

# International Trade Committee

## Oral evidence: UK Trade Policy Transparency and Scrutiny, HC 1043i

Wednesday 31 October 2018

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[Watch the meeting](#)

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

Questions 48 - 108

### Witnesses

**I:** Hannah Essex, Co-Executive Director of Policy and Campaigns, British Chambers of Commerce; Sally Jones, International Trade Policy Director and Global Brexit Insight Lead, Deloitte; David Talbot, Senior Director, International Government Affairs, Eli Lilly and Company; and Mark Summers, Managing Director, Avon Valley Precision Engineering (AVPE).

**II:** Nick Dearden, Director, Global Justice Now; Rosa Crawford, International Trade Lead, TUC; and Anna Fielder, Senior Policy Adviser, Transatlantic Consumer Dialogue.

Written evidence from witnesses:

- [British Chambers of Commerce](#)

## Examination of witnesses

Witnesses: Hannah Essex, Sally Jones, David Talbot and Mark Summers.

Q48 **Chair:** Good morning. I thank the three-quarters of the panel that are here for their attendance this morning. Our fourth panellist—or our third panellist, depending on how we look at it—is currently caught in security, but we will start without her and she shall be joining us fairly soon. Can I start on my left and ask you all to introduce yourselves for the record: name, rank and serial number, please?

**Hannah Essex:** I am Hannah Essex. I am the Co-Executive Director of Policy and Campaigns at the British Chambers of Commerce.

**David Talbot:** I am David Talbot from Eli Lilly and Company, Senior Director, International Government Affairs.

**Mark Summers:** I am Mark Summers. I am the Managing Director of Avon Valley Precision Engineering.

Q49 **Chair:** Thank you for coming. Can I kick off by asking you: in recent years, how effective do you think the UK Government have been at engaging businesses with consultation on any trade policies that have been developed at an EU level? Have any of you had any experience of that?

**Hannah Essex:** Certainly from the research we have done with the LSE, our engagement has been characterised by ad hoc meetings rather than a structured, formal engagement process. With the trade policies led by the European Union, it can feel quite distant from the day-to-day running of businesses. While organisations like BCC have had the opportunity to be involved, the engagement from the business community more broadly has perhaps not been what it could be.

**David Talbot:** For Eli Lilly, we have been engaged both in London and Brussels through our trade association. In the meetings directly we find that because we have a case manager the Department of Trade is fairly active with us on that front. We feel our input has been taken into account.

**Mark Summers:** More from an SME perspective, I echo what Hannah is saying. It is very much ad hoc and very limited, and if there is any engagement it is mainly through the trade associations. Most of the engagement is with the prime manufacturers, not with the SME community.

Q50 **Chair:** Thank you. Happily we have Sally Jones here from Deloitte as well, catching her breath back. Thank you for making it this morning.

**Sally Jones:** I am so sorry to be so late; please forgive me.

Q51 **Chair:** I think we should be apologising. I think the House of Commons security was the issue.



## HOUSE OF COMMONS

I was just asking in the first question about the UK Government's engagement with industry on any trade agreements made at an EU level and whether you have any experience of that. I will widen the question out as well. Are you aware that any other EU countries have more engagement with their companies through their Governments to EU level than we have in the UK?

**Sally Jones:** I may be repeating what other people have said, in which case forgive me, but my experience of the European level of consultation is it is very much done by representative bodies. For Deloitte, for example, which is in the services sector, we would largely see the European Services Forum as being the main role for engagement with Europe on services-based trade policy matters. I do not recall an occasion when Deloitte has engaged directly either with the UK Government on European trade matters or with the European Commission itself.

Q52 **Faisal Rashid:** Have you ever been involved in consultation on trade run by the EU? How did you find the experience of engaging with the EU?

**Mark Summers:** Personally, I have had no involvement.

**Faisal Rashid:** No involvement with trade run by the EU at all?

**Mark Summers:** No.

**Faisal Rashid:** Anybody else?

**Sally Jones:** The only exception in my experience was when the Commission was consulting on TTIP, the now-defunct US-EU trade deal. There was a very specific consultation on investor settlement dispute.

Q53 **Chair:** Was that run by the EU or run through the UK Government by the EU?

**Sally Jones:** That was run at EU level. I believe they had a huge number of responses and it was on a very specific point that had been particularly controversial. I was interested in the responses themselves rather than participating in the consultation.

**David Talbot:** My experience is that the EU does spend a great deal of time reaching out to representative bodies, but a lot of the input that they receive, either through member states or through industries, is proactive on behalf. TTIP was a different example because around each negotiating round there was a stakeholder consultation, which happened with civil society as well as all of the other interested parties in business. As you know, there were many rounds of negotiation that took place in TTIP and I think that there was a lot of time for input. It was very formal and large, but there was a fair bit of consultation around those rounds.

Q54 **Faisal Rashid:** Do the Government actively encourage and facilitate this consultation and encourage the businesses or is it just very proactive from your side?



**Hannah Essex:** Things have been changing since the Department for International Trade was established. It is still quite new. Certainly TTIP was I think the example that we would all say was a better consultation than in other areas. Since the Brexit negotiations, a number of groups have sprung up—the Joint Customs Consultative Committee and others—where we have the opportunity to be more engaged in some of those conversations. Historically, the engagement was more ad hoc and favoured those organisations with the capacity to have public affairs functions—people who were able to engage with Government on a fairly ad hoc, informal basis.

Q55 **Faisal Rashid:** Yes, there is the capacity issue as well with the companies. Obviously you can see whether or not the Government are facilitating or encouraging businesses. From the British Chambers of Commerce point of view, you will probably be sitting in a good position to let us know what kind of consultation there is and about the encouragement from the Government. How do you see that?

**Hannah Essex:** Certainly we, as the British Chambers of Commerce, have good engagement with Government. I think that there is room for improvement when it comes to engaging our broader membership—people like Mark, who is a member of Business West, one of our chambers down in the south-west of England—and broadening our engagement opportunities so that we can hear from a broad church of experience and knowledge rather than focusing on the usual voices.

Q56 **Matt Western:** To develop that in terms of future trade policy and deals, how do you think the Government should be consulting with business to achieve the right outcomes in trade policy terms? What would be your preferred structure for these consultations?

**Mark Summers:** They have to negotiate further down the supply chain; they need to look at the SMEs, not just concentrate on the primes and the big manufacturers. That is key. There need to be appropriate control gates through those negotiations. From an SME perspective, they are very interested in cost, compliance and continuity in terms of any future trade deals, because clearly the barriers to entry into a new market for an SME are much greater than they are for some of the larger manufacturers in the UK.

**Sally Jones:** I think that there is a language point, too. An awful lot of trade consultations, and certainly trade deals, are written in a language that is quite impenetrable and jargon-based. Trying to understand what that means in the context of a commercial organisation, particularly an SME, is very difficult. There is almost a need for simultaneous translation between the trade experts on one hand and normal people on the other.

Q57 **Chair:** Are you saying that trade experts are geeky people?

**Sally Jones:** Yes.

**Chair:** Fair enough.



**Mark Summers:** It is not all about the legal language either. There are a number of points of detail that the legislators do not understand in terms of the practicalities. We are seeing it all over the place with Brexit at the moment. People have not thought of the practical business problems as we approach Brexit. Increasingly, we are seeing in the news—it is getting a lot more focus now—some of the practical business problems that are coming to light. For things like country of origin and foreign offset requirements that will form part of future trade deals, it is important that everyone is engaged at a fairly early stage. That is not about the legal language; that is about points of policy and principle, really.

Q58 **Chair:** Sally Jones, are you saying that there are almost three languages here: geekese, normalese and legalese?

**Sally Jones:** I think that there is a fair degree of overlap in a Venn diagram between legalese and geekese in this brave new world of jargon we have created for ourselves.

I also entirely agree with everything that Mark has just said. It is multiple times worse when this moves from being a goods-based conversation to a services-based conversation, partly because the whole policy around services is less well evolved than the policy around goods on a global basis, quite aside from a UK or European basis, and partly because as a general rule of thumb the barriers that stop you being able to trade in services are domestic behind-the-border barriers. Those barriers require multiple times more research to even understand what the restrictions are, let alone how you might start to dismantle them, which is not in any way to do down the issues with at-border barriers that goods businesses face. There is just a whole additional level of complexity there, which again needs to be explained clearly in normal language.

