

Exiting the European Union Committee

Oral evidence: The progress of the UK's negotiations on EU withdrawal, HC 372

Wednesday 1 May 2019

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Members present: Hilary Benn (Chair); Joanna Cherry; Sir Christopher Chope; Stephen Crabb; Mr Jonathan Djanogly; Richard Graham; Peter Grant; Stephen Kinnock; Jeremy Lefroy; Craig Mackinlay; Seema Malhotra; Mr Pat McFadden; Emma Reynolds; Stephen Timms; Mr John Whittingdale; Hywel Williams.

Questions 4037 - 4116

Witnesses

I: David Henig, Director of the UK Trade Policy Project, European Centre for International Political Economy; Sam Lowe, Senior Research Fellow, Centre for European Reform, Dr Pinar Artiran, Director of the Research Centre for International Trade Law and Arbitration, Istanbul Bilgi University, and WTO Chair Holder, and Dr Ruth Lea CBE, Economic Adviser, Arbuthnot Banking Group.

Examination of Witnesses

Witnesses: David Henig, Sam Lowe, Dr Pinar Artiran and Dr Ruth Lea.

Chair: On behalf of the Committee, I welcome our panel this morning: David Henig, director of the UK Trade Policy Project at the European Centre for International Political Economy; Sam Lowe, senior research fellow at the Centre for European Reform; Dr Pinar Artiran, director of the Research Centre for International Trade Law and Arbitration, Istanbul Bilgi University, and WTO chair holder; and, finally, Ruth Lea, economic adviser to the Arbuthnot Banking Group. You are all very welcome. As you can imagine, we have a lot of questions to ask, and not all of you should feel under an obligation to answer all of them so that we can get through the ground we would like to cover. Craig wants to place something on the record before we start.

Craig Mackinlay: I would like to put on the public record that Dr Ruth Lea is a pass-holder under my umbrella within Parliament as one of my research team.

Q4037 **Chair:** Thank you very much. That is duly noted. First of all, to be in a customs union, you have to have a common external tariff, but you do not have to be in a common commercial policy. Is that correct? Give us an example of something like that.

David Henig: The common commercial policy as defined is that the EU is negotiating trade agreements on your behalf in goods, services and all other respects. A customs union such as that the EU has with San Marino or Turkey means, as you say, a common external tariff and no tariffs substantively on trade between members. It does not mean that, for example, the EU negotiates trade agreements on behalf of Turkey.

Q4038 **Chair:** What does that do to rules of origin, if you are not part of the common commercial policy?

Dr Artiran: First of all, if you have a free trade agreement, there will be a problem with the rules of origin, but the beauty of the customs union is that you are getting rid of the rules of origin. David is right: the European Commission is negotiating trade agreements on behalf of the European Union. Normally Turkey is supposed to negotiate in a parallel manner with the European Union. We have talked about this before, and I am sure you are aware of the fact that there is an asymmetrical relationship between Turkey and the European Union, in the sense that, once the EU concludes agreements with third countries, third countries no longer have an interest in concluding an agreement with Turkey.

That said, we have to comply with the European Union's common commercial policy in the sense that there is regulatory harmonisation also coming from the Turkish accession to the EU, because we are in the process of acceding to the European Union. Also, the customs union in



general requires, under 9/95, the customs union decision between Turkey and the European Union, as well as the association agreement of 1963.

Q4039 Chair: If a country is in a customs union with a number of other countries but is not in the common commercial policy, could you explain to us what happens on rules of origin? If something comes in via a deal the UK has done with another country, what happens when those goods move into the EU, with which we might have a customs union but not be part of the common commercial policy?

Sam Lowe: A customs union with the EU is lopsided insofar as, while the EU could sign an agreement with a country that refuses to, in this example, do one with the UK, the UK would not be able to do otherwise. There is one example of Turkey having done otherwise but it was not meant to. That was with Malaysia. Largely speaking, you have this issue of circumvention whereby, if the EU were to do an agreement with Indonesia and the UK were not able to also do a parallel agreement with Indonesia, you could have Indonesian goods entering the UK via the EU at a lower duty than what the UK would charge at its own border.

There is some confusion in the UK debate as to what Turkey does at its own borders when it comes to one of these examples, such as Canada. The EU has an agreement with Canada; Turkey does not. There is this assumption that Turkey therefore allows Canadian imports to enter directly into its own market at a lower tariff from Canada. This is not the case. If you look at Turkey's external tariffs and applied tariffs, when it comes to Canada, it still just applies the higher duty. The risk is that Turkey has a circumvention via the EU rather than importing directly from Canada.

Q4040 Chair: What would be the advantages to the United Kingdom being in a customs union with the European Union with a common external tariff but not being in the common commercial policy? What would be the disadvantages?

Dr Artiran: In my humble opinion, I do not believe that scenario actually exists. If you have a customs union with the European Union, you have to be in the common commercial policy.

Q4041 Chair: You think it would not be on offer.

Dr Artiran: No. First of all, you have to read the provisions of article 24, which says that you have to apply the same other restrictive regulations of commerce, and that there must be harmonisation at the border and equally internally. For instance, when you look at the documents that formed the customs union between Turkey and the European Union, all the time there are references that, once a third-country product has been cleared inside the European Union, which means that it is in free circulation, it will have free access to the Turkish market. That is why, during the TTIP negotiations, there was outrage in Turkey because there would be so much trade diversion, because we would not have a trade agreement with the United States. All these products via the European



Union would have free access. That is why we wanted to have a parallel agreement with the United States. All the problems arose afterwards.

Sam Lowe: It is not on offer for the UK to remain party to the EU's common commercial policy as a distinct member. We will be outside of the EU; it is an EU competence. We will be bound to follow the common commercial policy. If the EU does an agreement with Indonesia, which I keep using as an example, the UK will be bound to seek one as well. In terms of the benefits to the UK of being in a customs union with the EU, at its most basic, before you pile in other things because it is a framework with which you can pile up other measures, as well as having tariff-free trade you would not have to worry about rules of origin.

The rules of origin issue gets confused, as people think it is about checks. It is not about checks; it is about whether you qualify for the zero-tariff preference afforded under an agreement. If we just had a free trade agreement, lots of exporters in the UK would not qualify for it because they do not have enough local content to meet the thresholds. If you are in a customs union, the assumption is that you meet that threshold for whatever reason and by default you qualify for the zero-tariff preference. There is still documentation involved with being in a customs union as well, but that is not the issue. A customs union in and of itself does not remove any checks at the border, does not remove any documentation, but it makes it much, much easier for UK exporters to the EU, in this example, to qualify for zero tariffs.

Q4042 **Chair:** After David Henig, I am going to ask you, Dr Lea, about the disadvantages of being in a customs union.

David Henig: It already sounds quite complicated, listening to all this. I am finding it complicated. There are some important points that need to be made. First, a customs union is not some off-the-shelf thing we just go and pick. "Here is our customs union. It is going to be just like the one Turkey has". No, it will have to be negotiated. Therefore, many of the things we are talking about will be subject to fairly detailed negotiations.

Secondly, the customs union specifically applies to tariffs, but it could be extended, as it has been in Turkey, and possibly must be, to the goods regulation. An example of that would be that Turkey fully follows regulation with regard to automotive manufacturing of the EU and, in return, it is allowed to have its cars certified to European standards, so they have free circulation. Turkey, as far as I know, apart from Switzerland, is the only non-EEA country that is part of the EU system for car manufacturing. On services, because the common commercial policy also covers services, the customs union does not have to cover services. With Turkey, it does not cover services, but maybe we will choose that it should do.

Q4043 **Chair:** Dr Lea, what is the case against being in a customs union?



Dr Lea: I am no expert on Turkey—let us be honest about this—but I have always regarded the customs union as absolutely intrinsic to the common commercial policy, which is the trade policy, which is the EU trading with the rest of the world, to put it in very simple terms. If we were in the EU's customs union but not in the EU, I would regard that as the worst possible world, because the EU could be negotiating trade deals, and could agree trade deals, which is very much in its interest, without taking our interests into account. That would mean the third countries it was negotiating the trade deals with would have access to our markets through that particular trade deal, but we would not necessarily have reciprocal open trade access to them. You would lose that aspect. Any trade deals that were negotiated by the EU, if we were in the customs union but a member of the EU, would clearly not take our interest into account. I take the view that being in the customs union but not in the EU, not having a seat at the table in the negotiations, would be the worst option for this country.

Sam Lowe: To clarify some of those points, and please disagree with me afterwards, if the EU negotiates a trade agreement with someone else—I am going to keep using Indonesia—the only impact that has on the UK is the tariff level we are able to offer in our own agreement with that country. We are bound in parallel to negotiate an agreement with that country. Yes, it does come with a constraint, in that whatever the EU agrees on tariff, we also have to agree. However, in other areas where we are not bound by our customs union with the EU, we have freedom to negotiate as we see fit, be that services, intellectual property, data or procurement. We have that competence there.

That is the issue I have with this argument. Does the customs union put constraints on our trade policy? Yes, absolutely. Do we still have to run it ourselves? We do indeed. This accounts for other areas as well. In the WTO, we would still have to represent ourselves as we see fit. The Commission would not be doing that on our behalf. Constraints, yes, but the UK certainly still has to run its own trade policy.

Dr Artiran: David mentioned the regulatory harmonisation between the customs union members. Here, I would like to refer to articles 8 to 11 of the decision 1/95, establishing the customs union between Turkey and the European Union, whereby the European Union says Turkey has to align its legislation and administrative practices related to technical barriers to trade and conformity assessment rules with the European Union regulation. Similarly, article 9 spells out the same principle, whereby the customs union would necessitate the internal harmonisation of regulations as well, not just the border measures but also internally. The regulations that are applicable between custom union members have to be aligned. In that sense, because the EU already exists as a customs union, the latecomer will have to align itself with the EU's rules and regulations.

Q4044 **Emma Reynolds:** With regard to what Ruth Lea said, if we are in a



customs union but not in the common commercial policy, and the EU agrees a free trade agreement, say with Indonesia, I do not really understand this argument and what has been said—I have heard it before, by the way—that somehow that opens our market up to Indonesia but not Indonesia up to us. What causes this lopsidedness?

Dr Lea: If the EU goes ahead and negotiates a free trade agreement, and we were in the customs union but not in the EU, that would give those third countries access to our markets.

Q4045 **Emma Reynolds:** Why, in the common commercial policy?

Dr Lea: Unless there were further negotiations, we would not have the preferential access to the third country's markets that had been negotiated under that particular trade agreement.

Q4046 **Emma Reynolds:** That is what I do not understand.

Sam Lowe: There is an issue here. First, we need to look at what happens in practice. As I mentioned earlier, when the EU negotiated an agreement with Canada, and Turkey does not yet have one, while there is a risk of Canadian imports to the EU entering Turkey via the EU at this lower duty, because it was charged at a lower duty at the EU border, Turkey does not levy the lower tariff at its own border. Why does this not happen? There is a question of interpretation over the actual customs union itself where Turkey "shall" align its commercial policy and "shall" align its common external tariff. The question is how. The argument can be made that the how is that you negotiate an agreement with Canada.

Then there is also a question, and this is a debate, so I am not giving a definitive answer. When it comes to most favoured nation, is Turkey able to grant unilateral preference to a country's exports with which it does not have a preferential free trade agreement? Turkey does not have a trade agreement with Canada in this example, so how can it grant preferential treatment to those imports? This is a debate because there is an argument as to its obligations to the EU under the customs union. I come down on the side of Turkey being in the right, in doing what it does.

Q4047 **Emma Reynolds:** You are saying that Canada does not have preferential access to Turkey's markets.

Sam Lowe: Not directly, but potentially via the EU.

Q4048 **Emma Reynolds:** It is not the case, but it could be the case.

Dr Artiran: Yes, of course it could, but since Canada already signed a deal with the European Union, thanks to that deal, and they will have automatic access to the Turkish market if they pass through the European market, where the product goes into free circulation, they will have no interest in signing a separate deal with Turkey. That is why, in such cases, if the Canadian products would like to be directly shipped to



Turkey, you may imagine that, because of the trade diversion, the country has to take some measures.

Under the World Trade Organisation, there are some trade defence instruments, such as safeguards. You can involve those measures in order to close your market for a while, but you cannot do this for an indeterminate period of time. Just because I do not have an agreement with Canada and I will be deprived of my rights, because of the customs union that I have with the European Union, I have to protect myself somehow. This also has shortcomings, because then I am in breach of my customs union arrangement with the EU because, normally, I have to follow whatever the EU does.

Q4049 **Emma Reynolds:** It does not automatically open up our markets, but there is a risk because we have to negotiate other measures to protect ourselves.

Dr Artiran: Yes.

