

Home Affairs Committee

Oral evidence: Home Office preparations for Brexit, HC 2612

Tuesday 8 October 2019

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Members present: Yvette Cooper (Chair); Janet Daby; Kate Green; Tim Loughton; Stuart C. McDonald; Toby Perkins; Douglas Ross.

Questions 130 - 254

Witnesses

I: Tony Smith CBE, Technical Panel, Alternative Arrangements Commission, and Shanker Singham, Chair, Technical Panel, Alternative Arrangements Commission.

II: Sam Lowe, Senior Research Fellow, Centre for European Reform, and Dr Anna Jerzewska, Trade Policy and Commerce Consultant, British Chambers of Commerce.

Examination of witnesses

Witnesses: Tony Smith CBE and Shanker Singham.

Q130 **Chair:** I welcome everybody to this session of the Home Affairs Select Committee as part of our ongoing inquiry into the Brexit arrangements and, in particular in this case, the border and security arrangements in the light of the Government's most recent proposals. I welcome our panel and ask you to introduce yourselves.

Shanker Singham: I am Shanker Singham. I chair the Technical Panel of the Alternative Arrangements Commission and I am a trade and competition regulatory lawyer and expert.

Tony Smith: My name is Tony Smith. I am a member of Shanker's Alternative Arrangements Commission. I am a former head of the UK Border Force, with 40 years' experience in border management and control and now I am an independent border management consultant.

Q131 **Chair:** To clarify, yours is an independent Alternative Arrangements Commission. This is not the same as the Government's Technical



Alternative Arrangements Advisory Group.

Shanker Singham: That is correct.

Q132 **Chair:** Could you start by explaining how your proposals and conclusions might be different from or the same as the latest proposals that we have heard from the Government?

Shanker Singham: Our proposals and the Government's proposals are similar, largely because if you look at this problem for long enough all the technical experts ultimately come to the same conclusion that you are trying to achieve three things: one is protection of the Good Friday agreement and the peace process; the second is ensuring the integrity of the European single market and customs union; and the third is UK independent trade and regulatory policy. Through those lenses, our approach has been to take those communities that have problems because of the emergence of a border as a result of this change off the table.

We start off with trusted trader programmes, and the Government's proposals are similar on those. We have looked at a lot of trusted trader programmes around the world. Some 85% by value of the trade across the border on the island of Ireland is carried out by very large companies. You are talking about Guinness, Diageo, Coca-Cola—those sorts of companies—and that lends itself to a trusted trader programme along the lines of some of the most advanced in the world. We have looked at the Canada CSA-Platinum programme, in which 100 of the top trusted companies across the Canada-US border do what looks more like a tax declaration than a customs intervention. It is more systems-based than transaction-based. We start with that.

Then we use transit for the general case of trade, and the Government's proposals refer to the use of transit. Transit is used commonly in Europe. There are 10 million transit declarations filed every year and 2.5 million or so of those are EU-Swiss transit declarations. It is heavily used on the EU's external borders, so transit is heavily used in Norway and Sweden. We have suggested transit as the general case, but there are other customs simplifications and declarations that we propose, such as things based on self-assessment and entry into declarants' records, and the Government's proposals follow those.

Where there is divergence between our proposals and the Government's proposals, we have suggested a common area for the two Irelands for the SPS area—SPS goods, agricultural, agri-food—and then a trigger point if the UK diverges that the Northern Ireland Assembly and Executive would make a decision as to whether they would follow the UK in its divergence or stay in the European Union SPS regime. The consent mechanism that we suggest is very similar to what the Government have suggested but their proposal is that, not only for SPS goods but for all industrial goods, there would be a regulatory zone on the island of Ireland. That goes a bit beyond what we have suggested, but partly our suggestion was to try to



HOUSE OF COMMONS

do the very minimum necessary in order to protect the integrity of the UK single market and the GB-Northern Ireland border.

We think their proposals are quite good in this respect because it creates quite an elegant solution where you have all the regulatory checks—the SPS checks, the checks related to health and safety, those sorts of things, which tend to be the most difficult and invasive ones to do—pushed into the ports and harbours of the Irish sea. I understand that the DUP supports that, provided the consent mechanism is in place.

What that means is that for the customs part of this you have customs declarations that are electronic and are to be differentiated from physical checks, but the physical checks relate only to fiscal issues. You are only concerned about paying a duty. If there is an FTA between the UK and the EU there would be no tariff. The only fiscal check you are concerned about is: have the rules of origin been satisfied? That means that the Government proposal essentially creates two sort of half borders of GB-NI and Northern Ireland-Ireland with double security. It builds up on our proposals, so we have supported that.

The only difference is that we have suggested two protocols in our approach. We have said protocol AB would allow the backstop to remain in place in the withdrawal agreement but provides obligations on the UK Government only. If the UK Government satisfy them, the backstop protocol is not triggered. We have suggested protocol C, which is obligations on both sides. Protocol C is more like what the Government seem to be going with, so that is the other difference.

Q133 **Chair:** Mr Smith, is there anything you want to add to that?

Tony Smith: The Government's recommendations are broadly in line with what we have said. There is more work to be done. My approach to this is more from an operational point of view than a policy point of view—the operational plan about how exactly the checks will be done and where they will be done. I don't think that has been articulated in any detail yet and I am not sure that it has been worked out, because it is quite difficult to establish an operational plan when you don't know precisely what the political framework is and what checks need to be done where.

Where I may be able to help the Committee is on borders, border management, global border management and the changes that are taking place now on what we mean by a border and a check. There has been quite a lot of confusion and different constructions around that. I have a couple of points. For me, a modern-day border is a series of transactions rather than a line of desks or kiosks that I used to sit in before we had computers. We receive data, and the Committee will no doubt have taken evidence about how that data is received, and data is the key to this.



We will be receiving a lot more data under these proposals because there will be declarations being made that are not currently being made. That enables us to perform a risk analysis on that data to identify which goods are required for a physical inspection as opposed to the vast majority of goods that are not, because we are able to risk assess them electronically and through our targeting systems determine what needs to be physically checked.

The second question is where the physical check would happen. It is much easier for us to conduct physical checks in seaports or airports where we have carriers who can help us with data and the logistics of port companies, port operators who work very closely with us to enable those mechanisms to take place, so where a physical check is required a particular vessel or vehicle can be moved to one side to enable flows to continue. Land border management is the most difficult of all. We understand a red line, that there cannot be a physical border or any form of physical infrastructure on the island of Ireland, and so our proposals talk about an alternative approach to physical checks that would not take place on the physical land borders but more in facilities and in country, based upon intelligence-led interventions.

Q134 Chair: How does that work in practice? Thinking about the enforcement side and whatever checks you need to do, let's suppose that there is some form of tariff differential, some customs incentive to smuggle or to avoid in the future, in those circumstances physically how do those checks take place if I am a small trader crossing a border and have not complied?

Shanker Singham: I will take a crack at that and then let Tony talk about the programmatic stuff. We do not think that smuggling is as great an issue as some have suggested because you are dealing with two islands and we do have a lot of information coming into ports and harbours. The area of smuggling, as you suggest, is going to come where there is an incentive and the incentive is going to come particularly in areas like agriculture and food.

Q135 Chair: We will come back to that. I am more interested in not whether there is; I am saying let's suppose there is an incentive. If you put aside the scale of it, I am interested in if you need to do checks, how do they take place, where do they take place and how does it work?

Shanker Singham: Our proposal in dealing with smuggling is basically to say that the UK and the EU will undertake to enforce each other's anti-circumvention laws. What we are talking about is circumventing a duty that has to be payable to the EU. Where you have a UK tariff that is significantly lower in agriculture or in an anti-dumping order and there is a big incentive, both sides agree to enforce each other's anti-circumvention laws. In the event that I am a Northern Ireland trader and I am violating the EU rules, I am also violating UK law. Also the Northern Ireland Executive has recommended draconian penalties for non-conforming goods. As with all smuggling, the way to deal with it is to look



HOUSE OF COMMONS

at the incentive bucket and the disincentive bucket and make sure the disincentive bucket is greater.

Q136 **Chair:** I am less interested in the smuggling. We can come back to that issue. Maybe your answer is that you would do no checks, in which case just say you would do no checks, but I want to understand if and when you need to do checks, how and where would they happen?

Shanker Singham: All checks are intelligence-led so that is probably where Tony can—

Tony Smith: The three main options are pre-entry, on entry and after entry. We know we cannot do any on-entry checks, physical checks on the island of Ireland, so the only options are pre-entry or after entry. On pre-entry checks I think the Government's proposals will be that significantly more checks will be done at the ports and harbours on routes within GB and across into Ireland where we will be able to do checks before goods enter the Republic of Ireland if we are talking about goods going that way. With in-country enforcement we need to look at how that operates in other areas. I would envisage a series of codes of practice with the consent of the communities where in-country checks might be done, where they might be done and how they might be done.

We spent a good deal of time in Ireland and spoke to a number of the communities there, and obviously there is a great deal of nervousness about enforcement checks in country. But if you compare that with perhaps a compliance check, for example for health or safety reasons or for revenue reasons or for other forms of compliance, there are codes of practice that exist that would enable inspections to be made, hopefully with the consent of the importer and the exporter, and there would be arrangements made where those checks could be announced or unannounced.

Clearly, if there is serious mischief—and we are talking now about crime and anti-crime—my proposal would be very much along the lines of the national intelligence model that is already in place with level 1, level 2 and level 3 activity. But that demands close collaboration between our agencies, not just the UK Border Force, the National Crime Agency and PSNI but also the Garda and the Irish customs. I would like to see a joint border operational plan that would set this out in more detail. The principle of consent is really important. If we are going to go into places to do physical checks, how would that work in a code of practice?

Q137 **Chair:** I am still not sure how any of this might work at all. Words like "code of practice" don't really help me understand what we are actually talking about. Are you talking about sending Border Force or customs officials into a factory and checking the vans that are arriving, for example? Are you talking about doing checks, the police stopping vehicles on the road from the border? I am trying to understand in practice what you are talking about.



Shanker Singham: Most of it would be after the event. You are looking at intelligence that you are gathering from the collaboration between the Irish customs authorities and UK HMRC. The regulatory zone is the island of Ireland and you have to make sure that your technical checks and your SPS-TBT sort of checks in the ports and harbours are very strong. The EU will want to make sure that the UK has robust checks. This proposal requires the EU to allow or delegate the responsibility for protecting the single market to those checks in the ports and harbours of the Irish sea. We are going to have to do a good job to prove to the EU that those checks work and that they are—

Q138 **Chair:** At the moment, I am struggling to understand what the checks are. I am not trying to be stupid about this. I am literally trying to understand what sorts of checks happen—give me an example.

Shanker Singham: There are various kinds of checks. You may be concerned about product that enters the single market, the Irish market, that is non-conforming in the sense that it violates SPS rules or the EU technical rules.

Chair: I am interested in the customs ones.

Shanker Singham: My point is that those are quite significant and because that has been pushed into the Irish sea it is a lot easier to administer. You are only really concerned about fiscal issues. On the fiscal side of things, assuming a free trade agreement between the UK and EU, the tariff issues are going to be only in those areas where there are significant differentials. You would use intelligence—and we will know. For example, if there is suddenly a vast increase in beef coming into Northern Ireland because the UK tariff has dropped relative to the EU common external tariff, you will see that increase in activity coming into the ports. Customs officials, through intelligence means, will look at where the risk is and they will say, “There is a lot coming into this particular area. Let’s look at who is sending beef into the Republic of Ireland and make sure that this is the real trade”.

Q139 **Chair:** Let’s suppose they think beef is a problem; what will they do and where will they do the checks?

Shanker Singham: In the facilities. There would be all sorts of checks in facilities for fiscal reasons, not just to deal with an issue of anti-circumvention, or you are avoiding the duty.

Q140 **Chair:** Let’s suppose you have lots of small traders who go and buy beef in Belfast and drive it down to Dublin, or vice versa, depending on where the checks are. Where will the checks take place for those people who are stuffing a van full of beef and driving it to and fro?

Shanker Singham: We suggest those checks take place where those traders actually are. If you are picking up an increase in beef arriving at the ports in the Irish sea, you would know something is happening, you would know some issue is occurring. You would then go to those small



HOUSE OF COMMONS

traders' facilities to check, as you would for any fiscal concern such as they are not paying their VAT, they are not satisfying rules of origin, any of those sorts of things.

Q141 **Chair:** If I just rock up at a wholesaler and buy a whole load of beef and I take a van, go to some shops on the other side of the border and sell the beef, where are you checking me?