**Hannah Essex:** Building on those excellent points, there is something about making it relevant. In terms of core principles of consultation, making it relevant to the people you want to reach is really important. We are talking to people around our chambers now. We have 200 people across the network working to support and facilitate trade and help businesses to trade internationally. When they talk about free trade agreements, they find that a lot of businesses do not know what they are. If businesses have been trading only with the EU, then it is not something that they have had to be aware of. If you ask them, "What do you think about free trade agreements?" they are not going to have an answer for you. If you ask them specifically about intellectual property protection or regulatory alignment, then they might have something more meaningful to contribute and feel like they have a contribution to make. The more relevant you can make the consultation the more likely you are to elicit responses from the right people.

Timeliness is also important—making sure the consultation happens at a time where it is feeding into a live decision rather than feeling like it is going into the ether and not having any purpose—and then being efficient in the way that you read the evidence and respond back to those people



## HOUSE OF COMMONS

who gave it, to make sure that they are clear that their contribution has made a difference. That will support people to have more confidence to continue to contribute to consultations.

**David Talbot:** I think that that needs to happen at the beginning, because as you get into the negotiation you are in very deep with the legalese and the geekese, as you say, Mr Chairman.

The US process is setting a set of negotiating objectives and then the end agreement is measured against those negotiating objectives. Updates happen throughout the process. The input that needs to happen to the negotiators needs to be in real time, but cannot be at a technical level that no one can understand. The goals the Government set at the beginning of a negotiation need to be the part where the heavy consultation comes in so the interests of the various parties involved in, or concerned about, the negotiation are taken into account at the beginning.

Q59 **Matt Western:** Just to develop this then, how effective do you think the trade working groups have been in terms of establishing, or getting across, your views? In actual fact, have any of you contributed to them?

**Sally Jones:** I run the trade technical group for the Professional and Business Services Council, which was, effectively, constituted at the request of International Trade, DExEU, BEIS and the Ministry of Justice. It has worked well up to a point, helped enormously, I think, by the fact that, as you would expect from a group convened from professional services firms and law firms, quite a lot of the group already had deep technical trade expertise in any case. We did not have to go through that learning curve or translation process.

We have had various commissions put to us, some from a Brexit perspective and others from more of an international trade policy perspective. We have responded as well as possible under the constraints that we have had. The largest constraint on our ability to be helpful has been on what the officials can say to us rather than our willingness to engage.

**Mark Summers:** Moving on from Sally's point, that is quite an easy thing to solve via a non-disclosure agreement or something like that if you want particular people involved in particular points in the process. That, to me, is fairly straightforward in predetermining what your control gates are going to look like in terms of going through that process. That is probably where it needs to be enhanced going forward because we should be learning a few lessons from the past. We should be looking at what it looks like going forward rather than what it looks like today.

Q60 **Matt Western:** Do you think businesses should be involved in trade negotiation delegations?

**Mark Summers:** Yes, most definitely, because they understand particular technical or practical constraints, such as, as I mentioned



## HOUSE OF COMMONS

earlier on, rules of origin and foreign offsets, and how they might affect their business. If you are a huge multinational business trying to deal with a foreign offset requirement, it is quite straightforward, plus you have more influence in whatever country you go into. If you are an SME, you cannot. You will really struggle to deal with any sort of foreign offset requirement within a trade agreement.

**Hannah Essex:** One of the recommendations that BCC has made in our written evidence to this Committee is around the “room next door” mechanism. It is something that is used by Chile and Mexico. They have a physical room next door where the negotiators are able to go out and speak to a group of people to inform their ongoing negotiations. We are not suggesting that it necessarily should be a physical next door, but certainly that there should be some mechanism within the negotiations where the negotiators can step away and get a rapid response from experts on particular issues so that they go back into the room better informed and better able to move the negotiations forward. That should include business representation.

Q61 **Matt Western:** That is a really interesting idea. That was Chile and which other country?

**Hannah Essex:** Chile and Mexico.

**Chair:** An escape room next door, perhaps.

**Hannah Essex:** An escape room, yes.

Q62 **Chair:** Before we move on to Faisal Rashid, I just want to pick up Hannah Essex on one point. You said there is confusion around the understanding of free trade agreements. Do you think that is because a future free trade agreement with the European Union is going to be less free than what we have at the moment and the description of a free trade agreement misleads people?

**Hannah Essex:** I think that it is just the terminology. It is not something that people are used to. If they are trading with the European Union, they understand about the single market and the customs union and such things, but perhaps not what a free trade agreement involves. There are several component parts that could be in any given free trade agreement, so breaking that down and understanding which component parts you are specifically asking about in any given consultation would be helpful.

Q63 **Chair:** Do you think that there is any confusion with people who think they are going to enter into a free trade agreement, but find themselves to have less freedom than they currently have?

**Hannah Essex:** That is a good question. It is not something that I have spoken to members about. If you do not understand what a free trade agreement involves, it is very hard to understand what the implications are going to be for any business. They will all look different and there will also be interdependencies, which is where the strategic trade advisory



group comes in. It is making sure that there is an understanding of what those interdependencies are and what the implications are for business and then communicating that back.

- Q64 **Chair:** This is just a side point, Hannah. A free trade agreement can look to many to be a less trade agreement given the openness they currently have with the European Union. They will not have that same level of openness. They would not get more than they currently have with a free trade agreement, so it will be less. Does that in any way wake people up or make people think? Is it just beyond where people are at the moment?

**Hannah Essex:** I am not entirely sure. Certainly with one free trade agreement you are restricted in your ability to develop another free trade agreement. There is some concern and confusion around what all of that means. With the European Union, I think that people are so used to the way that we are operating and there is no certainty about what that future relationship is going to look like, and therefore it is quite difficult for people to understand what that is going to mean for them.

**Chair:** I went on a tangent of curiosity there; back to Faisal Rashid.

- Q65 **Faisal Rashid:** What is your opinion on the Government's stated plans for the strategic trade advisory group, its composition and also its proposed function?

**Mark Summers:** I think that there is still not total clarity in respect of where the control gates are and how the subcommittees are going to work. I look at it as if you are running a plc. Running a plc is not perfect, but there are certain committees that you have to have when you run a plc. How you outline a framework for a future trade agreement should have that sort of robustness and approach set out on day one. For example, in a plc you have a remuneration committee to look at certain things and other audit committees, and I think this needs to work in a similar way appropriate to the trade agreements you are agreeing going forward.

- Q66 **Faisal Rashid:** Is it not working currently?

**Mark Summers:** My concern particularly post-Brexit is that you are going to get a gap. Where are people going to trade? How are they going to trade and do they have a voice? I run an SME, so particularly lower down the food chain in terms of the supply base that is the fundamental concern. Echoing some of the comments made earlier, do people properly understand it and if they do not understand it, how are they going to get access to those markets? At the end of the day, business wants access to different markets in order to grow. I want UK manufacturing to continue and to prosper going forward, but in the current climate that is extremely difficult. That is where the actual UK supply chain really needs some support and help.

- Q67 **Faisal Rashid:** Mark, I think that you are the only representative from the SME market in the group.



**Mark Summers:** Yes.

- Q68 **Faisal Rashid:** Hannah mentioned the limited resources that SME businesses have. How can they participate more or have their voices heard?

**Mark Summers:** For example, I am the managing director of a business. I have a bit of bandwidth, but I still have a day job to do. Being involved in this—because I passionately believe in UK manufacturing, it is very important to me—struggling with the bandwidth and trying to understand precisely the mechanisms for your average SME and for me is virtually impossible, to be frank. I run a 60-person business and—

- Q69 **Faisal Rashid:** No, that is absolutely fine, but what I am trying to understand is what the Government need to do to engage with more SMEs. SMEs need to have their representation, for example, for this trade advisory group, which is strategic.

**Hannah Essex:** One of the other recommendations we have made is that there is more online consultation. I think that there has been a tendency with Government consultations to move towards a very fixed set of questions that you must answer, and that can be quite off-putting. If you are an SME faced with 12 questions and you have a strong view on two of them, but you think you need to say something on all of them, then it can put you off participating. It is important to use digital technology to engage with more businesses, but to do so in a way where they are not put off by it and it gives them the scope to say what it is that they want to say.

There are also other mechanisms. Certainly BCC can do a lot to facilitate this, such as through focus groups and bringing people together. Going out to where they are and bringing them together in face-to-face meetings is something else that is really important.

- Q70 **Faisal Rashid:** As is feedback to the advisory group, and thus you can work with them closely, yes.

**Hannah Essex:** Yes.

**Mark Summers:** Engagement with the trade associations is key in respect of that, particularly in the aerospace industry that I am in. Appropriate engagement with those trade associations is key because you will get access to more members in the community by doing it that way.

