable it is very worthwhile. I think we make up 25% in terms of the entire EU offer at present so the lost opportunity to others, were Britain not to accede to the GP would be great.

Chair: Very optimistic words, thank you.

Q328 **Catherine West:** You told the House it was far too hyperbolic to say the US was involved in an attack on the international order. Do you stand by that view given that the US is imposing legally dubious tariffs and vetoing all appointments to the WTO's appellate body?

Dr Fox: We said that we understand why the US has concerns about the current system and we share some of the analysis of the problems that we face. In particular, the US worries about China on a number of fronts, on IP, which is what the section 301 is intended to deal with, and in particular forced tech transfer. The argument that is often made in the other direction is that these companies do not have to do business in China, therefore they do not have to transfer their tech. That is not an argument that stands up very well in international law.

We understand questions about overproduction of commodities like steel and we understand the lack of transparency that exists in China about ownership. Is the steel company really private or is it state-owned and what is the level of crossover on that? We also understand questions about access, particularly to services markets. While we sympathise with the analysis, what we do not sympathise with is the remedy. We believe that to use the Article 232 of the appropriate US trade legislation, on the grounds of national security, has a twofold problem.

First, if the principle is accepted why would other countries not do the same and simply use national security as a pretext for protectionism? Secondly—as most of this Committee will know—the WTO has shied away from giving opinions on what constitutes national security under WTO law, since its inception. This provides a potential existential problem at WTO.

Catherine West: That could be a potential issue the UK could introduce into its own negotiations.

Dr Fox: We have had extensive discussions with the US, and our primary aim at the moment is how we get de-escalation of a situation. We take the view that there are counter-trends at work here. If, for example, you apply an external tariff on any element in your economy, simple supply and demand internally is likely to push those costs up, because internal producers can raise their prices without fear of competition from outside. That is likely to have an increase in input prices to a country, which sooner or later feed through to output prices and will make you less competitive. I fail to understand economically how that helps to diminish your trade deficit.

As we have seen recently, commercial industrial business bodies in the United States say this could be harmful to UK domestic interests. We have been trying with our contacts in Congress and in American business to have those voices heard because it is far more likely that any American Administration pays a greater heed to its own business and political representatives than those from the outside. Nonetheless we continue to make the case.

Q329 **Catherine West:** On the Hinkley C infrastructure project, what view did you take on the involvement of China? I know it is a completely separate topic but I do wonder where you are on that question, which did come down to national security, as an element of what is a massive project.

Dr Fox: That is subject to all sorts of analysis, so I am sure the Committee will understand I certainly cannot comment on it in the Committee.

I take the general view that we live in a competitive, global economy and if we want to be involved in infrastructure projects in other countries, and we want UK companies to be involved in those, and we want an open global trading environment, then we cannot pick and choose. However, we have a perfect right, under international law, to ensure that elements of critical national infrastructure and our national security are protected in the trade decisions that we take.

Where you can make a genuine national security case, that is compatible with WTO law. When you use national security as a pretext for protectionist measures that cannot be justified on national security grounds, that is a very different position altogether. The UK would argue that a country that supplies steel—and some very specific steel that is used in some very specific US military projects—to then have tariffs applied to us on the grounds of national security is not a defensible position.

Q330 **Chair:** I see the Minister is on his feet in the Chamber and there will probably be a Division. If so, I will suspend for 15 minutes, then we will resume again probably for another 15 minutes, Secretary of State. I am a humanitarian. I will not keep you too long.

Dr Fox: I am afraid, Chairman, I have a Privy Council meeting at Buckingham Palace.

Chair: We shall discuss that over the Division, if it happens.

Q331 **Faisal Rashid:** Secretary of State, my question is on rollover agreements and grandfathering. Which third countries have formally agreed to continue treating the UK as if it were still an EU member during the post-Brexit transition, so we can continue to benefit from existing EU trade and agreements?

Dr Fox: We have ongoing discussions. For example, with South Korea and with Switzerland we have had extensive discussions on their wish to continue with that. Of the agreements that we have, we have not had indications, despite frequent discussions, that any country is unwilling to do so.

Faisal Rashid: So they have agreed? These two countries agreed?

Dr Fox: We are in the process of getting the agreement. There are two scenarios, aren't there? There is one if we leave with no deal at 29 March next year. Then there is the scenario if we continue through the IP, which will effectively be continuity of the agreement, although we still await the EU's notification formally of these countries on that.