Tony Smith: You would have to complete a declaration that that is what you were doing in order to comply with the regulations. The first thing is: are you completing a declaration or not?

Q142 **Chair:** Suppose I had not completed a declaration.

Tony Smith: Suppose you had not completed a declaration, you are not complying with the regulation and so we would—

Q143 **Chair:** Indeed, and that is what I am trying to find out. I accept that you are not going to catch everybody in any regime, but I just want to know even where the potential is for identifying and checking those people who are not complying with the regulations.

Tony Smith: I get you. I think the challenge is that the data that we don't have now is going to take some time to accrue. We have recommended a range of trusted and registered trader programmes that exist, authorised economic operators. Shanker can tell you the percentages. Percentage-wise, the trade that is moving across that border is by a very small number of very high volume traders. We are recommending they would register in a platinum-plus, so you can avoid having a physical check because we trust you to such an extent that we will have annual inspections.

For the smaller ones, though, you are right in that we don't have the data because at the moment they are not filling in declarations. It would take some time for that data to accrue and we would want to develop intelligence so that we get to a point where we would know whether you were compliant or not compliant. If you were not compliant, that is when we would see the need to do a physical check at the point of loading or unloading or in the facility itself.

Q144 **Chair:** If you know where they are loading or unloading.

Tony Smith: Yes.

Q145 **Chair:** But if they have not filled in a form so you don't even know where they are loading or unloading—

Tony Smith: That is why the data is so important to us.

Q146 **Chair:** Is it accurate to say that you have designed a system that does not allow you to check potentially large numbers, depending on the incentive, of small traders who choose not to fill in all of the forms but choose to buy one side of the border and sell the other side of the border? You don't have any system to be able to identify them or to



check them.

Shanker Singham: No, we do have a system. There are various levels of this. In our proposals we have also suggested that you rely on existing WTO exemptions, such as the frontier traffic exemption, around the border. For a lot of the small traders that you are talking about, the people who are literally going a few miles across the border back and forth, that is captured within the frontier traffic exemption so we are not concerned about that group. That is accurate to say. There is already a fairly high degree of VAT and excise tax modelling that occurs across the border in Ireland. By the way, a lot of smuggling occurs across the EU's external borders and the EU's internal borders. It is not possible to create a system where there is absolutely no risk of any smuggling at all, because there is smuggling on the border there now.

What we are talking about is a very small group of small traders who are trading outside of that frontier traffic exemption zone, who are trading a product from Northern Ireland into Ireland outside of that zone. As Tony said, 85% by value of the products that go back and forth across the border are carried by large companies that are going to be subject to some sort of trusted trader mechanism. They will have to prove their supply chains and so on. You are also talking about a group of people who, under our proposals, are committing a criminal offence by doing this, with draconian penalties.

Chair: Indeed. That is why I am interested in where or how there is any potential enforcement of criminal offences. We are the Home Affairs Select Committee and enforcement of criminal offences is something we take seriously.

Q147 **Toby Perkins:** You said in your report that alternative arrangements could be up and running in three years. Is that roughly how long you think it would take to set up a system along the lines that the Government propose?

Shanker Singham: We said two to three years, and not everything will take two to three years. We think some things will take less time than that. For example, we think our proposal on trusted trader can be done, provided there is co-operation from the EU, in 10 to 12 months. The mutual recognition agreements for trusted trader programmes typically take three to six months. That could be done more quickly and that is the bulk of the trade that you are trying to solve through this issue. Different things will take different lengths of time.

It is important to point out that the time it takes is largely the negotiating time with the EU rather than the technical time it takes for the UK to get these up and running. Of course, we already have existing AEO—authorised economic operator—programmes that are well understood across the continent and in the UK that we would seek to use. Some of the time would also be getting people registered on these sorts of



programmes, understanding their supply chains. We think there are differential periods of time.

Q148 **Toby Perkins:** You mentioned negotiation time. What are the key areas in the Government proposals that will require exemptions or exceptions to be applied by the EU to their existing rules?

Shanker Singham: Our proposals basically follow the line of the Union Customs Code. The only exemptions that we are asking for, particularly if there is a common SPS area on the island of Ireland, would really be in transit. There is a requirement under the Convention on Common Transit that you have a barcode reader in an office of transit on the border. Obviously we cannot have an office of transit on the border in this case so you would have to have an alternative to the barcode. We don't think that is a very major derogation for the EU because it has already offered that to the French for their no-deal planning.

We suggest that geofencing and other GPS technologies can be used because the barcode is not really used anymore by offices of transit as long as there are alternative mechanisms. But that would have to be negotiated with the EU. The EU would have to agree that that would work in this particular—

Q149 **Toby Perkins:** It requires good will on both sides.

Shanker Singham: It does. All of our proposals require good will on both sides.

Q150 **Toby Perkins:** I accept what you are saying about the French example, but I believe the EU has previously rejected offering a derogation on that because of its concerns that it would lead to threats to the single market and create perverse incentives for companies to stay below the threshold where the controls would apply. Do you believe that we can change their minds?

Shanker Singham: As far as I understand it, the UK Government asked for an exemption for small traders from the EU of up to about £1.5 million, which is a significant exemption, and I understand that the EU's response was that that is too much. The EU is very concerned about any holes in the single market and the customs union. What we have suggested is a much smaller exemption, which is the VAT threshold of £85,000. We think that makes sense because people above that threshold are already filing for VAT registration. They are filing documents anyway for trade because there is a VAT border on the island of Ireland now. We think it is legitimate and realistic to ask for that. If you are trading below £85,000 we don't think that is a threat to the single market and the customs union. That is the EU's approach on that sort of exemption.

On the barcode, I don't think that the UK Government presented their desire for a change to the barcode for transit in the context of a set of proposals. I think that they have to do that now and it has to be a



political ask. It sounds like a very technical thing but it is hugely important. The request for barcode exemption was made generally across the whole EU and UK, including Dover-Calais and other UK ports, whereas you don't need a barcode exemption except on the island of Ireland. It should have been a more political ask because this is vital to ensuring there is no infrastructure.

Q151 Toby Perkins: It seems that there would be a significant difference. If you were a business in the UK that had offices on the mainland and in Northern Ireland, we are increasingly moving towards significant differences to the way that your different businesses would operate. Initially there was a lot of talk about the integrity of the UK single market and nothing changing but these proposals really do move us away from that idea completely, don't they?

Shanker Singham: The major differences are technical and regulatory. What has happened, because of the UK proposal being a regulatory zone for industrial goods, agricultural and SPS goods on the island of Ireland, is that the differences between Northern Ireland and the Republic of Ireland on those kinds of issues is not going to be that. They are going to be a single integrated unit. When we suggested our proposals we were building from what already exists on the island of Ireland, like the common livestock area, animal feed, things that relate truly to the all-Ireland economy where it does exist, which is in agriculture, food, feed and that sort of thing. The only differences under this proposal and the Government's proposals between Northern Ireland and Ireland would be in the area of tariff liberalisation schedules that may differ between the two.

Q152 Toby Perkins: On the integrity of the UK single market, would you notice a difference in what you were filling out in your Chesterfield branch and your Belfast branch?

Shanker Singham: You would notice a difference between GB and NI on technical effects, on the regulatory system that you are following if we diverge. We are not going to diverge immediately. Right now and on the day of Brexit, the UK and the EU will have identical SPS on the regulatory regime. It is only when the UK diverges that you would notice a difference between GB and NI.

Q153 Toby Perkins: You will be aware that the Northern Ireland business community was outspoken in its concerns about this. What estimate have you made of the costs and burdens to business? To what extent are the concerns of organisations like the Northern Ireland Chamber legitimate concerns? Can we hear from Mr Smith, who we have not heard from in response to my questions yet?

Tony Smith: What we tried to do in our investigation—which began in April or May, so we have been going for only a short period of time, not for as long as others have—was to engage as much as we could with the partners in Ireland. We went a number of times to speak to small



HOUSE OF COMMONS

businesses and what we identified as the two most difficult areas were the SPS checks, because they generally have to be physical and at or near a border point. I think that has largely been allayed by the latest offer of an SPS common zone.

The next one was your one: the small traders who have significant concerns, as you say, because they are operating at quite fine profit margins. There is an additional administrative burden upon them and we cannot get away from that, I am afraid, because there will be new regulations imposed as a result of this. As a result, we feel they need help, they will need help and I think they need financial help, a significant investment. That needs to come from the UK Government because we are the ones that are leaving.

They were quite comfortable in the backstop because that meant there was not going to be any real change. Their preferred solution was either to stay in the customs union or keep the backstop. Now that has become a shift here in the political reality that neither of those two options is acceptable to Parliament, alternative arrangements are probably better than no deal for them. I do sympathise with them and think they need help and we need to do a lot more work with the small traders in Northern Ireland to help them through this.

Q154 Toby Perkins: I appreciate your sympathy, but when you say we need to offer more help, you are rightly saying that the Parliament has turned down the customs union; some would like to see us explore that again but I accept that it is right to say that. They are asking for something we cannot offer; the UK Government can help them. In realistic terms, what can the UK Government do in what is a fairly short period of time now?

Shanker Singham: We suggested a transitional adjustment fund of £100 million that would be stood up for the small traders, not only from Northern Ireland but small traders in Ireland, because there are obviously two sides to this. You have importers and exporters.

Q155 Toby Perkins: What would be the purpose of this money?

Shanker Singham: They can use it to hire new people to help administer other procedures. You have a lot of people who are filing VAT registrations anyway. There are a lot of checks that already occur in Northern Ireland. Frank Dunsmuir, one of our Technical Panel colleagues, and I visited a sheep farm in Armagh. We saw the checks that are done currently. There are APHIS registrations and veterinary checks. We saw a vet checking. It takes about seven hours a week for the farmer in the current situation. We think if you add a customs declaration on top of that and you automate the whole lot you can take that seven hours down to one and a half hours. There are some savings that we can give to the small traders if we are smart about this.

But to give the Committee a sense of scale, in a global company like Tate & Lyle the cost of customs compliance is about one and a half people in



HOUSE OF COMMONS

its customs department or general trade department and about 0.04% of the value of the goods. We are not talking about enormous cost, and most of the extra cost would be in the regulatory checks, the SPS checks, and that is what most of the Northern Ireland businesses were really concerned about. If you push those out to the ports and harbours of the Irish sea, the smaller traders in Northern Ireland have to worry only about electronic filing of customs declarations and potentially have—

Q156 Toby Perkins: Do you see an irony here? For a lot of time we have been talking about bureaucracy and the regulatory burdens imposed by the EU and now we have the Government being advised to put millions and millions of pounds to one side in order to support businesses to deal with the new regulatory burdens that leaving the European Union have caused.

Shanker Singham: Our work was to take the starting point as the UK is leaving the EU: how do we ensure all of the constraints—which are no physical infrastructure on the border, no checks and controls on the border, protection of the Good Friday agreement, UK independent trade policy and so on—in a package of proposals? We think we have done that. We think our proposals are workable and we have not had serious criticisms of the workability of the proposals.

Q157 Toby Perkins: Well, you say that, but the Northern Ireland business community is making very serious criticisms of where the Government are and the impact that is going to have. Many of them are talking in pretty cataclysmic terms about what impact all of this is going to have on their businesses. You say you have not had serious criticism. You might not have heard it but I have certainly heard it.

Shanker Singham: The criticisms fall into several categories, some of which are solvable and one of which is not solvable. We think the categories that are solvable are the increased cost for small traders. There are ways of lowering that cost. For example, large traders in trusted trader programmes generally save money. The AEO programme in Brazil is estimated to save \$17.5 billion by 2030 for traders because it is quicker and smoother and makes things much easier for them. It is not always cost going up; sometimes it is cost going down. We think we can do that for smaller farmers, for example, in the way that I have suggested. We talked a little bit about smuggling and we think there are solutions there.

The level playing field obligations that have come out of the Government's proposal we think are solvable by putting labour, environmental competition and state aid provisions into the trade agreement. You would normally have those provisions in any trade agreement and you would expect to see those in any UK-EU arrangement.

The one thing that is not solvable is if the view from the EU and the Irish side is that nothing can change, that the status quo has to be



maintained, that there cannot be any customs processes of any kind, even just electronic filings like the VAT filing, in Northern Ireland at all, there is no way of achieving that unless Northern Ireland stays in the European single market and customs union, leaves the UK customs union, which I don't think is viable here. Unless people come off that view, it is very hard to see how any deal could work. The EU has also suggested in the last year moving some checks into Northern Ireland, so I don't think that is a hard and fast position.