**Sally Jones:** On the strategic advisory group specifically, it is very early days since it has been established, so I think it is a little unfair to evaluate it yet as being a success or otherwise. There are some real positives about it in terms of the number of different areas of consultation. You have the NGOs, you have the regionals, you have the voice of small business and you have the voice of employers. You have a broad church, which is really important.



The only caveat I would make at this point is that I am not always convinced that it is entirely representative of UK plc across all of it. There is only one large business voice on that group of half a dozen or a dozen different agencies. I wonder to what extent, if you were to make it proportionally representative of business in the UK, you might change the composition a little bit.

**Hannah Essex:** It is also important that that is not the be all and end all of business engagement so that that is a group that oversees all of the evidence that is coming in and that encourages consultation in a much broader sense, rather than just focusing on the people in that group.

**Faisal Rashid:** Because it is at quite an early stage, this is the right time to engage and give your feedback to make it work for the future. Thank you.

Q71 **Matt Western:** Just on that, I am staggered at how little representation there seems to be, from the way you have described it. There does not seem to be much regional consideration given to it either. If you were starting with a blank sheet of paper, how would you go about doing this? With due respect—and I am very impressed by you, Mr Summers, in terms of your knowledge, commitment and passion for this—surely we should have more focus groups in the way you are describing, Ms Essex, for bringing together the knowledge, but ensuring that we do not miss a trick here. We have been thinking about leaving the EU for about two and a half years and I am amazed we are where we are.

**Mark Summers:** In answer to your question, if the control gates through the process are laid out in a structured form, it is then about who sits on the committees to work through the control gates and to make sure that you have an appropriate mix of both legislators and subject matter experts. Yes, we know it is a legal process and we know it is a legal document. My experience is far more around commercial contracts than around trade deals, but, as with any commercial contract, the devil is in the detail in terms of the practical aspects that you have to go through.

My view would be that if you have subcommittee representation on particular control gates, you need representatives of, yes, some of the bigger players and some of the bigger manufacturers, but you also need people who act effectively as the voice of SMEs.

**Hannah Essex:** With Brexit, a lot of the committees and other things that have been set up have been necessarily reactive. At the point of the referendum people did not know what the process would then be and which groups needed to be set up and so on. We have an opportunity with free trade agreements to start that process and to say that this is what the process is going to look like and this is the role of the strategic advisory group, but these are all the other opportunities to engage in the way that I have described for an online consultation and focus groups and so on. We have an opportunity to be clear upfront about what that process is going to look like and have a high degree of transparency



around it. We can have some secrecy around the negotiations themselves because that is an important part of the process, but then also have absolute transparency at the end point about what has been agreed and the implications for that. Even just setting out what the process is going to be at this point would be really helpful.

**David Talbot:** There are a lot of lessons that we can learn from how the TTIP negotiations went in terms of the lack of understanding among populations throughout all the member states of Europe and in the US about what trade means. That refers to the Chairman's point before. Doing outreach to various regions in the UK would be an important way not only to engage directly with the businesses, but also to educate the general population about why some of these negotiations are so necessary and what is at stake. It is going to be enormously challenging to go through any of these negotiations, whether it be with the EU or the US or other large trading partners. The burden upon DIT is going to be enormous. Whatever process is set up has to be as sensible as possible. There has to be an appropriate balance between consultation and getting the work done because you do not have an infinite number of people to do this.

**Sally Jones:** As somebody who has worked in international trade policy for the best part of a decade, I can say that now is exactly the right time, because up until 24 June 2016 nobody would talk to me at parties—I was not even invited to parties—but now I get to be in the kitchen at parties. If you are ever going to make an impact it is now, while trade is hot.

**Chair:** Trade chatter is the in thing at London kitchen parties at the moment.

Q72 **Julia Lopez:** This is a continuation of some of the questions Matt Western asked. One of the frustrations that I have felt as a Committee member since joining last year is the difficulty of drawing out business voices in this whole process. There is a real reluctance of businesses of all sizes to contribute to some of our panel discussions. I think that we are having quite an academic debate here, which does not have much practical relevance to businesses on the ground. We have kind of covered it, but how do we get those businesses to speak to us?

This is particularly a question for Mark. At what point when you are looking for new markets overseas does a trade agreement become relevant? Say you have a new product and you want to find a bigger market for it. How do you go about searching for that market? At what point would the Government assistance be helpful to you in that process and at what point does a free trade agreement become relevant?

**Mark Summers:** From my experience, I am literally starting that process at the moment. I am going on a DIT trade mission to Canada in a couple of weeks to look at opportunities in the Canadian supply chain. That opportunity has probably not come about via a very open route. It is a lot more focused on our current experience with our current customer base



## HOUSE OF COMMONS

than it is on trying to be totally proactive in terms of addressing new markets.

Generally the SME community, particularly post-Brexit, will probably sit up and smell the coffee at one stage and go, "Oh, I really need to do something about that now". My big fear is that it will be too late and that the train would have already left the station by then. They need to start thinking about that now.

**Q73 Julia Lopez:** Could you elaborate on that a little more?

**Mark Summers:** If the European market becomes more difficult for the SME manufacturing community, there is a long timeframe before we agree future trade agreements. Trading with a new country or breaking into a new country as a manufacturer, unless you have a unique product, is not a very quick process. I have done that in a previous life with a company. What happens in the meantime? That is what I am saying. There is going to be a gap between post-Brexit and future trade agreements. My big concern is what happens to manufacturing in that intervening period.

**Sally Jones:** I have a real-life example of that. I was up in Sunderland yesterday at the Stadium of Light talking to small and medium enterprises with the North East England Chamber of Commerce, among others. There was a particular business there that has a particular product that they ship from Spain to the UK, do a minor amount of stuff to and then sell on. Their main market is in North Africa. There is only one other business in the world that does exactly what they do and they are American. It means that, because Europe has a trade deal with the North African business, they have an advantage over their American competitors. They are really concerned about what is going to happen to this business post leaving the EU. It does not make any sense whatsoever to have an item moving from Spain to the UK back to Morocco with tariff pickup potentially. It makes much more sense for it just to go straight—

**Q74 Julia Lopez:** In that instance, the main concern is the potential tariffs rather than any other kinds of barriers.

**Sally Jones:** At the moment, but there will be others, undoubtedly. The point is that they have not ever really thought about the fact that they go from Spain to the UK to North Africa because it has been a straightforward process for them. It will be when that is taken away that they notice, rather than necessarily because they are aware of the barriers that have been struck down now. People in the UK I think tend to forget—because we have had 40 years of the single market—that the natural order of events from a trade perspective is to raise barriers to protect your domestic economies, not to lower them. That is going to come as a bit of a mental mindset change for business.



**Mark Summers:** Time to market is important as well. We manufacture rapid response components. It is not a huge slice of our business, but we have five working days from receiving an actual design model from our customer to manufacturing a component and supplying it into Europe. We will not be competitive with Europe from a time point of view—because it is more about time than it is cost—post-Brexit if there is not frictionless trade. That is just one example.

Q75 **Julia Lopez:** Which new markets are you particularly interested in as a business?

**Mark Summers:** As far as our business is concerned, North America is probably key because fundamentally 90%-plus of my business is aerospace component manufacturing and that is where the big market opportunities exist for us. Our product goes worldwide. At the moment we only distribute it within Europe, but it is used worldwide, effectively.

**Hannah Essex:** Can I just come back to the term “consultation”? I have talked a fair bit about what we think would be good consultation. One thing I have not mentioned is that there are so many different consultations out there. Businesses often find it hard to navigate which of them is worth their time. You have Select Committees, APPGs, Government Departments; you might have LEPs, or local authorities; and local MPs sometimes do their own consultation within their constituency. Quite often the role of chambers is to look at everything that is happening and advise their members how to get involved so the right people get involved at the right time. It can be quite confusing. There are lots of different people asking essentially the same question: which of these is worth my time and my effort?

**Chair:** That is a good point.

Q76 **Julia Lopez:** My other question is have you any sense of how other competitor countries do this kind of thing, how they engage with their businesses? For instance, we went to Japan recently and we found that the Germans have very active chambers of commerce in-country. Is this the kind of thing that we really need to be stepping up in the future? Are there any other initiatives that other countries see? Another thing that people said to us was that the Japanese might be looking to invest in a market and the French embassy might suggest specific companies, whereas we say, “There is a competitive tender. We cannot recommend anybody in particular, but you might look at these people”. Do you believe the UK Government should be much more proactive and aggressive, or do you think that we have it about right on this stuff?

