



OFFICIAL REPORT
AITHISG OIFIGEIL

Culture, Tourism, Europe and External Affairs Committee

Thursday 28 March 2019

Session 5



The Scottish Parliament
Pàrlamaid na h-Alba

© Parliamentary copyright. Scottish Parliamentary Corporate Body

Information on the Scottish Parliament's copyright policy can be found on the website - www.parliament.scot or by contacting Public Information on 0131 348 5000

Thursday 28 March 2019

CONTENTS

	Col.
ARTICLE 50 (INTERNATIONAL AGREEMENTS)	1

CULTURE, TOURISM, EUROPE AND EXTERNAL AFFAIRS COMMITTEE
10th Meeting 2019, Session 5

CONVENER

*Joan McAlpine (South Scotland) (SNP)

DEPUTY CONVENER

*Claire Baker (Mid Scotland and Fife) (Lab)

COMMITTEE MEMBERS

*Annabelle Ewing (Cowdenbeath) (SNP)

*Kenneth Gibson (Cunninghame North) (SNP)

*Jamie Greene (West Scotland) (Con)

*Ross Greer (West Scotland) (Green)

*Stuart McMillan (Greenock and Inverclyde) (SNP)

*Tavish Scott (Shetland Islands) (LD)

*Alexander Stewart (Mid Scotland and Fife) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Dmitry Grozoubinski (ExplainTrade.com)

David Henig (European Centre for International Political Economy)

Professor Alan Winters (University of Sussex)

CLERK TO THE COMMITTEE

Stephen Herbert

LOCATION

The Adam Smith Room (CR5)

Scottish Parliament

Culture, Tourism, Europe and External Affairs Committee

Thursday 28 March 2019

[The Convener opened the meeting at 09:06]

Article 50 (International Agreements)

The Convener (Joan McAlpine): Good morning and welcome to the 10th meeting in 2019 of the Culture, Tourism, Europe and External Affairs Committee. I remind members and the public to turn off their mobile phones. Any members using electronic devices to access committee papers should please ensure that those are turned to silent.

Agenda item 1 is an evidence session on international agreements. I welcome our witnesses: David Henig, Dmitry Grozoubski and Professor Alan Winters. Thank you for coming to give evidence today.

I start with a quotation from a paper that was written for the committee by our expert adviser, Dr Filippo Fontanelli. Touching on the impact of trade agreements on devolved competences, he points out that:

“Trade agreements often include: rules on public procurement; rules on trade in agricultural and fisheries products, including ... geographical indications; commitments on environmental protection”

and “judicial cooperation”, including in relation to civil justice.

Many areas of devolved competence in Scotland would be affected by trade agreements. In your professional opinion, what mechanisms should there be to ensure that the Scottish Parliament and the Scottish devolved institutions are involved in future trade agreements? In answering that, you might like to draw on international experience of other countries that have sub-national Governments.

Professor Alan Winters (University of Sussex): I will start—I guess that others will be able to add a lot more.

It is very clear that an Administration and a Parliament that have responsibility for an area need to be heavily involved in the design of the mandate for that area. Therefore, the very first thing that you need to ensure is that, in preparation for a trade deal, the Westminster Parliament and the United Kingdom Government are fully informed of and have some obligation to

take seriously the views of the devolved Administrations. Part of that might involve a joint committee or the possibility of guaranteed, high-level and regular official committees.

As we are in a sense proving at the moment, quite a large part of the battle of a successful negotiation is working out what you want and what you might expect. Assuming that you can converge on a mandate that makes some sense, a mechanism will be needed for keeping the devolved parties informed and letting them comment, modify their positions and offer advice.

Of course, a lot of that would have to be quite quiet—it would mostly be done at official level, because you cannot necessarily conduct everything at the parliamentary level. However, at specific times, there would be room for parliamentary scrutiny, some of which may have to be private, but some of which can be public. If you do that process properly, you will end up with a deal that you more or less know will satisfy all the parties. You then need to ensure that there is some way of taking account of the views of the devolved Administrations and Parliaments on the trade agreement. You cannot get into a position in which one of the devolved parties can automatically and unconditionally veto a trade agreement; there must be a system that brings that co-operative process to an agreed solution.

David Henig (European Centre for International Political Economy): I have frequently said that one of the most important bases for any trade agreement is consensus. That consensus needs to be political—across parties; it also needs to be geographical and regional. In this case, it needs to take into account the devolved interests of Scotland.

To pick up Alan Winters’s last point, you must avoid getting into a position in which an entire area such as Scotland, Wales or Northern Ireland simply does not agree with the final deal. If you get into that situation, you have a really major political issue, as I am sure that you do not need me to tell you. To avoid that, you need to put in all the work up front.

As I see it, the mechanisms need to be put in place such that, by the end, you really are confident and comfortable that the deal takes into account Scotland’s main interests. Certainly, when I worked for the UK Government on trade policy prior to the 2016 EU referendum, regular updates were always provided, which always included representation from the Scottish Government. That may well have been done by officials just providing an update on what was happening and an opportunity for input to be given, such that we knew what Scotland’s main priorities were and that it was important that those were delivered.

Dmitry Grozoubski (ExplainTrade.com): It is an honour and privilege to be here. It is my first time, so I hope that I do not screw it up—feel free to yell at me if I do.

The Convener: You are very welcome. We are delighted that you are here.

Dmitry Grozoubski: First, I will pick up on Professor Winters's point. The mandate is, essentially, the trade negotiators' bible. Fundamentally, it is a hierarchy of interests. There is a hierarchy of offensive interests—that is, what commitments you are seeking from the other side. There is also a hierarchy of defensive interests—that is, what you are unprepared to move on in response to requests from the other side. Us negotiators use that mandate as our guiding star. When we are in the room, the interests of the top of the hierarchy are those that we invest most of our negotiating coin in defending; the same applies when we prosecute offensive interests.

Determining the mandate and making sure that it reflects the interests of Scotland and that you have fed into the mandate is crucial, because once a negotiator is in the room, everything but that mandate becomes secondary; everything but that north star fades into the distance. Therefore, if you are not on the radar by then, you are already three months behind.

09:15

On devolved competences and how to reflect Scotland's interests, I would mentally separate the issue into two boxes. The first contains the specific devolved competences of Scotland, Wales and Northern Ireland—the things that, constitutionally or otherwise, are within your remit. For example, as trade negotiators in Australia, we try, if we can, to avoid getting into issues that are under the constitutional authority of the states, because otherwise we add another layer to the clearing process. That would mean bringing on board another group of people to approve what we were doing, which would make it much more difficult to get a trade agreement done. In Australia, wherever possible, we try to stick to commitments that can be executed at the federal level. Given what is said in the papers that have been prepared for the committee and what has been described previously, it might be much more difficult for the United Kingdom to take that approach, because the extent of devolved competence is greater.

However, the second box is almost the more critical one: what are Scotland's interests, and how do they feed into that mandate? Trade negotiators are generally lucky if the analysis and economic data that they have available to feed into the Government's thinking on that mandate are economy wide, although sometimes they get

sector-specific data on areas in which there is an effective industry group. It is much more rare that they would have information on what a particular tariff line would do to eastern Scotland, for example, or what a particular commitment would mean for lamb production in a sub-region. Trade negotiators operate at the national level, not because of a lack of interest but because of a lack of data or capacity and because, frankly, civil servants in a national capital do not have the same connections to local businesses and interests as those in this Parliament would have to Scottish businesses, for example.

The Convener: I will zoom in on that point and give an example that might be relevant to what you have just said. Earlier this month, the UK Government announced that it would go for liberalisation on a temporary basis in the event of a no-deal Brexit. It announced that it would unilaterally introduce zero-rated tariffs for goods that come into the UK across a range of areas.

Initially, we were told that those areas did not account for big parts of the UK economy, so the impact would not be great or damaging. However, after reading our briefing papers today, I was surprised to learn that dairy products are included. I represent the south-west of Scotland, where the production of cheese is very important. That production might not be huge in the context of the overall UK economy but, if there were 73 per cent tariffs on dairy exports and no tariffs on goods coming in, that would certainly hit our cheese makers very hard. Does that illustrate that the voice of that industry was not heard before the decision was made?

Dmitry Grozoubski: Obviously, I was not involved in the consultation process that was run by the Department for International Trade and the Department for Exiting the European Union, but we can certainly view the proposed establishment of those no-deal tariffs as a microcosm of the process for preparing for a trade agreement. The UK appears to have attempted to replicate the process of working out its hard defensive interests—the industries in which it must maintain protection—and the industries in which it can pull back from protection a bit, or eliminate it entirely.

From my conversations with business lobbyists—I have not had such conversations with devolved authorities—I know that there is not a high level of satisfaction with the consultation that went into the process. The objective was to anticipate and reflect those interests and to craft something that would work, but such consultation did not take place. The convener's point about the interests of the south of Scotland versus the UK Government's line is emblematic of that.

Although trade has a huge impact on the economy in dollar versus gross domestic product

terms, it does not tend to be that significant, because most of a modern economy is us selling things to, or buying things from, our neighbours.

If we look at something that is pivotal to a region, such as dairy in the convener's part of Scotland, against the entire UK economy and the 64 million people who live in the UK, we see that it is three points behind the decimal in terms of its impact on GDP or whatever. However, for that community and region—not only the people working in dairy but the pharmacy that relies on those people having a steady income so that they its services, the local lawyer who handles their weddings and divorces and the supermarket and post office, it is absolutely pivotal. It is entirely possible that, without adequate consultation and feed-in, dairy was not deliberately ignored but just never rose up as an issue.