Sam Lowe: On the safeguard measures, that is not what Turkey does with regards to, say, Canada or Mexico. It just does not have an agreement with them, so it does not levy that lower duty. Where the safeguards kick in is on the circumvented goods. Within the EU-Turkey customs union, there are provisions to guard against circumvention because this was seen as an issue. They were meant to be time-limited and they have not been. For example, Turkey applies a levy on Mexican cars that enter via the EU not only in order that it does not apply the lower tariff on direct imports; it applies an additional levy on circumvented imports as well. However, that was meant to be time-limited and has been extended beyond what it should have been, because the idea is that ultimately the commercial policies of both Turkey and the EU align, but of course they have had some problems with that.

Q4050 **Craig Mackinlay:** Your specialism, Dr Artiran, will be very welcome to me today. It has been out in the air for quite some time that there is no such thing as no deal. We could have a run-on agreement, perhaps under article 24 of GATT, to bridge the gap between leaving and negotiating a full Canada-style or whatever-style FTA with the EU. It obviates the need for these wild words like "cliff edge" and all the rest of it. There is a bridge available under article 24.

There is a reasonable paper by the House of Commons Library on the issue. It quotes Dr Lorand Bartels from Cambridge University, who has done a one-page sheet on what this very basic article 24 compliance arrangement between an independent UK and the EU could look like until we bridge the gap towards an FTA. There is lots of fluff and froth about this and whether it is doable or whether it is not. What are your thoughts? Could this be done as an interim measure while we regather and talk very sensibly with the EU about a future permanent FTA?

Dr Artiran: First of all, I sort of agree with Dr Bartels. We both agreed in our doctoral theses on article 24. It is clear to me, and I agree to a



certain extent with Lorand, that if you want to sign a new deal, first of all, you have to comply with article 24. The major condition under that is that you have to liberalise substantially all the trade between the United Kingdom and the European Union. We have never known that definition, but there is an Australian proposal that says 90% of the trade between the constituent members of the FTA or customs union has to be liberalised. On the other hand, to the extent we would like to sign a free trade agreement, of course there will not be a common commercial policy obligation because that is just for the customs union.

I have seen the paper that was prepared by Lorand. It seems fine to me because, to an extent, you may liberalise trade in agricultural products. If the agricultural products are not a major part of substantially all the trade, that would be a viable solution. When it comes to the interim agreements under article 24, and as stipulated in the understanding on the interpretation of article 24, because you already have an agreement with the EU, you have been involved in a customs union and a single market. That very definition for interim agreements that is provided in article 24 is for new countries that are newly creating a new trade partnership.

I would not definitely or 100% apply interim agreement provisions to the current status quo between the United Kingdom and the European Union. If you want to sign just one paper FTA, it is doable. You will just notify the World Trade Organisation; you will show that you have liberalised substantially all the trade and that you did not increase your trade barriers overall towards your third-country partners. Then it should be doable because, after all, the WTO would like to see countries liberalise trade. From that angle, it would be possible.

Dr Lea: I thought that House of Commons Library paper, which was called *No-deal Brexit and WTO: Article 24 Explained*, if my memory serves me correctly, made a very good case that article 24 could be used as some sort of agreement before a final trade agreement was negotiated. They made the point it would technically have to be a full agreement rather than an interim agreement, but that is partly semantic.

They did make two or three qualifications on it. The first is that we obviously cannot do it unilaterally. The EU has to agree to it. I think it probably would agree to that, given that it has a very large trade surplus with us. After all, we are talking here about goods and not services, because it is my understanding that article 24 is about goods and not services. There was a trade surplus of £93 billion of 2018 and £95 billion in 2017. By any criteria, that is a very sizeable trade surplus for the EU. I think they would agree to it. The other qualification in the House of Commons paper was that it would not cover things like mutual recognition or regulatory alignment. These are surely not insuperable problems if there is a will for the EU and the UK to agree something on article 24.



David Henig: I do not regard the WTO rules on article 24 as a problem to reaching a quick free trade agreement between the UK and the EU. It is potentially us who are the problem with reaching such a quick agreement, and that is because of the power of precedent in trade agreements. The EU already has 35 trade agreements with 60-odd countries. In any agreement, it will want to be in line with what it previously promised to others because, as soon as it gives us something different and something more, other countries will also demand something more. In some cases, that is part of its existing trade agreements. In some cases, it is not.

To be honest, and I have spent several years in Brussels working on TTIP, the EU trade team and the different countries are all going to have different interests in whether they should do this, what the conditionalities would be of such an arrangement, how services should be included and whether mutual recognition would be included. As for the chances of a quick agreement, if you say "quick agreement" to people in the trade world, that is a joke. I am afraid we do not do quick. We do long and detailed. Much as we would want to do it, as it is in our interests, the EU is not in reality going to sign up to this, I am afraid, unless we really make a very strong case of why it should be done. I do not think we can, and I do not think the EU will.

Sam Lowe: I find the article 24 GATT discussion a slight bemusement. It is a sideshow, insofar as all free trade agreements are done under these provisions. That is true. In terms of the interim agreement, as we have just discussed, it is not something we can decide unilaterally. What do we have to look at? The process by which the EU is prepared to discuss the future relationship. That brings us back to the withdrawal agreement first. Within that, there is a transition that then applies and kicks in. We have our transition where everything stays the same, apart from that we do not have the say we had before, in which we can use that time to negotiate the future relationship. That is the process by which the EU has said it is prepared to discuss the future relationship. We could say that we have looked at GATT 24 and we could do it differently if we wanted, but as it stands that is not something the EU wants to do.

Dr Lea: You were just saying that that is something the EU does not want to do. Has the EU been approached? That is the question. I do not know. What I find so frustrating about these discussions is that we have not even tried. How do we know? I just do not know.

Q4051 **Craig Mackinlay:** I wanted to pick up on some points you made regarding circumvention, Turkey's tariffs and all the rest of it. Am I right in understanding this? Turkey has the same external tariff because it is in the customs union. It imports, from China, garlic or something. There is a 10% tariff to the EU and to Turkey. If Turkey imports it directly, it raises and keeps its own EU levy-type external tariff but, if it is imported directly to Greece, Greece keeps 20% of it, remits 80% to Brussels and, because of the internalisation, Greece could then transfer it across the



border into Turkey completely free. Turkey has received nothing out of its tariff, Brussels has collected 80% of it and Greece has only collected 20%.

Is that the type of arrangement that happens at the moment? I am very worried about what we would call the Rotterdam effect. If the UK were in a customs union, it would land on EU shores in Rotterdam, with the tariff collected there, and then go over to the UK freely. We would have collected nothing out of the tariff, and Brussels's coffers would have been increased by 80% and Holland's by 20%.

Sam Lowe: Garlic is probably not the best example because agriculture is not included in the Turkey-EU customs union.

Craig Mackinlay: Let us have an iPhone, then.

Sam Lowe: Yes, fine. You do potentially have this issue that you have raised, whereby Turkey keeps all its own customs revenue but, if you are an EU member state, you have to divert 80% of that to the EU as part of your budget payment. If there is a scenario whereby, in our case, the product was to enter via Rotterdam, it would be the EU that collected that tariff and would then get to keep it. It would be split between the member state and the Commission, as per the arrangement in place, and we would not get it. It is a valid point that, when it comes to a future UK-EU customs union, because of the Rotterdam effect, there would be this risk of circumvention and it would potentially be a bit greater than we even see in Turkey's case.

However, as David mentioned earlier, knowing this and knowing that a customs union with the EU will be the result of a negotiation, it would potentially be possible—and I am not saying it would definitely be possible—to bring in some controls to address this. It remains to be seen.

Q4052 **Craig Mackinlay:** I can guess what Brussels's stance would be: thanks very much, we will keep the 80%. I am just guessing, but I would imagine that would be its political stance.

Sam Lowe: It is 80% of the tariff revenue collected by its own member state.

Q4053 **Craig Mackinlay:** This is a whole facet of the customs union debate that is not getting out there. This amounts to about £5 billion, £6 billion or £7 billion a year of potentially lost revenue whereas, if you were fully independent in raising your own tariffs, you would keep the lot. This has never been mentioned. In all the forums, people are not mentioning these multiple billions of pounds that could be lost to the Rotterdam effect and what the customs union would cost.

Sam Lowe: It is because, in the grand scheme of things, relative to the economic impact, the numbers are relatively low. That would be my assumption as to why it has not been brought up.

Q4054 **Chair:** Can I check on that? Would there be no advantage to the importer



to land the goods in Rotterdam to then move them to London, as opposed to landing them in London, because they are going to pay the same?

Q4055 **Craig Mackinlay:** They would not care less.

Sam Lowe: Not in this example, no.

Q4056 **Chair:** From the importers' point of view, there is not an incentive to make use of the Rotterdam effect unless they want the money to pass to Brussels as opposed to the Treasury.

Sam Lowe: Or it is just more convenient to land in Rotterdam. That would be the idea.

Q4057 **Chair:** It is to do with convenience.

Sam Lowe: There is no financial incentive to do so.

Q4058 **Stephen Timms:** Can I clarify this? If, in this example, something landed today in Heathrow, is it the case that 80% of the duty collected goes to Brussels and only 20% stays here? If we were in a customs union in the future, we would get 100% of that, which is a significant upside to the Treasury, I guess.

Sam Lowe: Yes, although I really would not focus on tariff revenues as being the big issue when it comes to deciding whether to be in a customs union. It is really quite minor.

Craig Mackinlay: It would solve our social-care cost problem, but there we go.

Q4059 **Richard Graham:** The crucial thing in all this is the non-tariff barriers. In the case you were discussing, were these goods to be imported via the European Union and we did not have the customs arrangement with it, what would be the practical effect, for example, on the timeliness of goods arriving and disappearing?

Sam Lowe: It would probably be more costly to import via the EU, because any relationship outside the EU will have more friction between us and the EU than now. We are just talking about degrees. If we are just talking about a basic customs union, potentially with a bit of regulatory harmonisation when it comes to product standards, there will still be additional documentation at the border. Depending on the type of product, there will be risk-based checks and there will be new delays. There will be an additional cost that comes with importing in the future in such a scenario via Rotterdam that, in my opinion, would only make it worthwhile to import via Rotterdam if you were importing into Rotterdam to service the EU as well as the UK, so you were looking across the whole field. If you were just aiming to bring something into the UK, it would make more sense to bring it directly.

Q4060 **Richard Graham:** In terms of the frictionless trade that we aspire to, what is the most frictionless arrangement that we could aim for?



Sam Lowe: If we keep this just to goods, it would be essentially what you see in the Northern Ireland backstop, insofar as a single market for goods, plus the customs union, plus being within the actual Union customs code from the EU's perspective and having arrangements on VAT to avoid it being a border issue. Then you also need some provisions on services when it comes to transport services. If you can get to that, and you can see why the backstop provision exists, potentially you do not have any additional friction when it comes to goods on that border. A customs union in and of itself is not even close to being sufficient.

Q4061 **Sir Christopher Chope:** If the goods, instead of arriving in Rotterdam, arrive at Harwich, if we are inside the customs union but outside the EU, we collect the tariff, and some of those goods are then sent off to the EU and the EU does not get any yield from that tariff. Is that correct?

Sam Lowe: Yes.

Q4062 **Sir Christopher Chope:** That means that goods could be imported into the UK and then transferred into the EU without the EU getting any benefit from that.

Dr Artiran: Because now they are in free circulation. If you have a customs union, if the products first enter your market and then are in free circulation, they have been cleared at the UK border and will have free access to the European Union countries. They will not have anything to charge because you have already collected the charges.

Sam Lowe: To re-emphasise, they really do not mind, because the point of being in a customs union and the reason it gets rid of rules of origin issues is that you are no longer worried about, say if you are the EU, a UK company bringing in imports at a lower rate because there is a lower tariff, and therefore their domestic companies getting a competitive advantage over your domestic companies. If the imports and inputs come in at the same rate, that fear disappears, which is why you no longer need rules of origin. While, yes, there is this discussion about tariff revenues, if we played it through, it would probably net off with the UK collecting a bit more than it did before but, in the grand scheme of things, it is largely irrelevant.

Q4063 **Mr McFadden:** Dr Artiran, I have a few questions about how that the customs union with Turkey works. That does not necessarily mean one negotiated with the UK would be exactly the same, but it is an existing example we can look at. Part of the reason for having such a customs union between Turkey and the EU is to facilitate easier trade between the two places. Can you tell us, as well as the customs rules, how much regulatory alignment Turkey needs to follow in terms of single market rules to help facilitate that trade as well?

Dr Artiran: It really plays an important part in the trade relationship between Turkey and the European Union. At the beginning of the evidence, I gave a couple of provisions from the association agreement between Turkey and the European Union. There is another one that is



very important for the customs union decision, article 54 of decision 1/95, which is the principle of harmonisation, which means we need to regulate in a similar manner the product regulations starting with the technical barriers to trade, sanitary and phytosanitary standards. That started in 1963. That agreement, the start of the Turkey-EU partnership, was notified as an interim agreement. I found some documents that were discussed in the GATT working party report whereby both the European Union—at the time it was called the European Community—and Turkey said that their agreement in 1963 was an interim agreement.