**Mark Summers:** In terms of industry clusters between companies within particular regions—and I can only speak for the aerospace industry, which is the industry I sit in mainly—other than in Northern Ireland and this country, there are regional trade associations, but the actual working together of those businesses is very hit and miss, if it exists at all. Northern Ireland is an exception within aerospace, but it is a lot more



## HOUSE OF COMMONS

developed in other countries, such as France, Italy and the US—places like South Carolina and stuff. How that has been developed more over time I do not really know; I do not know enough about it, but it is definitely a lot more developed and a lot more structured. It has been supported more from Government initially in order to do that. I think that is where Government can really help.

**Sally Jones:** Certainly in Europe there is a much more developed sense of industry bodies that are engaging with the Commission on a much more formalised, structured basis than here. I used the European Services Forum as an example, but it is a good one. They have been working with the Commission for decades to establish services trade policy and everybody knows that is who you go to if you want to engage with the Commission. There is a well-established path to get involved.

**David Talbot:** On the US side, I know the Committee was there not that long ago. It has a very formalised process. There is a public notice process that the US Government have. There is the formal process of trade promotion authority, which lays out the fundamentals that need to be agreed to by Congress in order to have an up and down vote for the President. There is a formal briefing process through a number of different business organisations after every negotiating round. It is not perfect, but there are lots of opportunities for input. When they do have these comment periods, they get tens of thousands of submissions and have to, by law, respond in a timely way to concerns and different inputs that are raised.

I think that formalising that process is important. It allows people to understand how their voice is going to be heard. I think that you will notice that the most recent negotiations that have been concluded, with the Canadians and the Mexicans through the US Administration, happened relatively rapidly. There is not a lot of time for this ongoing consultative process on every clause and paragraph of the negotiations. The US has a formal process of cleared advisers who are referred to through each chapter as it is concluded for their inputs; confidentially, but they are experts in civil society and different industries, and they form part of different bodies that consult on the technical aspects of what is in the documents.

**Sally Jones:** As Mark said, we would have NDAs, but it would be directly analogous to the US cleared system. We could have something very much like that.

**Mark Summers:** I think that David's point is a good one in respect of future trade agreements. You really do need suitably qualified, experienced personnel. Given that we have not negotiated many trade agreements over the last 40 years, I question whether we have access, certainly within the UK, to those suitably qualified people.

**Sally Jones:** We have stolen them all from New Zealand.



Q77 **Chair:** Learning by your mistakes is no comfort in this environment.

**Mark Summers:** Exactly. Your trade agreement will only be as good, to some extent, as the people doing the negotiation.

**Hannah Essex:** What is excellent context to all of this is that there is a lack of experience from the UK, but there is a lot of experience out there within business, certainly within the chambers network. We facilitated £20 billion worth of trade last year. There are a lot of people out there who do have a lot to contribute. I completely agree that having that process very clearly defined upfront as to what it is going to look like so people know when to engage is really important, but so is keeping this under review. It may evolve over time as the UK becomes more experienced in this, and these processes might change.

Q78 **Chair:** Sally Jones, can I just tease out something about the experience you had in Sunderland yesterday? The company is coming from Spain to the north of England to Morocco. At the moment that picks up no tariff barrier at all. If it is a hard Brexit on 29 March, presumably they will pick up two tariff barriers.

**Sally Jones:** Potentially, yes.

Q79 **Chair:** If it is a soft Brexit and we have a continuity agreement or a transition agreement with the European Union, they presumably would not pick up a tariff coming from Spain, but going to Morocco would they pick up a tariff or is that still up in the air?

**Sally Jones:** No, because the terms of the withdrawal agreement state that the UK must honour all of its existing international agreements at EU level for the duration of the transition.

**Chair:** Is Morocco obliged to—

**Sally Jones:** No, we will ask them nicely.

Q80 **Chair:** Okay, so there is still a potential that you could pick up a tariff. With third countries, we can only agree with ourselves, but on the other 40 agreements that affect 68 to 72 countries, depending on how you count them, the UK could pick up tariffs if the third country does not agree to that.

**Sally Jones:** Potentially. In all seriousness, one of the things that we can offer to Government is that we will be having conversations with the UK Government, but I am sure we are all having conversations with the trade negotiators from lots of other Governments as well, who come to us because they want to understand the UK perspective. If—pick a country—the Australian trade negotiators are in town, they will often come and talk to us as well and we can pick up these separate alternative perspectives from that that may be slightly different or more nuanced than the ones that the UK Government are hearing.



## HOUSE OF COMMONS

**David Talbot:** Our goal in our sector through TTIP, and I think for any future negotiations, would be that the position of the industry in both of the trading partners would be the same, to keep it as simple as possible for the negotiators.

**Hannah Essex:** There are British chambers in 40 markets around the world covering every continent and that is certainly somewhere where we can bring those perspectives, as Sally said. We can speak to people in those markets on a regular basis and bring their voice to the process as well.

Q81 **Faisal Rashid:** In your opinion, what is the justification for making non-public documents relating to trade policy available to the business community?

**Chair:** How much information should we let you have?

**Mark Summers:** That is a very difficult question to answer because it does depend on the sensitivity of what is within those documents. If those documents are deemed to be sensitive, how it is pushed out to the wider business community obviously needs to be done with care, but then I think that you are back to a situation where you have particular people on particular committees that are signed up to NDAs so they do have more freedom of access to those documents. They are trusted with those representatives of the business community and that is probably the best way in which you can handle it.

**Sally Jones:** Secrecy is one really important point, but there is also the fact that it is a constantly moving feast. Even if you provide information to the business community after 12 rounds of negotiations, the chances that that information will still be good by the end of the 13th round are pretty small. The number of times I have sat in what is now international trade updates and they will say things are going really well in this negotiation and that the postal services, financial services and rules of origin chapters seem like they are settled, and then you go and get another update three months later and you discover that the postal services annex has been entirely reopened to get what we wanted in a completely different area of the negotiation. Trying to give people an update that has any real meaning is very difficult just because it moves all the time.

**David Talbot:** I think that is why that system of cleared advisers that you learned about in the United States is so important. They see the text. They do not share it. There were some leaks during the TTIP process of negotiating documents that were older, which is obviously difficult when you have 27 different member states and lots of things floating around.

Q82 **Faisal Rashid:** You think that obviously the non-public documents are for a reason and you accept that. Is there any part of those documents or trade deals you would prefer to be in the business domain or the public domain?



**David Talbot:** At least during the recent negotiations that we have seen, the updates that Governments on both sides of the negotiation have given to all of the stakeholders in the process, whether they be NGOs or businesses, give people an indication of where things are going, but it is a negotiation. Often you can give your cards away if you are telling too much, and that is why there is a system of cleared advisers who are not allowed to share that information. They are simply the technical experts.

**Hannah Essex:** Absolutely. Any information should not undermine the integrity of the negotiations. That should be a core principle. The mechanism that David is talking about in the US is similar to this room next door that we have been talking about. You could have transparency about who those people are and how they are appointed to that group and be very clear that they are appointed as individuals rather than people who are going to go back and discuss things with their representative group or their membership or colleagues. As long as you have transparency about who they are, then it is not unprecedented that the business would have access to non-public documents in that context.

Q83 **Faisal Rashid:** Do you think the proposed strategic trade advisory group should have more information on these non-public documents than the general business public?

**Hannah Essex:** If their role is to look at the interdependencies between different trade agreements and to look at the implications—if you agree this with one, what will happen with the other?—then there is certainly some rationale for giving them access to that. That would make sense.

**Faisal Rashid:** I think that is coming out very clearly. Thank you.

Q84 **Chair:** Now a self-interested question here from myself. What role do you think Parliament should have in the oversight of trade policy and the negotiations? There are two areas there: parliamentary oversight on the policy and parliamentary oversight on the negotiations. Hannah, you are looking poised to answer this. Probably zero is your answer.

**Hannah Essex:** No, I am not an expert on parliamentary process, but I think that we would agree with the consensus view that the negotiations are the role of the Executive, but that there is a really important role for Parliament in scrutiny of the process and of signing off the framework and the infrastructure around the negotiations upfront, and then scrutinising things as they progress through the negotiations, but not the negotiations themselves. They are the role of the Executive.

**David Talbot:** I think a fundamental tenet of that, as we have discussed, is setting what the parameters of a successful agreement should look like in advance and then measuring what comes out of that negotiation at the end as a way of deciding whether it is something that your constituency representatives support or not.



## HOUSE OF COMMONS

**Sally Jones:** I absolutely agree. It is upfront setting the mandate, and it is at the end effectively approving, or otherwise, a deal, but not down in the weeds in the middle.

Q85 **Chair:** I think the European Commission has a policy of publishing negotiating proposals in round one. Would you want that model repeated?