Professor Winters: The temporary tariff liberalisation that the UK Government announced for no deal illustrates important points very clearly. One has to accept that it was done in rather exceptional circumstances. The DIT has confessed that there was very little consultation. The Government clearly viewed it as politically very sensitive and wanted to keep it quiet. Therefore, one can use it as an illustration of what can go wrong, but it is not necessarily an indication that that is exactly how Westminster and Whitehall will always behave over the next decade or so.

As an illustration of what a patch-up it was, you will notice that the tariffs on a lot of agricultural products are defined in euros, so when we take control and Americans sell us dairy goods that they will sell in pounds here and price in dollars in America, they will have to pay euros to get them in. I think that it was just a real patch-up.

David Henig: I will add the time factor to that. Trade agreements are always criticised because they take so long, but that is what happens if they do not take a long time—you get a sudden tariff announcement.

What needs to happen is that Government goes to business, the Scottish Government and everybody else and says, "Right—we're going to make a tariff announcement. What do you want to say about all your different industries?" Frankly, that process needs to carry on and iterate numerous times, because business and all the different sub-sectors do not necessarily know the detail. Some serious analysis is needed to get it right, and that takes time.

Frequently, it is not the negotiation with the other country that takes the time; it is the negotiation with yourselves. Do we know everything that we need to about that region, this sub-sector and the impacts? The final decision on

tariffs will always be taken in secret because the people making it have to judge some pretty sensitive trade-offs, but they have to be certain that there has been sufficient time for people to have contributed, and on this occasion they were not certain. In turn, negotiators must tell business to be specific: what will hit them—is there an amount, a quota, a tariff? That is the process, and it takes time.

The Convener: Thank you.

Claire Baker (Mid Scotland and Fife) (Lab):

One of the drivers for leaving the EU for some people is the ability for the UK to make new trade deals, principally with America, New Zealand and China—those are the ones that are frequently mentioned. You talked about timescales in negotiations. What do you think the timeframes for any new deals with those countries would be? Also, what type of Brexit would facilitate the ability to make those trade deals? If we were in some kind of agreement with the EU, what impact would that have on the ability to make individual trade deals?

David Henig: The EU is one of the slower countries or blocs in terms of making trade agreements. Five to eight years would be my suggested timescale for an EU trade agreement. The US has done them more quickly in the past, taking two to three years, let us say, from the start of the negotiations to implementation. However, that would be when the other country takes the US terms and just contributes a little bit. If we get into a serious negotiation, it will take longer; in particular, it will take longer because we do not yet know about all our specific interests in the levels of detail that Dmitry Grozoubski was talking about. However, that is completely theoretical because the countries we are talking about—the US, New Zealand and others—have made it entirely clear that they will wait to see what kind of relationship we have with the EU and for that to be defined.

That applies even in a no-deal scenario, because even advocates of a no-deal Brexit are saying that they will want some deals with the EU. There will be a huge amount of tension in areas in which there is conflict between the EU and the US—I am talking, for example, about food standards and the famous chlorinated chicken. That decision will not come at all easily. US trade officials are very experienced and are well aware of the fact that the UK has big decisions to make. They do not expect talks to proceed particularly quickly. Therefore, almost regardless of what type of Brexit there is, our trade deals will be slow, because we do not know what we want and the other countries are waiting to see what happens when it comes to our relationship with the EU.

In the event that there is a customs union—the vote on that option was the closest of yesterday's

votes at Westminster—our trade agreements will be extremely limited, because they will have to follow EU tariffs, in which case the US will not want to play, or they will have to be related to services. We have not mentioned services agreements. It is particularly tricky to do services-only trade agreements—in fact, there are only one or two in the world.

In all circumstances, we are talking about a pretty slow process.

Professor Winters: I echo all of that. To pick up the point about services, it is extremely difficult to negotiate liberalisation agreements on services. The World Trade Organization records only one services-only general trade agreement, which is between the European Union and the European Free Trade Association countries, which we know have an extremely deep relationship. It just so happens that the goods section and the services section are written down in different treaties. The notion that there will be no need to worry if we pin down the goods market by agreeing a customs union or by moving unilaterally to zero tariffs, because people will want to negotiate service agreements with us, is just a fallacy. We are scarily efficient in services. Most trade agreements involve trying to get something and giving up a little bit. We would be saying to other countries around the world, “We can’t give you anything in goods, where you are efficient, and if you open your doors to us on services, we will be a really fierce competitor,” so they will not turn up.

We need to make it clear that services-only agreements will be extraordinarily hard work.

Dmitry Grozoubski: I would say that all trade agreements will be pretty hard work. There is a lot of triumphalism in the hypothetical when it comes to trade agreements—I am talking about all the glorious markets that will be open—but the fact of the matter is that, as Professor Winters illustrated, the greatest potential gains lie in areas that the counterparty protects the most. There will be a desire to eliminate the counterparty’s highest tariffs, but those highest tariffs tend to be high for a reason. That is generally because there is a compelling and effective domestic argument for their being high, which is often backed by a very effective and persuasive lobby that keeps them high and has kept them high in the face of liberalisation pressures from every direction for decades and, in some cases, up to a century. If the UK tries to charge up that hill, it will find that it is steep indeed.

David Henig made a critical point about timescales. Trade agreements do not take a long time because trade negotiators are very slow typists; they take a long time because, at the start, there will be 650 paragraphs in square brackets, because the parties disagree on everything but 50

paragraphs of standard text. It takes a long time to resolve 650 disagreements and align your requests and the offers that the other side makes across your schedules. The length of time that it takes to reach a trade agreement depends entirely on how flexible and accommodating you are willing to be to the interests of the other side. If you walk into a trade agreement negotiation and the other side tables a text and makes a request, and you say, “Yup, yup—and don’t worry about anything we’ve asked for,” you will be able to get the trade agreement done in 45 minutes. The other side will just copy and paste its previous trade agreement, plus some requests.

However, if the UK is going to take the process seriously—I strongly encourage it to do so—it will take time. I can give a sense of the timescales involved. The Australian free trade agreements with Korea, Japan and China took five, seven and 10 years, respectively; I think that I got the order right. That occurred because there were fundamental clashes between what we needed and what they were willing to give, and vice versa.

09:30

I want to pick up on David Henig’s point about the likelihood that other countries will wait to see what shakes out in terms of UK and EU relations. David is 100 per cent right on standards alignment, but there is a more fundamental point about goods. If, for example, the United Kingdom says to Australia, “We will drop the tariff on wheat and in exchange we would like this, this and this,” as a trade negotiator, I will evaluate whether that is a good offer and a reasonable exchange by considering, first, what the tariff dropping will mean for my producers vis-à-vis United Kingdom producers and, secondly, what it will mean vis-à-vis Australian competitors.

Until I know whether the EU will receive full unlimited market access in a free trade agreement that eliminates all tariffs or whether it is facing WTO tariffs, it is hard for me to price the value of UK offers, because I do not know whether my major competitors will get zero tariffs or potentially lock-out quotas, for example. The situation actively makes it difficult for the UK’s counterparties to make trade agreements that they can count on as balanced, because they do not have the answer to that puzzle yet.

Claire Baker: The panel have described a complicated and lengthy process. Obviously, in any trade deals that the UK has been involved in, the EU has been the lead negotiator. Are there issues with a lack of experience in the UK Government because we have not been actively engaged in negotiating trade deals for a long time? We have heard that the US is quite an aggressive negotiator. What does the UK

Government need to do to negotiate such deals and be involved at that level?

Professor Winters: It clearly needs a lot of expertise, but it also needs one to think hard about what is going on before it gets into that negotiation. In one sense, trade negotiations are like other negotiations, such as domestic negotiations, which civil servants do all the time. However, trade deals come with their own environment in the World Trade Organization and with their own vocabulary and conventions.

The key is to understand what you want and what you are prepared to pay for it. You need to have conducted a secure negotiation at home so that you are negotiating from a strong base. Then you need at least some people who know the way the system works. A trade negotiation is a funny sort of business, as it is a mixture of commerce and law. The people involved are tough negotiators—that is what they do; they do not give any favours. The most important thing is to be realistic about it, to be clear about what you want and to understand that you will not patch it up by Christmas.

David Henig: It is not necessarily about numbers. The Office of the United States Trade Representative is actually surprisingly small—it has only about 200 full-time members of staff—but it draws on expertise from across the Government. It is not just about whether the Department for International Trade has enough negotiators; it is about whether all the other Government departments have people who can be dedicated to the issue and who understand trade. Are there enough people in the Scottish and Welsh Governments who understand the issues and can get all the required information? Have domestic processes been set up to ensure that everybody has a chance to contribute? Clearly not, as we have discussed.

It is about making sure that you are fully prepared before you even start. To go in first against the US is, in the old civil service language, a very brave step, as it has some of the most fearsome negotiators to be found anywhere. Then again, it will not be easy to negotiate a trade deal with any country that I can think of, because they have all done it before and they already have their processes in place whereas, as far as I can tell, we still do not have them in place. If they were needed in two weeks, let us say, we would not be ready.