At the time, some GATT members opposed this agreement, saying, “You do not have a clear plan. We do not know how long this will last”, but both the European Community and Turkey took the stance that this was an interim agreement, which would then be coupled with an additional protocol in 1970, which culminated in 1995 with the customs union decision. The entire engine that we have, starting with that agreement in 1963, with the additional protocol in 1970 and the customs union, foresees regulatory harmonisation inside. That facilitates trade between Turkey and the European Union.

For instance, think about the CE trademark and logo. Once we see that at the border, it will have very easy access to the market, whereas if you do not see that CE brand, if the UK ever leaves the European Union and you no longer have this CE mark, you will have some problems when you ship your products to Turkey. All this harmonisation of the non-tariff barriers is a good thing under the customs union. It is not only about tariffs, but non-tariffs barriers are very effective and you can get rid of them, which is the most helpful part of that.

David Henig: I would add a couple of points. First, Turkey is an accession country to the EU as well. There is some debate as to how much of the original design of the customs union takes account of the fact that Turkey is an accession country. In view of the second point, we hear so often that the EU says the single market is not divisible. In the case of Turkey, it clearly was. The EU would probably argue that that was because Turkey was on an accession track and therefore it was envisaged that it would go towards full harmonisation. The point I am trying to make in all this is that it is not clear that the same thing will be on offer to the UK, although, taking into account my precedent point earlier, it would be hard for the EU to say, “We are not going to do it”, but there is a reason the EU could turn round and say, “That is different. Turkey was an accession country. You cannot have this, this or this on the regulatory side”.

Q4064 **Mr McFadden:** The point I am trying to make clear is that we should not just think about this in terms of duties and tariffs. In addition, if you are interested in frictionless trade or trade as frictionless as possible—whatever phrase you want to use—there are regulatory rules as well as those normal customs rules. Let me try to probe this a bit more. If you think of a product, say a car—Turkey makes cars—that car made in



Turkey has to abide by the same product standards as a car made in Germany, France or the UK. When you think about the single market rules, there are product standards in terms of, say, the emissions from the car, the safety standards and so on, the core to the product, and then there are a whole load of other single market rules around the working conditions in the factory, environmental standards and so on. Dr Artiran, can you give us some kind of picture? When we talk about regulatory alignment, how much of that body of single market rules does Turkey have to follow, including, if you like, those social and environmental things, as well as the core product standards rules?

Dr Artiran: Thank you very much, that is an excellent question. Let me start with the social and environmental standards. That was not covered in the Turkey-EU customs union and association agreement. That came later. When you look at the recent talks, unfortunately, the talks have been suspended on the modernisation of the Turkey-EU customs union, but it is on the table. When we prepared this impact assessment report for the European Union three years ago, in that report the European Commission was foreseeing that, in the revamped negotiations, the European Union would impose the environmental and social standards as well. As it stands, we do not have them. They do not apply but, with the single market today and the existing customs union, we have to align with the technical barriers, trade regulations, sanitary and phytosanitary standards and everything that is about product safety. The other things regarding environmental, product and human rights standards et cetera—

Q4065 **Mr McFadden:** Labour market?

Dr Artiran: No. They are not allowed for the time being.

Sam Lowe: If we are looking at this to inform our view on the future UK relationship, we already have a customs union text that exists between the EU and the UK in the form of the all-UK customs arrangements in the backstop. We can see from that, when it comes to an EU customs union with the UK, the EU would require these level playing-field provisions. It would go into the environment, labour and social protections, but also things like—I have just blanked on the word—when you pay businesses money—

Mr McFadden: State aid.

Sam Lowe: State aid, sorry. You would have thought that would be front of mind. We can see that, within the customs union that is envisioned in the event that we go into the all-UK customs union as part of the backstop, those provisions would be included. That tells me that, if we were to negotiate a long-term customs union with the EU, those would be required. On the impact of alignment in the case of Turkey, we should say that, while it has been asked to harmonise in these certain areas and while it can make authorisations that potentially other non-EU members, apart from Switzerland, struggle to do, this does not lead to less friction at the border.



Mr McFadden: That is my next question, if I may move on to the border.

Dr Artiran: May I perhaps comment on that? Competition rules and state aid rules, for instance, are already covered in the Turkey-EU customs union. Yes, we do not have labour and environmental standards, but competition rules were imposed from the very beginning. It worked very well in Turkey because the Competition Authority was established in 1995. It works very well and reports by the European Commission show there has been a discipline or understanding of competition policies. That is part of the existing customs union.

Dr Lea: Could I broaden this to what may happen with us as opposed to Turkey? I am not an expert on Turkey, but you are driving at the idea of whether the regulatory standards would be maintained if we left the EU but kept a customs union. That is a slightly separate problem or a slightly separate issue, depending on how you look at it. If you look at the political declaration now on the future relationship between the United Kingdom and the EU, there is quite a lot in there about regulatory alignment. It covers environmental, social and all sorts of regulations like that. The rationalisation for it within the political declaration is to have fair trade, fair competition and a level playing field.

One thing is to negotiate the customs union, if that is what was wanted. As you have gathered, I would personally not want that. The second thing is, if and when we get to negotiating the future relationship, if we ever get beyond the withdrawal agreement, so to speak, what sort of regulatory alignment would be in there. They are two slightly different issues.

Q4066 **Mr McFadden:** Thank you for that. In the time I have, let me turn to this question of the border. Is the point of this, from Turkey's point of view, as it certainly would be from the UK's point of view, this idea of frictionless trade? We made a visit to the port of Dover—I do not know when, about a year ago or more—and we saw this seamless massive ballet, if you like, of the trucks coming off the ferries with minimal checks and so on. The Government's aim, I think, is to maintain that as much as possible. In previous evidence, and it might even have been evidence from you, Dr Artiran, we have heard that there are sometimes significant delays for trucks at the border between Turkey and the EU. If Turkey is in a customs union in large part to facilitate ease of trade between Turkey and the rest of the EU, why are there truck delays at the border and what do you do about that?

Dr Artiran: I remember your question from the previous time. That is exactly the point. Some of the EU member states with whom we have problems, for example Bulgaria, are trying to negotiate with Greece about why we are having this problem and how we get rid of it. The answer is simple. In that policy area for road transportation, the European Union does not have the authority to negotiate. The member states keep their independence. It is hard to regulate road transportation. That is where the problem arises. The Commission has good intentions. The EU in



general has good intentions. We all know what the problem is, and everybody wants to solve it. To the extent that this policy remains within the independent policies of the member state, there is nothing much we can do. That has to be regulated at the Brussels Commission level, so that the independent authority of the member state is transferred, to a certain extent, to the European Union. Otherwise, there is that friction. Even though the countries may have good intentions, in reality, your trucks are unfortunately stuck on the road.

Q4067 Mr McFadden: Give us a picture what this looks like for a truck driver approaching the border. How long might they be delayed there?

Dr Artiran: Last time, I remember you asked the same question and I said three days. I have heard that sometimes it is even longer. Sometimes it is shorter. I do not think there is a harmonious length to how long you are waiting.

Q4068 Mr McFadden: The implication in your previous answer was that, where this truck might be delayed for two or three days, or even longer, Turkey's desired remedy for that is to appeal to the European Commission and Brussels to sort out the delays.

Dr Artiran: We appealed to the European Court of Justice.

Q4069 Mr McFadden: Your ally in this in order to prevent the delays at the border is the European Court of Justice. That is where you are appealing, from outside the EU.

Dr Artiran: Exactly. I remember saying this two years ago. Because Turkey is not a member of the European Union, we do not have direct access to the European Court of Justice, but what is being done with those kinds of problems is that the European company doing business with the Turkish company has a legal standing before the European Court of Justice. Those European companies, because they suffer from business friction with Turkish companies, brought the case to the European Court of Justice, and the European Court of Justice said that this is not acceptable. Even though Turkey is not a member of the European Union and it just has a customs union, that customs union also necessitates the European Union to provide frictionless trade to Turkey. It is a prudent avenue. This is a settled case. This is now a precedent. That is something the European Union has to address.

Q4070 Mr McFadden: For a country in a customs union with the EU, but outside the EU in terms of membership, the guarantor of frictionless free trade for that country is the ECJ.

Dr Artiran: Yes.

Sam Lowe: It depends on the nature of the relationship. If we assume that the EU-UK future relationship is going to be quite expansive, a customs union might be one pillar of it. We would assume there is a pillar on services, and unless we accept freedom of movement it does not go much further than GATT. Then there is another pillar on research



co-operation, home affairs and the like. Sitting above that would be some sort of institutional architecture, where we would continue the dialogue and bring complaints. In that circumstance, you could see that body there being where you first brought this issue, rather than the ECJ. This is very much dependent. This is a hypothetical.

Q4071 Mr McFadden: That is a hypothetical. I am talking about the actual existing world.

Sam Lowe: As for the border, the other issue you have is on sanitary and phytosanitary issues. This is an issue for Turkey in that, if you are outside the European Union and you send a product of animal origin into the European Union, it has to enter via a veterinary border inspection post where physical inspections are carried out up to a rate of 50%. That can be reduced by agreement. Document checks and identity checks are also carried out. Unless we are within the SPS area of the EU, including for imports from third countries, those checks, while they can be reduced in frequency, cannot be avoided.

Dr Lea: I do not know very much about Turkey, but I do know about the United Kingdom. It is interesting that, when it comes to this problem of frictionless borders, both the HMRC and, indeed, the Port of Calais have said that, even in the case of no deal, never mind not being in a customs union, they would prioritise fluidity of trade over compliance. They have said that because they realise it is in their interests to keep frictionless trade or minimise the frictions of trade across the borders, even in the case of no deal.

Mr McFadden: If they are the deciding party.

Dr Lea: As I say, I am not an expert on Turkey.

Q4072 Joanna Cherry: That is very interesting. That is a unilateral guarantee on the British side. There is no guarantee on the EU side that that degree of frictionless trade would be guaranteed, is there?

Dr Lea: Did someone not come from the Port of Calais and give you evidence at some point?

Q4073 Joanna Cherry: I am not taking about an individual from the Port of Calais; I am talking about the rules and regulations of the European Union. You are saying that certain people in the UK have given a guarantee that they would do their best to maintain frictionless trade on the UK side of the border. I am putting to you that there has been no matching guarantee from the European Union. There cannot be, because it would be in violation of its law.

Dr Lea: My understanding is that they have come out with some no-deal preparation documentation within the Commission. They have made it very clear that they wish to continue with trade. You cannot talk about guarantees, but I am talking about the practicalities.

Q4074 Joanna Cherry: They have not given any guarantee that they would set



aside the law of the European Union, have they?

Dr Lea: They have made it fairly clear that they want to continue with trade and a good trade relationship with the United Kingdom, even in a no-deal circumstance. They have made it abundantly clear that they want to continue.

Q4075 **Joanna Cherry:** I would disagree with you, because they talked about short-term solutions. What I am asking you about is the law. There has been no guarantee from the European Union that it would put aside its rules and regulations, because in law it could not give such a guarantee. Is that not the case?

Dr Lea: Under WTO rules, if they started to discriminate against our trade, especially if our regulations were pretty compliant with the EU trade, they would be hauled over the coals in the WTO and told they were infringing the WTO.

Joanna Cherry: I see others shaking their heads. What puzzles me about how you feel you can say that is that the European Union is already a customs union and a single market, which by definition applies different rules and regulations to third parties. I do not see the WTO having any problem with that at present. Does it? I will no doubt be corrected by these other experts, if I am wrong.

Q4076 **Chair:** The question is this: can someone at the Port of Calais set aside the rules of the European Union when it comes to checking goods coming in from third countries? What is the answer to that?

Sam Lowe: No. We should also be careful when people representing ports speak, because they are competing with each other for business. There is a necessity to talk up your ability to deal with additional friction at the border in order to avoid diversion. On the WTO front, of course not. If we are a third country, the EU should treat us as it does every third country. It is less likely to get into trouble for being mean to us than it is for being too nice.

Q4077 **Chair:** Is that your view too, Mr Henig?

David Henig: Yes.

Q4078 **Richard Graham:** I have a very quick question on this, related to the answers you have both given. David Henig, we heard from Jon Thompson, the head of HMRC, when we asked him questions around this issue, and his answer was effectively to say, "You are asking me to look into the mind of President Macron to understand his instructions to the customs organisation". Is your basic belief that, if we want to have as much frictionless trade as possible from Dover to Calais and beyond, it has to be done within the structure of an arrangement of some form or another? Is it very optimistic to assume that, if we left without a deal, somehow this could all be patched up between Dover and Calais?

Chair: A short answer will do.



David Henig: That is right. If you were to leave with no deal, a customs arrangement between the UK and the EU would be the first arrangement practically that you would want to put in place in order to address this. Clearly, there is occasionally some discretion, as we saw in France when there was the work to rule recently on Eurostar. There is clearly some discretion between the maximum level of checks they are going to do and the minimum, but there is a basic level that has to be done within the law. We would want that arrangement to minimise the checks and the delays, were we to have no other agreement.