**Sally Jones:** Yes, I think it is very helpful to know what the basic intent of the agreement is upfront.

**Mark Summers:** I agree with that. I think the framework is key, but once you have agreed a framework and some good quality summary points at particular points in time, that is the role and it needs to happen going forward.

Q86 **Chair:** How might the UK ensure that devolved Administrations are appropriately involved in the development and the policy of the trade negotiations? There might be trade-offs here. We might decide to get rid of Welsh lamb and in one sentence we could open it up, to the benefit of say some other part of the UK, primarily the south-east of England. Should they have any involvement? What thought have you given to that aspect? Nobody is poised for this one? Nobody is ready?

**Sally Jones:** There are parts of a trade agreement the competence of which does fall most naturally to the devolved assemblies, and you have picked up one of the key ones in agriculture. It would be very difficult from a practical perspective to agree a national-level free trade agreement that did not have the support of the devolved assemblies that are ultimately going to have to create the legislation under their competence that would enact it. I would entirely think that involving the devolved assemblies and the regions is critical.

Q87 **Chair:** On that point, you mean if agriculture was the trade-off for something else?

**Sally Jones:** Or even different parts of agriculture, so also within the same area potentially. If you took Scotland, for example, then there is the beef industry, there is the whisky industry, and there are different strands of agriculture even within one area where there could potentially be trade-offs, and it would be really important that that particular region understood that too.

Q88 **Chair:** Have you had any experience in the United States on that, where there might be different states competing?

**David Talbot:** We spend a fair bit of time working with governors and state assemblies on why trade is important, because there are a number of states where the majority of their GDP is derived from their export businesses. They do not have a formal role, obviously, in whether or not an agreement would be ratified, but a state could be very loud about being opposed to certain trade policy. I think that is the political reality of



## HOUSE OF COMMONS

the fact that there is a decided lack of understanding in general about the benefits of trade around the world and that is the challenge that Government have.

When it comes down to a negotiation, there are only a few really limited areas of real controversy in today's world and agriculture is at the centre of it. It is the final thing to be negotiated, along with intellectual property, in most of these agreements because they are the ones that generate the most controversy. It would seem to me that it is the role of Government in a lot of ways to make sure that all the constituencies that are going to be affected by something feel that they are adequately consulted. We ran into the CETA agreement being held up for ratification because of the Wallonian Parliament, so I think that you cannot take those examples without learning from them.

**Q89 Faisal Rashid:** Do you think that local government should play any role or have any input in developing the trade policy? We are looking at some really localised industries and how they can have their input.

**Hannah Essex:** I think where there are concentrations of industry in regions and local areas they should have an input into it in the same way that Scotland would around certain issues, Wales around certain issues and Northern Ireland. Whether that is through local authorities or through their parliamentary representatives, LEP or whatever the mechanism is, certainly there should be some acknowledgement of any impact on a specific region, whether that is a nation or a region of the UK.

**Chair:** Any other thoughts on that?

**Mark Summers:** I think we are always in a situation where you have to get the appropriate balance of people with a vested interest, and that is always a very challenging thing to do.

**Q90 Faisal Rashid:** Obviously the local government could have their own interests, but at least they could have an input. I think it is really important because all local governments have, or should have, their own investment strategy and what they want to do around their area. You mentioned LEP; that is fine, but that is pretty vast. LEPs can cover three or four different local governments or boroughs.

**Chair:** Also, I think there are always competing interests. Trade deals require negotiations beforehand to at least try to square off or understand what the various pressures and tensions are within any trade deal, because we are probably not going to please all of the people all of the time.

**Mark Summers:** I think that is accepted.

**Chair:** To please most of the people most of the time, if we can achieve that.

**Mark Summers:** Or any of the people some of the time.



**Chair:** Or any of the people some of the time, thank you.

**Sally Jones:** I am struggling a little to think of any trade agreement that would be so locally specific that local government input should impact the outcome to that extent. The vast majority of trade agreements are—

Q91 **Chair:** Ceramics in Stoke; ceramics are making a big case on that area.

**Sally Jones:** But when you think about it, ceramics might be that much of one trade agreement and the rest of it is this much, so their voice should definitely be heard, I absolutely agree, but not at the expense of everything else that is in there. When we talk about local government, what level are we talking about? Are we talking county council, are we talking town council, or are we talking my mum's parish council village of 900 people? The risk of it becoming cumbersome and unwieldy needs to be balanced against the need for the voice of ceramics to be heard.

**Hannah Essex:** That is why it is so important that there is clarity around the process from the start about how and when people can get involved, so that their voice is heard. Then the Government will have to, on the balance of evidence, decide on the best course of action.

**Chair:** At the risk of the outbreak of a negotiation here at the Committee itself, can I thank you, the first panel this morning, for coming along and for sharing your experience? Very interesting indeed. We will take the second panel as soon as we can.

## Examination of witnesses

Witnesses: Nick Dearden, Rosa Crawford and Anna Fielder.

Q92 **Chair:** Thank you. Can I thank the second panel this morning for coming along to our inquiry? It is much appreciated. Can I ask you first, for the record, name, rank and serial number, as I always say, starting on my left?

**Anna Fielder:** Thank you very much, and thank you for having me. I am Anna Fielder. I am a consumer and privacy advocate and Senior Policy Adviser to the Transatlantic Consumer Dialogue, which is a forum of over 70 EU and US consumer and public interest groups. I am also on the board of European Digital Rights and Chair Emeritus of Privacy International and I am part of the DG TRADE experts' advisory group in Brussels.

**Rosa Crawford:** I am Rosa Crawford. I am the Policy Officer Lead on Trade at the Trades Union Congress. For the purposes of this Committee it may be useful to note that I am also on the EU Civil Society Domestic Advisory Group currently monitoring the EU-Canada trade agreement.

**Nick Dearden:** My name is Nick Dearden. I am the Director of an NGO called Global Justice Now and we have been working on aspects of trade for about 20 years.



Q93 **Chair:** Thank you very much. In evidence to the inquiry the International Chamber of Commerce told us that public trust in trade policy has collapsed. Do you agree with this statement?

**Nick Dearden:** Yes. There was a report put out about a month ago by UNCTAD, the UN Conference on Trade and Development, that said precisely this. One of the reasons for it is that trade has been captured by certain interests in society, particularly big business, which monopolises huge amounts of international trade.

The other big problem I think is that free trade has come to mean an absence of Government regulation of the people investing in your country and the people you are trading with. The only way you can preserve open markets and really have a free trade system that works for people is if Governments are able to regulate and tax investment and the people that you are trading with so that it can work for the benefit of all of society. If you get rid of that then it is no wonder that you see the kind of backlash that we are now witnessing in North America and elsewhere against what they perceive to be a system that is rigged against their interests.

**Rosa Crawford:** For the TUC the interests of over 5.5 million workers lie in getting trade deals that deliver decent jobs, strong protection for workers' rights and clear protections for our public services and social standards. What we have seen, unfortunately, over recent years is an increasing number of trade agreements that simply do not deliver that. It is all very well to tell people to trust us. We hear it from trade negotiators, we have heard it from the European Commission, and we are hearing it now from the UK Government: "Trust us, we are negotiating your interests." But then when we see the results of the trade agreements they negotiate in our name—TTIP and then what was finalised as the EU-Canada agreement—we see agreements that have no enforceable protection for workers' rights, that will open up our public services, that contain mechanisms that would bring down our regulations and safety standards and of course contain the notorious investment court system, which will allow for investors to challenge our Governments for things like increasing the minimum wage. It is no wonder that when people see these agreements they do not see a trade agenda that is in the interests of working people. That is why it is really important that, with the International Chamber of Commerce, with Global Justice Now and other civil society groups earlier this year, we signed up to a joint statement around a trade governance model that is for everyone. That is about having trade agreements that promote good jobs, decent standards for everyone and growth that is equally shared. That is what we need to see to have public support behind trade.

**Anna Fielder:** As you know, the statement that Rosa just mentioned was also signed by Which?, our principal member in the UK. I would support a lot of what my colleague said here. From the point of view of the consumer demand side, the main issue with modern trade agreements is that they no longer address tariffs. Tariffs are very low in any case. They



## HOUSE OF COMMONS

are focused on so-called non-tariff, non-standard trade barriers, which are consumer protection, environmental protection, workers' rights and so on. In a modern democratic society all these protections are debated in public. There are standards and there are ways and means of consulting the public when protections are developed, but then trade agreements go on in secret chambers and are discussed behind closed doors, and that is part of the driver of why the public does not trust them anymore.

Q94 **Chair:** Is there more that Government could be doing to communicate with the public and civil society about their plans for the post-Brexit trade policy that is going to take back some of this trust? I see Nick nodding.