Jamie Greene (West Scotland) (Con): I want to move to the issue of WTO rules and the possibility—as unpopular as it is—of a no-deal scenario. We have touched briefly on the temporary tariff regime, and I appreciate what Mr Henig said about the process by which we would come up with such a scheme in an ideal world.

However, in an ideal world, we would not be trying to come up with the scheme when we are days away from potentially leaving the status quo. Perhaps ministers did not have the benefit of time in that respect.

If there is a scenario—and it is just an “if”, because this is all just one big “if”, as none of us knows what will happen—in which we have to fall back on the WTO rules, could someone with expertise on the WTO explain to the committee what that world would look like? How would we trade with other countries, how would we, as a third country, trade with the EU, and what might the international standards and protocols look like?

Dmitry Grozoubski: Fundamentally, the WTO rules are a minimum baseline. The EU single market and customs union is at a very advanced stage of integration—it has progressively eliminated a whole range of barriers and has bound Governments not to implement a whole range of barriers to trade or conditions about how trade can happen; the WTO rules are an absolute baseline. The WTO provides a minimum standard of non-interference or limited interference in international trade that 164 members have signed up to.

In practice, in a WTO Brexit scenario, the obligation on the EU and the United Kingdom would be to treat trade flows between each other in the same way as they treat trade with a WTO member with which they have no free trade agreements and no trade-related agreements of any kind. There are not many of those—the closest analogue is Venezuela. A package heading from Edinburgh to Paris receives a very advanced degree of treatment. A Venezuelan exporter trying to send a goods consignment to Paris faces much higher fees and a much greater amount of paperwork. Under a WTO principle called most-favoured-nation status, the EU would have to apply the same rules to the UK as it applies to Venezuela. That is an oversimplification, but that is, in essence, what it would mean.

For UK businesses, even with all the commendable measures that the Governments on both sides have already put in place to mitigate the shock, there is likely to be a very sharp shock indeed, in two ways. First, there is the question of tariffs. The UK has indicated that it will liberalise a range of tariffs on an MFN basis to allow imports to flow in more readily than they otherwise would. However, the EU has made no such indication as far as I am aware. If there is a no-deal Brexit, the UK will definitely face those tariffs. Anyone suggesting otherwise, under unicorn schemes such as article XXIV of the general agreement on tariffs and trade or mysterious last-minute arrangements, is doing so without any basis in EU

statements or indications. The UK will face tariffs—that is the first part of the shock.

The second part of the shock involves paperwork and procedures. The EU single market and customs union has done its very best to make moving something from Glasgow to Paris as easy as moving it from Glasgow to Edinburgh in terms of the paperwork and requirements. It has not quite got all the way there, but it has got far closer than almost anyone else at any point in human history. Compared with that, moving something internationally carries a significant burden of paperwork. There is a reason why the customs brokerage industry exists. There is a reason why freight forwarders are a thing. It is because navigating the bureaucracy of international trade, which every country has to do, is a really hard lift. Any business in the United Kingdom or in Scotland that has only ever traded within the European Union will never have encountered that before.

There is the economic operator registration and identification—EORI—number for registering as an exporter. If a business has never traded outside the EU, the chances are that it does not have that registration. It is not registered as an exporter because it did not have to be. EORI registration numbers, which are being tracked, are still hundreds of thousands below where they need to be, meaning that tens of thousands of UK businesses will not be eligible to export. They will not be the type of registered firm that can export goods to markets to which they could easily export them the previous day, because the paperwork requirements will kick in.

Even if that is partly mitigated on the UK import side—I trust that the European Commission will also do what it can to mitigate that in the long term—in addition to the shock, every additional bit of paperwork will cost money and time. The current UK business models are built around not having to register. If they do have to register, that will raise the cost of doing business and might push them outside their competitiveness margins.

I do not want to overstate this, but, at the same time, I struggle to overstate it. This is a really serious and sharp shock that should not be dismissed.

David Henig: I would say that that is an understatement. You talked only about goods, but there will also be an impact on services, particularly in two areas.

A lot of folk across the UK are selling services that involve their going to work across the EU, and we are entirely unclear what the regime for that will be. Many people in, for example, information technology services rely on working across Europe wherever they are needed. Many people have great skills, and I have come across people

who go around Europe giving advice on wind turbines or offshore oil and gas installations—quite a few of those people are here in Scotland—who will find that their rights to work across Europe are entirely unclear in the event of a no-deal Brexit. When I say “entirely unclear”, I mean that many of those people fear that they will not be able to provide their services across Europe in the event of a no-deal Brexit.

Even if they could travel to work, the WTO service schedules, which tell other countries what services they can and cannot supply, are far below the single market integration. It is often said that there is no such thing as a single market for services in the EU, but that is incorrect. Generally, people have the right to travel anywhere around the EU and provide services. Under the WTO rules, generally, there are an awful lot of exceptions to who can do that.

Professor Winters: I have one further wrinkle to add. The WTO rules would also constrain the way in which Britain could conduct its own trade policy, exactly as they constrain the European Union. For instance, under the WTO rules, we would be able to calculate and impose anti-dumping duties only in a moderately disciplined way. There would be disciplines on subsidies. The most-favoured-nation discipline means that we would have to charge the same tariff to every partner with whom we did not have a full free trade agreement.

The WTO minimum, which Dmitry Grozoubski talked about, would apply to us. I have had some conversations with people in Government who think that, after Brexit, they will be completely free to do whatever comes into their heads. Well, the WTO has, during its 70 years, constrained a fair amount of bad behaviour in the trading system, and it would continue to do so for us.

A bit more than a year ago, in America, I had a conversation in which I was warned that the USTR is preparing to bring a large number of WTO disputes to Britain because, when we take over our own trade policy, all the things about EU trade policy that the United States hates will be owned by us. We will have voluntarily introduced things such as a ban on hormone-fed beef, which is generally held to be inconsistent with the WTO. The US has got fed up of beating against the brick wall of the European Union, but it is very clear that, when the policies belong to us—little Britain—it will come and talk to us. The WTO rules will then constrain us and will condition the way in which we conduct our trade policy.

09:45

Stuart McMillan (Greenock and Inverclyde) (SNP): I would like to clarify a couple of points.

You mentioned the selling of goods internationally. How will what you said about businesses that do not have that particular registration affect businesses that are selling goods on websites such as Amazon and eBay?

Dmitry Grozoubinski: It will generally depend on how they are structured and how they do their selling. If they are, in effect, selling to Amazon—if their product goes to an Amazon warehouse and is distributed by Amazon—Amazon will take care of it, because it has the world's best logistics. That is not a problem. However, if they use the Amazon marketplace, they are independent traders. People who sell through eBay are a good example of that, too. If they have an independent store selling crocheted hats and somebody goes online and buys one of their hats, they send it to the buyer themselves. The extent to which they would be able to do that might be curtailed in the situation that we are discussing.

Things get a little complicated in relation to e-commerce, because a lot of countries have minimum thresholds. That means that, when a trader sends a \$30 hat that someone has bought from them online, it will be tariff-free, so things are much easier. However, if they are selling higher-value goods or a higher volume of goods to buyers in the EU, they might suddenly face having to implement all of those procedures if they want to be an exporter and be square with all the laws, so they might face barriers. I will give you an example. I live in Switzerland, where it is virtually impossible for me to buy anything on Amazon, because the customs costs and the procedures are quite difficult there. Everyone I know in Geneva has a friend across the border in France to whom they can arrange for products to be sent. I swear to God that that is true. There is a massive industry in France involving mailboxes where Amazon deliveries go, because selling something into Switzerland via online retailers is considered so onerous that it is worth jumping in a car and driving to Divonne-les-Bains to pick up a package. So, it is a barrier.

Stuart McMillan: Thank you. That is an interesting example.

On the point about services, the large oil and gas companies are global but they employ many small contractors. If a large oil and gas company was bringing in contractors and sending them to the US, Kazakhstan or African countries, what would happen regarding the services, and would there be any potential additional costs?

David Henig: In some of those countries, the WTO rules already apply and the large company takes care of working out how—

Stuart McMillan: So, the large company, as opposed to the small contractors, takes care of the issues.

David Henig: The large company will probably have set up a subsidiary in those countries and will be complying with the local laws. In that kind of supply-chain example, there might now be new obstacles with regard to how that company operates in Europe. There are already obstacles when companies bring in people to work in countries such as Kazakhstan—that country is quite a good example of what we are talking about. At the moment, companies spend a lot of time complying with laws to enable them to do that in those countries, but they spend a lot less time complying with local laws in the EU, because there are not that many barriers between the EU and the UK. In the situation that you are talking about, it will be harder for the large companies to bring in a UK supplier, and they might choose not to do that.

It comes back to the point that Dmitry Grozoubinski made. We are talking not about the UK in isolation but about the UK against other competitor countries. If there is a choice between bringing in a UK supplier or an Irish supplier, a large company might decide to bring in the Irish supplier because that would mean having 10 fewer laws to comply with. The issue about extra paperwork and rules, which Dmitry Grozoubinski outlined in relation to goods, also applies in relation to services.

The single market is a pretty permissive environment in that people can more or less do what they want in it unless there are specific laws against that, whereas, in the WTO field, people have to go through each law in turn to see whether they are allowed to do what they do or how to get round that.