Dr Artiran: Under article 5 of the GATT, the General Agreement on Tariffs and Trade, there is freedom of transit. Recently, the WTO panel decided on a conflict between Russia and Ukraine where there was a problem of shipping and sending products. In case the worst scenario happens, under the GATT norms, there is freedom of transit. Your trading partners have to facilitate your shipping goods or transiting, but you would not like to stay with the WTO norms; you would like to have a preferential deal with the European Union. That should be only the last case scenario. Under the trade facilitation agreement under the World Trade Organisation, you can also try to secure the passage of your products.

Q4079 **Mr Whittingdale:** Can I come back to a couple of points that have been raised? First, following up Craig Mackinlay's questions about article 24, as I understand your answers, accepting the limitations that article 24 only applies to goods, that it only applies to customs arrangements, and therefore not regulatory obligations et cetera, that it has to be temporary and that it needs the agreement of the other side—in other words, the European Union—all of you see no insuperable obstacle to an agreement under article 24.

David Henig: That is correct. To be clear, there are different arrangements that are possible within article 24. A customs union, an interim trade agreement and a full free trade agreement are all possible article 24-compliant agreements. With the WTO, as long as you follow the basic set of rules, that is fine.

Q4080 **Mr Whittingdale:** Excellent. As I understand it, the arrangements with Turkey were covered by an interim agreement under article 24, prior to the signature of the customs union agreement. That lasted for 22 years. Is that correct?

Dr Artiran: Yes. This is the argument put forward by the European Community and Turkey in the older GATT documents, before the establishment of the World Trade Organisation. The relationship started in 1963 and it lasted quite a long time, because the real customs union decision was able to be signed only in 1994 and entered into force in 1995, so it is quite a long time.

Mr Whittingdale: Twenty-two years.



Dr Artiran: Exactly. In the meantime, there was no World Trade Organisation. The World Trade Organisation was established in 1994, which means that, from 1963 and the signing of the Ankara association agreement until 1994, the GATT rules accommodated in a quieter or more convenient manner those interim agreements. This time with the World Trade Organisation, perhaps it will not work this way. When you look at the records, there are not many interim agreements notified to the World Trade Organisation as it exists today.

Q4081 Mr Whittingdale: I know Mr Lowe wants to come in but, on that point, the EU is in the process of negotiation of FTAs with a number of countries, such as Mercosur and Australia. Are there article 24 arrangements in place for any of the current negotiations?

Sam Lowe: All those agreements will be negotiated under article 24 and will be article 24 compliant, because that is what is used to negotiate.

Mr Whittingdale: I am asking whether or not—

Sam Lowe: The interim?

Mr Whittingdale: The interim, precisely.

Sam Lowe: Not on the ones you have mentioned, but I am not going to rule out that it has been used at all when it comes to other agreements, because I do not know the answer to that. One point I would make about the UK-EU relationship is that there are reasons not to want to rely on the interim arrangements as proposed by article 24 within GATT in that, if you go that route, you have to notify other WTO members and they can object. The rationale for how the EU and UK are currently approaching it, which is that we have this transition agreement that performs the same function and keeps everything the same, and it is in essence just another agreement, but it is time limited, is to avoid all that. You are not bringing in other countries to opine on what you are doing; it is just dealt with bilaterally. That is one of the reasons that interim agreements are quite rare, because you do not necessarily want everyone else interfering with your bilateral negotiation with a single country.

Q4082 Mr Whittingdale: Mr Lowe, you also said that being a member of the customs union did not prevent you reaching your own trade agreements outside the terms of the customs union, in other words in areas such as services or any intellectual property, which I think was the other area you mentioned. It would prevent us offering anything in terms of goods access beyond that covered within the existing customs union. Is that correct?

Sam Lowe: Yes, absolutely. To be more explicit, if we are in a customs union with the EU and the EU chooses not to do a trade agreement with, say, India, the US, China or the like, we would not be able to do a comprehensive trade agreement with those countries either. We are bound to follow the commercial policy of the EU. I am talking about comprehensive trade agreements. Were we to decide we wanted to have



a regulatory dialogue on financial services with the US, that would be something we were perfectly able to do within a customs union as a member of the UK, whereas we would not have been able to do that necessarily when we were an EU member, or it would at least have to have taken on a different form.

Q4083 Mr Whittingdale: If there is an agreement between the EU and a third country, we are bound by the provisions of that agreement. If there is not, we can reach bilateral arrangements but not in those areas that might be covered.

Sam Lowe: We are bound, but only specifically on tariffs. We are bound specifically on tariff levels. I would argue that with the UK, relative to Turkey, there is a greater incentive to negotiate with the UK, just because we have a richer consumer market. The direct access when it comes to lower tariffs will prove important. It is also important to look at the counterfactual. Who is the EU negotiating with right now? Australia and New Zealand are now on the cards. Those are countries we would like to do an agreement with if we were outside. Those agreements look like they are on the cards, whether we are in a customs union or not.

If we go to the US, would we be able to do an agreement with the US if we were outside the customs union, whereas the EU could not? Maybe. I am not convinced necessarily that the British public are as pro a US agreement as we might like them to be. We will see. Will we be able to do one with India? No. No one does trade agreements with India. Until New Zealand manages, I am not going to be convinced we could. What about China? Perhaps, but then you have this conflict. Switzerland and Iceland managed to do agreements with China. Could we? Yes, potentially. Then you have this conflict whereby the US, in its most recent agreement, has specified that, if you do an agreement with China, it is going to have some issues in its agreement with you. You are put in this awkward situation of having to choose. I would also mention that the Swiss agreement with China is quite lopsided.

Does leaving a customs union grant you some new opportunities? Yes, possibly. I would argue that they are not as wide as people might argue. You also then have to look at the trade-off. What are the economic benefits of these new agreements versus us being in a customs union? As it stands, there is no economic evidence to suggest that the new free trade agreements will compensate for the losses of leaving a customs union. There are potentially political rewards in that you can announce to the public that we have a new free trade agreement with the US, and it makes good headlines but, from an economic perspective, less so.

Dr Artiran: I have a slightly different view from Sam's. In Turkey's experience at least, because we are not part of the EU's customs union, we have a separate customs union with the European Union. That customs union has given the authority to the European Union to negotiate all the trade deals. Yes, if I am concluding just a services deal, I may do it because my customs union only regulates trade in goods, but



no country just signs a services deal. Normally you start with an agreement in trading goods. In the experience of Turkey, it is stipulated in the documents and legal texts that bind Turkey and the European Union, and to a certain extent that derives from the interpretation of article 24 of the GATT. You unfortunately do not have the authority to independently sign a trade deal unless you have a different institutional framework.

This is where the Turkey-EU customs union is perhaps not the best example. That is why we are trying to modernise that agreement. Within the institutional framework, Turkey does not have a seat when an agreement is going to be signed with a third country or is being negotiated. When you are trying to sign your customs union agreement or when the Turkey-EU customs union is being modernised, that is the first thing that needs to be done. You are the taker of a decision. You are a decision and agreement taker. You are not effectively contributing to that agreement. It is stipulated that the parties have to consult each other, but that does not work really well in practice. Those are some of the things you need to take into account while you are drafting your own agreement.

Q4084 Mr Whittingdale: I am listening to you saying that Turkey does not have a seat at the table, that it is signed up without having any ability to influence deals that might not be in its interests. You say to Mr McFadden that drivers are sitting for three days queuing at the border. One has to ask the question: what is in it for Turkey? It does not sound a terribly beneficial arrangement as it is working at present.

Dr Artiran: When you look at it this way, it may not look the best. At the same time, you have to give credit to the European Union that normally it signs agreements with countries when it makes sense to do trade. By Turkey having a customs union with the European Union, and knowing the European Union selects those countries that are beneficial to have a trade agreement with, that negative scenario does not happen. Japan, Singapore, South Korea et cetera are all nice countries to have a trade agreement with. The only problem is that the threshold is so high that, when the European Union negotiates that agreement, it may be hard for you to come behind.

Nonetheless, Turkey has a good record of signing agreements with third countries. Only with some of them have we really had problems, for instance Algeria. Turkey has a huge interest in having a trade agreement with Algeria but, once Algeria signed the trade agreement with the EU, it had no interest whatsoever in signing a trade agreement with Turkey. These examples exist but—and I will repeat this many times—you have to set the right institutional framework and be at the decision-making table, not a decision taker.

Dr Lea: I will make some very general points, because I know we are getting into a lot of detail. One of the reasons I want to leave the customs union is to negotiate trade deals with third countries. That



makes an awful lot of sense from an economist's point of view because you want to realign your trade with the fast-growing parts of the world. Within a customs union, we cannot do that. It is interesting to know that, even where we are now, our trade with non-EU countries is growing more quickly than with EU countries, because it is the commercial realities that tend to drive trade, rather than the allure of a customs union or single market. I am very strongly in favour of leaving the customs union and realigning our trade with the fast-growing parts of the world.

I would like to take issue with one of my colleagues, who was saying that there would be no overall advantage to doing that. There is some economic analysis from Economists for Free Trade, for example, that suggests, if we did that, we could add 4% of GDP over the next 15 years. Of course, those figures are contentious. Economic analysis is always contentious, but it is pointing in the right direction, that, if you push towards the fast-growing parts of the world, that will benefit your economy.

The other thing to say about being in a customs union is that we cannot change our tariffs. If you want to cut tariffs on food produce, clothing or something like that for various reasons, you cannot do it. Customs unions, because they are about goods, benefit goods-weighted economies and not service-weighted economies. Of course, we are a service-weighted economy. If you look at Germany, its proportion of goods to goods and services is 82%. Nearly all of its exports are goods. With ours, 55% is goods over goods and services. Moreover, the services proportion is rising because that is where we have the comparative advantage. The customs union cannot do anything about that, but the customs union, as has already been said, would stop us from being able to do comprehensive trade deals with third countries.

Okay, you might say, "The customs union does not look that good. We can still negotiate about services", but why on earth should countries like India or the United States of America open up their markets to our services when we will not open up our markets to their goods? It just does not make sense. To this idea of trying to have any sort of reasonable trade deals with third countries when you are in the customs union, you can frankly forget it. It is a non-starter. This is a plea from me not to continue with a customs union but to grab the opportunities of free trade going ahead, as the world economy is developing.

David Henig: I have spent a bit of time talking to Turkish businesses, both when I was part of the TTIP negotiations and, more recently, after the Brexit vote. They absolutely say that the customs union is really terrible, is really badly structured and is absolutely the worst thing, except not having an agreement, which would be even worse. That is coming straight from what they have said. In terms of services, this does come up, because we talk a lot about the fact that the UK is a services-dominated economy. In terms of exports, it is about 50:50. Yes, there are few services-only free trade agreements, not that it is not possible.



Equally, within free trade agreements, it is very difficult to liberalise services. You generally find there is not a huge amount of services liberalisation. If we look at the areas where the UK is particularly strong in services—financial services, business services—those companies are generally not relying on trade agreements at all to trade around the world. They are finding ways in which to trade, whether that is setting up subsidiaries or whatever it is. If we are having a conversation about services trade, the starting point of the conversation would not be to ask what free trade agreements you can have, but to ask what barriers they are currently experiencing and how you overcome them. I do not think trade agreements are the first answer you would come to.

Q4085 Mr Djanogly: I am agreeing with what David Henig has just said. There are dangers in too closely comparing the British and Turkish experiences because our economies are very different, but it does lead us to say that we need to look to see where our economy might be heading as to what sort of deals we want to do. If we are going to continue along the course of becoming a more services-oriented economy, we might not be so bothered about not being able to have competitive advantage on a customs deal. I would be interested to know what percentage of services are exported in Turkey. It is presumably quite low.

Dr Artiran: You have a good point, but I perfectly agree with David. When you ask business people today in Turkey, many people nonetheless would like to have a customs union. Yes, it is old now. It was signed in 1995 and needs a revamp, like many things. Even the WTO has been reforming itself. An FTA is never an alternative to the customs union, because we have changed the structure of the Turkish economy so much by aligning ourselves with the regulations and producing products in accordance with EU standards. So did you. For many years, you produced your products in accordance with the EU rules and regulations. Leaving this aside, having an FTA is not beneficial. Yes, the existing customs union is not enough. Believe me, there is an understanding in Turkey that is shared by many, including our foreign counterparts like Eurochambres and BusinessEurope et cetera. They say that this customs union has to go on and has to be revamped.

Q4086 Mr Djanogly: That is my point. We are in danger here of talking about what we have rather than what we want to happen.

Sam Lowe: To come back to a couple of points on what the UK could offer while in a customs union in order to get market access if it is not able to unilaterally play around with its tariffs, I can give you one recent example. When a foreign student comes to a British university, that is classed as an export. It is a services export under mode 2 of GATT. One thing we could do right now, if we wanted to, is allow foreign students to stay for another two years to find a job. That would help out our universities industry. It would help out our services exports. What else could we do? We could do a lot more when it comes to visas, intra-corporate transfers and business visitors. If we want to talk to



India, that is what is going to be on the table more than tariffs, regardless.