**Nick Dearden:** There is an enormous amount more that they could be doing. I still think we are in a situation where we do not really know what their strategy on trade is or what their objectives are. This is really worrying because, as I said when I appeared before the Committee before, the working groups that the Secretary of State has set up are meeting with various other countries and are talking about potentially all manner of public policy areas, and we simply do not know what they are. There is not a presumption of transparency, which we believe there should be on trade deals, precisely because of the huge amounts of public policy areas that trade deals now take in. The European Union is moving towards that, but there is almost a presumption of secrecy.

That was expressed in an exchange of letters between the United States and the British administrations, where they essentially said, "This is all confidential unless we say otherwise". We think that is completely the wrong way round. At the moment the Department for International Trade is not even abiding by our current freedom of information standards, so I am sure the Committee will be interested in statistics that were published by the Government last month. They showed that the Department for International Trade have granted less than 27% of the requests they have received in full. They have turned down 48% of all requests they have received in full and they are the worst Department in terms of responding late without acceptable reasons; about 34% of responses fall into that category.

Even in terms of normal freedom of information policy we are simply not getting the information that we need. We have been turned down for freedom of information requests simply for asking basic questions like, "When do these working groups meet and where do they meet?" That is regarded as too sensitive to be able to tell us.

Q95 **Chair:** We will have the Secretary of State in front of us in coming weeks and we will maybe raise that with him. Moving on.

**Rosa Crawford:** To build on what Nick said, the TUC are deeply concerned by the lack of meaningful engagement with the Department for International Trade and the Government more generally about what our future trade agenda will look like, but also how the EU trade



agreements we are currently party of through our membership of the European Union will be transitioned into UK-only agreements. We are very concerned by the procedure established through the Trade Bill currently in the House of Lords that would allow these transition deals to go through Parliament without proper parliamentary scrutiny and a process of primary legislation, and without proper engagement with civil society groups, trade unions and employers.

For us, unless we have access to text and are able to comment on that text, then merely being communicated with in a kind of distant press release about what is being discussed on our behalf again is not adequate. We need to see the text and we need to have that kind of engagement. As I say, the Trade Bill does not set that up. It does not set up a structured dialogue of consultation with trade unions for future trade agreements as well. Again, we have had no information about the working groups and what they substantively are discussing. We want to see much more transparency and meaningful engagement, both at the national and sectoral level, for trade unions to have confidence that both the trade deals being transitioned and new trade agreements would have protections for working people and promoting good jobs at their heart.

Q96 **Chair:** As we heard from the first panel, the strategic trade advisory group has a trade union member. Does that go to any lengths?

**Rosa Crawford:** We can see that the stipulation is that the strategic trade advisory group will have one trade union member. There has not been a confirmation as to the final composition and we are waiting to see who there will be from a trade union. It should be said that it is extremely unbalanced. There are seven business representatives that are due to be on the strategic trade advisory group and only one trade union representative. It is a fundamental principle for us that we should have the same level of engagement as business representatives, as they are the other social partner.

It remains to be seen what the strategic trade advisory group is able to do in terms of comment. I think that the extent to which their comments will be taken on board is a very open question, but we do have concerns from the outset that the trade union voice will not be a balanced one with business and other interests in that group.

**Anna Fielder:** I do not have so much experience of the UK. I have only been to one or two forums, but I have a lot of experience of the EU and the US systems, so I can share that with you, if you wish.

To start with, when we started the TTIP process in Brussels, it was a total obscurity situation. No text was published. There were some policy papers that were put on the DG TRADE website, so there were a lot of protests from part of civil society and consumers and so on. We watched as the process, as Nick also mentioned, got gradually more and more transparent. You have the following situation now in Brussels in the EU, bearing in mind that the UK will be negotiating a trade agreement with



## HOUSE OF COMMONS

EU. We have all the text of the policies published, and the mandates and the draft mandate are published for a trade negotiation. The legal texts are published, then, as you know, there was a TTIP advisory group formed, and I was on it. It included, as Rosa just mentioned, an equal number of industry representatives and an equal number of civil society representatives.

Q97 **Chair:** You think the UK should mirror the publishing patterns of the European Commission?

**Anna Fielder:** I am not saying that it is the ideal system, but it is certainly a very improved system that is getting gradually more and more democratic. In our opinion the UK should mirror this system more.

I think we will talk later about the legal text, but I can tell you from personal experience that knowing the chief negotiators and the lead negotiators in different areas and knowing what was in the text made for much more meaningful discussion than just discussing principles and general policies, which was not the case on the US side because they have very secretive, closed advisory groups. There are about 600 representatives on those advisory groups. There is only one consumer representative, three trade union representatives and two environmental ones, siloed in a different Committee. We would not recommend the US system. I can elaborate on it further.

Q98 **Chair:** Of course there is an easy irony to be made if we are to be taking back control to then have less information about trade deals during the process of the trade deals than we would in the European Union. It would ring quite hollow to say that we have taken back control.

**Nick Dearden:** Yes. I think I mentioned last time, when I came before a different inquiry, that we may be in the situation where if we get to the stage where an EU-UK trade deal is eventually concluded Members of the European Parliament will have far more power to scrutinise and to stop that trade deal than Members of our own Parliament will have. It may well be, depending on how broad it goes, that the Deputies in the Wallonian Parliament will have more power than yourselves as Members of the House of Commons to scrutinise and stop that trade deal. That gives some indication of just how big a democratic deficit there is on this.

Q99 **Chair:** Get ourselves elected to Wallonia, is that the advice? Given what you have been talking about—the documents that should have been released—what documents should not be released? It is quite easy to say, “Release this, release that”. What should not be released? That may be the more challenging question to you.

**Anna Fielder:** If you look at the trade deals, they all have a fixed structure. A lot of the chapters deal with the WTO rules plus, so I do not think most civil society colleagues would be interested to see the negotiations on tariffs. They are traditional trade territory, and there might be sensitive information there and so on, but you have chapters that deal with regulatory corporation and coherence; they deal with



## HOUSE OF COMMONS

agriculture, which is vital, and they deal with various rules of intellectual property and so on. Those are of enormous concerns to all stakeholders, not just industry and not just policymakers. They should be seen—not just the initial offers, but the consolidated text.

To give you a very good example, trade deals usually go on the same patterns no matter who you are negotiating with, but occasionally there are very novel things that are introduced in them. In TTIP and TiSA, for example, there was huge discussion over digital trade and data flows, meaning personal data flows. The EU did not have a mandate on this because they reckoned that it was covered by the GATS agreement, but the US and other countries were introducing these provisions forbidding strong privacy regulations and various other things that were contravening EU legislation. Without consultation with civil society and with people that knew those rules and with the regulators dealing with data protection, the trade deal would have gone ahead with very poor provisions generally for consumers and citizens.

It is vital that things that are in the public interest should be in the public domain. Things that are sensitive and subject to delicate negotiations can be kept private.

**Rosa Crawford:** I agree with Anna that the working assumption should be that—given that trade deals now are dealing with so many issues broader than tariffs, non-tariff barriers and regulatory standards that affect all of the public—the imperative should be that it is a public text unless there are very particular reasons why it should be kept confidential. If sections do need to be kept confidential, there should still be structured engagement with trade unions, employers and other stakeholders to ensure that those who have a key interest in those areas are properly engaged and able to comment.

To build on some of Anna's discussions about the US, for example, we have had through our dialogue with US trade unions some positive examples of their engagement. It is not perfect, but while engagement is on a confidential basis with the US Government in trade negotiations it has led to improvements in workers' rights in the recent renegotiated NAFTA agreement. US trade unions are represented at three different levels in US trade advisory structures: there is a strategic structure; there is a labour advisory committee; and then there are sectoral advisory committees, two of which have trade union representatives.

As Anna said, it is extremely limited and needs to go further in terms of trade union representation, but having said that, in the recent renegotiation of NAFTA, because trade unions were able to submit comments as the labour parts of that agreement were being developed, they were able to significantly strengthen the workers' rights commitments in that agreement. Also partly because of the concerns they raised, the investor state dispute settlement in NAFTA has been dramatically reduced, which we think will reduce the chances of claims by



foreign investors against things like improving working conditions and increasing minimum wages. That kind of engagement is an example of how trade agreements can improve if there is a consultation with key stakeholders on the sections that concern them, but as I say, the assumption should be that they are made public unless there is a demonstrable need otherwise.