Q332 **Faisal Rashid:** You mentioned if we have no deal by next March, so is there any country that has agreed to continue trade on the same basis as we have agreement?

Dr Fox: Yes, we have an agreement in principle from all those we have had discussions with.

Q333 **Chair:** Is that on paper?

Dr Fox: No, I said we have had discussions. We will want to come to a bespoke agreement, because we have agreements in place, and we have had discussions about what happens if we have to have an agreement that gives us just a bilateral rollover, but most of the countries are waiting to see now whether we have a longer period where we can then come to a bespoke agreement once we have the implementation period in place.

Q334 **Faisal Rashid:** So all the countries you have spoken to have been very positive?

Dr Fox: Yes.

Q335 **Mr Leslie:** Positive is not enough, is it? Because it was not even a year ago, at the Conservative Party conference 2017—it seems like a long time ago—but you promised there we would have 40 agreements, FTAs, in place the second after midnight in March 2019. Are you still standing by that promise?

Dr Fox: That is our intention, indeed.

Mr Leslie: It is a promise?

Dr Fox: It is our intention to do so and there is nothing—

Mr Leslie: You will have to in a no-deal scenario, won't you?

Dr Fox: There is nothing in any of the discussions we have had with any countries that suggest that they do not want to continue having access to the world's fifth biggest economy. *[Interruption.]*

Chair: Secretary of State, we will give you an option here. We can suspend for 15 minutes and come back for 15 minutes, or we can suspend and come back in September for a longer session. I will put this in your hands and give you the choice. I am sure that the material will not have diminished by September. But still, we are available so you have a choice at this moment.

Dr Fox: That was not much of a choice, Chair. At least it was choice with direction. As long as I am able to leave by 4.30, because I do have to—

Chair: We shall aim for 4.30. Can we try to all be back from this Division by 10 past? I suspend the sitting for the moment.

Sitting suspended for a Division in the House.

On resuming—

Chair: We will continue this session. Chris Leslie, you had the floor before the suspension. Can I thank people for being back so promptly—12 minutes?

Q336 **Mr Leslie:** Just to finish off this point about the free trade agreements with non-EU countries and the promise or, as you say, the intention to have 40 of them all signed, sealed legally, one second after midnight.

Dr Fox: That is still our intention.

Q337 **Mr Leslie:** At what point will we get legal texts because one second after midnight is leaving it a little bit late to have the legal texts for Parliament to see. Do you anticipate we will have all 40 of those legal texts, not unreasonably, by the end of this calendar year?

Dr Fox: As quickly as we can achieve them, that is what we want. It gives us maximum certainty.

Mr Leslie: You will hope that by the end of this year?

Dr Fox: I hope as soon as possible.

Q338 **Faisal Rashid:** Secretary of State, a question on Export Finance. Can you explain why UK Export Finance, on the last figures available, gives 99.4% of its energy-related support to fossil fuels? This flies in the face of the Government's commitment to be a leader on climate change, especially given the Committee on Climate Change's recent report that Government are not doing enough to halt climate change. Have you taken any steps to change the situation in UK Export Finance?

Dr Fox: Yes, we have. We have had discussions with UK Export Finance to say that where there is investment in fossil fuels, particularly coal, which is moving to cleaner technology, then we can continue to do that. When it comes to the setting up of brand-new coal installations, however, I am not in favour of that.

Q339 **Faisal Rashid:** Will you commit to the Committee on briefing on what percentage of energy-related support UKEF intends to give to fossil fuel projects going forward?

Dr Fox: That depends. If it is a country—say a developing economy—whose only source of fuel is coal, then clearly it is in line with our international obligations to try to help diminish if we can, the emissions that they have so it makes sense. But what it would not be sensible to do, would be to help countries like China set up new coal-powered energy generation. I have also been looking with UKEF to see how we can, at the same time, be increasing the amount of investment that we help countries make in renewables.

For example, as I mentioned in the House of Commons last week, I was with Equinor in Oslo a couple of weeks ago to see how we might work with them to ensure that we could use wind turbines and help promote the use of wind turbines in other parts of the world, which might otherwise be using fossil fuel. As well as trying to encourage, where we can, cleaner versions of fossil-fuel use that exist at the present time, I also think we should be using UKEF to try to increase the use of renewables.