When it comes to assessing whether future free trade agreements will offset the economic impact of whatever type of Brexit we have, we have to be careful, because free trade agreements really do not do very much for aggregate GDP. At an aggregate level, we are talking about rounding errors. Beneath the aggregate, you might see huge shifts in the structures of businesses and where they sit in the economy. There might be knock-on productivity effects and the like, but we are actually very bad at productivity and working out what impacts what.

When it comes to the Economists for Free Trade estimate, I would emphasise that, yes, it is true that all models have to be taken with caution, but that one has to be taken with a lot of caution because it assumes that EU-UK trade will continue as now no matter what, so everything else is just a positive because it assumes no negatives. If you look at the Government figures, you see that the predicted benefit of future free trade agreements is around 0.3%. That may be a bit low, but it is in the ballpark. If you think about EU-Canada, the upper estimate for that was that it would benefit the EU economy by 0.03% or 0.04%. We are talking small numbers but, when you look at the negative impact of leaving a customs union, it mixes up two things in the estimate. It mixes up customs forms and rules of origin. It comes to about 1.7%¹. If you assume that half of that is the customs forms, which would remain even if you were in a customs union, you are still at half of 1.7%, 0.85%, as the impact of rules of origin.

That is what you are trying to surpass with your future free trade agreements. As I also mentioned earlier, there is no guarantee we would get these trade agreements that the EU is not going to yet. While, yes, the customs union comes with constraints, we have to be very realistic about what the alternatives are.

Q4087 Stephen Timms: Dr Artiran, you have made it clear to us that Turkey, as I understand it, has no influence at all over EU trade policy, consequent on its participation in this customs union. What I am wondering is this. The UK is very different; it is a major trading economy. Do you think that would allow the UK to gain influence over EU policy if it had an arrangement along the lines of the Turkish model?

Dr Artiran: There are some committees within the Turkey-EU bilateral trade relationship, such as joint committees and association councils, which are supposed to meet every two years. For the United Kingdom, there is the experience of what has been done with Turkey. Both parties have said at stages that they were not happy with the customs union, mainly on Turkey's side, because Turkey was not able to take part. The European Union heard all these complaints, and a revamped customs union could offer some new positions and new possibilities for these joint

¹ The witness has clarified that this figure should be – 1.4%



commissions to work in practice, so that Turkey could at least be part of decision-shaping, perhaps not decision-making, but if it can be part of the decision-shaping it is a good start. While we were talking about revamping the customs union, those possibilities were on the table.

Thinking about the United Kingdom, drawing on the experiences of the Turkey-EU customs union, the EU might offer some possibilities to the United Kingdom, which need to be discussed. Again, I agree with Sam that, if this is being offered to the United Kingdom, Turkey, rightfully so, will ask for the same possibilities for a revamped customs union. Other countries, San Marino or Andorra, would ask for the same thing. It will form a precedent for the European Union if it lets you be part of the decision-making or shaping, whatever you name it. You will be a precedent.

David Henig: I agree with that. There is willingness on the Commission's side. They have already been talking about giving Turkey a say. They have not quite worked out what that will be. The UK at the moment has some say in EU committees but the Commission basically runs the show. It is up to us as to how much influence we take at the moment. In a new environment, yes, there would be formal structures. It is also going to be down to the informal ways in which we seek to have influence on what it is we are trying to achieve. That would be the key question. In terms of these trade agreements, what is it we would want from the EU in this scenario? We would have to work pretty hard to know that.

Sam Lowe: I would list some of the things. It would be a greater commitment from the EU to pressurise the third countries it is negotiating with to negotiate with the UK in parallel; consultation as to when these negotiations were going to begin so we could do so in parallel; consultation when it came to the implementation of said agreements so we could align ourselves there. Could the UK achieve this? If we go off what the Commission says, certainly. Different people in the UK have spoken to the Commission about this. The issue when it comes to Turkey has always been the member states. It is the member states that have blocked upgrading Turkey's customs union, for political reasons that are divorced from trade. There are lots of other issues between the EU and Turkey. Is it possible? Yes.

Where I draw the line is that, where I can see the effective consultation mechanism could be created and institutionalised, the UK would never be in a place where we would have a veto over the EU's trade agreements, because let us be clear: they are still the EU's trade agreements. The ones we would do while in a customs union are still our trade agreements. There is still that distinction. EU member states do not have a veto, necessarily, over EU trade matters. The UK, as a non-EU member, would not.

Dr Artiran: In Turkey's experience, there was a Turkey clause that the European Union put in agreements it was signing with third countries.



That Turkey clause would try to make sure that a country that signs a trade agreement with the EU would need to sign a trade agreement with Turkey as well. This clause is not very helpful because, after all, you are dealing with an independent state. You cannot force a state. One proposal was on the table, which perhaps the UK can also discuss: what if the European Commission negotiates a free trade agreement on behalf of the customs union, not only for itself, the EU, but also the customs union with the United Kingdom? If this could be done legally and it did not bother you as an independent state that the Commission negotiated a trade agreement on your behalf, this could be a solution.

Q4088 Stephen Timms: Apart from Turkey, San Marino and Andorra, the EU also has customs arrangements with Jersey, Guernsey and the Isle of Man. Is it right to describe those as customs unions as well? Is that something else? Could there be advantages and disadvantages to the UK aiming for that kind of arrangement, rather than something that looks like Turkey, San Marino and Andorra?

Sam Lowe: This feels like a question to me as I have written about this quite a lot. Jersey is very interesting case, in that it is not a member of the UK, is not a member of the EU and yet it is in the EU's customs union—not a customs union—and de facto the single market for goods. If you think about the relationship Jersey has with the EU now, it is what the Northern Irish-specific elements of the backstop would look like, pretty much, in terms of its customs union and the single market for goods, with a few exceptions, in that Jersey is not included within VAT. It is a unique case, in that the reason this relationship exists is because of the UK's accession treaty to the EU, where the Channel Islands and the Isle of Man were carved out.

Do I think the precedent of being in a customs union and single market for goods is one the UK should look at? Yes, insofar as, if you beef it up to the extent we have seen for the Northern Ireland-specific elements of the backstop, you can have frictionless goods trade. The big reason the EU would not go along with it is that it is very clearly splitting up the four freedoms. If we were to ask for that without freedom of movement, there would certainly be a problem, in that the Swiss are effectively in the single market for goods, not the customs union, with some exceptions, and they have to have freedom of movement. Do I think, as someone who has put forward what I refer to as the Jersey option, that it is something we should think about? Yes, but I am under no illusion that it would be an easy thing to achieve.

Q4089 Peter Grant: I want first of all to come back to Ruth Lea on your enthusiasm for leaving the customs union. The only land border the United Kingdom has is in Ireland. At the moment, that is an internal border, not a customs border. If Northern Ireland leaves the customs union, as a matter of fact and a matter of law, the border in Ireland becomes a customs border. How would you propose to manage that customs border?



Dr Lea: There was a Dutch customs expert, Mr Massen, who I think gave advice to this Committee. He was saying that there was no reason that we should not have electronic declaration of customs forms—as there presumably already is, with the tax border with Northern Ireland on VAT, excise duties and the like—a trusted trader scheme, possibly using customs advisers, and then off-site, off-border inspections. He seemed to think that would work perfectly well. I was very impressed recently that Mr Varadkar, who is of course the Irish Taoiseach, said that under no circumstances did he see the need for a hard border in Ireland, which was quite accommodating, considering he has equivocated about that. Indeed, Barnier was implying the same. It strikes me that, if you talk to people like Massen or read the stuff that Massen has been doing, there is no reason that there should not be a solution to this.

It is interesting too that Jon Thompson, who is the head of HMRC, on at least a couple of occasions to one of the Select Committees, has said that he sees really no need for any extra infrastructure when it comes to customs declarations across the Irish border. I quote these people because they are the customs experts, not me.

Q4090 **Peter Grant:** You may know that Pascal Lamy was pretty dismissive of some of the comments that you have quoted just now on *Politics Live* the other day. Can I press you on this off-site verification and whatnot? What stops somebody from crossing the border with a truckload of goods that they have not registered anywhere, where they are not a trusted trader? What is there to stop non-trusted traders crossing the border? What is there to stop somebody from crossing the border and not bothering to go to a checkpoint somewhere else?

Dr Lea: The truth is that there will be the usual checks that happen already. There are already checks when it comes to excise duties. There is already some smuggling across the border and HMRC has to deal with it accordingly. The checks will have to be there. I am not disputing that, but this is not insuperable.

Q4091 **Peter Grant:** Can I ask if you have been to the border to see these checks?

Dr Lea: I have not, no.

Peter Grant: When we went to the Irish border—

Dr Lea: If I may say so, the whole border is being blown out of proportion. The solutions are there with goodwill and co-operation, and the electronic availability that is already there. That was the evidence of a customs expert. As I say, I am not a customs expert, but I take the advice from customs experts.

Q4092 **Peter Grant:** Why, then, is the official position of the United Kingdom that the means do not yet exist, and it does not know when the means will exist, to have a customs border in Ireland that complies with the terms of the Belfast agreement? We are not talking about a porous



border, such as the Swiss border. The limited checks that exist at the Swiss border are not allowed at the Irish border. The limited checks that exist on some of the border crossings between Canada and the USA will not be allowed under the—

Dr Lea: It is most dispiriting that we cannot assume there will be co-operation between the Irish and the Northern Irish to solve the problems of the customs border. I really find that very dispiriting.

Q4093 **Peter Grant:** What exactly is it you are suggesting?

Dr Lea: Can I repeat that I am not a customs expert? I have offered you the best knowledge I have. Under those circumstances, I do think the customs border is not an insuperable problem, which is what Mr Varadkar is now saying. I cannot say anything else to you.

Q4094 **Peter Grant:** You have described yourself as not a customs expert. How much weight, therefore, should this Committee give to the evidence you have given about the benefits of leaving a customs union, if you describe yourself as not being a customs expert?

Dr Lea: I am an economist. I am not a customs expert. I look at the economics of this. As I was saying to Mr Whittingdale, if you are interested in the economic future of this country, you need to align with the future developments, not the past. I would say to David too that, when he is talking about service agreements, he is talking about the present; he is not talking about the future. The WTO is pushing for trade deals on services. I will say this to you: I am an economist. As far as I am concerned, I have looked at the evidence from customs experts and the Northern Irish border is a soluble problem. As far as the economics are concerned, I have little doubt that being outside the customs union and pushing forward with our own trade deals and commercial policy is the sensible way forward.

Peter Grant: Thank you. Some of the other panel members wanted to come in on that. With your permission, Chair, I will give them the chance to come in.

Sam Lowe: On the proposals for Northern Ireland, the technical or technological route, you hit on the point entirely, in that I can come up with a solution that works for those companies and people that play by the rules. You pre-notify what you are going to be sending across the border. It goes through some risk management system. If there is a problem, you get a notification, you have to stop off somewhere on the way and they do a check. This is just on the customs side. I am not talking about the regulatory side, especially not the sanitary and phytosanitary issue.

How do you manage those people and businesses that decide, "I am not going to play by these rules at all"? The answer is stop and search. You have random stop and search, which you need anyway to keep the system honest. Then you need intelligence-based policing, so raids on



warehouses. No one has made a convincing argument, at least to me, for why that is preferable to actual stops on the border when it comes to a stability point of view. These investigations and checks happen to a small degree now because of VAT and excise; that is true, but we would have to increase the magnitude of them by quite a lot.

People approach the Northern Ireland-Ireland border issue wrongly sometimes. They miss what the commitment is. The commitment is no physical infrastructure or associated checks. That second bit is important. The physical infrastructure is a symptom of the problem, which is that you have created an economic border between Northern Ireland and Ireland, whereas before there was not one. The physical infrastructure is the visible implication of doing so. The backstop pretty much manages to achieve a situation where nothing changes. Every other solution we are talking about that does not involve integration to that degree is about accepting there is an economic border and trying to mitigate it. At that point, my fear is that the damage has already been done.

David Henig: I wanted to come back on services. Yes, there is or there was a trade in services negotiation at the WTO. It has currently stalled. One option for the UK would be to try to unstick that or create our own option of a services agreement. These are things that we could do but we do not hear enough about it. We hear far too much, if you do not mind me saying, about the Irish border, and far too little about services trade and what we could do.

Q4095 **Stephen Crabb:** I would like to follow up on Peter's questions about the Northern Ireland border. I direct my question in the first instance to David Henig and Sam Lowe. Both of you in your commentaries and writings elsewhere express some frustration at politicians who want to chase after fantasies in regard to Brexit, particularly with solutions for the border. Yesterday, on social media you both expressed some scepticism around a new working group that is being convened to look at alternative arrangements. What do you regard as the real-world practical discussion and inquiry that needs to happen around alternative arrangements? That phrase does appear in the withdrawal agreement. What is the real-world discussion that needs to happen on these arrangements and what would you be counselling politicians to avoid looking at, if they want to keep their feet on the ground on this?