**Nick Dearden:** I would like to say that in 2015 the European Ombudsman, looking at all the furore with TTIP and what had gone wrong, made some proposals and she said, "There must be a presumption of transparency" and what she means by that is a routine and automatic publication of all documents unless a strong argument is made why they should not be released, and even in that case, give a timeframe for when they can be released. I think what she said—and Anna will probably know this better than me—is very interesting for the Committee. She said, "Citizens are aware that these trade deals are going to produce rules that will impact on them in a manner analogous to how legislation impacts them, so it is not surprising that they expect and demand the right to know and to participate", and the impact of transparency in her experience is deemed to be overwhelmingly positive, ranging from enhanced legitimacy, heightened trust and educated debate and a better agreement in substance.

From whichever perspective you are coming at it, she believes that this enhanced transparency is absolutely vital to trade deals. I think it is really important, just picking up on a comment from an earlier panel, to make a distinction between negotiating a commercial contract and negotiating a trade deal. When you are negotiating trade deals you are negotiating massive areas of public policy, as we have all said several times. That makes it quite different from a commercial contract where you may argue for greater or lesser amounts of secrecy.

Q100 **Faisal Rashid:** Just on that, as I think we have heard from the previous panel as well, one thing that is coming out very clear is that there will be some sensitive information and I think you both agree that it should not be published, but there has to be a reason. Transparency is absolutely crucial, but it is an ongoing beast, because processes keep changing all the time. It is a fine line, and also who determines how to define what is in the public interest and what is not? These are questions that can carry on.

I am coming back to my question, which is how does the EU engage civil society groups on trade policy?

**Nick Dearden:** On your first point, as I say, for me it should be about the Government having to make a clear argument about why something should be kept confidential, as opposed to the other way around. For me, as I have said already, when you are saying that even the occurrence of meetings is secret, they are clearly working in a completely different context to the one we are working in. We have probably all submitted to the recent consultations that the Government put out on the various



## HOUSE OF COMMONS

trade deals with New Zealand, Australia, the US and the TPP, but to be honest, the quality of input you can make when you do not know anything about what the Government is trying to do in these trade deals, and when you do not have in front of you any kind of impact assessment is really difficult.

I know people have said before, "There are various scare stories and this is not true and this is not true," but what else are you supposed to go on other than what President Trump says he wants in a trade deal with the UK when discussing a trade deal with the United States? Unless the Government says, "These are our red lines" or, "This is our framework" or "These are our objectives" it is difficult to do other than base your arguments on—

**Faisal Rashid:** I totally understand where you are coming from, but just getting back to my question—

**Nick Dearden:** Sorry, yes, with the EU, so obviously we all were probably part of the TTIP discussions and consultation works at various levels. First of all, there were the formal groups that Anna and Rosa talked about being part of, but then there is also completely open CSO dialogue sessions that happened at every round. The European Commission would put out some information on what had been discussed at that round. Then there would be, I remember, a day of debate at the couple that I went to, where anyone from civil society could go into a room with anyone from business, with officials from the European Commission there, and you would discuss some very specific aspects of what was being discussed. You had experts in the room who absolutely understood all about data liberalisation and what that would mean for privacy rights and so on. In that way, you built up a series of discussions that got fed in, and the European Commission also has a duty to take into account, written down as part of its rules, what it heard there.

There are different levels. Again, I think there are still problems with that model. I do not think it is perfect by any means, but if you compare that to what we have seen here so far in terms of the trade deals that have been discussed, it is a million miles away.

Q101 **Emma Little Pengelly:** I just wanted to check in relation to that point, do the invitations for that type of format go out to a specified list of key stakeholders? Is it generally open to the public? How does that work? Secondly, are you getting access, as organisations and stakeholders, to information that the general public would not have and is that a format that you would support? What is the arrangement then or the agreement with the stakeholders in terms of what can be said about that outside of that forum?

**Nick Dearden:** I am going to hand over to Anna, because she understands the process.



## HOUSE OF COMMONS

**Anna Fielder:** The EU has two kinds of forums. It has a permanent civil society dialogue. By civil society, they understand industry associations as well, not just non-governmental. It is in the broad sense a multi-stakeholder.

Q102 **Emma Little Pengelly:** That affects staff members on that group?

**Anna Fielder:** You have to be registered in the Commission transparency register, which is open nationally and at the Brussels level. It is a way of counting how many industry lobbyists are there and it makes it clear who are the people who go to these meetings. Those happen periodically, about every three or four months, and you get the Commission officials coming and informing those registered and present exactly what negotiations have been going on, what the policies are and what stage they are at. They are more like information—expressing concerns, briefings, asking questions and so on, general information.

Then they have various advisory groups. At the moment there is a multi-stakeholder trade advisory group, of which I am part, representing European digital rights, and it consists of 28 people. It was an open application process, so anybody who wanted could apply. It is governed by statutes and it has terms of reference to which all those in the room contributed and it has a completely equal number of industry, NGOs, consumer, environmental, trade unions and a couple of academics. One criticism that we have of this group is that it still as yet is fairly new; it has only had four meetings, and there is another meeting next week. Malmström, the Commissioner, will come to the next meeting and will brief the parties. It does not release the legal texts yet, as the TTIP group did, but we hope that in the future it will do that.

Q103 **Emma Little Pengelly:** Is it that type of group that Nick was referencing? Is it the same format?

**Nick Dearden:** Yes. I was talking about the bigger meetings that you started off talking about.

**Anna Fielder:** I think Nick also referred to the TTIP forums. What happened there is that after each round of negotiations there will be a big forum where anybody present in Brussels, New York or Washington could go. They could register to make presentations. All the negotiators would be there.

Q104 **Emma Little Pengelly:** Just to clarify, is that organisations or can anybody go? It is organisations on this registered list?

**Anna Fielder:** It is mainly organisations, yes.

**Nick Dearden:** I guess, just because it is unlikely an individual would want to turn up and do that, but I think it was fairly easy to get in, if I remember.



## HOUSE OF COMMONS

**Anna Fielder:** They were massive. They would take over a whole building in the European Commission and there would be four or five committed sessions, one on agriculture and one on IP and so on. There will be 15-minute presentations from industry and civil society on various aspects of policy and the negotiators would make a show of sitting in the front row and taking notes. Whether they paid any regard to the opinions is a different issue, but at least they listened.

**Rosa Crawford:** I would like to pick up on that point. The TUC is part of the European Trade Union Confederation and I am on the ETUC's working group on trade, so through this I have had close encounters with a number of these meetings, but also other dialogue with the European Commission. I think that that kind of dialogue that we had was key to adding the pressure that led to the TTIP advisory group being created. As Anna said, it had two trade union representatives on it. That, for us, was not adequate, considering that there are 45 million-plus trade union members in Europe and we thought that there should be an increase in trade union representation, but it was a step forward and further than the Commission had gone previously.

Crucially for us, they did get to see the legal text, as Anna said, and we think that is a model that you need to follow. We need to be able to see the legal text to know what is being negotiated in our name. Where those advisory committees need to go further is in taking the comments on board because we were seeing TTIP text and we were saying there was lots of problems with it, but then the public services chapter did not change, the labour chapter did not change and so on, but we think it is a model that should be developed.

One other structure that is important to highlight is the domestic advisory group structure that I mentioned at the start. This is a group that is composed of civil society groups, employers, trade unions and other civil society groups. It is constituted after a trade agreement is in place and it is there to monitor the impact of the sustainable development chapter in place, once the agreement is on the ground almost. We have used that in the past to be able to raise concerns to where a trade agreement has not fulfilled its obligations in terms of labour standards, environmental standards, and that is something where we have a substantive dialogue with Governments as trade unions. We would look to the Government here to replicate that structure in future trade agreements. Like I say, all of this needs to go further even at the EU level.

**Anna Fielder:** Can I add something else to this, which is very important? As well as the legal text, the Commission released after each negotiation round a report on how the round went. There was one that was quite open and confidential, which the advisory group could see and then it would be scrubbed of any strong remarks and go to the general public as well. Those were very important because, for example, you could see the two parties could not agree on standards issues because the standards systems are so different in the EU and the US. You could see exactly



## HOUSE OF COMMONS

which areas were the most delicate in the negotiations, like geographical denominations and so on. Different stakeholders would have different interests in those and they could input their expertise, which was also very important.

**Q105 Chair:** I just want to move on a wee bit. Can I note that the IPU delegation from Angola are here visiting our Committee this morning? You are very much welcome. It is part of a parliamentary exchange and Angola will hopefully be a greater trading partner in the future, so hopefully there will be some exchange from this morning.

As we are moving on seamlessly, Rosa, you mentioned the impact assessments on foreign trading policy. How can Government ensure that civil society and other groups meaningfully contribute to their development?