Tony Smith: Can I make the point that alternative arrangements were not our idea? The alternative arrangements were already in the withdrawal agreement and when I came into this nobody could really tell us what they were going to be. We recall Mr Tusk's request: "You have got six months' extension; don't waste this time". That is why we came together as a group. We came in under a principle of alternative arrangements that had already been established.

What we have tried to do and given our best and honest advice about throughout this process and consulted wherever we can is what do we actually mean by alternative arrangements? Are they deliverable? We have put a huge amount of work and effort into this and spoken to a lot of people here and in Europe about it. Most of our panel are not people like me from the UK, but like Lars Karlsson, who is a former head of Swedish customs, and Hans Maessen, who is a Dutch customs adviser. A lot of the ideas that are in our report did not come from the UK Government. They came from a bunch of experts who came together behind something that was already in the withdrawal agreement: alternative arrangements to the backstop.

As Shanker said, the alternative arrangement protocols we have drafted are designed to sit alongside the backstop. In the event of a no deal, if we do we end up with a no deal, some of these things are going to have to be done anyway. We are just trying to provide you with some help and some expert advice on how you can work through what is an extraordinarily complex area.

Q158 **Tim Loughton:** Gentlemen, what is your definition of a hard border?

Shanker Singham: I am not sure that is a very helpful concept because, as Tony said earlier, the way that borders are administered has changed. Borders are a series of transactions now. They are not a line in the sand in the way that they were in the past. You have some transactions, customs declarations that are electronically filed that have to accompany every good, every transaction, so there is a 100% check there.

Then there are the fiscal checks that you would have to do. Typically 1% of goods being moved will be subject to fiscal checks, which means that you go in on an intelligence-led basis and you look at where the product has been produced to ensure that somebody is not violating their rule of origin commitments or the duties they ought to pay, that sort of thing. That is further back. Then you have the regulatory checks, which are now



HOUSE OF COMMONS

in the ports and harbours of the Irish sea, which are even further back away from the border.

We think it is just a series of things. If your view is that any sort of customs process at all is a hard customs border, there will have to be a hard border between GB-NI or between Northern Ireland and Ireland or between Ireland and the EU 26, but we don't think that is the way to look at this problem. The way to look at this problem is how do you minimise the level of impediments all along the supply chain.

Tony Smith: This is my bailiwick really. I have spent a lot of time working in borders and seeing a lot of things in Government and outside of it. When we talk about hard borders, I was involved in the 9/11 aftermath in Canada and the US. That was very hard. We had to come to a strategy here. I spend a lot of time at conferences, at international events. We were out in Istanbul looking at the Turkish border. We were down in India looking at Myanmar-Bangladesh, where you have border guards who are literally delivering babies and removing landmines. My concepts of borders are a greater bandwidth than the one we are talking about here when we talk about hardness.

We have things going for us here. The first one is the common travel area, and I wrote quite a lot of the chapter on the common travel area. It is rarely spoken about here at all because everybody accepts that there is not a problem with people moving around Ireland.

Q159 **Tim Loughton:** You have pre-empted some of the other questions I was going to ask. Effectively, what you are saying—and what your proposals are—is, in all cases, virtual borders rather than physical borders. Part of the problem is misconstruing the difference between a check and a checkpoint.

Tony Smith: That is the point. There is a huge paradigm shift going on now with national targeting centres data that is being submitted. Yes, you are right.

Q160 **Tim Loughton:** The closest thing that might be construed as a hard border by those people who want to provide obstacles is probably physical checks on livestock, which happen now.

Tony Smith: It is 100%, yes.

Q161 **Tim Loughton:** We already have a hard border in that respect with livestock checks.

Shanker Singham: If you want to call that a hard border, that is a hard border between GB-NI.

Q162 **Tim Loughton:** Can you describe what is the difference in procedure for a shipping consignment of containers from, say, Singapore that arrives with obviously non-EU goods in Dublin or in Belfast and the degree of checks that would be subject to now?



Tony Smith: I think you have heard evidence that we receive about 50 million customs declarations a year at UK Border Force. I think you have also heard evidence that that is going to increase significantly because currently you do not need to have customs declarations for goods coming in from within the EU. That is data that is submitted to our Government electronically.

We have designed a new system—and I think you have had evidence about that as well—about the customs declaration system and how that will cope with the additional volume. When we are talking about large-scale movements of freight, those are examined and risk assessed on a targeted basis where the data is examined in our targeting centres and that will inform whether or not we want to make a physical stop. Since we have been developing intelligence-led systems, because we have not always had that capability in my experience, we have found that our interventions are much more productive. We are able to use virtual data to inform which particular containers or vessels we want to stop and move into one area. The others are allowed to proceed on a release mechanism through the border. We could not possibly stop and check every container.

Q163 **Tim Loughton:** Is the current situation for a shipping container arriving in Dublin or Belfast from Singapore substantially different, other than what is computerised and clearance by computer, from a shipping consignment that has come to Dublin or Belfast from, say, Bilbao? What is the difference in time for physical processing, or is it a question of additional data that has to be preloaded into the system to get approvals and make declarations that will be subject to a risk assessment of what physical interventions might then be necessary? Is there a big difference now?

Shanker Singham: That is right. That is how the process works. You are talking about probably 1% physical checks on containers coming from non-EU markets in Ireland at the moment. It is important to point out that in the mechanism that we are proposing, or the Government are proposing, because those regulatory checks now will be in the ports and harbours of the Irish sea not across the land border, any checking is only for fiscal. That is also going to lower the percentage, the intensity of the requirement for physical checks. If you also have trusted trader programmes—so you are taking out 85% by value of the trade across the border—that lowers that even more. It would look more like an in-market check.

To your earlier point on the difference between customs checks and checkpoints, the issue is the difference between customs declarations and electronic notifications and those sorts of formalities versus somebody coming into your office or your facility and doing an “audit”. That is going to be very sparing and intelligence-led.

Q164 **Tim Loughton:** The confusion here is a perception that a whole load of shipping containers loaded on at Bilbao and landed at Dublin are just



waved on, but in practice they are subject to declarations having to be made, not least for non-compliance risk assessment checks that the people controlling this may deem to be necessary for physical checks. That happens now within the EU single market customs area in just the same way as it happens for non-EU freight coming to this country. It is just that we require more detail in advance, nowhere near the border, done virtually by computer and all the technology that is available.

Shanker Singham: You require more detail, yes.

Q165 **Tim Loughton:** What does the EU have to lose by not going along with your proposals?

Shanker Singham: I think the EU's concern about these proposals, as I described the criticisms coming from the EU as well, is in the areas of costs, smuggling, status quo, level playing field.

Q166 **Tim Loughton:** Criminal activity happens now, it will always happen and is a very small percentage of what goes on. The concept that more smuggling and criminal activity might happen, because there might be more "monitoring" of a border than no monitoring now, seems to me absurd.

Shanker Singham: We will have more data so the ability to enforce and to monitor will be greater under the mechanisms that have been proposed than they are now. Right now there is no way of really monitoring and no way of really knowing who the small traders are who are moving across the border.

To answer your question, I think the only concern the EU would have is the quality of the checks. Do they trust the checks that the UK will be imposing at the ports and harbours of the Irish sea? I do not see any other reason to object to these proposals, but if they are truly saying that there cannot be a customs border on the island of Ireland, it is very difficult to see how you solve this problem. But we don't think a customs border means what people often think it means, which is checks, checkpoints and all of those things.

Q167 **Tim Loughton:** Mr Smith, as somebody who was responsible for border checking, effectively, do you think the quality of the checks that we are offering and that you suggest within your proposals are sufficient to satisfy what the EU should be happy with?

Tony Smith: I can't really speak for what happens in other European borders. I can speak with some authority about what happens here. We do have a very good border and excellent targeting capability. I say that with some authority because when I was working in the Government I got lots of requests from people to come and look at our system in Liverpool, to look at our academy in Dover where we do very thorough checks, look at our targeting centres to see how it can be done. I think we are really quite good at this.



HOUSE OF COMMONS

What is changing is the volume. We will get a huge amount of additional data. Do we have the capability to field that data? Hopefully the CDS system enables that. Do we have really good targeting and intelligence capabilities to use that to turn it into intelligence assessments for interventions? I think we do.

The gap is that some of the data that is in those supply chains could usefully be changed with Government data systems, because there are rogue elements that we can identify in the supply chains that, probably even unknowing to the traders and the importers and exporters, are rogues, but they are not getting that because we are not integrated on some of that. I am very keen that we use this additional data to best benefit to enable us to operate an intelligence-led border, which is broadly what we do now, as you say.

Q168 **Chair:** When is the data going to be in place?

Tony Smith: That is a really good question and I think that depends to a great extent upon how quickly the supply chains are able to provide it. I don't work for the Government but I have seen a range of materials coming out from the Government about how companies can register and start to supply that data to us. How long it will take for all of the companies that are importing and exporting between the UK and the EU really depends upon the capability we have to integrate that into our—

Q169 **Chair:** Ballpark: three months, six months, 12 months, two years, five years?

Tony Smith: I am afraid I would not want to hazard a guess and mislead the Committee, because I really do not know the answer to that.

Q170 **Chair:** Three months?

Tony Smith: I am sorry, but I could not say. There are different categories of import/export. We can pretty well bank those who already import/export outside of the EU as well as in it. As you know, there is a huge publicity campaign going on now to say, "These are the things you need to do. Get the EORI number, get them on our register".

Q171 **Chair:** I don't want to hold up other questions. You have already said that there would not be the data on the areas that I was talking about earlier of small traders or potentially people who are not registering at all. In addition to that, for the people who are up for registering, will we have that data by December 2020?

Tony Smith: I would hope so, but I would not want to say with authority that we will be able to get that data from all of the traders, and I think we need to segment the marketplace. The question about some of the small traders in Northern Ireland is a particularly relevant one. I think they need help to enable them to provide it to us.

Q172 **Kate Green:** If there is no deal and, therefore, there is not a common customs area across the island of Ireland, my understanding from the



HOUSE OF COMMONS

evidence we received from the Deputy Chief Constable of the Police Service of Northern Ireland recently was that there was a highly foreseeable likelihood of an increase in cross-border crime and smuggling. Why do you think in the event of no deal that we should not be too worried about the risk of smuggling?

Shanker Singham: I am not saying that. Our proposals are designed for a deal. We are not trying to answer the question of what happens in a no-deal scenario.

Q173 **Kate Green:** Do you agree with the Deputy Chief Constable that in the event of no deal there is an increased risk of cross-border crime and smuggling, potentially a significant risk? I think we were told by the Permanent Secretary of the Department of Justice that it was impossible to quantify the risk.

Shanker Singham: A lot of it depends on what we do and what the EU does in the event of no deal. As I say, our proposals and our work are not for a no-deal scenario, it is for a deal scenario. The UK Government have said that they will not put up physical infrastructure, and the no-deal planning essentially allows, on a temporary basis, product to come from the EU into the UK without many checks at all. It depends what the EU does. If the EU puts up a hard border there, there will be problems. The Irish Government have said, "We don't want to put up infrastructure on the Irish border", so then there will have to be a border between Ireland and the EU 26. There is no other way of doing it.

The EU cannot have a completely open channel in the event of no deal to the single market and the customs union. They will have to have some checks. They will have to have their checks to protect the integrity of the single market and the customs union somewhere on the island of Ireland, either on the border or between Ireland and the EU 26. There is no other way of doing it. That is why we are very anxious to ensure there is a deal and why our proposals are designed to make sure we get a deal and a transition period and all of these things can be ruled out.

Q174 **Kate Green:** You have talked about carrying out checks not necessarily at the land border but potentially on the factory floor. Yet our understanding from evidence that we have had, for example from Dr Katy Hayward, is that any check that is done away from the physical border where the goods actually cross creates a risk of those goods being swapped, exchanged, different goods being shipped over the border. How do you enforce between the assessment that is being made on the factory floor and what actually travels over the border?

Tony Smith: I think Katy makes a good point. From an enforcement point of view, you really want to have the opportunity to intervene at any point in the consignment, from the point of loading to the point of crossing to the point of unloading. But the fact is that in this scenario we are not going to be able to have any physical check or infrastructure at the point of crossing. The challenge for us is: how do we know that the



goods that are being loaded are what it says they are on the declaration? How do we trust—and that is a big word—that those goods are genuine and comply with the declaration that is being submitted? I think that would involve a big investment in AEO frameworks and trusted frameworks, wherever we can do that, but that would involve inspections on the factory floor and the premises to make sure that the necessary checks are being done at the point of loading and, similarly, at the point of arrival.