Professor Winters: It should be remembered that we are dealing with visa regulations that, in some countries—the US, for instance—are outside the purview of trade agreements and are hugely sensitive anyway. A large company may, in a trade agreement, have negotiated to receive from a Government the right to move key workers whom it already employs to do particular jobs. That right will be constrained, but it will still exist. However, small contractors are absolutely dependent on the local visa regulations. We are talking about how the remainder of the European Union will treat us, and visas are basically a national competence. We will have 27 sets of trouble to think about, and, generally, countries are not very liberal. In the example that you gave, the large company that wanted to direct small contractors on its own, as it were, without an employment relationship with them, would face a considerable increase in difficulty.

Ross Greer (West Scotland) (Green): I want to turn to the roll over—or not—of many of the treaties that currently apply to the United Kingdom as an EU member state. It is clear that things have not gone as swimmingly or triumphantly as Liam Fox predicted a couple of years ago and that relatively significant deals, such as those with Turkey and Japan, have not been rolled over yet. What will the noticeable impact of a failure to roll over those deals be on UK trade?

Professor Winters: In general, when we drop out of the European Union and therefore drop out of its trade agreements, partner countries will be obliged to treat us as a third country and we will face their tariffs, and we will be obliged to treat them as third countries and they will face our tariffs, whatever they happen to be. Some of those trade agreements have a degree of service liberalisation and there are smatterings of mutual recognition in some of them, which we will fall outside of.

In principle, our market access for nearly 15 per cent of our exports will deteriorate. The Government has negotiated rollover trade agreements for 2.2 per cent of that 15 per cent, but even the rollover agreements that it has negotiated do not guarantee a perfect replication of current trading conditions.

The rollover agreements are potentially quite important and, as Ross Greer said, they have not gone very well. Different agreements are different distances from the finishing line. It is very clear that a Turkish agreement, for instance, is extremely difficult because Turkey is so tied up with the European Union. The Japanese are immensely irritated with us, and the South Koreans think that they will get a better deal. All those countries will take quite a long time to deal with.

Some agreements are said to be imminent. We are told that a Norway agreement is imminent, but Norway will deal only with goods. It cannot make an agreement on most services with us because it is in the single market, and that very much limits what it can offer to us when we are a third country.

The rollover agreements—or the absence and failings thereof—are moderately serious news.

David Henig: There was clearly overoptimism at the start. I think that there was an assumption that other countries would roll over agreements because trade was good and therefore they would do that. Unfortunately, negotiators do not quite work like that, as Dmitry Grozoubinski has been outlining. Negotiators want things—that is what they are trained to do—and so, when we went to other countries and said, “Please roll this over”, they were always going to say, “What do we get from this?” There was overoptimism that this could

be done quickly and that other people would not want things, and we are not necessarily well set up to understand whether we can offer something in return.

On the noticeable impact of that, we need to understand that, at an economy-wide level, individual trade agreements represent fractions of 1 per cent of GDP, if that. Getting a successful trade agreement with some of these countries would be worth only 0.1 or 0.2 per cent of GDP, so losing them will equally take off only a fraction at an economy-wide level. However, for individual companies that are using the trade agreements, losing them could be really quite devastating.

An example is the South Korea trade agreement, which opened up the legal services market to UK providers. It was really hard fought and the Koreans never really liked that bit anyway. The agreement never quite opened up as much as legal services that are based in the UK hoped, but it did open up a bit. They are about to lose that right again, and there will be other exporters of particular goods who will suddenly find themselves being uncompetitive.

At present, an awful lot of UK companies are importing from Turkey. Under the no-deal tariffs, they would potentially have to switch from Turkey to other sources. They may be able to do that, but it will come at some cost and will involve the rerouting of supply chains. Turkey is also a good example of the overoptimism that I mentioned. Even last year, officials and a minister were saying, “We’re confident that we’ll be able to roll over the Turkey agreement”, but Turkey has always been almost impossible to roll over because it has a customs union with the EU. We were never sure why they were so confident.

The impact on individual companies that use the agreements could well be severe. At an economy-wide level, there will be a hit, but not necessarily a huge one.

Dmitry Grozoubinski: I can give a microcosm example of what that looks like. The US negotiated the trans-Pacific partnership and then pulled out before it was implemented. Now, US farmers are finding that they are being undercut in the Japanese market, which is quite a lucrative market, by Australian producers. As an Australian producer, I see no problem whatsoever with that—I think it is wonderful—but it is a major problem for the US. Across the scope of the US economy, agricultural exports to Japan do not even register as a blip. It is a £13 trillion economy, or something like that. However, for those farmers who relied on those exports, it is a significant blow. You will see the same situation if the Japan, Turkey and South Korea agreements are not rolled over. As David Henig and Alan Winters have said, when we get

down to that regional level, which I talked about at the start of this session, there will be problems.

Ross Greer: Short of the deal with Norway and Iceland, if that comes to pass—there seem to be indications that it has been agreed, but no one has seen any text—the rollover with Switzerland is the most significant one that has been announced and on which there is clarity. Dmitry, you will maybe have some specific knowledge on this. Does the rollover mean that trade with Switzerland will continue exactly as it was the day before Brexit, or are the agreements in fact somewhat different from what they are rolling over from?

Dmitry Grozoubski: I have not studied it in great detail, but my understanding from the work of Peter Ungphakorn, who has done probably the most detailed study of it, is that the Swiss agreement is structured in the following way. If the withdrawal agreement with the EU is agreed to, the agreement with Switzerland will be very close to the current arrangements. If it is not agreed to and there is a no-deal Brexit, the agreement with Switzerland will kick in anyway but it will not quite replicate what the UK currently has with Switzerland under the EU. It will come within reaching distance, but there are individual areas of divergence.

Of all the agreements with developed countries, I think that the one with Switzerland probably comes closest to saying “Continuity über alles—let’s see what we can do under the mind-the-gap strategy to make sure that there’s no rough transition.” Other countries are playing much more hardball.

10:00

Professor Winters: I had a young colleague looking at this question a couple of days ago. I think that the report from the Welsh Assembly in the committee papers mentions this, too, but there are issues with mutual recognition in a number of areas. There are 20 agreements between Switzerland and the European Union on mutual recognition of certification; in other words, the EU recognises Swiss certification that goods meet a certain standard, and Switzerland recognises the EU in that respect. Of those 20 agreements, only three have been rolled over, although I should point out that they pertain to quite a lot of trade; the other 17 are waiting for the UK to decide whether it will align with EU standards. Because the Swiss have signed up and committed to applying EU standards, equivalents and recognition, they cannot recognise the processes of a country that does not adhere to those things, too. The agreement between the UK and the EU therefore determines the relationship not only between those two parties, but between the UK and Switzerland.

Moreover, such agreements cannot achieve trade within value chains in exactly the same way as happens now. Free trade agreements require so-called rules of origin to prove that goods originated in the partner country to which you are giving the tariff preference. Under the agreement between Switzerland and the EU, anything from France, Germany and the UK is added into EU content and therefore satisfies the Swiss criteria. The Swiss have agreed that they will continue to count French and German inputs as if they are British inputs and thereby give free trade to goods from Britain; in other words, getting British goods into the Swiss market will be okay. However, what if a Swiss firm uses those British goods and wants to re-export back into the European Union? The European Union has not agreed to treat UK origin as Swiss origin, which means that for goods going from the UK to Switzerland and then to the EU or from Switzerland to the UK and then to the EU, there is a rule of origin that the bilateral Swiss and UK agreement cannot touch. It is actually a trilateral business. The European Union needs to be involved; the two countries have not talked to the European Union, and it is apparently unwilling to vary its rules.

Ross Greer: Finally, I want to move on to the future trading relationship between the UK and the EU. Last week, we spent some time talking about the US’s offensive interests, given the amount of publicity that they have received and the media-friendly talk about chlorinated chickens and so on. What do you think the EU’s offensive interests would be in negotiating a future trading relationship with the UK?

David Henig: EU offensive interests are, first and foremost, around agriculture, just like the US. First, there are geographical indications, and the fact that they are already in the withdrawal agreement shows how strong an interest they are. There is not only a strong offensive interest in agriculture to ensure that we accept all its products but a very strong defensive interest. The EU has never dropped all tariffs on agriculture in a free trade agreement, and there is some debate over whether it would do so for the UK. We do not know that yet, but it will be strongly argued in the EU that it should keep some protection over agriculture while ensuring that we are free to take as much agriculture as it has.

The EU will be very happy to remove most of the industrial tariffs, as will we, but I think that there will be quite a debate about people and services—or mode 4, as it is known. The EU is very keen for people to have the right to work in the UK and to be transferred within companies; I think that that will be one of its strong interests.

Also, there is the whole US voluntary standards infrastructure—what is called “technical barriers to

trade” in trade-agreement-speak. The EU is keen to make sure that as many countries as possible follow European voluntary standards, particularly in the European region. Also, there will be a pretty strong line on regulations. The EU will want to achieve that, so that things do not have to go through double testing—if a car is safe in Germany, it is safe in the UK. Those are the main things that are always prioritised. I have probably missed one or two, which colleagues will add.

Dmitry Grozoubski: I will pick up on two points that David Henig made. In a lot of the discourse around a future trading relationship, there has been an assumption that zero for zero tariffs are a given and automatic. However, I am not as comfortable with that as others. I think that the EU will face strong internal pressure to say, “If we have no deal and are starting from WTO terms, why do we not treat this like any other free trade agreement negotiation, in which there are some tariffs that we are willing to cut, such as in industrials and perhaps some agricultural products, but we do not simply put zero for zero tariffs on the table as move 1 of the chess game.” Agricultural market access and defensiveness will definitely be among those.