It is not possible for me off the top of my head to produce to you a figure that would be in any way reliable and that would not be fair to the Committee.

Q340 **Faisal Rashid:** I totally understand. Let me put it a different way then. Will you commit to having UK Export Finance's operations and support adhere to the Paris agreement, which the UK Government has committed to?

Dr Fox: Yes, and as I said, we were able to invest, for example, in countries that already have coal-powered generation but we are able to do it in a cleaner way where they have no other option in terms of energy generation. That is one thing but we would also want to try to use UKEF in the future to expand the use of renewables.

Q341 **Faisal Rashid:** You mentioned China, that we cannot support the use of fossil fuels and so on. However, I have some figures here from an investigation that took place last year. *Private Eye* revealed that in October 2013 UKEF guaranteed a £45 million loan to SIBUR Holding, a

Russian chemical company, part-owned by Putin's son-in-law. UK Export Finance also provided £109 million between 2011 and 2016 for equipment for Russian coalmines. Are these the types of investments that UKEF will continue to make in the current political climate? How does this fit with the Government's climate change commitments?

Dr Fox: For 2013, UKEF was not part of the Department for International Trade. Anything done between 2011 and 2016 was before my Department came into being. All I can say is that the guidelines that are part of—

Faisal Rashid: It is still part of the Government, UKEF.

Dr Fox: We have had a look at that. We had occasion to look at it because of a particular investment decision in Southeast Asia last year, in which case I was not willing to sign off. The guidelines that I have given is where there is energy generation that cannot be done in a different way but can be done in a cleaner way, then that is acceptable for us to help. At the same time, however, we would want to try to encourage other forms of energy generation, and if possible, an increase use of renewables.

In some countries it is not possible. In some countries the basic resource is coal. The question is: can we get them to do it in a cleaner way on their way to developing potential other forms of generation?

Q342 **Mr Leslie:** Sorry to drop back to the Facilitated Customs Arrangement issue again, but it seems to me that if it were to work, the idea is that the UK will collect the EU's tariffs, but reciprocally the EU would potentially have to collect the UK's tariffs. If, hypothetically, the UK went higher, for that to work you need a mirroring system. Would you agree that if that reciprocity is not there, it could not work?

Dr Fox: I accept the problem, but I think there is another way to deal with the problem. I cannot say too much, because we will see what comes out in the White Paper once we have finished the ministerial write-round. This was one of the areas where I had concerns. My specific concern on the original model was around circumvention were the UK to operate a trade remedies policy where the UK tariff was higher than the EU tariff, and what would be done in that case. It would be possible, for example, in that case, for anybody who was importing into the United Kingdom to have to ensure by a legal duty that they paid the correct tariff, subject to a criminal penalty. That would be possible. I cannot say any more than that, given where we are.

Q343 **Mr Leslie:** The reason I ask specifically is that you will have seen today that the European Reform Group, the ERG, a group of Conservative Members of Parliament including Mr Rees-Mogg, Member for North Somerset, and others, have tabled an amendment on this very question to the trade Bill or the customs Bills for next week. They have said that if there is no reciprocity, you would not be able to operate a Facilitated Customs Arrangement. What would Government do in respect of that amendment?

Dr Fox: I have not seen the amendments. Obviously I will have to look at the amendments this evening. It is an issue that I recognised quite early on in the process that there had to be a mechanism that did not allow circumvention of a UK trade remedies policy.

Q344 **Mr Leslie:** That is the fourth or fifth problem with this Facilitated Customs Arrangement.

Dr Fox: We think there is an answer to that that lies in a legal duty. That will be dealt with in the White Paper.

Q345 **Chair:** Thank you. Secretary of State, if we co-operate with each other we will probably get this all finished in time for your meetings.

An OECD analysis published in April 2018 reported that in 2017 the UK recorded the lowest level of FDI inflows since 2005 at just $15 billion. In addition, the DTI's latest figures show the number of inward FDI projects fell 9% from 2016-17 to 2017-18. How would you explain these figures? I know the Brexit referendum happened around the time.