On goods falling off the back of the lorry—Hans Maessen, who is my colleague, is more of an expert on transit than I am—and the barcode derogation, there are technologies that are not in place in the companies concerned but they certainly exist, because I have seen them demonstrated. They would enable you to seal vehicles at the point of loading and also to seal individual items within those vehicles and then you would be able to track through GPS the point at which that vehicle has crossed. You would know when it had crossed, you would know that it was secure at point of loading, and at any point where it is opened, the seal would be broken and you would know. That technology is available but it is not in place and I am quite keen that Government do embrace this technology because it is a potential solution to what otherwise is an intractable problem.

Q175 **Kate Green:** How quickly could that technology be put in place should the Government decide they wanted to use it?

Tony Smith: I think it comes back to the same question that the Chair asked me about how long would the data take to be in place. That involves investment and engagement with the industry and I am really keen that we get on with that. It is being tested now with some of the supply chains. There are tests in place with some of the big companies.

Q176 **Kate Green:** Is that being tested with companies that have cross-border trade on the island of Ireland?

Tony Smith: No, on the French border with Kent where there are trials going on now to test that we can actually track the driver and the goods. The Border Force would see it moving, a bit like an Uber, and you would be able to know at what point that was stopped and when it was opened. It is not being tested in Ireland yet and it will take some time for that to be in place, and that is why if we had a deal we would be able to build that into the transitional period.

Q177 **Kate Green:** If you were using that kind of technology, but even if you weren't, if other sources of intelligence were indicating that a particular consignment was causing a problem and should be subject to an intervening check—which would need to take place, presumably, quite soon after it had crossed the border because that would be the moment when you would know that there had been criminal activity, your intelligence would tell you that—would that mean that there is a likelihood of increased intelligence-led checks around the border?



HOUSE OF COMMONS

Tony Smith: I can entirely empathise with the witness from PSNI and how it would manage the increased threat. If I were still in law enforcement I would be concerned about my capability to work with my partners across the other side of the border and to develop a joint border action plan. That would involve Irish customs, the Garda, PSNI and the UK Border Force, which would do some scenario planning and testing about how we would respond together, collectively, on an intelligence-led intervention, where the best place to do that intervention would be and which of the agencies would be best equipped to do it.

When I was in Government I chaired a group of cross-EU customs agents. We post UK border officers to other EU countries, customs agents, and they have people with us. We share information and intelligence. When we know there is mischief, we can decide at what point, even at which country we want to stop a vessel. It may be tactically better to allow it to proceed and keep it under surveillance to a point where we might want to identify more offenders or it may be at the earliest point in the journey. That does need to be in a border action plan and it really demands close bilateral collaboration between the UK and Irish authorities.

Q178 **Kate Green:** To your knowledge, are discussions about that already under way?

Tony Smith: I do not know; I would not like to mislead the Committee in any way. I would be concerned if they are not happening. From the people we have spoken to, it does feel like the conversations that need to happen at operational level—or even Anglo-Irish conversations—about these things are not taking place with the intensity that I would like, because of course we are dealing with an agreement between the EU and the UK. While the higher level negotiations are ongoing, it is much harder to develop an operational plan if you do not know what the operational policy is going to be. That has led to a scenario where we do not have the agencies themselves being given the opportunity to work through some of the scenarios that I would like to see developed.

Q179 **Kate Green:** Given we have been told that there are perhaps around 90 organised crime gangs operating on the island of Ireland and around half of those might be in a position to take advantage of smuggling and the finances that could raise for dissident activity, that is really concerning, isn't it?

Tony Smith: Yes, it is concerning.

Shanker Singham: Can I add a couple of things? One is that a lot of the criminal activity and smuggling that occurs now is VAT and excise fraud, which, because there is a VAT and excise border now, is occurring now and will continue to occur.

Q180 **Kate Green:** Is there a joint operational plan in relation to that?



Shanker Singham: That I do not know. You would know better than I about that. I do echo Tony's comment about the importance of the Irish Revenue Commission and HMRC and even the French customs agency collaborating now. Our understanding is that that collaboration is not occurring because there is, on the Irish side, a reluctance to engage because it is the EU that is leading the negotiation on the withdrawal agreement, which I think is a problem.

The only other thing I would add on the risk assessment side of things is that in all borders no one is aspiring to a situation where you know the identity of every single product that is crossing the border. There has to be a certain level of risk assessment; there has to be a certain amount of intelligence-led checking. What matters also is what you are checking for. In a world where we were potentially checking for violations of food regulations and technical regulations to do with industrial goods, conformity of standards, all of those things, that is one thing you would be checking for.

That has been taken out by the common regulatory area on the island of Ireland, so the only thing you are checking is fiscal compliance. A lot of the fiscal compliance, the checks can be done in fact after the event, so there is a separation between the declaration that allows the good to move and the fiscal check, because you are worried about somebody violating a rule of origin or you are worried about somebody not paying a duty that has to be paid. That would happen afterwards, when you have some intelligence as to what is happening.

Tony Smith: Can I just come back on the point about smuggling? We did publish a paper on this about a week ago.

Chair: I might let you come back in on that shortly. I want to try to get through it. We do have a second panel that we need to come to, so if we have time at the end, we may come back to that.

Q181 **Douglas Ross:** I want to go back to something you said, Mr Singham, and I wrote it down at the time: "We are going to have to do a good job to prove to the EU on checks". Is it because it is going to be difficult for you to prove or difficult for it to accept the information that is provided?

Shanker Singham: That is a very good question. The issue is going to be that what is being constructed here on the island of Ireland is a set of regulatory checks that would be done on SPS and industrial goods in the ports and harbours of the Irish sea within the UK territory. The European Union has to know that the integrity of its single market and customs union is being protected by a delegated authority in some sense. Whether it is right or wrong, in the EU there is a sense that it wants further proof and evidence that these checks will satisfactorily protect its single market and its customs union, so I think it is incumbent on us to be able to demonstrate that to it. Tony will have some views about how good border management is in the UK now.



Q182 **Douglas Ross:** But should that be difficult for us to be able to prove?

Shanker Singham: I do not think so. I do not know whether—

Tony Smith: I do not think it would be too difficult to satisfy its requirements. The main requirements around the regulatory framework are the rules of origin, and most of these companies have very good systems in place to assure right the way through the supply chain for point of origin products. The supply chains that serve us now that also serve it should be secure and should not be a risk. I am struggling to see what the additional risk is.

Q183 **Douglas Ross:** So am I. That is why I wrote down very specifically what Mr Singham said. The way you put it across was, "We are really going to have to do a good job on this to make sure the EU accept it". Is that the case? Will the EU ask for more than it should or more than is required or should we be quite comfortable with this situation and we can prove it?

Shanker Singham: We can certainly prove it. I am merely saying that is what it will say. That will be its response to this and we do have to engage with its response. In all of these checks—

Q184 **Douglas Ross:** You do not think that response is wholly justified?

Shanker Singham: It is legitimate for the EU to ask the question, "How are you protecting the single market and the customs union with these proposals?" and we will have to answer that question. That is all I was suggesting, but it is also true that in all areas of trade where you have checks that are being done in facilities, whether it is the UK or Thailand or anywhere, the EU would be able to have its own trading standards people check those facilities for itself. That will happen here. There will be EU people looking at facilities in the UK, in GB. That is all fine; that is normal customs practice.

Q185 **Douglas Ross:** Finally, you mentioned there are benefits to this in savings. The example you gave was the sheep farm, where seven hours of checks at the moment can be reduced to one and a half hours. How do you do that? How do you reduce it from seven hours to one and a half hours with further potential checks, but you are making a huge saving in the time?

Shanker Singham: We visited a sheep farm and what happens right now is the farmer basically goes into a shed, he files some forms electronically; some forms literally are still by hand. These are regulatory registrations and veterinary checks. The vet comes to the facility and inspects every sheep and the sheep are then put in a transporter and moved across, where they are checked again in the Republic of Ireland. What he would have to do in this case would be to file an additional customs declaration alongside all of those registrations that they are currently filing.



HOUSE OF COMMONS

What we are saying is if you automate all of this as an integrated whole, including all his APHIS registrations and the other registrations and the veterinary checks, you can reduce that number, the time spent in the shed, basically, from seven hours to about one and a half hours. Our technology lead, Frank Dunsmuir from Fujitsu, and I were together and that is his view of how you can use technology to lower the amount of time.

- Q186 **Stuart C. McDonald:** Thank you both for coming. I am not an expert on matters of international trade, so forgive me if I get this completely wrong. On the proposals that the Government have just published, if I was to try to find a border that that most closely represents in the meantime, would it be something along the lines of the border between the EU and Switzerland, meaning regulatory alignment, freedom of movement of people, but not in the customs union?

Shanker Singham: Every border is different, so it is hard to say this is going to be like some other border, but if you have—

- Q187 **Stuart C. McDonald:** What would be the difference between the EU-Swiss border and what the Government proposes here for Northern Ireland?

Shanker Singham: In the EU-Swiss border, the Swiss voluntarily align to single market regulation. In the Norway-EU border, Norway is in the single market.

- Q188 **Stuart C. McDonald:** I get that bit, so there is alignment between Swiss goods and EU rules.

Shanker Singham: It is a bit like the Norway or Switzerland borders, yes.

- Q189 **Stuart C. McDonald:** But if you look at the borders now, there are massive checks in place. There seems to be an accusation that the EU is being awkward in negotiations here. It is just being consistent with what it already does elsewhere.

Shanker Singham: I do not necessarily agree with that, but the issue in Northern Ireland with the Irish border is that this is the only border where you cannot have physical infrastructure. There is no such requirement in the EU-Swiss border, the EU-Norway border or indeed many other borders around the world, so there is no reason to try to undertake the exercise that we have taken to ensure that there is no physical infrastructure.

- Q190 **Stuart C. McDonald:** There is every reason, because you want as few checks as possible.

Shanker Singham: Yes, but there is no forcing event.

- Q191 **Stuart C. McDonald:** There is not the same political incentive, there is not the same political need and historic need.



HOUSE OF COMMONS

Shanker Singham: Yes, that is right.

Q192 **Stuart C. McDonald:** I accept that, absolutely, but if it was easy to do or the EU genuinely thought that you could do it, it would already be trying to do it at the EU-Swiss border. Is that not fair?

Shanker Singham: What happens at the EU-Swiss border is you have a green lane. If you go to the Swiss border, you will see the buildings. You will also see that there are not very many, if any, actual customs officers in those buildings because they are not really used for this purpose. Partly because of the geography of Switzerland and the mountains and so forth, people will often do their transit declarations in places like Basel and away from the actual border, then they will use the green channel and they just drive straight through the area. But the Swiss-EU border, for its purpose, works perfectly fine. No one is complaining about it; no one is impeded in any way. There is no real forcing event as to why it should change. In this case there is a forcing event, which is why we have to construct a virtual or invisible border. But you are right in saying that—

Q193 **Stuart C. McDonald:** What I am getting at simply is that the reason that border is there—and it works pretty well, as far as it can—is that the EU is concerned that not having that infrastructure in place, however smoothly it may operate, would simply be to drive a coach and horses through the single market.

Shanker Singham: We do not think so, because the single market rules are protected in the Government proposal by the common regulatory zone, so there are no single market issues related to products. It is just customs declarations and fiscal checks, as opposed to regulatory checks.

Q194 **Stuart C. McDonald:** Returning the issue of smuggling, you have said that you are less fearful about the implications for smuggling than other commentators, but you have recognised that there is an issue in relation to tobacco and fuel. Am I right in thinking that that costs the Irish Exchequer billions of pounds? It is a very significant problem.

Shanker Singham: That fraud is probably more of a problem generally around the European Union than the excise fraud and the other types of fraud, but the fuel and tobacco fraud that happens now is excise fraud, basically. That will continue because nothing in our proposal changes that.

Q195 **Stuart C. McDonald:** Yes, absolutely. The reason why that happens is that there is an incentive because of differences in—

Shanker Singham: Sure, absolutely.

Q196 **Stuart C. McDonald:** Exactly. I do not quite understand. The whole point of being outside the customs union is to have a different external customs tariff, so it is why that does not then create incentives in exactly the same way for all sorts of other smuggling to happen.