David Henig: This is a slight reprise of something I said in my long session with the Northern Ireland Committee. I said there that I regard myself as quite optimistic on the Northern Ireland border. I believe that there could be solutions. It is just that they are unlikely to be in place by tomorrow or next week. Let us change the question round. Instead of asking, "How do we keep a border?", we could ask, "How do we become the first country that is not an EU member to have no external border infrastructure with the EU?" We would be a pioneer. There is no country in the world that does this. To be a pioneer, what is this going to be about? Borders are not really about law-abiding traders who are going to



do this already. This is going to be about the trust on both sides of the border that all procedures are being kept to and the penalties for non-compliance are so high that everybody complies.

How long does it take to create that kind of system that is underpinned by technology, a whole heap of processes, mutual trust and security? In my experience, and before I was working in trade, many years ago, I used to work in IT systems, these are the kinds of things that IT systems take five to 10 years to do, supported by changes to process. We have to recall that, at the moment, the border is the backstop, if you like, for a lot of different arrangements. Whether they are for customs, legal or illegal goods, the border is the only place where the goods, the paperwork and the driver all come together. It is the only place you can inspect it. If that is going to change, you need to rethink how the whole system works. That will take time. My advice, going back to the question, is for us to be realistic about this. This is a huge challenge. Can it be achieved? I see no reason why it should not be achievable, but it will not be easy.

Dr Lea: Mr Messen, for it is he, suggested it would take perhaps 21 months to implement the sort of checks he was looking for. As I was saying, as far as Jon Thompson was concerned, he did not see the need for any further infrastructure on the customs declarations. Could I point out that you talk about a border, but we already have a border? I have already said that. There is already a tax border between the Irish Republic and the United Kingdom. We must not forget that there is already a border there. Customs has to deal with it, and it deals with people who transgress the rules through an intelligence-based system, as the customs functions, in any case, on an intelligence-based system. As far as I can see, it is not an insuperable problem, but it needs looking at.

Sam Lowe: We should always be careful about assuming, just because a certain level of intrusion is accepted now, that increased levels of intrusion will not cause problems in the future. I am not saying Government policy should be dictated by this, but I am saying that, if you are looking at a post-conflict region of the UK, you should tread carefully. That is why I am not convinced necessarily that increasing the level of intelligence-based checks, surveillance and random checks around that area will be conducive to a stable Northern Ireland. I might be wrong about that, but that is my worry. That is where the backstop comes in. For all its flaws, the backstop works. It does not lead to any new physical infrastructure or associated checks at that land border, just. It straddles the line a bit and there are still some questions to be asked.

As to whether I can envision alternative arrangements coming in in the future, perhaps. It would need to be as part of a process that is in deep consultation with people in the region and that area about what sort of changes they would be willing to contemplate. It is not a binary issue. Lots of people have different opinions where they might like a bit of freedom in a different area, but that is a process.



As to whether this can all be done in two years, people get hung up on the technology, be it the customs expert mentioned or others. They point to single-window technology. This is something the UK should be aspiring to at its own borders anyway. If you are exporting to the UK or exporting out, you send in all your information to one website, essentially, and it gets funnelled into a load of systems. Then the risk assessment is done on the basis of all the information you have given and, if there is a problem, you are asked to go somewhere en route. The issue is not that the technology does not exist; the issue is that it is much harder to implement this if you are in a system like the UK where we have been around for a very long time.

You will also have to align Government Departments. If you think of all the different agencies of Government that operate at the border—Border Force, local authorities, HMRC—you have to get them all in line behind this. Quite a few of you have been Ministers before; you know that, for cross-Government IT systems and projects, the technology might exist, but it still takes quite a long time. While I am disparaging on technical solutions, I actually agree with most of the suggestions when it comes to the UK's general external border. My issue with Northern Ireland largely comes back to how you deal with the people who do not partake in these systems without a funnel for them to go through where you can weed them out, and me just not being certain that greater intrusion into people's lives in that area is any better than having the physical infrastructure in the first place.

David Henig: Since you mentioned the single window, as a clarification, I first came across the idea in 2009 of a single submission of documentation to all the border agencies. Apparently, it has been around since at least 2005 and may possibly be implemented within the next three or four years. If you do the maths, that is 15 to 20 years that it has taken.

Q4096 Stephen Crabb: What does the panel think will be the real practical difference that will be made to the next stage of Brexit negotiations by having a firmer and more specific commitment to a customs union in a revamped political declaration? Are we talking about something that is largely a cosmetic change in terms of the dynamics of the negotiations or does it really matter?

Sam Lowe: It matters insofar as whether it means you and your colleagues vote for the deal. That is how much it matters. The political declaration is not legally binding. It informs the future relationship. As it stands, it can already accommodate many different forms of the future relationship, with the exception being because of the withdrawal agreement text, if you want a Canada-style relationship with the EU, you have to accept that is just for Great Britain and alternative arrangements will be in place for Northern Ireland. If you want to go deeper, it accommodates it. The discussion now about whether the political declaration can be rewritten to more heavily signal a customs union is

largely for the benefit of the internal politics of the UK, not necessarily what happens with the future negotiations.

Q4097 **Stephen Crabb:** Are there any different views on this?

Dr Lea: On the political declaration, I looked at the wording on the customs stuff. As we know, the political declaration is not legally binding but is the foundation for negotiations going forward, if we ever get there, if you get my drift. It said, "no tariffs, fees, charges or quantitative restrictions across all sectors, with ambitious customs arrangements that build and improve on the single customs territory provided for in the withdrawal agreement, which obviates the need for checks on rules of origin". That sounds like a customs union to me.

Q4098 **Chair:** It does, does it not?

Dr Lea: If you are talking about rules of origin, we know that the big difference between an FTA and a customs union is in rules of origin.

Q4099 **Seema Malhotra:** I want to ask a little bit about the relationship we may have with existing EU trade agreements. Some of the points I was going to raise have already been addressed. I am puzzled by this point in relation to the pragmatism around developing new independent free trade agreements with other countries. Currently, we have access to 40-plus EU trade agreements, covering about 70 nations. That is about £150 billion worth of our imports and exports. What would your expectation or understanding be in practical terms about our access to those trade agreements once we leave the European Union, bearing in mind that we have been part of negotiating them? Do you see there being a future whereby they are easily replicated as independent agreements that we have in some form? Do you think there is a question about scale as well? Currently we negotiate as a bloc of 500 million. We would be negotiating multiple agreements as a bloc of 60 million. Is there a question about the sustainability of the economic benefits that would come from such an approach?

David Henig: I will be the first to have a go, and then my colleagues will tell me the bits I have missed out and forgotten. In terms of the replication of existing agreements, it has not been easy so far. We have a commitment in the case of no deal on nine out of the 35 to 40. The reason there is a confusion over the numbers is that nobody quite knows whether San Marino and the smaller agreements are included in the number. We have a commitment to nine of them. None of them are really with major trading partners. The largest full commitment is from Israel. The agreements with Norway, Switzerland and Iceland are very partial in the case of no deal. A number of countries have said they do not wish to replicate, in the case of no deal, what they have already. Japan is the most obvious.

We have to bear in mind with trade negotiation that, if we go to another country and say, "We would like to replicate this deal you have with the EU", the other country is going to say, "That is very nice. Here is what we



would like. This is a negotiation". We will not find it easy. I have no intelligence from the Department for International Trade on whether it is going to use the coming months to try to get more than nine across the line. From the information I have, it is finding it more difficult than it was expecting. That is what I would expect in terms of trade talks.

In terms of new partners, I differ from the common wisdom. The common wisdom is that we will struggle to get as good a deal as the EU. My take on it is that we will not have as many asks, potentially, as the EU. If we only have a small number of asks, that is all we will get. The question we have at the moment is that we do not know what our asks will be from trade agreements. I am still none the wiser as to the importance of our list of Australia, New Zealand and the US. I do not know why that list is drawn up. I do not know what in particular we are expecting to get from those countries, and I do not why other countries would not be considered. We need to do that. That applies also to the replicated agreements. What is it that we are really gaining of value in these agreements?

Sam was right that the overall aggregate contribution from trade agreements is quite low but specific areas really benefit. The scotch whisky industry, I am delighted to say, has been a major gainer from it. It gets lots of protection from these agreements. What other areas can we have that gain from them? The point is that it is a negotiation and we will find it tricky in all circumstances. The key is to understand what we are doing these for.

Dr Artiran: From Turkey's experience, if you are outside the system and do not have an agreement with the European Union, these third countries find it more interesting to sign an agreement with the EU because then they have access to 27 countries. Once the agreement with the European Union is signed for the first time, the threshold is set. The standards have already been set and what kind of market access you can have. Whatever agreement you sign afterwards, you follow in the footsteps of the agreement that the European Union has signed. I would like to give you some statistics. For example, for Tunisia, there is a seven-year time gap between the agreement signature by the European Union and by Turkey. For Morocco, it is six years; Egypt, three years; Chile, eight years; Jordan, nine years. Once the EU signs the deal, you really have to spend lots of time convincing the trading partner to have a similar arrangement. It is a bit difficult. Yes, a customs union is a good thing, but the arrangements for how to sign agreements with third countries and get rid of this asymmetry are truly within the institutional framework that you have to create with the European Union. Otherwise, it is not very helpful.

Sam Lowe: On the replicated agreements, for clarity, even if we enter into a customs union with the EU, we still have to replicate all these agreements. There is no automaticity. They do not automatically apply to us. That is still the case. To add one extra thing to what David has laid out, and this is why the Swiss and Norway replication is partial, it is



conditional on the UK-EU relationship as to how much further they are able to go. One country in particular is incredibly dependent on the future UK-EU relationship, and that is Turkey. Unless the UK is in a customs union with the EU, it probably will not be able to replicate its customs union with Turkey. We are talking about the EU-Turkey customs union. The UK is currently in a customs union with Turkey. If we want to replicate what exists now, we would also have to be in a customs union with the EU. That is something that is underappreciated, because people do not necessarily realise, on the scale of how important our trading partners are, just how high up Turkey is.

Dr Lea: I have two or three very general points. For a start, most of the trade deals do not matter a great deal because we do not trade very much there. With Tunisia, we have very little trade.

Q4100 Seema Malhotra: If we can get beyond them not mattering very much to something that is specific, as an example, a business in my constituency uses about 10 of those. It is a high-class manufacturing business. We need to get to some more specific evidence beyond it not mattering very much.

Dr Lea: It is up to DIT. My understanding is, as David's understanding, that nine of them are essentially ready to roll out when—if—we leave, including Switzerland, which is one of the most important of our trading partners that is not in the EU. When it comes to negotiating new trade agreements, I do not know how well those may be going. DIT is trying to work at them. Because there is so much ambiguity and uncertainty about our leaving, I suspect they are not going as well as they might, but I am not privy to those discussions so I cannot offer you any more.

Dr Artiran: To pick up on what Sam said, it is completely true. The last evidence I gave was a month ago on the continuity of Turkey-EU trade relations. Because DIT declared that it will not be able to roll on the agreement with Turkey, and it is one of the major trading partners, it is really bothersome. The British steel industry said very clearly that the UK's steel tariffs are already very low, so the Turkish steel exporters to the United Kingdom perhaps will not have much of a problem. But, if the United Kingdom does not leave the European Union with an agreement and does not have an agreement with Turkey, the tariffs that will be applicable will start from 16% or somewhere around that number. It is important, as a country, that you have to roll all these agreements. There is a major point as to why you really have to follow those agreements once the EU does.

Q4101 Seema Malhotra: There is one point that has not been answered. It was this point about us being a country of 60 million and having multiple agreements from which we can sustain the potential economic benefits. Currently, you could have agreements whereby you could have exports to multiple EU countries, and we may be a part of an arrangement with one exporter from another country. I am asking a practical point, from the analysis you have seen, about what we could sustain.



Sam Lowe: I agree with David, in that the UK is still a significant market so countries will still want to discuss with us. Whether they make the same concessions they made to the EU is another question. Part of the holdup with, say, the discussion with Korea is that Korea does not want to make the same concessions it made to the EU.

There is one other issue I would add into this. We should be aware that the replicated agreements might not be as beneficial to our exporters as they previously were, because of the rules of origin issue. To use Korea as an example, in order to qualify for the zero-tariff preference afforded under the EU-Korea agreement, you have to be able to demonstrate, if you are exporting a car, that 55% of the value added was created in the EU. Once we have left, 55% of the value added will have to have been created in the UK. That is a problem because, if you take the higher limits of value added when it comes to the automobile industry within the UK, it is about 41%. We do not meet that threshold.

Can we negotiate provisions that can help on this? Yes, DIT has successfully managed to do that when it comes to UK-Chile replication, in that we will continue to be allowed to account for EU content as being local for the purpose of meeting these thresholds, but not all countries will be as accommodating as Chile. Korea is the specific example, where the word on the street is that it said, "Okay, we will discuss that so long as you consider accounting for Chinese inputs as being local in Korea". To be blunt, the purpose of rules of origin is to keep out Chinese inputs, so that caused some consternation.