I would expand the notion of standards and regulations. The EU is sometimes described as a regulatory superpower. Compared with the US and China, it has placed a lot of its soft-power view of the world in the fact that, once the EU has set a standard or regulation, that begins to define its region. In addition to what David Henig said, the EU has a very strong interest in that, because when it establishes a standard or regulation that often involves some cost to EU businesses. It wants as many countries as possible to adopt the standard or regulation, so that it cannot be undercut by partners who do not follow it and who produce in a less costly but perhaps less environmentally sensitive or labour-friendly way.

My third point is that, if we examine the way that the UK talks about what it wants out of future trade agreements and trade policy in general, we can transpose that on to the EU. When either major party at Westminster talks about trade, they talk about attracting good, high-paying jobs. They want to take back control of their policies in such a way that they can structure their economy to attract jobs and capital into the UK. I think that it was Ivan Rogers who said that the thing about taking back control is that the other side gets to take back control, too.

If I was an EU member state, or advising an EU member state, I would look at the kind of jobs that are currently being done in the UK and on-sold into the EU, or which rely on access to the EU, and at ways in which the EU could structure its standards, regulations and trade policy to create

nudge factors to move those jobs to Ireland, Luxembourg or you name it without being massively disruptive and hurting its own economies. The EU will look for opportunities to do that in sectors such as finance, in which part of the competitive advantage for UK firms has been the fact that they can be used as a gateway into Europe. If that gateway becomes a tighter squeeze, there is a real possibility that firms will look to base their capital in EU member states or countries with greater access to the EU. It is fair to expect the EU to approach the situation with exactly the same kind of interest base as the UK, which is to ask how it can attract the good jobs and capital.

Professor Winters: A clear, strong offensive interest—though not one that I think will cause us much difficulty—would be state aid regulations and competition.

The second thing that I would mention is the general data protection regulation. The UK has made fairly encouraging noises about aligning with that, but were we to try to join the comprehensive and progressive agreement for trans-Pacific partnership, that has rules about e-commerce and data regulation that are not necessarily compatible with the GDPR. In any negotiation, the EU would want to insist that the UK essentially adheres to the GDPR.

Kenneth Gibson (Cunninghame North) (SNP): It has been a truly fascinating, if disconcerting, discussion, which has exposed the naivety of some Brexiteers. Professor Winters touched on competitiveness. How concerned are you and the other panellists that the entire exercise will see us, in effect, return to increased protectionism across Europe, but also beyond it?

Professor Winters: Let me talk about the United Kingdom. There is no doubt that the UK will become less competitive in world terms. We are incurring all the extra costs, and we are fragmenting a market that we used to view as a domestic market. There is no doubt that British firms will come under a lot of pressure.

As the convener mentioned, we are also taking back control of a trade policy instrument, which we have not done for 40 years, so we have very little experience of that at bureaucratic level and just about no experience of discussing it at political level. Think about anti-dumping duties. The British Government would say, “We would put anti-dumping duties on steel to help south Wales, but the European Union won’t let us.” That was not true—we had argued in Europe not to have anti-dumping duties. Those sorts of things are our problem now.

We face a world in which British firms will come under serious pressure, and where political life will

not settle down very much. We have not had a debate about exactly how we want to respond to issues of open trade and so on. There are zealots who say that free trade is necessarily a good thing, and zealots on the other side who say that it is a very dangerous thing. There is no resolution to that.

My prediction is that the UK will slip into quite a lot of ad hoc protection over the next decade or so.

Kenneth Gibson: Before your colleagues jump in, what is your view on public procurement? An issue that was raised before the referendum—but not so much since, it seems—is that we can buy British, and so on. Obviously, comparative advantage is completely ignored in that argument, but the idea is that we do not have to buy a ferry, or whatever it happens to be, from a Polish yard, but can ensure that it comes from a British yard. How will public procurement be impacted? If there is a reduction in competitiveness, as well as a possible impact on quality and delivery, would we expect the cost to the public purse to increase?

Professor Winters: Historically, the European Union has focused a lot on public procurement as a matter of market access. It has bound quite a lot of that in the World Trade Organization Government procurement agreement, to which we have just acceded. As I understand it—although I confess that I have not read the schedule—the UK is basically rolling over that same set of commitments. We cannot discriminate very much, at least relative to the 42 or 43 other members of the Government procurement agreement. There are bits where we can discriminate—where Europe offers a constraint—but not by very much. You are exactly right to say that there will be pressures to use public procurement as an instrument, but there will remain constraints. I am afraid that I cannot say exactly how loose those constraints will be.

David Henig: I will pick up the global agenda part of the question. In the past five to 10 years, trade policy and trade agreements have become more and more unpopular. There used to be the idea that trade agreements are great: nobody loses and everybody gains—maybe not a huge amount, but we all gain—so let us do lots of trade agreements.

In recent years, with the trans-Pacific partnership, the transatlantic trade and investment partnership, the potential EU-US agreement and even a UK-US agreement, many people are saying, “Hang on a minute,” and are arguing that maybe such trade agreements are not so great because they mean that we have to put up with US food standards that we do not want, that jobs leave the country, and so on. Some of the criticisms are fair and some are less than fair, but

the US’s approach to a UK or EU trade agreement is clearly pretty much, “US first and only.” Its attitude is, “We want this and we’re not prepared to give anything.”

Also, at best, the WTO is under strain. There is no sign of any new agreements at the WTO, and its Appellate Body, which hears appeals in disputes, is on the edge, because the US is vetoing new members.

10:15

I return to the fact that production and services—services that are embedded in manufacturing are now pretty important—increasingly have not so much a global value-chain approach as, typically, a regional one. A supplier in Scotland will supply to Germany, then parts will come back to somewhere in England. Parts move around Europe and the globe in ways that are hard to understand, and which no one has fully researched. Therefore, with the UK moving outside that system, the situation is pretty unpredictable.

We do not really know what will happen. If President Trump is re-elected, the goal for the WTO will be, at best, survival. It is hard to see it thriving in the next four to five years.

Clearly, there are a lot of tensions in the system, and the UK is adding to them.

Dmitry Grozoubski: I do not have a huge amount to add to that. I will start by working backwards. The US problems with the WTO predate Trump. The Appellate Body blockade—the US’s refusal to appoint new judges to the supreme court of the WTO—is a policy from the Obama era, if not before that. Therefore, that issue is not a short-term one that is tied to a particular Administration: it is a longer-run problem.

I take some solace from the fact that there was a global financial crisis and that, while protectionism worldwide ticked up in terms of the indices of non-tariff barriers, we did not see a global movement to shrug off the WTO rules and simply to raise tariffs, as happened in the 1930s. In the face of the economic downturn of the early part of the 21st century, the global trading system withstood the test better than some of the more pessimistic people thought it would, which gives cause for hope that there will be pushback against protectionism.

Even current US attempts at protectionism in steel and aluminium, and in how it is engaging with China, are facing a lot of domestic pushback. The steel industry is happy, but no one else in the country appears to be. The threatened tariffs on EU cars have not materialised, and the trade spat

with China does not appear to be going very well. What is a very protectionist US Administration has been reaching for protectionism, but it has been singed, which I hope has given others worldwide pause for thought.

However, I definitely agree with David Henig that there will be temptation. Trade policy hates nothing more than haste and lack of preparation. By necessity, the Brexit process forces a lot of haste and it cuts down on the amount of preparation: when that happens, protectionism is often the easiest lever to pull to get a friendly headline. That is simply the nature of protectionist policy. That temptation will certainly be there. It will be interesting to see how well the Government can resist that temptation when its approach does not lead down a constructive route.

Kenneth Gibson: Convener, can I ask one quick question?

The Convener: We are going over time, so it would be very helpful to have succinct answers.

Kenneth Gibson: It is just a brief query. In his paper, David Henig says:

“it is disappointing that there are so few areas in which the UK government appears to be ready to openly discuss trade policy as a prelude to deployment.”

He also says:

“This is largely a reflection of continued secrecy, given how little has been revealed in terms of policy goals or even why priorities have been chosen.”

David Henig: That is very much what we have been talking about. Lots of preparatory work has been done, but very little of it has been shared. We do not know anything about what the Government thinks about defensive interests—or offensive interests, in particular. We are having to guess a lot.

Kenneth Gibson: Is there a light at the end of that tunnel?

David Henig: There is not, as far as I can see.

Dmitry Grozoubski: Only if the Government turns it on.

Professor Winters: There might be a change of leadership soon.

The Convener: Before we move on, I note that Professor Winters has to leave to catch a flight. If you want to respond first to the next questions, that would be welcome.

Annabelle Ewing (Cowdenbeath) (SNP): I will turn to the no-deal scenario—which is, I am sad to say, still very much out there—and the approach that the UK Government has adopted thus far on the tariff regime. Professor Winters mentioned a change of Prime Minister. Conditions would have to be met, the date is unspecified, we do not know

who would replace her and whoever it is would not be elected by us. I presume that a new PM could just change their mind and take another approach to tariffs. Is that right?

Professor Winters: Legally, yes they could. The structure under which tariffs are settled is basically legislative, but the level at which they are settled is an administrative issue, so the UK Government would be able to change its tariff structure, if it was moved to do so. I do not know that I would predict that to be the first thing that would change.