Shanker Singham: Going back to the Chair's question earlier, you have to look at what the differentials are, because it is the differentials that lead to the incentive for smuggling. If you look at industrial goods—

Q197 **Stuart C. McDonald:** The whole point of not being in the customs union is to have this great new trade policy and improve the lives of people here. On the one hand, the whole object of being outside the customs union is the biggest differentials you can create to have something that is radically different. If it is not going to be radically different and not create incentives for smuggling, then what is the point?

Shanker Singham: You have to look at it product by product. In industrial goods, the general tariff levels of the common external tariff—indeed, any tariff generally around the world—are very low. Where there is going to be a sharper difference is in agriculture and agri-food. That is an area where there may be smuggling. You deal with the smuggling issue based on the product, because there are unique things about the particular product that determine your anti-smuggling approach. You have agriculture and you also have products that are subject to different anti-dumping orders. You are right to say that in two different customs unions we may have two different anti-dumping orders and trade remedies. That might create an incentive for smuggling. It is those two areas that you are particularly worried about.

In the first area of agriculture and agri-food, the approach that we have taken is you have to have both countries, the EU and UK, enforcing each other's laws because both will have laws that prevent circumvention of the payment of relevant duties, which would be the case here. You have that. You have criminal draconian penalties for non-conformance and you are trying to essentially load the disincentive bucket to offset the incentive bucket, which is a way to deal with smuggling in any situation. With anti-dumping orders, you additionally have EU anti-circumvention orders that apply to people trying to avoid the anti-dumping duty, which people do try to do.

If you have the ability of the UK to enforce that law as if it was EU law and the EU to enforce any UK anti-circumvention law as if it was EU law, we think you are starting to make the incentives for that sort of smuggling much lower. We also suggest that you can use the Good Friday agreement bodies to monitor trade flows, to monitor what is happening, because it is taking advantage of the fact that you are two islands; take advantage of the fact that any product that is coming into the island of Ireland is coming into the ports or the harbours. In the event, for example, of the beef tariff going down—

Stuart C. McDonald: Sure. I picked that up in your answers earlier.

Shanker Singham: —there is a big difference between the beef tariff in the UK, in Northern Ireland and Ireland. You will be looking, and those bodies that are tasked with monitoring this will be looking, for evidence that there is this sudden increase in product coming into the ports and



harbours, because you know that if it is increasing, it is obviously going down to Ireland.

Q198 **Stuart C. McDonald:** Just briefly, returning to what you said earlier about trusted trader schemes, you said something like 85% of cross-border—

Shanker Singham: Value, yes.

Stuart C. McDonald: That is the value of cross-border trade. That is one way to look at it, but in actual fact, the other way to look at it is the number of companies that are involved in it. I think Manufacturing Northern Ireland said that 1% of its manufacturing firms are large businesses; the other 99% are SMEs. They have neither the capacity to introduce new complexities nor the associated costs. How does a trusted trader scheme help the small and medium-sized manufacturers like that?

Shanker Singham: What is in our proposals is a multi-tiered trusted trader scheme that is not only for larger businesses, but would allow smaller businesses to have a leg up on the ladder of trust, if you will. That will take longer to put together. That will be something that will be an ongoing exercise and you will be continually trying to get people on to that ladder of trust. We should be doing that for all UK traders as well.

Q199 **Stuart C. McDonald:** Let's take then a small or medium-sized manufacturing firm near the border now. It gets component parts from either side of that border, perhaps even other parts of the United Kingdom, Scotland, England and Wales. How is all of this going to impact on it every time it gets component parts from the Republic of Ireland, from the UK, from Northern Ireland and then makes it into something else and exports to them? Until that trusted trader scheme comes into place, what will it do?

Shanker Singham: The only change there would be the customs declaration that would have to be filed for trade between Northern Ireland and Ireland. Any of the other stuff that is coming in does not change from what the situation is now. What we would suggest is a lot of the small traders are able to benefit from the umbrella of the AEO programme or the trusted trader programme, the logistics service providers. What will happen is the small trader who is using a logistics provider to bring in a product, just as you have used DHL or you would use any of those companies to ship something to your home, they are doing the same thing. For all of those companies, as well as ports, as well as port operators, they can be trusted traders and the smaller company can use the logistics service provider.

That is why we have said, with our transitional adjustment fund, that the small trader could use that fund to either beef up its own trade department or train people, or it could just use the money to hire logistics service providers. In effect, that is what will happen here. People will rely on their existing logistics service providers to fill in these extra forms, to do these extra processes for them.



HOUSE OF COMMONS

Q200 **Janet Daby:** We do not have enough vets in this country, mainly because we have probably not had the demand for it. Have you assessed how this will affect checks on suppliers and traders?

Shanker Singham: Sorry, I missed the first part of question.

Janet Daby: We do not have enough vets. I am not talking about vets for cats and dogs.

Shanker Singham: Yes, large animals and so on.

Janet Daby: Yes. Obviously we probably have not had the demand for these vets.

Shanker Singham: No, you are right.

Janet Daby: Have you assessed how this will affect checks that need to take place?

Shanker Singham: Certainly you are right that there will be much more SPS veterinary-type checks needed, not just for the Irish or for the GB-Northern Ireland checks that will have to happen, but for the Dover-Calais route, for all other UK borders. We do think that there will be a need for more vets. I would hope that the Government, in their preparations, including the no-deal preparations, are communicating with the veterinary community about how to increase the numbers and how to attract people into the profession.

Q201 **Janet Daby:** What will the impact be? Have you done any type of assessment as to the delay that this may cause in doing some of the checks that would need to take place?

Tony Smith: Because the regulatory framework has just recently changed within the last couple of weeks or so, we are now saying that there will be more border inspection points, more BIPs in ports, which do not traditionally have them. That will be a resource requirement, not just for vets but for DEFRA and for Border Force. Again, it is really difficult for us to deliver a resource requirement when we do not know exactly what the regulatory framework would be. But I think you are right to highlight the fact that there will need to be an investment in resources, including veterinary experts and other agencies, to physically do the additional checks that we are being invited to do at the ports and the harbours. But I am afraid I do not have the data yet to be able to say what exactly that requirement would be.

Q202 **Chair:** Finally, very quickly, you talked a lot about the sort of technology that you could use for those traders who want to comply. How confident could you be that all of that technology could be in place by December 2020?

Shanker Singham: Our proposals are not technology-led. There are different aspects of technology.

Q203 **Chair:** But the systems, you need to have the systems in place to



HOUSE OF COMMONS

implement this. I am not saying it is wacky new technology. Sorry, a short answer.

Shanker Singham: We basically think, yes, that the system will be done in the transition period.

Tony Smith: Yes, I think we can.

Q204 **Chair:** Can I confirm, you are saying you would have no cameras at the border?

Shanker Singham: No cameras at the border.

Q205 **Chair:** No surveillance of the roads, no monitoring of vans travelling?

Shanker Singham: No changes beyond what exist now.

Q206 **Chair:** A final question, going back to that smuggling point. Suppose that the UK removes tariffs on clothing and trainers coming in. What then is the potential to enforce at any point if I am a small trader who decides that I want to make some money quickly and I want to buy a few crates of trainers in Belfast and go and sell them in Dublin and then start doing that on a systematic basis? Where will I be checked?

Tony Smith: Yes, the incentives are driven by the financial gap.

Q207 **Chair:** Also the combination of the financial gap—

Shanker Singham: And the ease, yes.

Chair: —and the penalty and the risk of enforcement.

Tony Smith: That is right.

Q208 **Chair:** That is why I am questioning the risk of enforcement. Let's suppose there is a 10% gap in terms of the tariff on clothing and trainers.

Shanker Singham: That would be intelligence-led, based on the person, on the entity that is doing it. If you have—

Q209 **Chair:** Where are we going to get any of this intelligence if you are not monitoring or if there is no surveillance going on?

Shanker Singham: First of all, as I think the Committee knows, the current arrangements will continue and there obviously are current arrangements. The point is that I think the trainers or whatever it is have to come from somewhere. While small amounts of smuggling, which currently exists in fuel and tobacco and other excise products, does occur and will continue to occur because you have this frontier traffic zone, if you are just taking things across the zone, literally a couple of miles, that is—

Q210 **Chair:** If I was travelling from Belfast to Dublin.



Shanker Singham: That would be outside of the zone and we would use the ordinary methods of intelligence gathering to identify what is happening.

Q211 **Chair:** Which is what? Let's suppose I and everybody around the table have also decided to start doing this as well.

Tony Smith: It would be market intelligence. If you are trading across that border and you are not doing what you are supposed to do in the law, which is to complete a customs declaration, we need market intelligence to know whether or not you are completing a declaration, but that would be driven by the data that we are getting and by information that we are getting. What we call it in the trade is removing the haystack to find the needles. That is what we do in border management now, so we would be looking to see if there are movements going on without putting cameras on the border.

If there are movements, there are goods cropping up in the market and market surveillance is indicating that goods are being traded, that has to come from the communities themselves. That intelligence is converted into an intelligence assessment, which is what would lead to an enforcement check. I am not saying it is easy—it is far from easy—but we are trying to come up with an alternative arrangement to managing the Irish border without putting in any physical infrastructure.

Chair: It sounds like we have just created a huge number of additional haystacks and it is not clear where the additional help is to find all of those needles. Thank you very much for your evidence. We will move on to our second panel.

Examination of witnesses

Witnesses: Sam Lowe and Dr Anna Jerzewska.

Q212 **Chair:** I welcome our second panel and ask you to introduce yourselves.

Dr Jerzewska: I am Dr Anna Jerzewska. I am an independent consultant. I work for the International Trade Centre in Geneva as part of the United Nations. I work on market access issues and trade consultation. I am also an independent consultant for the British Chambers of Commerce and I work with companies trying to help them to prepare for Brexit from a customs perspective.

Sam Lowe: Sam Lowe. I am a senior research fellow at the Centre for European Reform. I also sit on the Department for International Trade's Strategic Trade Advisory Group.

Q213 **Chair:** Very briefly—we will obviously have a lot of follow-up questions—can you give us your overall assessment of the Government's proposals?



Dr Jerzewska: This is the latest proposal from last week?

Chair: The latest proposal, yes.

Dr Jerzewska: Based on what we know about this, because obviously it is a very high-level proposal, it is a very new border arrangement where we have more than one border and one of them internally, it is one that creates a lot of additional burden for traders and companies. I am sure we will get into this in more detail as we go along.

Sam Lowe: It is interesting, in that for three years we have had people not accepting the premise that maintaining the status quo in Northern Ireland remains full regulatory alignment on goods and remaining in the customs union. I admire the honesty of the new proposal, in that it says, "From a regulatory perspective, we want to remain integrated in Northern Ireland to avoid those checks, but on customs we are accepting there is going to be a customs border and there is going to be associated checks". This moves the goal posts slightly from the December 2017 commitment and I am not sure it is appropriate to the circumstance, but I am sure we can get into that.

Q214 **Douglas Ross:** Can you expand on that? Why is it not appropriate in this circumstance?

Sam Lowe: Assuming that the reason we want to maintain the status quo in Northern Ireland is not just because we want trade to flow as it does now, but because there is a security issue and we feel that it is a fragile post-conflict region and we do not want to prod it too much, we do not necessarily want people to have to change the way they behave. What we are asking people to do under this proposal is, first, accept there is a customs border, that they have to accept there is a differentiation between Northern Ireland and Ireland, which for people in the north who feel Irish and want to be Irish is just a problem. There is an issue there.

Then we are also asking them to take on additional burdens, so we have to now declare our intention to export, and based on risk assessment, we might be asked to stop off at infrastructure. It is border infrastructure, because it is infrastructure related to a border, even if it is not literally on it. There are lots of borders that are not enforced directly on it, because there might be a mountain or a river in the way; it is still border infrastructure. You are asking people to potentially stop off at these places en route in order to ensure that their declaration has been filled in correctly and then give them permission to proceed. My issue here is that I am just not sure that is something people on the border want and I am not convinced that businesses in Northern Ireland would like to do it.

I have a supplementary question, which is how do you ensure people who do not recognise the legitimacy of this new border and these new systems comply with the new procedures? They might not want to; you might have to force them. How do you force them to comply? As soon as



HOUSE OF COMMONS

you start to ask that question, I think you start to get into treacherous territory in Northern Ireland.

Q215 **Douglas Ross:** On that, we force people to comply with every law at the moment. We discussed with the previous panel, for an hour and 20 minutes, a number of things that were already ongoing prior to the EU referendum, prior to the decision, where if you smuggle and you are caught doing that, you are held up and punished. What is different?