Q4102 **Hywel Williams:** Can I ask you about something that is really quite specific and matters a lot to my constituents? That is the protected geographical indicator scheme that the European Union has, along with a couple of other ones, the protected designation of origin and the traditional specialities scheme. Thinking post-Brexit, these apply in Wales to such things as Welsh beef and lamb, and really specific things such as salmon caught by coracle on the rivers Teifi, Taff and Towy. These are very important, rather than being not very important, for those particular producers. The EU has come to bilateral agreements with third countries. I would like you to tell us, if you can, broadly how these were negotiated, how long they took, how they operate and whether any attention has been given to these particular aspects in the negotiations so far with the European Union. Is it anywhere on the agenda? Lastly, do you know of any proposals for a similar scheme within the UK post-Brexit, so that we could have our own designated scheme?

David Henig: I have done some work on it. Geographical indications are one of the EU's absolute top priorities. Food and drink generally is at the core of a lot of free trade agreements because it is one of the most protected sectors of goods trade. The EU's geographical indication scheme has done wonders for EU exports, frankly. You can get premium pricing and have that recognised for certain products. Nobody can pretend to be scotch whisky or other products. The geographical



indications appear within the withdrawal agreement at the EU's request on intellectual property grounds. Essentially, that would mean the UK would maintain protections on EU indicators and vice versa, so Welsh lamb and the like would continue to be recognised.

Now, there is an issue with that, as the US trade agreement and the Trans-Pacific Partnership both have language to try to reduce the power of EU geographical indications, which means you would have to have a process by which they could be removed. There is some protection in the US. A specific product like Welsh lamb is probably okay because it is very unlikely that anybody in the US is going to try to pass off another product as Welsh lamb under their trademark rules.

If one looks at some of the politics around the people who would like to rewrite the withdrawal agreement, you will find that they take out geographical indications because they are aware that it is an internationally controversial issue between the US and the EU. In our replicated agreements, I think I am right in saying that we continue to recognise the geographical indications in the few that have been done. It is also worth saying that we have more geographical indications than are recognised in trade agreements. For example, within the Canada trade agreement, only around 150 EU-wide indications are recognised, even though there are several hundred more. It is generally thought that those are the most important ones. I would have to check which exactly have been included but these geographical indications in the UK include the Welsh produce you mentioned. They cover Scotland. They also include Melton Mowbray pork pies.

These are not always reflected in the trade agreements, because it is often the case that these are just not issues in other countries. Nobody is trying to pretend they are creating Melton Mowbray pork pies. I think I am right in saying that is not within the Canada agreement, but I would have to check. It is very definitely there and certainly should continue. In terms of economic grounds, what can you gain from a trade agreement? You can gain quite a lot in these areas. Maybe we should consider having more geographical indications.

Sam Lowe: I think I am right in saying that most people who advocate for no deal argue that we should still at some point in the future have a free trade agreement with the EU. It is just seen as a route towards a rupture followed by a later negotiation. Any free trade agreement with the EU includes geographical indicators. We can see this in recent history. The upgrade of the EU-Mexico agreement included GIs. EU-Japan managed to get over the line, partially because of the US absconding from the TPP, but also because Japan took on board GIs. There are lots of arguments against GIs but one thing that is certainly true is that the EU is winning this battle globally. It has managed to get GIs into both the country north of the US and the country south of the US. It has them surrounded. It is not going to agree an agreement with the UK that does



not include them, although David's point is pertinent, in that the number of GIs in the FTAs might be less than you would find within the EU.

Q4103 Hywel Williams: I agree with that exactly. There is no River Towy in the United States, for example. On the points I raised about how difficult and how long it takes to negotiate these sorts of things, it is part of CETA, and that took seven years or more. It is not going to happen tomorrow morning, is it?

David Henig: The EU is generally a little slower to negotiate trade agreements than other countries, but only a little. I was talking to a friend from Australia and he was saying that some Australian trade agreements have been very quick, but others have taken five to 10 years. You want to make sure that all the companies within your constituencies have their opportunity to benefit from trade agreements and get that information. Going through the process numerous times to remove whatever barriers they happen to have takes a lot of time. The length of time it takes is to enable you to get the greatest benefit; it is not because bureaucrats, as I used to be, like to take a long time.

Sam Lowe: Often, you are just waiting for the right political conditions, in that you can negotiate pretty much 95% of a trade agreement by boilerplate; it is the same. The final 5% is the controversial bit. This needs to be understood in the Brexit debate. Every decision comes with trade-offs. There are going to be people who benefit and people who lose. That is true of any trade agreement. Waiting for the right political moment in which you can get something over the line is important. There is a reason the EU-Japan agreement happened after Trump and after the US removed itself from TPP, because it created a moment when all of a sudden there was public buy-in to the idea that we are not Trump and we want to look outwards, and it managed to get over the line. It is often not necessarily the technical details that hold up a trade agreement, but it is often about when we can get the public on board with this. You have to wait for the right moment, and it is not always in your control.

Dr Artiran: It is also difficult, to a certain extent, because we do not have classical trade agreements any more; we have really comprehensive and deep trade agreements with all sorts of subjects going into them, including GIs. Therefore, yes, there is political willingness but at the same time, because the issues are so technical, sometimes it may take time. On your question, within the World Trade Organisation, TRIPS—the trade-related intellectual property rights agreement—has protection for GIs. Even if you do not have an agreement with the European Union, you know that under the World Trade Organisation you will have some protections for the geographical indications.

Q4104 Jeremy Lefroy: Mr Lowe, you referred earlier to the advantages in a customs union in respect of rules of origin. How would you quantify that compared with, say, advantages in lack of tariffs? Is it equal in benefit or twice the benefit?



Sam Lowe: To be precise on the question, lack of tariffs between who?

Jeremy Lefroy: Within a customs union.

Sam Lowe: What is more important?

Jeremy Lefroy: Yes, exactly. What is more important, rules of origin or lack of tariffs within a customs union?

Sam Lowe: It is difficult exactly to trade off because the lower tariffs outside a customs union only exist if you can qualify for them, so if you meet the rules of origin requirements. When people try to quantify the cost of rules of origin, it is usually put at 2% to 6% of the value of the product you are exporting in terms of the compliance cost, if you think of that as a tariff equivalent. It does really vary. For whisky, it is not that difficult to prove that the barley and water became whisky. There is really hardly any compliance cost there but, if it is a complex piece of machinery, it might be a bit more difficult. The cost is around 2% to 6%. That is the cost if you can qualify. If you can qualify because you meet the criteria, that is the additional cost and you have to trade that off against what the tariff would be. Is it worth essentially absorbing the cost of the tariff through your seller and doing it under WTO because the rules of origin cost is too great?

The second-order issue, or probably the first-order issue, is this: do you qualify? If your product does not qualify, you are going to get hit by the MFN tariff, regardless of whether there is a free trade agreement in place. I hope that answers your question.

Dr Lea: With these things, the figures are always contentious. I read something in Briefings for Brexit recently, and they were quoting a recent WTO study, which suggests abiding by rules of origin costs were perhaps 1% of trade whereas, when you are talking about an average tariff cost, you are talking about 4.5%. Then you get switches in currencies and they just drown them out. You get a 10% movement in your currency and it just drowns it out. The problem is that the figures are always contentious, but I get the impression that the rules of origin compliance costs are not formidable, to put that way, or not forbidding. If you are discussing the option between a free trade agreement where you have to abide by a rules of origin agreement and a customs union, it does not make, apparently, a great deal of difference.

Sam Lowe: We know it does, because of the preference utilisation rates of free trade agreements, which are not what they should be. You would hope for something near 100%. According to a recent EU study, it varies by country. Some countries are better at it than others, but you are talking around 60% to 70%, so some products are not taking advantage of these free trade agreements. When we talk about costs, we also have to differentiate between two things. The paperwork itself is not very expensive; it is £30 to £50 at a chambers of commerce. You get it stamped per shipment. In the scheme of things, you can live with it.



The actual cost is the audit cost of making sure you are compliant with the criteria that are set out in the trade agreement. If you are not, it is not going to get found out immediately, but at some point you might have an HMRC audit that comes through and says, "Actually, your product does not qualify for this". The person who gets hit with the cost of you not complying is not necessarily you; it is the person you are selling it to, because it is importers who pay tariffs. All of a sudden, in that other jurisdiction, they are going to get hit with this tariff bill. That does not do great things for your reputation as an exporter and a trusted seller.

You really want to be on top of it. There are paperwork costs and then there are internal business costs and the costs of just employing a person or people to keep on top of it, which is why, as I would acknowledge, there is a range of estimates as to how much it costs. It does vary product by product.

Q4105 Jeremy Lefroy: Could I move on to services, which are obviously extremely important for the UK, and in which we have a trade surplus with the EU of £28 billion? I wanted to ask generally whether there has been too much focus on goods trade in this debate but, more specifically, how far the EU has been willing to liberalise trade in services with third countries. This has come up in the House quite a lot over the last few years. Is there any reason to expect, based on the indications in the political declaration and other statements, that the EU would be willing to treat the UK more favourably than other third countries as far as services are concerned?

Sam Lowe: I wrote a paper on this in December. I think I spoke to this Committee about it, but maybe I did not. It was trying to answer this question. Is the EU willing to go further than it has before when it comes to free trade agreements? The starting point should be this. If we are not prepared to accept the freedom of movement of people and we are not prepared to remain within the regulatory architecture of the EU, there are limits to how far the EU will go. For the most part, in terms of its future relationship with the UK, services will be dealt with on the same basis as it treats most third countries. In the context of free trade agreements, it might make additional commitments on procurement and intellectual property. In terms of services and market access, the EU largely just reaffirms its GATS commitments; it does not go much further than its WTO obligations.

There are some areas where it could potentially go further, if we are in free trade agreement scenario or a customs union with a services annexe on it but not in the single market. The first area is potentially on mutual recognition of qualifications, although it is difficult because it is a shared competence with member states. When you look at what the EU has done on mutual recognition of qualifications in the past, say with Japan, it has created a dialogue whereby it encourages the bodies within each member state—some of which are not even part of Government, or they might be



at arm's reach—to enter into dialogue with the same bodies in Japan to come to a conclusion.

The other area is one where the EU is not necessarily going to go further. It is the same provisions that are allowed for all third countries, but the UK might be able to take advantage of them where it has not before. That is when it comes to equivalence in financial services. As the EU sees it, equivalence will not be part of the negotiation because it is a unilateral decision, but there are many areas where equivalence can be offered where it has not been in the past, where the UK could potentially qualify. In terms of impact on the services industry, when you look at it and compartmentalise it by sector, in terms of direct exports you see the biggest impact being in financial services. That can be offset somewhat by the equivalence regime but not entirely. Those services will continue to be provided via an establishment, a subsidiary within the EU, because the EU is very open to establishment and will be to the UK.

When it comes to business services, we will still see an impact. Because of how business-services firms already structure themselves, most of the big consultancies already have offices in the EU countries they want to serve, so it will be as direct, although you will have issues with the movement of people. The big question is this: if the UK is willing to be very open on movement of people, is there a possibility to go a bit further in some of these areas? Perhaps, yes, but we should not kid ourselves. This is one of the few areas where the Government has been very consistent when it talks about trade-offs.

In the Chequers proposals, the bits on services were ambitious but in the realms of reality, in that they acknowledge that not wanting freedom of movement means that there will be quantitative restrictions on our ability to provide services from the UK in future to the EU.

Dr Lea: We need to keep the single market in services in proportion. I remember that a whole series of balance of competences surveys were done by Government in 2013 or around then. They did a big report on the progress of the single market in services. They concluded that there was a long way to go and that the services directive of 2008 had not made a great deal of progress. Services were not terribly well integrated within the single market. One of the exceptions was financial services. It is a bit of a mixed blessing, but some financial organisations appreciate the idea of the passport, where you register with one regulatory authority in an EEA member and then you can provide services throughout the EEA.

The passport would go, but, as Sam has just said, talking about equivalence, there is a mention of equivalence within the political declaration. How far will that be negotiated? It is not quite the same as the passport, but at least you are talking about the equivalence of regulations that may actually do something to ameliorate the loss of the



passport. We need to keep it in perspective. The single market in services is not that well developed.

Sam Lowe: I would come back on that and say that the single market in services is the only example of comprehensive services liberalisation between multiple countries globally since GATS. It is the furthest anyone has gone. It does suggest that there are inherent difficulties to liberalising services. Even if you create the institutional architecture that sits above it, it is still difficult. To give a specific example, it is easier to get your qualifications recognised across the EU than it is within the US. In some specific areas, the EU has liberalised its specific services markets more than a single country.

Dr Lea: I am saying we just need to keep it in perspective. That was what the balance of competences was saying.

David Henig: I have been trying to come in, because I want to give some specific examples. It is all very nice and very general, but let us give some specific industries. In road haulage, we will have restrictions as a non-EU member in providing cabotage between EU countries. In travel services, you have travel reps currently working out in the EU who would not have the right to work there in the future. I hear quite a lot from IT suppliers or whatever that they require various people to work around the EU; in the future, they may not have that access with working visas.