The tariff schedule for no deal that was announced two or three weeks ago is temporary—it would be in place only for a year—so I think that there will be pressure to consider changes to it. My honest guess is that the UK will be a bit more liberal on tariffs than the EU currently is, at least in so far as the regular most-favoured-nation tariffs are concerned. The UK might not be so liberal when it comes to anti-dumping duties; I think that we might find quite a spate of them.

David Henig: To pick up on my previous point, I note that Governments quite like being secret, but secrecy has in the past two or three years reached levels that I have not previously seen. There is no requirement for trade policy to be so secret: in fact, if anything—and as we have been arguing all morning—it should pretty much be the opposite.

Dmitry Grozoubski: If you talk to businesses, some will say that they prefer a higher tariff that is locked and set in stone for the next 10 years to a lower tariff that might change every six months. Therefore, the Government will face a lot of pressure from business groups even over its temporary tariff regime for a year. If the Government also starts to change tariffs every time the winds inside Westminster start blowing in a different direction, business groups will be tearing their hair out. Sometimes, the tariffs and their levels determine where business makes an investment—in, for example, factory construction or a long-term contract, in which investment returns are measured in decades. Constantly switching tariffs make it very difficult for people to make long-term bets.

Annabelle Ewing: There has been discussion about general trade policy and how the unitary state decides what the priorities are, even if they are to the detriment of its component parts, as we have heard about in relation to Scotland's dairy sector. What would have informed the UK Government's approach? I understand that although it is proposed that there will be some tariffs in the no-deal scenario, by and large it would be a free-for-all. What informed the UK Government's approach to how it divvied up the list?

Professor Winters: I think that that was done on a wet Thursday afternoon by a couple of 30-year-olds—

David Henig: Hey!

Professor Winters: I am allowed to say that at my age. *[Laughter.]*

There is a balance to be struck between two conflicting forces. One is competitive pressure on British firms. The other—which has figured large in the rhetoric of some Brexiteers, in particular that of Dr Liam Fox—is that tariffs raise the cost of living and increase the cost to consumers. A no-deal Brexit would certainly be greeted by a decline in the value of the pound. The prices of imports would be going up anyway, and removing some of the tariffs would ease a bit of the pain. I think that that was the trade-off and—very broadly speaking, at least until you come to talk about specific sectors—it might be that they called that about right.

The sectors that maintain protection are very sensitive sectors: parts of agriculture, one or two bits of which will be cut loose, but not all of them. Cars are the most obvious of the industrial products. We recognise that they are, in a sense, the big political players in the processes. The Society of Motor Manufacturers and Traders and the National Farmers Union are extremely well-organised lobbying bodies.

I think that there was just a very broad trade-off. Something was worked out that conformed to broad parameters and that was the answer that came out.

As I mentioned already, the tariffs that we have are set in euros, which is perverse. The reduction in our tariffs relative to the European Union tariffs does not show signs of careful calculation across the whole set of sub-areas: for example, in pork there is a decline of 13 per cent, whereas in other sectors there is a decline of 40 per cent. We should not, therefore, read a great deal of rationality into the basic structure. The basic idea that lowering tariffs will reduce the cost of living and the cost of inputs is legitimate. In general, economists do not believe that tariffs help economic efficiency, but I would not over-interpret that beyond that broad statement.

David Henig: I think that the process started with various Government ministers—the committee can guess who—saying, “What if we have no tariffs whatsoever” and then, “Which people are going to yell most if that is not the case?” They then found that many of the people who yelled most were the people whom Alan Winters has mentioned.

We should also mention the lobby of developing countries, because they have preferences. That is

often wilfully ignored by people who suggest that we go zero tariff, and who complain that developing countries pay tariffs on their products that go into the EU, but that is not true. Most of the exports of developing countries are tariff free, but for that to mean something, others have to pay tariffs. So, in key areas such as textiles, bananas and sugar, tariffs were maintained. There was certainly interest there, and Alan Winters mentioned the producers.

However, the most important thing to say is that that was all done at the really big macro level. We keep talking about how it is all about detail, detail, detail. Did somebody go through the individual lines or segments and ask what the impact will be on that individual segment? I am still waiting for the official impact assessment: I expect to be waiting a fair while.

Dmitry Grozoubski: I tend to be very cynical about how such mandates are formed. It is impossible to dismiss the impact of what is in the news on stuff like that. The tariffs sectors that retain the highest protection, including land and cars, were essentially unmoved. Those product lines are not inherently more sensitive than others, so why was the egg tariff eliminated entirely but the lamb tariff reduced by the least out of agricultural products? I do not know.

The NFU, for example, has said how little consultation there was of it and farmers. Therefore, those decisions were perhaps motivated less by deep analysis of competitiveness in the sectors than by the fact that lamb and cars have been making headlines non-stop for a year and a half, but eggs have not, as David Henig said. I am not saying that that is definitely the motivation, but in the absence of impact assessments, it is hard not to draw the conclusion that that was an important factor.

Economists say that tariffs have a dampening effect on efficiency. However, there is a misconception among the general public when we talk about cutting tariffs and prices. They picture supermarket prices being cut when, in fact, except in areas of exceptionally high tariffs where there are not free trade agreements and preferences, customers in supermarkets are very unlikely to see decreases in prices as a result of tariff cuts, because of the structures of production and where in the value chain the tariff comes in.

Economists tend to point to efficiency gains for business. That is why, for example, steel and aluminium tariffs, which thousands of businesses need as inputs, are much more inefficient than a tariff on a final product and are felt much more by the economy. It is important to set realistic expectations for what consumers are likely to see at Sainsbury's after a tariff cut.

10:30

Annabelle Ewing: Has the UK Government, having started with a zero-tariff deal, rather tied its hands?

Professor Winters: I am sorry—I did not catch that.

Annabelle Ewing: When it comes to the negotiation of future trade deals, could it be argued that the UK Government has rather tied its hands by setting the base level at zero? Where does it go from zero?

Professor Winters: Yes, indeed. A trade agreement negotiation involves one side giving something and the other side giving something back. If we have nothing to offer, that will make reaching a trade agreement more difficult.

We have retained a number of tariffs. Japan, for example, will be extremely interested in the tariff on vehicles, and America and Australia are interested in the tariffs on agriculture. Therefore, we have not got rid of all our ammunition. A zero-tariff position is clearly not helpful when it comes to negotiating trade agreements. That is one consideration.

In general, our expectations of what trade agreements might deliver are rather too high anyway, so slightly weakening our bargaining hand is not that much of a problem. However, there is a trade-off, as you say.

David Henig: The zero-tariff plan removes the ability to offer not very painful things in trade agreement negotiations. The EU has a whole load of industrial tariffs that are between 0 and 5 per cent, which it is only too happy to remove in trade agreements, because it does not cost it or producers very much to do that. If we do not have those tariffs to start with, we will have to go straight for the painful ones. Alan Winters is right—we expect too much of trade agreements. However, if we are going to do them, it is helpful to have something easy to offer. If we have to go straight to talking about lamb tariffs, for example, the process will be more difficult.

Dmitry Grozoubski: That said, if you are offering things that are easy for you to offer and you are asking me, as a trade negotiator, to give you things that are hard for me to give, I will not be ready to make that trade, partly because I will know that, in every free-trade agreement that you seek to make, the first thing that you do will be to offer the easy 5 per cent tariffs. I will recognise that every discussion that you have from that point onwards will undercut whatever advantage I will win through the agreement.

The question was whether having a base level of zero tariffs ties the UK's hands somewhat. If the UK wants something that it is hard for the US to

give—if there is an offensive interest that you want that it does not want to move on—you should expect that you will not get away with being able to give 5 per cent tariffs back. The US will come after the things that you do not want to move on because, for it, that will be an equivalent trade. Therefore, the zero-tariff position will not necessarily bind the UK's hands any more than they would already be bound by the fact that asks from other countries will probably be in areas in which the UK does not want to move.

Annabelle Ewing: That is interesting.

Professor Winters, you mentioned the possibility of the UK having recourse to anti-dumping charges. That is a matter for the Commission—it is dealt with by DG1, which is the directorate-general of human rights and rule of law. I practised in the area of anti-dumping law in Brussels some years ago. I had thought that anti-dumping duties were seen as a bit of a clumsy international trade tool. Leaving aside the question of whether anyone in the UK Government has the expertise to deal with that area, do you anticipate that anti-dumping measures will become the norm for the UK Government? Obviously, the product has to be dumped; it has to be sold below cost. Will that be the norm? Could it apply to EU member states and to European Economic Area countries? Is that what the UK Government will do to foster good relations with its international partners?

Professor Winters: If you have practised anti-dumping law, you will know that anti-dumping law is moderately elastic. There is room for interpretation; that is why there is room for lawyers. I do not think that the technicalities will stop us from pursuing quite a lot of anti-dumping duties if we wish to.

However, I think that lawyers—and certainly economists—feel that anti-dumping law is a pretty crude and, by and large, not terribly helpful tool; basically, it ends up protecting less efficient incumbent firms. However, it is fabulous politics. It is absolutely targeted at the people who are crying out that they are being murdered and it seems that all you are doing is imposing the costs on a bunch of foreigners who were cheating anyway. It is perfect politics.