Sam Lowe: It is a question of how much the British Government wants to stress test the region, stress test its—

Q216 **Douglas Ross:** But that is currently happening, so you are stress testing on something that is currently happening. If you break the law at the moment, you will be—

Sam Lowe: There is already enforcement around differentials in excise duty and VAT.

Q217 **Douglas Ross:** Yes, that one got me interested a number of times.

Sam Lowe: The question is, while this is accepted at the status quo and is problematic—you can read stories from Northern Irish press about border officers being dragged down the road, being run over and being attacked because of this—are we confident that escalating the number of these checks and the number of these interventions is going to be conducive to ensure stability in the region? That is where I have a question.

Q218 **Douglas Ross:** Before we go on, Mr Lowe, did you agree with anything that the previous panel said over the last 80 minutes?

Sam Lowe: Unfortunately I was not here for a lot of it.

Q219 **Douglas Ross:** You have read the report?

Sam Lowe: I have read the report, yes.

Douglas Ross: Do you agree with anything in that report? Tell us, just anything.

Sam Lowe: Do I think that technically you could create a border that looks slightly like what they have proposed? Yes, I think in the event of no deal a lot of what has been suggested is what would end up happening. It is the default, because you do not want to do things exactly on the border, you try to pull all those checks away from the border. My issue is not necessarily that it is technically impossible. My issue is that I do not think it is appropriate.

Q220 **Douglas Ross:** Is it more appropriate than a no deal?

Sam Lowe: I think this is what would happen in a no deal, so it is the baseline. I don't think we are suddenly going to have loads of infrastructure pop up. I think the checks that eventually get phased in will be pulled away from the border. I do not think it is appropriate, as I



HOUSE OF COMMONS

said. What is being proposed by the Government and the unofficial Alternative Arrangements Commission is largely the default. I think we can do better than that.

Dr Jerzewska: A couple of points, first on something that was perhaps not clearly explained during the first panel and maybe needs additional clarification. We talked about this notion that traders will just need to submit a customs declaration on top of what they are doing already and in a way it is just this tax form that you submit and that if you apply technology the process will be quicker and it is going to save traders some time. I think that comes from a bit of a misunderstanding of what the customs declaration means for a company and how long it takes to submit a customs declaration and provide the information that goes into it.

The actual process of submitting a customs declaration is just submitting a document, but the information that goes into a customs declaration, if you have not seen one, the SAD or C88 form, it is over 50 boxes. It is not really code, but they have numerical values. For example, if you are trying to say that the goods come from China, you don't say they come from China, you put a number that signifies China, according to the UK tariff. The requirement for a company to understand what its commodity code is, customs code, product code for everything it trades, to understand what the rules are for declaring a customs value, all these things take weeks before you submit a declaration. Just saying, "It is a customs declaration that the company needs to submit," does not take into account the amount of time and specialised knowledge a company needs to have to be able to provide this information to either a customs broker that does it on its behalf or to authorities directly themselves.

Q221 **Douglas Ross:** It was accepted in the previous panel and their suggestion is to put significant investment in, for example, additional staff to deal with these types of things, filling in forms, documents and so on. You would agree with that?

Dr Jerzewska: Where would the additional staff come from?

Douglas Ross: That was the example given. You would agree that would be—

Dr Jerzewska: We do not have enough. Even at the moment we do not have enough trained customs people in the UK. We had shortages of people who understand customs even before Brexit. One of the things that the Alternative Arrangements Commission's report relies on is the fact that traders who have not previously exported and imported in Northern Ireland and the Republic of Ireland will be able to use a third-party provider, a customs broker, a freight forwarder. That industry does not necessarily exist in sufficient numbers in the area, because there was no need for it. We are relying here on this industry being developed in a very short amount of time.



HOUSE OF COMMONS

Q222 **Douglas Ross:** Whether you agree with the Government's negotiating stance and so on, in terms of the result of the referendum and the approach the Government have taken, do you see an alternative to what the Government have come up with and indeed what the Alternative Arrangements Commission came up with that would meet what they are looking for? Not necessarily what you personally would like, but in terms of their aim to respect the result of the referendum.

Dr Jerzewska: Obviously—and this was discussed with the previous panel—the request to create a border that does not involve infrastructure and is close to seamless for traders is a very tall order. In the Alternative Arrangements Commission's report, one of the things that it mentions is other technology or border solutions that exist elsewhere. It mentions a couple of borders around the world, and a lot of them have one thing in common, where traders submit an import and export declaration at the same time, so the process of exporting and importing is done at the same time by joint customs officers. That is something that has not been included in this proposal, partially because the current Government proposal splits the process and splits it physically, so you have the inland checkpoints or facilities on one side and on the other. For that purpose, you need the whole transit system or the control system when the goods move between these two points. Perhaps it was something that the Alternative Arrangements Commission explored but it was not translated.

Q223 **Douglas Ross:** The transit system is well used across Europe.

Dr Jerzewska: Yes, it is. However, if you speak to freight forwarders that use the transit system, some of them say that, for example, they prefer to go around Switzerland rather than use transit because there are so many additional requirements for vehicles.

Q224 **Douglas Ross:** That is quite interesting. Just to qualify it for the Committee, what kind of numbers is it? Is it a small fraction or is it a majority?

Dr Jerzewska: Sorry, this I would not know. I am not a freight forwarder. This is from my conversations with freight forwarders. I would not be able to answer that.

Q225 **Douglas Ross:** I am a bit surprised to hear that.

Dr Jerzewska: I was surprised as well.

Q226 **Douglas Ross:** You have heard it from multiple sources?

Dr Jerzewska: Yes.

Q227 **Douglas Ross:** A lot?

Dr Jerzewska: Two, sorry.

Q228 **Douglas Ross:** So two sources have said that happens, so therefore a majority say it does not?



HOUSE OF COMMONS

Dr Jerzewska: I would not be able to give that. This is just anecdotal.

Q229 **Douglas Ross:** I think we can say a tiny fraction have told you that that is the case.

Dr Jerzewska: Yes.

Sam Lowe: Just to stand up for Anna here slightly, it is not her job to speak to every single freight forwarder.

Q230 **Douglas Ross:** If I can speak as a member of the Committee who is posing questions rather than trying to get defensive in any way, we have to quantify the evidence we get. For a member to come along and give that evidence, that is great, we want to hear it, but if it is anecdotal or from two sources, then we need to also quantify that in the bigger scheme of things.

Dr Jerzewska: Absolutely.

Douglas Ross: That is all I was trying to do, Mr Lowe. There was no need to come in and defend anyone. Thank you.

Tim Loughton: Isn't the real reason people go around Switzerland—which I do not believe they do; every time I drive to Switzerland that is not the case—that the first thing you get stopped for is a 100 franc vignette in order to drive on Swiss roads? There is a charge, which is absolutely nothing to do with customs checks.

Chair: We are glad you are an expert on Switzerland.

Tim Loughton: Absolutely.

Q231 **Janet Daby:** Under the Government's proposals, could you say what additional burden there will be in terms of international trade with Great Britain and Northern Ireland operationally with the borders?

Sam Lowe: Could you clarify?

Janet Daby: Yes. For example, in terms of the Government's proposal and for the UK border operations, would that place an additional burden on international trade to do with Great Britain and Northern Ireland?

Sam Lowe: One example you could look at is if you have an integrated across Ireland supply chain, if you think about Guinness or Baileys, which goes up and down, and you are then exporting that product from either the EU or the UK to the rest of the world, it does become more complicated to fulfil the origin requirements if you are trying to export from Northern Ireland under preference. Potentially the inputs from Ireland would no longer count towards you meeting the rules of origin threshold in the associated trade agreement in which you are trying to take advantage of.

Maybe the other way of looking at this is under the Government's proposals is: what happens to goods that are imported into Northern Ireland from elsewhere when they go across the border to Ireland? All



goods have to be declared under the Government's proposal. It has to be declared for customs. If there is a free trade agreement between the EU and UK, you might be trying to qualify for zero tariffs on the downward trade from Northern Ireland to Ireland and it will have to take into account, based on the rules of origin requirements of the EU-UK free trade agreement, whether the inputs from elsewhere allow you to meet the threshold or supplementary requirement in order to qualify for zero tariffs.

There is also something that has been slightly missed out of the discussion on the Government's proposals, in that this would be the default setting for the Northern Ireland post-withdrawal agreement, even if the UK and EU failed to reach a future trade agreement. The default under this proposal is tariffs. I would assume that if we did get to this point we would have a trade agreement, so you have zero for zero on both sides, but then this is conditional. Unlike a customs union, where zero tariffs are—crudely speaking—unconditional, it is just a default. The default under a free trade agreement is that you still have tariffs levied.

You have to demonstrate that you qualify for this preference and that does place an additional burden on businesses and means that even in a zero for zero situation, there are still arbitrage opportunities available for people if they so wish to take them, in that they might not want to fill out all the paperwork and do all of the extra things, which comes with a supplementary cost.

Dr Jerzewska: Plus the additional time of submitting a customs declaration, either a prelodged declaration or a transit declaration, every single time goods move up and down the border.

Q232 **Janet Daby:** The other question I have is what do you think are the major impacts a no-deal Brexit will have on the UK border? You have already mentioned people not being trained enough in terms of the expertise for working in customs. What else? If you want to say more on that, that is fine as well.

Dr Jerzewska: That is definitely one of the impacts. From a business perspective, when you look at the impact of Brexit and border arrangements there are two separate parts of it. One is the border design, which is what the previous panel was talking about, and here the traders are mostly interested in, "How many documents will I need to submit? When will I need to submit them? How much will this restrict my business? How far in advance do I need to submit declarations? Can I have last-minute orders, movements? How many times do I have to submit the same information?"

Then there is the other part, which is if we have any customs declarations and any customs procedures, it is very difficult to get away from—as the previous panel suggested—the fact you do need to comply with customs procedures, which means understanding customs and understanding what your obligations are. That is one impact.



HOUSE OF COMMONS

I do not know if you are asking more about borders in general or the proposal for Northern Ireland.

Q233 **Janet Daby:** It is just what you think the major impacts would be on the UK border.

Dr Jerzewska: In terms of the proposal, this is one of the impacts. We talked a lot about the data and the smuggling and how we collect the data and how we perform these intelligence-based checks. Part of it is the fact that companies will be asked to provide additional information. Your risk-based analysis is only as good as your data. As the previous panel suggested, you have to build this data.

Q234 **Janet Daby:** What actions do you think the Government needs to take to put this right, to manage this situation?

Dr Jerzewska: I am not entirely sure what the Government's proposal is here. Again, the previous panel talked about the fact that the checks will be based on data and it will be targeted checks. The first thing is that customs checks and anti-smuggling checks are completely different. Smuggling checks look for something different versus customs checks, so you would have to collect different types of data for both checks. I am not entirely sure what these targeted checks would look like and where the data is coming from under this proposal. When you read the proposal on a high level, it makes sense to have targeted checks and to have as few checks as possible, but when you start then going a little bit down in terms of the amount of detail, you start to wonder, "Where is this data coming from? How are we building this dataset?"

Sam Lowe: To add to that, because I think we are talking there specifically about the Government's proposals on Northern Ireland, the panel before skirted around this slightly. In the absence of data, you have to create that. One element of keeping any trust-based scheme honest is an element of randomness, so just having people in a car who pull you over and say, "Can we see your documents?" This is not just to catch the people who are deliberately not complying; it is to ensure that the companies that do comply continue complying, because if there is no peril, then after a while things can slip slightly. It is just to create that fear.

I am not talking about huge amounts of this, but under the Government's proposal I believe there will have to be at least on one side—and I think you will definitely see it on the Irish side—an element of random stops, pulling people over and saying, "Let's have a look at your documents". I think that was something the panel were skirting around and did not seem to want to fully address, but it is implicit in that.

In terms of your general question about the UK border, the Government's no-deal plans for the border generally exist, and if everyone was to go along with it, you can sort of see how it works. There are still some questions about how companies engage with it and what knowledge they



HOUSE OF COMMONS

have, but they are there. My concern, I suppose at least in the short term, which I would say is about three to five months, is consistency. For businesses, how do you ensure consistency of supply? If I know that everything is going to take five hours longer every time and I know it is going to be constantly five hours longer, I can plan for that. You just adapt the supply chain, you add in an extra truck or the like.