**Rosa Crawford:** I think it is a crucial point to say that trade unions and other civil society groups need to be part of their development. That is something that unfortunately has not been the case in previous trade agreements, particularly thinking about the experience of TTIP.

As I have said, if we are going to get trade agreements in place that deliver decent jobs and have the protections we need in place, we need to be involved in their development even before the mandate is set. For us, those sustainable development impacts need to be developed right before any mandate is set for the trade agreement. What we saw with TTIP was a sustainable impact assessment where trade unions were not factored into the analysis. It was mostly business that was consulted, and the way the consultation was done was mostly interviewing businesses about the cost of various non-tariff barriers, quantifying those and then giving the Commission a number, and then that analysis was only published a year after the TTIP negotiations had started.

What we want to see is those sustainable impact assessments published well in advance of a mandate being set and adopted by Parliament, as we believe it should be, and there would be a proper consultation with trade unions and other civil society groups and employers to see if that sustainable impact assessment is a fair reflection of what the impact or likely impact of this agreement would be. It is important that that is in place right before the negotiations start, otherwise it will start to do things like open up public services or contain inadequate protections for the regulatory standards. It could contain things like ISDS; all of those things would ring alarm bells and mean that you are going in the wrong direction. We want to see it done in an early stage and involving trade unions right before the negotiations start.

**Chair:** Would you like to add anything briefly?

**Nick Dearden:** I would like the Government to say that they will not just look at the economic impact of a trade agreement, but will also look at environmental, social and human rights impacts. There is a fairly good consensus now that trade deals always have losers as well as winners,



## HOUSE OF COMMONS

something that probably was not accepted 10 years ago, but now of course it is going to have an impact on certain industries. Somebody said on the previous panel, "Okay, but ceramics is going to be this very small part of the trade deal so maybe we need to trade away their rights because the greater good demands it". Okay, maybe we do, but at the very least the ceramics industry should know about that. They should have time to put their case and the Government should say there will be compensation, investment, the creation of good quality jobs to replace any that might be lost. That has to be all part of negotiating the trade deal.

There are all sorts of impacts it might have. I do not know if people noticed but two days ago in the *Financial Times* there was an article where a Bahraini dissident said, "The UK Government's desperation for trade deals in the Gulf at the moment is having a seriously negative impact on our ability to stand up for our human rights because we know that the UK Government will say nothing at the moment to any state in the Gulf like Bahrain that is cracking down on human rights because they are so desperate for a trade deal". These impacts are already happening, we can already find out about them and they are very broad. We must know about that before we have a consultation on them even.

We have just responded to the consultation on acceding to the TPP. That is a deal that is already done; it is already written, so really there should not be a consultation on the TPP until the Government have done a full-scale impact assessment on how that is going to impact on all these different areas, including devolved areas, of course, and devolved competencies. That is very important so that we can properly understand when we submit as human rights organisations, as trade unions and as devolved authorities what it is that we are talking about and how you may be able to mitigate some of those consequences as you go forward signing the deal.

**Chair:** Some devolved might move on to be independent and we would not need to be concerned here at all. Julia Lopez.

Q106 **Julia Lopez:** I assume—and maybe I should not—that you all see the benefits of FTAs, but what you are saying is that they are too narrowly defined, those benefits, and they are too narrowly spread. Would that be a fair thing to say?

**Anna Fielder:** Maybe I can answer that. It is quite a fair thing to say. To give you a concrete example in the case of the consumer demand side, the mantra or communication always made, if we look at the UK Government consultations for the US and all the other countries, is increased competition, bigger choice and lower prices. It has been like that for the last 50 years or so. It does not reflect the reality anymore. Of course people are interested in choice and lower prices, but look at the UK market now; there is a lot of choice.



## HOUSE OF COMMONS

Yes, the prices could be a lot lower, but the mantra about lower prices is very hypothetical because very often businesses, in doing any economies of scale, might not transmit the prices to consumers. As you know, the TTIP predictions were very low. I think it was €20 in a family's pocket in 2025. People are interested in their health services, in maintaining safety protections and in much more wellbeing—substantial things that Governments do not communicate or transmit to them. As you know, the protests in the UK over TTIP were exactly on the National Health Service and on ISDS, which are things that matter more and more even to ordinary people, not just to their representatives. That is one issue.

The other mantra my colleagues were talking about was to do with impact assessments. At the moment they are purely economic and they say reducing regulatory barriers will improve the situation of businesses, reduce costs to business and increase trade flows. They do not consider the impact on regulators and the fact that the regulators will have to take into account trading pacts and do more analysis. My US colleagues call it paralysis by analysis. The costs fall on the public purse, because if you reduce health or safety standards what will be the cost to the National Health Service because there will be more in-work accidents? These impacts have to be much wider than just the economic interest of business.

**Q107 Julia Lopez:** This really goes to the nub of it. We could sit here and debate what the pros and cons are and it could take literally years. How do we include people while not completely stopping any progress towards building new trading relationships that could be beneficial to everybody? The problem with TTIP is that clearly the whole thing falters now we have no trading agreement with the US and the EU. Maybe I was wrong to assume you support FTAs. How do you get the barriers right?

**Anna Fielder:** We do.

**Rosa Crawford:** For us, the key question is which trade agreement and right now we are being given a choice by the Government that looks like an inadequate agreement with the EU or potentially a very dangerous trade agreement with the US, which for us is completely the wrong choice to be given and not in the interests of working people or the broader society.

We submitted evidence to the Department for International Trade's consultation highlighting the trade priority of the Government should be securing a good deal with the EU as an absolute urgent priority. We need to see a deal that gives us barrier-free trade with the EU, protects ongoing rights and standards and ensures we do not have a hard border with Northern Ireland. That is where our energy should be directed, rather than on the suggestion that the Department for International Trade's consultation put forward, that we might be signing up to a trade deal with the likes of the US, where we know labour standards are at a much lower level.



## HOUSE OF COMMONS

We know lower regulations are an offensive interest the US administration has talked about in a future trade agreement. Engagement with trade unions is so important to identify where the elements of the agreement stand to threaten our interests and where they advance those interests.

**Q108 Julia Lopez:** How do you balance the pressure of time with the need to include people?

**Rosa Crawford:** This is where I am talking about prioritisation of the agreements, and then having the engagement you need from people.

**Nick Dearden:** I also think TTIP is too big. It is just too big a trade deal. There is too much stuff in it and I think it would be very difficult to imagine you could get agreement across all those sectors, but you could easily do smaller deals. One of the problems is, sure, we all like to buy cheaper stuff, but that comes with a cost. If you just wanted to buy cheaper stuff, you deregulate everything, you just say there are no standards and stuff will be cheaper. But clearly the cost is judged too high by our society.

One of the problems with trade deals is people see those debates that normally happen through a normal regulatory or legislative process, with campaigners involved on one side and businesses on the other and politicians having a real debate about this. In trade deals it does not happen in that way; it happens behind closed doors, so it is almost impossible as a society to come to a conclusion about what cost is worth paying for cheaper stuff and whether the mitigation effects of that are adequate enough.

That is where our friends the chlorine chickens came in. Of course it would create cheaper chicken; there is no question about that. The question is whether the animal standards are acceptable to people in this country in order to access that cheaper chicken. Those must be public debates because they go well beyond trading off one tariff line for another tariff line.

**Anna Fielder:** Chlorine chicken does have a health implication on the workers who put the chlorine on them. I wanted to say, to answer your question directly, there are many good examples around the world the UK could take on board. For example, in any negotiation with the EU, we start from the same standards. We have harmonised the single market for the last 45 years, so the controversy over chlorine chicken will not be there because we know what the standards are and we know they are harmonised.

There are also processes and ways of speeding up and not delaying negotiations. You have preconsultations where stakeholders input their opinions. In this respect, the US Administrative Procedure Act is not a bad example, where prior to anything in any agency they put forward



## HOUSE OF COMMONS

public consultations and anybody can put their opinion there and they are all published. That is a good example.

The forums we described are a good example. Inclusive, open advisory groups are a good example, so there are ways and mechanisms of doing that to get input, to be transparent and to progress negotiations. It is not impossible.

**Chair:** Thank you very much. We have come up against the pressures of time with the Members needing to be elsewhere but, panel, thank you very much. We might follow up with a written question or two particularly around the role of Parliament and where you think that might be. Thank you for attending this morning. There were particularly interesting points coming forward: human rights in Bahrain, and the health of workers working with chlorinated chicken is a point that certainly has not come forward at all in many of our chlorinated chicken points. I only regret that Nigel Evans is not here. He has become our man on chlorinated chicken. He may be in the United States as we speak tucking into some chlorinated chicken; we are not sure. Thank you very much.