Dr Fox: There are two issues. One, as the Committee will all know, is that the global FDI fell. The question is where we sit relative to other countries in terms of FDIs. Last year, the FDI projects coming into the UK created another 76,000 new jobs in the UK. We were, by a clear margin, the number 1 destination for investment into Europe and we were the third biggest global destination for foreign direct investment. If you look at the figures for other countries you will see that there was a drop in relation to the global FDI drop. Some of that was attributed to America First; some of it was related to what we think were capital movement restrictions in China. The point is that the United Kingdom, despite all the predictions, remains the top destination. Interestingly, if you look at the country investments into the UK one of the countries with the biggest rise in FDI into the United Kingdom, at an astonishing 60%, was Germany.

Q346 **Chair:** On the export strategy, when is the long-awaited strategy due for publication? There is a feeling that there have been a number of false starts. Will the export strategy only focus on trade promotion, as is rumoured, and when would other sections of the strategy be expected?

Dr Fox: The export strategy is now at its point of final clearance, and it is now a question of when we are able to obtain, as those who have been in Government know, the appropriate Government slot for its publication. It is ready. I am also keen to pursue at the same time, because I think they are related, extensions to the Government's foreign direct investment strategy. What that in very broad terms will want to do is see how we can make projects more visible to foreign direct investors.

At the moment it is very easy for big sovereign funds and big institutional investors to see the Government's infrastructure projects, but it is very difficult for them to see local Government projects, for example, which may be investable but are not necessarily big enough for those institutions to see. We are trying to, and we will, produce a vehicle that will make it easier, so that foreign direct investment in to the country is not coming into property in London, but directed into sectors of the economy that will produce greater economic return for the UK in line with our industrial strategy.

Q347 **Chair:** Turning briefly to trade remedies, is it possible for you to clarify the dumping methodology that will be used in the UK's post-Brexit regime? I heard the dumping margins will be calculated. Also, there is concern in industry that the Trade Remedies Authority and the Secretary of State will each conduct economic interest tests over complicated matters and also leave too high a burden of proof on industry. How do you respond to those charges?

Dr Fox: It is impossible for me to go through all the methodology in two minutes, Chairman. I am very happy to write to you, because what we are looking at is to see how we can look at the best that is operated in the world.

Q348 **Chair:** Will you and the TRA be conducting independent—

Dr Fox: No, there will be a single economic test that will be conducted by the TRA. The reason for the economic test is that we would want to—

Q349 **Chair:** Will the burden of proof be too high on industry?

Dr Fox: There are two things we would want to ensure: first, that in any action that was taken we had made a proper assessment about what the consequential cost to other parts of industry might be. I am also very keen that we look in taking such measures to see where there might be a disproportionate regional effect. It may well be that an economic test applied across the whole United Kingdom did not necessarily show us that there was a trans-UK effect, but there might be a disproportionate effect in one region that might require us to take action. I am very keen that we develop a test that is sensitive to the UK's interests in those circumstances.

Q350 **Chair:** Two further points to raise. A lot of time has passed in the last two years and at one stage EU citizens were talked of as being types of bargaining chips or main cards in negotiations. Do you think that was a mistake? Do you think those days have gone now, and will they remain in the past?

Dr Fox: I think that it is legitimate to ask the European Union in any negotiation that the rights of UK citizens are treated with as much respect in other parts of the European Union as European Union citizens in the United Kingdom.

Q351 **Chair:** Okay. People will make of that as they will. Time is pushing us. Secretary of State, from today the theme seems to be, if I summarise it, one of a dying dream. The common rulebook was described as an EU rulebook. The pharmaceutical sector will be at the EU, using REACH, which will be welcomed by them, I am sure. Car importation from the United States was seen as a disappointment by Brexiteer members. An FTA with the United States of America does not seem to be what it once was. The Brexit-supporting members here were quite disappointed that the Ministers resigning were Brexit-supporting Ministers and not Remain-type Ministers.

Dr Fox: I am not sure disappointed is the right word.

Chair: There is an environment of complete uncertainty, it seems, around the WTO at the moment. There are a lot of red lines there. We do have your own five red lines, which are no free movement, no payment to the European Union, no European Court of Justice, no customs union and no single market. I think from today we have gathered all this, and this is a process of learning. Hopefully we will have you back in a few months' time in this capacity. Can we thank you, Minister, for being here today? I understand you have other pressing engagements, and I will release you to go and do those now. Thank you very much.

Dr Fox: Thank you very much. Thank you, Chairman. Thank you, Committee.