But the problem we have initially is that people are going to be getting used to these new systems, people are going to turn up having not complied. The actual people in charge of enforcing it are not going to be quite sure how to do so. Also we are talking about closed loops in terms of the number of ferries; you are talking about lorries being held up on one side of the Channel impacting the other.

The big issue for businesses and customs in the first place is how do you get this to a point where you have it taking the same amount of time every time? That is going to be a big learning process, that one day it might take two hours and the next day it takes 10, and adapting to that as a business is going to be quite tricky.

Q235 Toby Perkins: To what extent do you think the Government have done enough to help traders to prepare for any new border arrangements that are put in place? As we have been sat here, it appears that the Government are broadly accepting that their deal has been rejected and we are heading towards no deal. To what extent do you think traders are ready for a no-deal scenario?

Dr Jerzewska: Again, there are two sides to it. One is the border design and what is going to happen on day one. We just had the no-deal tariffs published today, which I believe is quite late when it comes to giving businesses certainty. I appreciate that the changes from the March tariffs, at least on the face of it, are not so significant, but still, for the couple of businesses that are probably affected by the change in tariffs they might be very significant. In terms of letting businesses know what is going to happen on day one, that is pretty late.

The other part is helping businesses understand what customs is, helping businesses understand when they are affected, so many companies have mentioned or told me—again, I cannot quantify it—“We are not affected, we don’t import, we don’t export,” but their suppliers are importing and exporting. There might be shortages, so you have to look at the entire supply chain. If you do not pay attention to that, you might be surprised by the impact of a no-deal Brexit. That side of helping companies understand what customs classification is, how you manage your entire supply chain, how you work with your supplier, I think that has probably been slightly neglected. One could argue that is not HMRC’s job and that is possibly true, but I think that is where some companies might have difficulties.

Sam Lowe: Are companies ready? I think those that are aware they need to be preparing are doing something, but it is like the difference



HOUSE OF COMMONS

between me being told I am going to be punched in the stomach or me being punched in the stomach by surprise. It still hurts either way, it is just for one of them I have slightly braced myself. It is going to be rough for companies in the initial phase of no deal. Also there is a problem, when it comes to preparedness, of the boy who cried wolf,

Q236 Toby Perkins: What are the likely costs to individual businesses and to the wider economy if traders are not sufficiently prepared for a no-deal Brexit on 31 October?

Sam Lowe: I have not read the HMRC report and I have read the *Financial Times* report of the report, which puts the customs cost at about £15 billion to industry across the UK in compliance costs, which is quite significant.

In terms of the immediate impact of no deal on businesses, it is much easier to try to predict a longer term difference in that you have new barriers and you can look at a counterfactual and map against it. In terms of the immediate response, it does depend on how businesses behave. For example, on day one, all of the companies who currently trade across the Dover-Calais strait, do they turn up or do they stay at home? Both of those have an economic impact, but they are not necessarily the same and they do not necessarily create the same problems going forward.

A lot of this is just to do with business and consumer response, and that is so hard to predict that I would not be very confident about putting any quantifiable numbers on the immediate impact.

Dr Jerzewska: The impact will not just happen on day one. Within the Chambers of Commerce network, when we speak to local Chambers of Commerce and they speak to their members, we are getting signals that companies are already losing business because their clients in the EU are switching to other providers. That kind of long-term impact will not just happen on day one and afterwards; it is already starting to happen. That is also very difficult to quantify or say whether this switch was because they found a more attractive price or a better supplier or because it was Brexit-related. It is the same with the movement of companies, Japanese companies or other companies that switch from headquarters in the UK to somewhere else. You can speculate but it is sometimes very difficult to attribute it to Brexit or other decisions.

Sam Lowe: I would also say a lot of the Government advice when it comes to customs is, "Get a customs broker," which is fine. That is a good idea. I would not recommend anyone doing it from scratch themselves first time around. But there is a capacity issue here, in that the existing firms who provide these services are largely maxed out providing an expansion of the services they already provide to the companies they already deal with that export to the rest of the world, and they are now expanding that to their Europe business.



There is an issue, in that there are just not enough people doing this yet. That is not to say that in five years' time there will not be enough people doing this, because if you create a business opportunity, of course they will fill the gap. But right now, in the event of no deal, that does not exist. If you were asking businesses to then deal with HMRC themselves, they have to get the software, they have to learn how to do it, then of course they are not ready and cannot do that in a few months.

Lots of businesses I speak to—again, I am not going to put an exact number on that—do not believe no deal is happening at the end of this month because it did not happen last time. A lot of businesses put a lot of money into preparing last time and it did not happen. The feeling is that there is going to be another extension.

Also in terms of preparedness we have the Christmas issue, which should be mentioned. When it comes to warehousing, warehouse space is already booked up because we are approaching a time where a lot of things are going to be sold.

Dr Jerzewska: In terms of customs brokers, definitely hearing this from businesses. Again, I am not going to quantify it because I do not do research, I just work with companies on an individual basis. We are hearing that freight forwarders and customs brokers are sometimes not able to provide the advice and service.

Also one thing to mention—it might be obvious—is that there is a cost for this service. If you are talking about an SME and you have to pay for every single import and export declaration, I have not checked the prices recently, but it used to be between £10 and £40 per import/export declaration, depending on what kind of agreement and the service provided. Sometimes the £10 was for bigger companies, involving discounts, but if you are talking about an SME—and that is something the Northern Ireland Retail Consortium has pointed out—that has a margin of 2% or 3% and this margin is then spent on hiring a customs broker, that is pretty much that.

Sam Lowe: That is a really good point. In terms of the Northern Irish business representatives of different groups, one of the things they constantly bring up when it comes to alternative arrangements is that they feel that they were ignored when it came to the Alternative Arrangements Commission's development of its proposal and they feel their submissions were not considered properly. One of the things that they always bring up is cost, "You are saying this is going to be fine because we can pay for a broker to do this for us. How much is that going to cost us?" So far it has been very difficult to put an exact number on that, except that it is going to cost something.

Q237 **Stuart C. McDonald:** We have heard about expense, we have heard about the fact that it is not just a matter of filling out a simple form, that there is a lot more to it than that. In the last panel, for small and medium-size enterprises in particular, the answer seemed to be trusted



trader schemes, exemptions, even money to pay for things like brokers. To what extent do these options alleviate these burdens, particularly for small and medium-size traders?

Dr Jerzewska: In terms of trusted traders, that is a very good point. The previous panel proposes a new trusted trader programme with different levels depending on your size and so on. It is probably important to clarify that the current trusted trader programme, AEO, is not available for small companies and it is also not available for many big companies just because of the type of requirements you have to fulfil to be able to get this AEO status. You have to have someone with sufficient customs experience. You have to show your track record of compliance with customs. You have to show that your IT systems are secure. You have to answer questions along the lines of what happens if there is a power cut and your server with your data and your records—that service—is interrupted; do you have a backup system? These are very detailed questions about how you are running your business, what processes and procedures are in place. The current system does not work for SMEs.

This proposal to have a trusted trader programme for SMEs is obviously an interesting one. However, the whole point of a trusted trader programme is that you give the status to companies that have demonstrated customs compliance. How can SMEs in Northern Ireland demonstrate compliance with things they have never dealt with and procedures that are new? Even the existing importers and exporters in Northern Ireland have not dealt with these procedures because these procedures do not operate at the moment, so how can you give them a trusted trader programme that the EU will recognise?

Q238 Stuart C. McDonald: In a typical trusted trader programme, how long do you need to be involved in import/export and how often do you need to be doing it before you have a realistic chance of—

Dr Jerzewska: Three years, so a new company that just started trading, even though they are compliant, is also not able to apply for it. That might be changing slowly and I appreciate that the EU AEO programme is potentially a bit out of date and could be improved, but again, the basis of it is you demonstrate compliance throughout the period of time.

Even the programme that they were mentioning that operates on the border between US and Canada, the Platinum programme that the panel was referring to, the basis of that programme is that you have demonstrated customs compliance for a period of time. You first obtain a different status, the CSA status, then you obtain CSA-Platinum after you have demonstrated you have held that status for a considerable amount of time and you have no errors or issues.

Q239 Stuart C. McDonald: There seems to be a suggestion about various exemptions that would depend on the value of goods that you are importing or exporting. To what extent does that alleviate the concerns



that you have?

Dr Jerzewska: Again, when I saw this proposal for exemptions, it is definitely something that should be there because SMEs in Northern Ireland do need support and help. However, how would an SME in different parts of the UK and SMEs trading across different EU borders feel about that? If you are a Turkish SME and you have to submit a declaration—this is not the EU's only border. This is not something that is currently provided for in the EU customs legislation. I appreciate there are reasons for the EU to give exemptions to the UK given how special this situation is and how sensitive this border is, but equally, the EU has other borders to worry about. How will an SME in Kent feel about having to submit a declaration when—

Q240 **Stuart C. McDonald:** Is there a risk as well that every time you create an exemption, you are also creating an incentive to try to comply with that exemption or to make it look like you comply with that exemption, for example, breaking down orders and so on?

Dr Jerzewska: Let's just assume we have these revolving mobile checks and so on. How do you know whether the trader you have stopped is an SME that is genuinely exempt from the requirement to submit a customs declaration or a smuggler?

Sam Lowe: One thing I would add on the existing EU AEO system in terms of what benefit it really gives a company, is that if you are clearing inland, like in the Northern Ireland scenario, if you are going to a depot away from the border, you keep it there and then you want to complete all the customs formalities there and pay the tariffs once you are there. You have to put up a guarantee, so you have to guarantee that money will be paid, even if something falls off the back of a lorry. What the existing AEO scheme does is it reduces the amount of money you have to put up as a guarantee, so useful for companies that use it, as in terms of cash flow, you are not having to put up as much money, but that does not do much.

What we are talking about is an entirely new scheme that will need to be designed. Companies will need to be introduced to it. They will have to either transition from existing schemes into this new one and then we are also asking the EU to recognise it. The EU do agreements on mutual recognition of authorised economic operator platforms, and I think the most recent one was with China. I am not sure whether it is in force yet. It is possible, but we are talking about a process, it is not something that just happens overnight.

Q241 **Stuart C. McDonald:** Moving on to the issue of smuggling, I think the last panel said themselves that they were not as alarmed about the risk of increased smuggling with these proposals as other commentators were. What are your own views on the incentives for smuggling that will be created by Northern Ireland not being in the customs union? What are the implications of that for smuggling, basically?



HOUSE OF COMMONS

Sam Lowe: You are creating more differentials, that is what you are doing. It is not just on tariffs, it is on costs associated with compliance. For example, if you think you can undercut your competitor who sells lamb south of the border if you just do not comply, send it over in a truck, you know some guys in a shop, why wouldn't you? If you increase the number of differentials, you will increase the amount of potential non-compliance that needs to be policed.

Of course you have the organised gangs, which is a problem, because where does that money go? It gets funnelled into activities. These are groups who will not be so fond of the idea of a customs border in the first place and probably will be looking to agitate as a result. Then you have the day-to-day traders. They are not necessarily criminals or they do not see themselves as criminals, they just say, "I cannot comply with this".

Stuart C. McDonald: "I just want to take something from A to B".

Sam Lowe: "I have been doing this for the last 20 years. Why can't I still do it? Who is going to stop me?" Of course they will have broken the law. There is a choice to be made around turning a blind eye, which happens to a degree, but the Chair made the point earlier, once you have done a little bit of something and you have realised it has been profitable, why not get all your friends in, you know, the trailer example? This does need to be policed. Of course the answer you always get back is intelligence-based policing. The question Anna asked was, "Where is this intelligence coming from?" The answers were around you could maybe notice that there was a 10% uptick in the sale of trainers in Dublin that was unaccounted for and you could go and work it back, but at some point you do need to be adding this element of randomness that I mentioned earlier.

Dr Jerzewska: Yes, I agree absolutely that some part of smuggling will just be due to confusion, not even bad will, just confusion. Also there is an interesting point here that we have not yet mentioned, which is this middle zone along the border, this 10-mile zone where the previous panel mentioned that there will be a frontier traffic exemption. How does that work? What happens to businesses in the middle of that zone? Where does that zone end? If that zone ends somewhere and you have a zone where traffic or traders are exempt from everything because it is frontier traffic, the WTO exemption, then you are creating two borders somewhere else, where a business 10 metres on the other side is not exempt and the business 10 metres in is exempt and you are doing this on both sides. How does that work and what kind of incentives does that create?