In areas like quarrying, you have specific requirements in a lot of countries and restrictions on non-EU countries providing those services. The provision of public services is by and large outside of any trade agreement, and that is a big area for UK companies. Finally, in audio-visual, at the moment the UK is quite a hub for the provision of television services across the EU. Already a number of companies have moved. There is a bunch of examples of where you are affected in terms of services.

Jeremy Lefroy: Thank you. I have some further questions, but I realise you want to bring others in. I would like to come back at the end.

Chair: I am conscious of the time. Thank you very much.

Q4106 **Stephen Kinnock:** I had a question to follow up on what Pat McFadden was asking earlier about the free movement of lorries. This is the issue around trucks, particularly at the Turkey-Bulgaria border. It seems to be the case that a customs union or a form of customs union delivers free movement of goods to a large extent, but it does not deliver the free movement of trucks. It seems that the main issue there is around free movement of people and free movement of labour. You cannot have the free movement of trucks if you do not have the free movement of people; by definition, they are driven by people.

My understanding is that you have a certain number of transport permits there. The only countries the EU has open access road transport deals with are the European Economic Area countries. Can you say a bit more



about how this issue of road transport would work if the UK were to leave the European Economic Area?

Dr Artiran: At least from the experience of Turkey, you need to negotiate independently with the members of the European Union. For instance, take the case of Bulgaria or Romania. Turkish trucks have also had problems with Romania. These quotas or permits that you mentioned are the living examples of the problem. Basically, a Turkish lorry that starts its trip in Istanbul goes through Bulgaria and Austria, which had the same issue. You need to negotiate with the country how much quota or how many licences or permits a day they will provide to you. For the other countries in the EEA, yes, there is the potential, but you are not going directly to the EEA countries; you have to pass through the border. Therefore, as it stands, that is a bleeding problem. After the decision of the European Court of Justice, we are hoping that things may improve. This way, you can have some say over the independent member states because there is a court judgment, but as it stands I cannot offer you a perfect solution. To that extent, this policy will be in the hands of the independent member states.

Q4107 **Stephen Kinnock:** If the UK were to leave the European Union and have a standalone customs union and not an EEA-style relationship, we would then have to negotiate quotas with each one of the member states on whether or not our trucks can go through those countries.

Dr Artiran: Perhaps we should not generalise that much, because after all you are dealing with 27 countries. In Turkey's experience, we have problems only with two or three countries. It is not to say that every country will create the same problem. It will depend on to whom you are shipping your products and on what kinds of arrangements you have. I cannot speak for France or Belgium. It truly depends on their policy regarding road transportation.

Q4108 **Stephen Kinnock:** I have one final question on this issue of the difference between goods and services eliding. Back in September, Michel Barnier described the single market for goods and services as an ecosystem that has grown over decades. "You cannot play with it by picking pieces. There is another reason why I strongly oppose" the Chequers proposal. "There are services in every product. In your mobile phone, for example, it is 20% to 40% of the total value". This question is to anyone on the panel who would like to address it. Would you agree with Monsieur Barnier's comments there that a customs union without a single market is not really worth the paper it is written on?

Sam Lowe: No, I do not agree, because it still has benefits. All free trade agreements in essence split services and goods, insofar as they do not do very much on services and they do quite a lot on goods. Switzerland is in the single market for goods, effectively, and not the single market for services.



The general point about how services and goods are intertwining is absolutely right. If you think about UK goods exports, it has been estimated that about £50 billion of the value of our goods exports is actually made up of services inputs to them. That is quite significant. It is around the same as financial services exports, so it matters. What are the consequences for the EU of, say, a customs union when it comes to the services value added in goods? For example, there could be a Rolls-Royce contract whereby they lease the engine and it comes with a contract to monitor and maintain it. On the services issue, we could still provide the engine from the UK, but the legal contract would probably have to be signed in the EU, with the person who maintains and monitors it established in the EU.

In a sense, on the services side at least, it would benefit the EU insofar as that economic activity would have to be located there. Does it make it less beneficial for the UK to have a customs union without everything else? Of course, yes. We are talking about degrees of disalignment. How do you ensure there is no or very little negative economic impact? You stay as close to what we have now as possible. The further you go away from that—a customs union is on the FTA end of the spectrum; it is not on the single market end of the spectrum—the more damage you have.

David Henig: The general problem with trade agreements at the moment anyway is that they are falling a little bit behind the nature of the modern economy and the intertwining of services and goods. What do you do with data? If you talk to the car industry, for example, at the moment, yes, they are worried about trade, but they are also worried about who owns all the data in the car. There are so many questions that we are all still trying to get to grips with. There are conversations other than Brexit going on in some industries that are just about managing.

Dr Lea: If a mobile phone is made with stuff from services, it will be defined as a good. If you look in the Standard Industrial Classification, it will be defined as a good.

Q4109 **Mr Djanogly:** I have a follow-up to Stephen Crabb's questions around the political declaration. Clearly, the European Union has said that if there is going to be a change to the deal it has to be done through the political declaration. From the point of view of the EU, has it set any limitations on what it is prepared to discuss on the political declaration? Has it put in its own red lines? Has it delineated between what it wants to discuss now as part of the political declaration, and what it might agree with, but it says, "That is not for now; it is for later"?

David Henig: There is an element to which the EU has steered the political declaration in certain ways, and people have picked up the language of building on the customs arrangements, but the EU has been pretty open regarding the political declaration. It is a starting point. It is trying to steer it, roughly, into one of its existing models for the future, including the customs union. That will help steer the conversation. That is what I was going to say to the earlier question.



If we said, "It is a customs union that we want", we would be having the kind of conversation we have been having today in the negotiations. You would be talking about the details of the customs union. If the political declaration stays very vague and open to many different arrangements, you are going to start at a point much further back in the discussions: "What is this future relationship?" You are going to have a lot more scope. The EU has not specifically put in the political declaration any red lines that must exist.

Q4110 Mr Djanogly: You think it would want it to be vague.

David Henig: No, it will be quicker to negotiate if both sides have a shared understanding of where they are going. Without that shared understanding, the first thing you are going to have to do is to build that shared understanding. How long is that going to take? We do not know.

Are there EU red lines? There are many EU red lines that are not in the political declaration. As I say, many of them are to do with precedent. If the EU is going to move beyond the Turkey model in terms of the customs union or if we are going to make changes, if we want to be on the EEA track or if we want a free trade agreement, they will all start with where we are at the moment. There are some red lines in there that we can identify.

Q4111 Craig Mackinlay: I have a very brief question for you, David. I understand you were involved in with the TTIP negotiations, so you are a specialist. This links up with Dr Artira. I understand that there were demonstrations in Turkey when TTIP was being negotiated because, I assume, Turkey had no part in any of those negotiations and they were going to be done for you by the EU. In the UK, we had quite a vocal discussion, with 38 Degrees and all those great people sending us streams of emails saying that the NHS was under threat from TTIP; we all probably had those.

Would it be true to say that a TTIP of the future—an EU-US negotiated FTA that we are not part of—could include procurement in all aspects of public life that the EU might be comfortable with but would not suit the UK domestically? We would have no say in it at all. We would have demonstrations on the streets of London, as we had in Ankara and Istanbul, but they would be largely irrelevant. They would mean absolutely nothing, because we would have nothing to do with it whatsoever.

David Henig: This is on the assumption that we are in a customs union with the EU and the EU is negotiating with the US on our behalf. This comes back to the design point of the customs union. First and foremost, if we are in a customs union, we will have to make sure we have designed out that possibility so that cannot happen and the EU cannot negotiate that on our behalf.

As second point on TTIP—I am sorry you had all those emails; it is all my fault—if you had an EU-US negotiation as ambitious as TTIP again, I



would strongly recommend that the UK try to barge our way in and make it a three-way negotiation, because we were going to be one of the main beneficiaries of it. Having received all those emails, you may not be in favour of that. Essentially, this is a follow-up to the previous question. If we know it is going to be a customs union, we need to be thinking about all these possible issues and putting them up front, so we have ways to avoid being in a situation where the EU is negotiating something on our behalf that we do not like.

Q4112 Craig Mackinlay: If we had a customs union with the same—apologies to Turkey—impotence as Turkey, the scenario that I outlined could happen.

David Henig: Not in terms of procurement, as it happens; it would only be in terms of goods tariffs. At the moment, they could not negotiate access to Turkey's procurement market. In fact, the EU and Turkey are still negotiating on the EU's access to Turkey's procurement market bilaterally, so not in that specific example, as it happens.

Q4113 Jeremy Lefroy: I wanted to ask about the balance between free trade agreements and access to markets. Talking with the Secretary of State for International Trade last week, I was quite struck by the fact that he was using the expression "access to markets" much more than "free trade agreements" and giving examples of how the future may well be limited specific agreements in certain areas, whether it is data or certain aspects of financial services, rather than broad-ranging FTAs, which become highly political and involve an awful lot of offsets.

Generally, in world trade discussions, are we seeing a move towards those more specific, targeted areas that can be of benefit to both countries or both groups of countries, rather than an omnibus FTA that becomes almost impossible because of so many differing political and other interests?

David Henig: We are moving away from the era of FTAs. I am not sure we have quite hit the era of specific agreements, but I am glad to hear that is what the Secretary of State said, because that is a way forward.

Dr Artiran: In an FTA, according to article 24, similar to a customs union, you have to liberalise substantially all the trade. If the data flows or the financial services cover 90% of your trade with the other country or the EU, you may do so. If you are not covering substantially all the trade, the same rules apply. I do not see how you are going to just sign an agreement that is based on the lines of data flows or financial services.

Sam Lowe: Going beyond actual agreements, perhaps there will be more of this in the future. People get a bit miserable about things. We always say, "If we are in a customs union, we will not be able to have a trade policy". We still absolutely have to have a trade policy; we just have to work out how to make it work. If we were in a customs union, would this



be something that we would pursue, to try to do more narrow discussions on arrangements within the exclusive competence we have? Yes.

To give some examples of the sorts of things the Secretary of State might have been referring to, Vietnam has come pretty close to a trade agreement with the EU—it is not over the line—that involves tariff reductions. For a certain company, Vietnam agreed these tariff reductions and then, despite the fact it is not in force yet, instantly put in domestic taxes that had the equivalent effect. That is WTO-compliant; there is no WTO issue, but it is a problem for that industry, and it means, as the trade agreement has not come into force yet, they are having the dual whammy of the tariffs plus the additional taxes.

Is that something the UK could be prioritising as a bilateral discussion with that country to deal with? Yes, absolutely. Could we be doing it now? Sure, but, when you talk to some businesses now, one of the things they appreciate is the amount of effort that is now being put in by the UK Government in the realm of trade promotion and facilitating opening new markets. All of a sudden, the UK cares about trade. That does have a supplementary impact.

Jeremy Lefroy: You are saying that, in fact, that has far more benefit.

Sam Lowe: For that one company, yes.

Q4114 **Jeremy Lefroy:** If you look at the access that German car manufacturers have to China, they are a major exporter and builder within China without an FTA. All the trade promotion, which Germany does an awful lot of—most countries in the European Union have traditionally done better than we have; we are catching up—has a far greater impact than any FTA.

Sam Lowe: It is hard to say “greater”, but it certainly has a positive impact. Interestingly, I was recently looking at a model that you can use to work out effective barriers to trade between partners. If you look at the UK’s trade with the OECD versus Germany’s trade with the OECD, the tariff ad valorem barrier of Germany is about half that of the UK. Why is that? We have the exact same legal trade relationships with these countries as Germany does, yet businesses apparently, on the basis of this model, face fewer barriers. There is a lot in that space that we can do.

Q4115 **Jeremy Lefroy:** So we should concentrate more on the detail than these broad-ranging FTAs as a panacea.

Sam Lowe: FTAs are lovely political trophies, and on occasion they can be very useful. Let us be clear. The EU has signed more trade agreements with the rest of the world than any other bloc. It is way more than the US, way more than New Zealand, way more than Australia. It is largely due to the EU’s unruly neighbourhood and the legacy of colonialism, if we are being honest. The EU values free trade agreements and they do have substantial benefits, but there is a political cost. How



long does it take to get this over the line? I suppose it is what we are seeing with Brexit. Brexit is sucking out a lot of energy from other things that we could be doing, and that is also true of trade agreements, if you just focus on them.

Q4116 Chair: I have a final question. A one-word answer will do from each of you. You do not have to answer if you do not want to. If a deal is done and we leave, should the UK seek to be in a customs union—this is the reason we called this evidence session today—with the EU: yes, no or, I suppose, “depends”?

Dr Lea: We should leave the customs union.

Dr Artiran: You should certainly remain in the customs union.

Craig Mackinlay: We should remain in the customs union.

Dr Artiran: Yes.

Sam Lowe: It would make sense for the UK to be in a customs union.

David Henig: It would depend for me on the negotiation and whether we could get the right deal.

Chair: You have been really generous with your time. I said at the beginning that we had lots of ground to cover; we really did. It has been an incredibly useful and helpful session. Thank you for coming.