Annabelle Ewing: As the UK Government tries to negotiate with the EU27 in a no-deal scenario, will that be helpful to a deal being concluded on favourable terms?

Professor Winters: If we were to sign up to a customs union, we would clearly agree that there would be no anti-dumping duties. Some free-trade agreements also have constraints on the imposition of anti-dumping duties and it is possible that that is what we would end up with.

We should remember that applying anti-dumping duties and removing competitive pressure is not just a matter for trade with the EU. It has economies rather like ours. In a sense, the real concern is whether we, as an inexperienced and smaller market with a rather fractured political system, can commit ourselves not to abuse anti-dumping duties. You would not have to be as cynical as I often am to believe that there is a danger there.

Annabelle Ewing: Thank you. That is very interesting.

Alexander Stewart (Mid Scotland and Fife) (Con): This has been quite a fascinating, informative session and we have learned so much from you, gentlemen. A number of treaties have already been signed with places such as the Faroe Islands, the Pacific islands and Switzerland. We have talked about Norway and Iceland under that scenario. How were those places selected and what made them sign now rather than later?

David Henig: That is an interesting question. We do not know why they have signed, but a number of the countries concerned—Chile, the Faroe Islands, Israel and the Palestinian territories—are quite significant agricultural exporters and we have already heard that the agriculture sector is typically protected by high tariffs so there is a real incentive for those countries, as agricultural exporters, to make sure that arrangements are in place. That also applies to one or two of the economic partnership agreements with developing countries. We can see an agriculture theme coming through and I can see why, in that situation, countries feel that they need to sign a treaty.

I imagine that for Chile and Israel, there is quite a strong political impetus, for different reasons. Chile likes to say that it is the best country to deal with on trade agreements—it likes having that reputation. For Israel, there are other political factors to do with retaining friendships. Trade is more significant for Switzerland and Norway as well, so there is something in it for them.

Arguably, you can see what is in it for the countries that have signed agreements. With many of the other countries that are yet to sign, we do not quite know what the status of negotiations is and it is harder to see what is in it for them.

Some of the countries do not like the agreements that they signed with the EU. They think that the EU bullied them or whatever—with reason, sometimes—and they think that they can get a better deal from the UK. Some of them do not like the UK terms that are being offered. Some of them are saying that they can roll over agreements but only if the UK promises a new trade agreement, so there are varying reasons

why other countries have not yet reached agreements. Some of them have just not had that much attention because resources ran out. There are various reasons why agreements have not happened. However, as I say, you can see the incentive for those countries that signed. None of those agreements has come as a great surprise.

Dmitry Grozoubinski: The calculations of the countries on whether to sign something now can probably be divided into three categories. First, there is the question of how much they value stability; secondly, there are the potential gains from rolling the dice in pushing for greater concessions in the future if we take it down to the wire; and thirdly, there is the question of capability.

For some of the countries that have signed on—the Faroe Islands and even Norway and Switzerland—the most critical thing has been to lock in stability as quickly as possible and ensure that things the day after Brexit are close to the way things are now. They have looked at what they might gain down the track in the absence of a bilateral with the UK, and they have thought that any such gains are probably not worth potentially not having stability on day 1 of Brexit. They have thought, “Disrupt what we have now? It’s not worth it.”

Some of the other countries—definitely Japan and, I suspect, Korea—have looked at this and thought, “Well, this is a more traditional FTA. It’s less about making things together through supply chains and more about selling things to each other.” They think that there are potential gains to make, because they will be negotiating with a market that is significantly smaller than the one they negotiated with to get, for example, the EU-Japan FTA, and they will therefore be able to push for more.

For other countries such as Turkey, there is a capability issue. In the absence of a deal with the EU, it is just unclear how a rollover arrangement between Turkey and the UK will work.

Alexander Stewart: What about the gains for the UK economy, our exporters and our consumers in this process?

David Henig: Do you mean the existing agreements?

Alexander Stewart: Yes.

David Henig: I have seen no great evidence that that has been a big factor. It has all happened at a high level, with people saying, “Trade agreements are generally good—we need them, so let’s do them.” I am not aware of any analysis that said, “It’s really important that we do this, this and this agreement.” I think that the issue was looked at roughly by size; people said, “Let’s try to do Canada, Korea and Japan, because they’re the

biggest ones.” Obviously, though, they are the toughest ones, too.

As for the other countries, some of them are thought of as relatively small trading partners, but they are actually pretty significant. I often use the example of Egypt; political relations are a bit tricky, but the trade relationship is pretty significant. However, I do not think that it was picked up, analysed and made a priority. I have certainly never seen anything from the Government saying, “Here’s our priority list”; I would perhaps never expect to, as it would give important information to the other side, but I would certainly expect to see some sign of prioritisation—and obviously I have seen no such sign. I do not recall friends in business who regularly talk to the Department for International Trade reporting that they were asked, “If it comes down to having an agreement with Egypt or having one with Chile, which would be more important to you?”

Dmitry Grozoubski: Trade statistics can be misleading when you talk about the size of markets or even the size of trade. Your biggest trading partner might be the one to whom you sell natural gas and who sells you iron ore, both of which probably have zero per cent tariffs. On paper, they might be your largest trading partner, but doing an FTA with them would not necessarily have any impact on the economy.

David Henig: And two thirds of the trade between the UK and Norway is natural gas from Norway.

Dmitry Grozoubski: Indeed, and that is often what makes up a trade balance. There are billions of dollars of raw commodities that almost stand apart from the trading system, because sometimes they are shipped into their own ports, which have entirely different systems.

I cannot remember whether it was David Henig or Alan Winters who mentioned taking legal services into Korea, but I would point out that, at a sectoral or firm level, there can be significant losses and gains. As for rollovers, if the UK drops out of an agreement and then eventually manages to rebuild it, the EU will have already stolen a march on it, established itself in the market and built a brand. Even if the UK eventually renegotiates access, it will find it difficult to gain a foothold in a market that already has a European presence.

Alexander Stewart: Thank you.

Tavish Scott (Shetland Islands) (LD): I have a supplementary to Kenny Gibson’s question about international trade and the international context of the remarks that you have been making. How can you be so confident that the international rulebook on trade will survive another six years of Trump in

the White House? After all, he seems pretty keen to rip up every international order going.

10:45

David Henig: I do not think that I was that confident. However, I am more confident than I was a couple of years ago.

At the global level, it is clear that there has been an attack by Trump. Dmitry Grozoubski is right: to a certain degree, some of the approach was existing US policy. Trump amplified that quite considerably. I think that people have realised that the system is important enough to retain and defend, and a lot of work is going on to Trump proof it to a degree and ensure that, if there is another six years of Trump, the WTO will survive it.

One of the motivations of countries that signed the trans-Pacific partnership agreement was defence in case the WTO ever ceased to exist. They are probably more confident now that Trump will not destroy the WTO, that there are enough countries that will prevent that from happening and that he will probably not break the whole system, although he will put it under a great deal of strain, and they probably think that we will just have to put up with him for however long we have to.

That is my view; Dmitry Grozoubski may have a different one.

Dmitry Grozoubski: In some ways, David Henig is entirely correct. The Trumpian assault on the system has reinforced especially in the minds of middle-income countries—I use that term very broadly to mean every country under China, the US and the EU—the importance of having a predictable, rules-based system in which the decisions by the big players can be collectively challenged. There has been a resurgence of engagement in the system, which was really waning during my time. People could not get ministers to care about the WTO at gunpoint, but it is now much more prevalent and in the news, and ministers are much more engaged because they have looked into the darkness and they did not care for what they saw. In that sense, the assault has been helpful.

In a way, the WTO’s weakness is its strength. For example, the security exemption, which the Trump Administration is, in my view, abusing or threatening to abuse in the case of car tariffs to do all sorts of things, allows it to break the system without shattering it. Essentially, the system allows countries to do whatever they want without pulling out of it entirely. Other countries may not like that, but the benefit of having the US in the WTO will generally make them hold their nose enough to put up with it and ride out the storm.

Essentially, Trump does not need to pull the US out of the WTO in order to do what he needs to do, and that gives us some hope that calmer heads will eventually occupy the White House.

Tavish Scott: I think that that is very fair.

What did you read into the Chinese premier's visit to Paris this week, in which he met senior European leaders who are still holding the European Union together? Should we read much into that in respect of trade policy in future years?

Dmitry Grozoubski: I tend to be fairly cautious about Chinese engagement in a global trading system. The story is that China joined the WTO through an accession process—I think that there was around a 140-way negotiation—and the Chinese feel that they were made to make commitments in excess of what is fair and reasonable. That is not an entirely unfair gripe. They had to pay a lot to join the system and, since then, their position has generally been that they are done paying and that future rules should not apply to them because they have given of themselves as much as they can reasonably be expected to give.

When the Trump Administration began to make threatening noises about the system, the Chinese at every level—including the Chinese Premier—started to make a lot of noises about being the champions of the system and stepping up to fill the leadership void. They were going to be responsible. However, when push came to shove and it was put to China, “That was a great speech in Davos, Premier—is China prepared to move by making commitments in any of the areas in which members have substantial concerns about Chinese trade practice?”, that conviction was suddenly not so rock solid. Whether on differentiation between different types of developing countries, Chinese state capitalism, subsidisation or intellectual property, the Chinese willingness to match rhetoric with commitments has not materialised much so far.