Sam Lowe: That was not in the Government proposal, I noticed, but it could be something that is developed, because also in the Alternative Arrangements Commission's proposals, it proposed potentially looking into creating special economic zones on the region, so carving out Derry, Londonderry and Donegal into its own region, which again—



Stuart C. McDonald: It just moves the borders, yes.

Sam Lowe: —to my mind, it just moves borders around. Then I also think, “Have you really thought this through?” It is a slightly odd proposal to make, but then this just gets to the question, going back to the Government’s proposal, of this idea that if the infrastructure is not literally on the border, is this border infrastructure? There is disagreement on this. My answer is yes, because the reason it exists is because there is a border and people are going to have to make use of it. Just because you put it 10 miles away does not necessarily stop that.

Q242 **Stuart C. McDonald:** In the same way there is a right-to-rent check or an individual has an immigration check, even though it does not happen at the border.

The overall impact of all of this—and obviously we would not know, it will depend on trade deals that the UK makes and so on—this will have an impact on patterns of trade between Northern Ireland and the Republic of Ireland. Is there any research that has been done about what those changes might be, what the implications are for patterns of trade?

Sam Lowe: No. It is more of a discussion than quantitative research, but with the old backstop, there was a feeling from Northern Irish business groups—and by “old backstop” I mean the first one, so the Northern Irish specific backstop—that it would be potentially advantageous to Northern Ireland, that in respect of goods trade, it would have equivalent access to the EU market, as it does now, and it would potentially attract new foreign direct investment into Northern Ireland, away from the rest of Great Britain—we should be clear, there is a reason the Scottish Government did not like it that much and that was why—because all of a sudden it is a good place to reach into both markets.

We need to see some more work on the new proposal that has emerged now, but at least from talking to Northern Irish business groups, they feel that it is just the negatives of everything, so not only do they have checks on inward-bound goods from Great Britain, they now have barriers to trade with Ireland and the rest of the EU. They have gone from this position where they think, “Maybe we can make this work for us” to just saying, “You are just making this bad for us from all directions”.

Q243 **Stuart C. McDonald:** Very finally, I chose a comparison with the border between the EU and Switzerland. Is that the closest border equivalent, would you say?

Sam Lowe: I asked a question about this on Twitter yesterday, just saying what do people think the Government’s proposal for Northern Ireland is closest to in terms of models. It was Switzerland, Ukraine, Norway and Turkey and people answered about 25% for each, so the public are confused. My answer would be Switzerland; I agree with you. In terms of economic access, this proposal for Northern Ireland is outside



HOUSE OF COMMONS

the customs union and in the single market for goods, so industrial products and agri-food. That is roughly what Switzerland has.

Q244 **Stuart C. McDonald:** What are the differences?

Sam Lowe: Switzerland is not entirely covered on industrial goods and agri-food in terms of authorisations and it looks like the Government are asking for a more comprehensive package, but in terms of we are saying, rough approximations, everything is different. In terms of the question of what the border should look like, the default of what that border would look like under such a proposal is what we see between Switzerland and the EU, and of course—

Q245 **Stuart C. McDonald:** Would you be surprised that the EU is sceptical that that same border can be done in a completely different way for Northern Ireland?

Sam Lowe: No.

Dr Jerzewska: If I can add something on the Swiss border, I live by that border and cross it several times a day. I live on the Swiss side and cross into Geneva several times a day. One of the things that the Alternative Arrangements Commission's report mentioned is how similar this border is for goods, but people as well. I want to point out that I have been in buses that were stopped on that border and everyone in the bus was asked to provide ID and people without ID were taken to have an interview with the Border Force. I have been in cars that were stopped and searched and I have been in buses where the Border Force were checking how much wine people were bringing in, because obviously prices in France are cheaper and people do their weekly shopping in France. That is obviously not my area, immigration and so on, but I am just wondering how the people in Northern Ireland would feel if they were asked to carry their passport with them every single day.

Stuart C. McDonald: That is a slightly different issue, but yes.

Dr Jerzewska: It is like the relationship that we were talking about with the Swiss border.

Stuart C. McDonald: Thank you very much. Yes, your account is very helpful, thank you. I confess that that is exactly where I got that comparison from.

Q246 **Chair:** Just to follow up on the enforcement thing, do you think that the Government, with their proposals, would in the end need to have random checks carried out somewhere in order to have a sort of enforcement system?

Dr Jerzewska: Yes.

Sam Lowe: Yes, especially to begin with. Obviously they might never admit they are random, they will always say they are intelligence-based and there will always be a tiny bit of intelligence between who you stop.



HOUSE OF COMMONS

Q247 **Chair:** If you stop vans rather than small cars.

Sam Lowe: Right, or you are suspicious of a certain route and you think, "Okay, that is a bit of intelligence. We will stop it" but there does need to be that, in my opinion, to keep it honest.

Q248 **Chair:** That would be random checks away from the border, but on border roads?

Sam Lowe: It would be between the point of export and the point of import, so between premises.

Dr Jerzewska: Or on premises as well.

Sam Lowe: Or on premises.

Dr Jerzewska: They can have random visits to the premises.

Q249 **Chair:** Is your understanding that they are proposing effectively there to be a separate centre where these checks will take place, like a giant car park with some checks in it, or that they are only proposing to do the checks at people's existing premises?

Dr Jerzewska: It mentioned premises and other designed locations. I think that was the exact wording.

Sam Lowe: Yes, so other designated premises. If we just work through how this works for a business, so you predeclare your intention to export. It is run through a risk management system. They say you are okay, give you permission to proceed and you can just go to the import point, but also that process is happening on the other side, because the importer has to declare you are coming as well. But if there is an issue with that—as per the Government's proposals—you will not be given permission to proceed. You might have someone come to your premises and say, "Let us have a look at it" or you might be asked to go to a designated export place en route and go through the procedures there, where they will or will not give you permission to proceed.

Dr Jerzewska: That is part of a lot of the procedures right now, so when you do transit right now, you have to have permission to unload your goods from the truck that is locked and sealed. You might not have this permission because customs authorities want to do checks. If they do not, you can unload.

Sam Lowe: I suppose one thing that they are asking for in the proposal is to get rid of entry and exit summary declarations, which is usually the haulier will declare say an hour before getting on the ferry that it is about to exit. This is just to get rid of that, but that would be a derogation for the EU. That would be something that you are asking the EU to change.

Another issue that we are asking the EU to change, where there is recent history of the EU refusing to do so, is on transit. If you are engaging in transit at the moment, you have to scan a barcode as you cross borders.



HOUSE OF COMMONS

Obviously we do not want that, because we do not want physical infrastructure, so the idea is to do it another way. But we know the UK tried to negotiate a change to this when it negotiated its entry to the Common Transit Convention and this was not allowed because the EU opposed it. We already know from recent experience that the EU is not warm to the idea.

Q250 Chair: At one point there were proposals for managing any potential additional customs checks at Dover outside a customs union, given the capacity issues at Dover, which might involve automated number plate recognition—

Sam Lowe: It does, yes.

Chair: —at the port and also potential other car parks or designated locations away from the crowded port of Dover that vehicles would have to pass through in case they needed to be subject to random checks. Do you think there is a version of that the Government have in mind for Northern Ireland? If so, what are the differences?

Sam Lowe: The thing is a lot of these alternative arrangements proposals I would happily engage with if we are talking about Dover, as in pulling stuff away from the border, trying to do it on trust. It is fine, because you have one point of exit, where if you do have an issue you have everything in one place and you can pull it aside and say, “We will stop it now”. But you want to smooth out that border and of course these are good ideas. Yes, it is not so different, because now under the no-deal plans, if you want to export, you declare. If you have permission to proceed, great, head to Dover, the haulier submits the entry/exit submission. Then if you are going to France, you now have to have a French movement reference number. You scan it at the ferry. If it is okay you are allowed on to the ferry and then the French customs authorities will decide what to do with you with on the other end while you are on the ferry.

Fine, these are all good ideas for managing the border in the event of no deal, but what I have just described requires a lot of infrastructure. If you are trying to do that without the infrastructure, you still have the processes behind it, there are still checks and there is still a border.

Dr Jerzewska: Also another difference is time. Under these new procedures for Dover and other rural locations, a trader provides either a prelodged customs declaration before they load the goods on the ferry or they provide their AEO number and then follow a slightly different procedure. But the customs authorities have this information a little bit before the goods arrive at the border and they have time to do this kind of pre-segregation that we have seen, the screenshot of a monitor that says, “This number plate orange, this number plate green, these people can go straight and these people need to stop somewhere else for further checks”. There is this extra buffer of time, which makes sea freight and air freight slightly easier in terms of managing, because you do have this



HOUSE OF COMMONS

time from when you submit the declaration before the goods depart to when they arrive.

With road transport, with something like a land border in Ireland, you do not have that much time, so either you make traders wait or you sort it in a different way.

Q251 **Chair:** Do you think they will be under pressure, if they were to take this forward, to put cameras at the border?

Sam Lowe: In early iterations of the Alternative Arrangements Commission proposals, if you trace it back to Lars Karlsson, who is on the Alternative Arrangements Commission, and his Smart Borders 2.0 proposal, that did involve some infrastructure in the form of automatic number plate recognition. That would make it easier in terms of having the data to do risk-based interventions. You can watch people, you have number plates coming through and you have an idea of matching up the legitimate traders versus someone who is going across that border suspiciously often and we are not sure who it is. That would help, but of course it is just not appropriate to the circumstance.

Q252 **Chair:** You referred earlier to your interpretation that these proposals were the sorts of things that you might put in place to manage no deal. Is that because on customs you see there are quite a lot of similarities in process terms to being out of a customs union and having no deal, that the tariff issues may be different, but that the customs process arrangements end up being similar?

Sam Lowe: Yes. The reason I say I think that is where we would end up is it is not automatic. The UK's no-deal proposals are that we just let everything over in Northern Ireland for a little while; on the Irish side, we are a bit confused as to what they would do. But just because they do not want to put any physical infrastructure on the border, and I understand that this is better than having physical infrastructure on that border—just—you would try to do those checks away from the border and you would try to manage it that way.

It is why I said I think what is being proposed here is kind of the default. It goes to your point, that once you have a customs border, in the event of no deal you have high tariffs; in the event of a trade agreement, you have the potential to claim lower tariffs. That is the difference. I suppose the other difference is you are not working together in no deal, which does make it more difficult.

Q253 **Chair:** A final question—because we have an urgent question in Parliament—around the HMRC assessment of the costs to business of no deal, as reported in the *Financial Times* this morning. It refers to a cost assessed by the HMRC of £15 billion. My understanding is that that is a process cost, not an estimated tariff cost. If that is the case, how much of that £15 billion would apply as process costs simply from being outside a customs union?



Dr Jerzewska: I can't give you the answer to this directly. I can tell you that you have tariff costs; you have admin costs of hiring a customs broker; you have internal costs of hiring additional people, if you can find them, to help you provide the information to customs or to your broker; you have restructuring costs, if need be; and you have obviously opportunity costs in terms of losing business. But how it composed that number and how it is divided, I would not be able to comment on that.

Sam Lowe: I would need to see the report to comment exactly on how it has computed it, but it is important to say that in terms of the customs process, it does not change very much from no deal to a free trade agreement. I would even add if you are just talking about a basic customs union, so the sort that Turkey is in, it does not even change that much. To get rid of all of that, we are talking about a high integration within the EU's customs regulations and regime, which is what was originally offered to Northern Ireland in both backstops to avoid that.

Q254 **Chair:** In customs terms, putting aside all the other issues, being outside the common external tariff and the common customs code and so on creates similar customs process costs to no deal?

Sam Lowe: Yes.

Dr Jerzewska: Yes. The proposal for Northern Ireland is a full customs border. The proposal is how to manage the full customs border and how to create simplifications, but in terms of just customs formalities, it is a full customs border that requires goods to be declared every single time they move. Obviously we are not talking about a hard border versus soft, but I am talking here about the requirement to have a customs border if you are outside of the single market and customs union.

Sam Lowe: My line to businesses in terms of preparation is, "Okay, you might not think no deal is going to happen now, but if we assume the UK do leave the EU and if we assume it is quite likely we leave the customs union or we are in a customs union that is not as highly integrated as the one we are in now, these costs are going to hit you anyway, so you may as well prepare". I am not sure how successful that line has been.

Chair: Thank you very much for your evidence. Thank you in particular for giving us evidence on a set of Government proposals, where it is possible that in the course of you giving this evidence the Government may have abandoned them, but we will go and find out what the latest state of play is in Parliament in due course. Thank you very much for your evidence.