I tend to say that it is fantastic that the Chinese still see engaging as a soft-power win and a goal—that is great; it is a fantastic system—but I would wait to see whether any pudding comes with the promises.

Ross Greer: I would like to hear your thoughts on something that one of the trade lawyers raised last week. They were talking about the sequence of the future trade agreements that the UK will negotiate and made the point that it would be in the interests of the US to get its deal in ahead of the UK-EU future relationship agreement because that would lock in a lot of the regulatory standards that the US would want to see. I am interested in your take on the specific issue of the order of the US and EU agreements, and on the broader issue

of sequencing trade agreements and what impact that has.

David Henig: From a US point of view, that would be correct. Dmitry alluded earlier to the regulatory battle between the US and the EU. The EU has been winning, partly for structural reasons in the US—the US federal level cannot always regulate for the states. The EU regulates for more of the global economy than the US, so businesses want to stick with that and other countries start to follow. The EU has been winning and the US spies the UK as a chance to strike back, if you like. If we do not mind being a pawn in a battle between the EU and the US, it would make sense for the US to get in first to make sure that we do not have geographical indications, EU standards on food in general, or European voluntary standards. It would, however, be hugely controversial to do that. It would put up barriers to UK-EU trade, which is 50 per cent of our trade, in order to support the 20 per cent of our trade that is with the US. We may see that battle, depending on our relationship with the EU.

There is nothing like that problem for other sequencing. The US-EU situation is unique. Nobody else really expects that we will change our standards or regulations to suit them. In terms of other sequencing, the UK would arguably want to start with one or two more straightforward agreements that probably do not have much economic benefit but will allow it to develop a model of what it wants to do before it moves on to the more complicated agreements.

We talk a lot about a US trade deal and very little about a China, India or Brazil agreement. That is mainly because those countries are, frankly, much harder to make trade agreements with, but there is a question whether we can realistically gain much more from a US trade agreement when trade is already strong or whether, if we are going to do it properly and look at potential growth areas, we should go for a more challenging market. After all, if you have control it is almost depressingly dull just to say, “OK, let's go with the US.” That is a pretty lazy approach. Although it is incredibly, horribly difficult to get a good trade agreement with China, there have to be more new opportunities that we have not exploited in trade with China than there are with the US, which is often a company's first thought when it thinks of expansion.

Dmitry will have views.

Dmitry Grozoubski: Always. First, it is important not to think of the sequencing as an inevitable problem. A US FTA could be a problem for an FTA with the EU if in some areas the UK makes commitments to the US that contradict the commitments that it would need to make to the EU. As David Henig correctly points out, the US

will push for a lot of those commitments as part of its larger strategy, but also for commercial reasons. However, it cannot make the UK adopt a commitment that it does not want to adopt. Australia has an FTA with the US and is negotiating one with the EU. It is possible to have an FTA with both, but you need to avoid those internal contradictions. If we see a US FTA first, that does not necessarily mean that the UK has given up on having an EU FTA. It is about the content, but there will be a lot of pressure.

My second point on sequencing is that trade negotiations can be slightly precedential. When I am negotiating with my counterparts and they make a demand of me, the strongest argument that I can make is that it is simply something that I cannot do. I will say, "I cannot accommodate this." If I have given ground on it in a different free trade agreement, their response will be, "Yes, you can. You gave Chile access to your beef market. Why can't we have that, too?" Sequencing can matter because, if you rush into early free trade agreements that make a range of commitments to various players, those commitments will be used by subsequent partners to determine your actual level of flexibility and where your actual red lines might be.

The Convener: I will conclude by bringing us back to Scotland's situation. I want to drill down into public procurement, which Kenneth Gibson asked you about. We talked about public markets with our panel last week. The Scottish national health service is independent of the NHS in England and Wales, and I think it is fair to say that there has been less marketisation in the Scottish NHS than there has been in the NHS in England and Wales. I know that you are not experts on the UK constitution—you are clearly experts on international trade deals—but what could we do, if anything, to protect our NHS in Scotland from being opened up in an international trade deal that is negotiated at the UK level?

David Henig: That will partly depend on the baseline. I am afraid that I do not know what commitments are already part of Government procurement agreements, but the first question would be, what is in our baseline?

The second and most important thing is that it is widely recognised by many countries, and it has always been the case in the EU, that public services are different. Countries can open them up if they want to do so, but it is not considered to be a great surprise if they choose to protect them to a degree. There was a report by some extreme free-market think tanks on an ideal UK and US free trade agreement, and even they recognised that the UK might want to exclude the NHS from such an agreement. It is widely recognised that that is a fair thing to do.

There are two or three things that one can do in trade agreements. In some, there is what is known as a ratchet—or is it a standstill? Anyway, in some trade agreements there is the concept that, once you have opened something up, you cannot take it back. You should avoid that, or make sure that, if you are opening something up, it is specifically in a particular instance and it can be reversed in the future. You can do that.

Also, for services, there is a difference between what is known as a positive list and what is known as a negative list. With a negative list, everything is open except what is listed. With a positive list, only the things that are listed are open. A positive list tends to be used when you want to protect something. There are also hybrids. There is all manner of clever detail, but I am afraid that I am not an expert on that.

The Convener: If the NHS in all parts of the UK was excluded, there would be no problem, but would it be possible to say that the NHS in Scotland was excluded if the UK Government wished to open up the NHS in England?

David Henig: Yes.

Dmitry Grozoubski: Yes, absolutely. That would be covered in either a procurement schedule or a services schedule. You can include almost anything you want. Free trade agreements are agreements between Governments, and if the UK and, for example, the US agreed that the UK would open up parts of the NHS but not the Scottish NHS, it would be entirely legitimate to write that into a free trade agreement provided that both sides were comfortable.

To answer your earlier question, though, I perhaps come at this at a different angle from David Henig. I think that, in a way, you are all much more qualified to answer the question than we are, because trade agreements, especially when they concern things such as the NHS, are inherently political. If you are genuinely concerned that the Scottish NHS will face a threat from potential commitments that the UK Government makes in the interests of securing a trade deal with whoever, the best tool that you have is not clever legal instruments, but to raise the political cost of such commitments.

If it is a genuine concern, my recommendation is to study the potential implications—specifically, what would be detrimental to the Scottish NHS if commitments were made—and make sure that your constituents and the public are well informed that it is a risk. In formulating the mandate that we spoke about at the very start of the discussion, you should, ideally, make sure that the political considerations for opening up the Scottish NHS are first and foremost on the list of defensive interests.

11:00

The Convener: Sure. That is very interesting. At the beginning of the meeting, you talked about getting a mechanism, possibly through a joint committee, so that the Scottish Government is involved in setting the mandate. In Europe, the European Parliament's Committee on International Trade is involved in negotiating trade deals. The NHS is a good example and there is probably consensus across the Parliament that the NHS in Scotland should be protected. Should the Parliament, in addition to the Scottish Government, have a degree of oversight of trade deals? How would that work?

David Henig: Yes, you should have a degree of oversight—that is exactly the right phrase. We talked before about making sure that you do not get to a veto situation. During a negotiation—Professor Winters addressed this, to a degree—I would expect that the Scottish Parliament or this or another committee would be able to subject to scrutiny the officials who were negotiating the agreement. That could be behind closed doors, if need be. You would be able to ask those officials, “Are we protecting this? Are we protecting that? How have you made sure that Scottish interests are protected? What are the Scottish interests?”, to ensure that there was a strong feedback loop to the negotiators. That might not happen in public.

There is always public pressure on negotiators, but, behind the scenes, you need a team-UK approach and everybody has to be on the same side. We have mentioned so many things today, but there is one thing that we have not mentioned, which is that there has never been a single team-UK approach in the EU negotiation. If the EU were to come to any particular part of the UK system—whether the Scottish Government, the UK Government or business—they would get completely different answers about our priorities and what was going on.

When you get into trade negotiations, the more people you have on your side saying, “This is what we have all agreed,” the stronger you are and the less able another country is to pick off different parts to disagree with. Therefore, it is in the interests of the UK negotiators to make sure that you are all happy.

Dmitry Grozoubinski: I will add two points to that.

First, I come back to the local versus macro question. I have trained DIT negotiators over the past couple of months. They are very bright, dedicated people who genuinely care—they ask me about the devolved competences—but are any of them experts on the way that NHS procurement in Scotland differs from NHS procurement in England? The odds of that are slim—perhaps they

are experts, but I doubt it. There is a knowledge gap to bridge. That is not a slight on the negotiators, because it is inevitable. Trade agreements cover so much that they cannot physically be experts on all of it.

I have forgotten my second point, but I am sure that it was equally wise.

The Convener: As it happens, we have run out of time. That was fascinating. Thank you for sharing your expertise with us; it has been very useful. We move into private session.

11:03

Meeting continued in private until 11:17.

This is the final edition of the *Official Report* of this meeting. It is part of the Scottish Parliament *Official Report* archive and has been sent for legal deposit.

Published in Edinburgh by the Scottish Parliamentary Corporate Body, the Scottish Parliament, Edinburgh, EH99 1SP

All documents are available on
the Scottish Parliament website at:

www.parliament.scot

Information on non-endorsed print suppliers
is available here:

www.parliament.scot/documents

For information on the Scottish Parliament contact
Public Information on:

Telephone: 0131 348 5000

Textphone: 0800 092 7100

Email: sp.info@parliament.scot



The Scottish Parliament
Pàrlamaid na h-Alba