



OFFICIAL REPORT
AITHISG OIFIGEIL

Culture, Tourism, Europe and External Affairs Committee

Thursday 25 February 2021

Session 5



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CULTURE, TOURISM, EUROPE AND EXTERNAL AFFAIRS COMMITTEE
7th Meeting 2021, Session 5

CONVENER

*Joan McAlpine (South Scotland) (SNP)

DEPUTY CONVENER

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

COMMITTEE MEMBERS

*Kenneth Gibson (Cunninghame North) (SNP)

*Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP)

*Ross Greer (West Scotland) (Green)

*Jamie Halcro Johnston (Highlands and Islands) (Con)

*Dean Lockhart (Mid Scotland and Fife) (Con)

*Stewart Stevenson (Banffshire and Buchan Coast) (SNP)

Beatrice Wishart (Shetland Islands) (LD)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Dr Darren Budd (BASf)

David McAllister MEP (UK Coordination Group in the European Parliament)

Dr Richard Torbett (Association of the British Pharmaceutical Industry)

LOCATION

Virtual Meeting

Scottish Parliament

Culture, Tourism, Europe and External Affairs Committee

Thursday 25 February 2021

[The Convener opened the meeting at 08:46]

European Union-United Kingdom Trade and Co-operation Agreement

The Convener (Joan McAlpine): Good morning, and welcome to the seventh meeting in 2021 of the Culture, Tourism, Europe and External Affairs Committee. I have an apology from Beatrice Wishart MSP.

Before moving to our first agenda item, I want to highlight to members that I gave evidence on Tuesday to the Bavarian Parliament's Committee on Federal and European Affairs and Interregional Relations on the implications of Brexit for Scotland and for Scottish-Bavarian relations. Following the evidence session, the European Affairs Committee agreed a resolution that calls on the Bavarian Government to intensify Bavarian-Scottish relations across a range of spheres.

Our first agenda item is evidence on the European Union-United Kingdom trade and co-operation agreement. I welcome to the meeting David McAllister MEP, chair of the UK co-ordination group in the European Parliament. It is good to have you with us. Before we move to questions, I invite you to make a brief opening statement of no more than three minutes.

David McAllister MEP (UK Coordination Group in the European Parliament): Good morning, honourable convener. A warm welcome from Brussels, dear members of the Scottish Parliament, ladies and gentlemen. I welcome the opportunity to meet you again. Since we last spoke, in May, we have witnessed the conclusion of the trade and co-operation agreement, on Christmas eve. The agreement is definitely unprecedented in many respects. It is the first trade agreement of the European Union negotiated with a former member state. For the first time, instead of negotiating points of convergence, the European Union was negotiating an agreement on orderly divergence. That was done in record time, given the scale and complexity of such negotiations, but we all have to keep in mind that no free trade agreement can ever match EU membership nor the participation in our single market.

As there was no time for both sides to fully ratify the agreement before 1 January, and to avoid a cliff-edge, the EU and the UK agreed that the TCA will be applied provisionally until the end of February. However, as you know, there will now be a prolongation. On Tuesday, both sides agreed on the extension of the period of transitional application until 30 April. That was proposed by the EU side for the purpose of legal and linguistic revisions in all 24 EU languages. Please bear in mind that that is important, as it is required by constitutional provisions in some of our member states.

The trade and co-operation agreement sets out a single institutional framework to manage EU-UK divergence, and it is the responsibility of both sides now to make the best of it. Regrettably, the new agreement is not completely exhaustive and, notably, it lacks provisions on foreign policy and security co-operation. It is clear that more work will need to be done to broaden and deepen our partnership in the coming years. I believe that it would be in the interests of both sides to maintain close and lasting co-operation in these fields, given our shared values and interests, especially in an increasingly unstable world.

The UK Government's decision not to participate in Erasmus+ for the period of the 2021-27 multi-annual financial framework is deeply regrettable.

Finally, let us not forget other policy fields, such as fisheries. Brexit may be done, but we will be living with the consequences of Brexit for many years and decades. The agreement is pretty much a living agreement that can evolve over time.

Thank you for your attention. I am happy to answer your questions.

The Convener: Thank you for that opening statement. The European Parliament UK co-ordination group is leading the scrutiny of the EU-UK trade and co-operation agreement. I am aware that the European Parliament has been seeking more time to scrutinise the agreement. I know that the UK Government agreed this week to an extension of the period of provisional application to 30 April. We very much welcome that development and the additional time that it will give your group to scrutinise the agreement. That additional time is also welcome in the Scottish Parliament and, indeed, all legislatures in the UK.

Could you update the committee on the scrutiny process in the European Parliament and the main issues that have emerged from that scrutiny process to date? How will the extension to the timetable for provisional application affect the scrutiny process in the European Parliament? Do you think a vote of consent is likely to take place, and, if so, when?

David McAllister: The European Parliament's work on the consent recommendation is on-going. In parallel, we are working on an accompanying political resolution that will set out Parliament's views on the agreement and also on the implementation. The consent recommendation is being prepared by two lead committees: the Committee on International Trade, chaired by my colleague Bernd Lange, and the Committee on Foreign Affairs, which I have the honour of chairing. In addition, 15 committees have provided their opinions. Bernd Lange and I are both proud to say that the co-ordination has been running very smoothly and this sets out an unprecedented degree of co-operation across committees and policy areas.

You mentioned that the timetable for the provisional application has been prolonged until 30 April. That was mainly due to a request from the member states but, of course, that now also smoothes the procedure in the European Parliament. We have a bit more time.

It has not been decided yet when we will vote. There is a plenary session at the beginning of March, a mini-plenary session at the end of March and then a plenary session in April. My guess is that it will be either the second plenary session in March or in April, but that is not up to me to decide. The President of the Parliament, David Sassoli, will decide that with the group leaders. They are meeting next week to discuss the timetable.

We have finalised our scrutiny work at the committee level and have now more or less frozen it, but, if things develop—and we all know that a lot of discussions are going on, especially on the protocol on Ireland/Northern Ireland—we are always in a position to adapt and amend the wording of our accompanying resolution.

The Convener: That is interesting. In recent weeks, our committee has heard evidence from a range of stakeholders from across the Scottish economy, highlighting the problems that have been experienced by Scottish companies seeking to export goods to the EU since 1 January. We recognise that many of those issues were widely predicted before the end of the transition period. Indeed, the majority of members last year called for an extension to the transition period in recognition of the problems that are being highlighted now. Some of the problems are potentially temporary; other problems are structural, given what you say is the thin nature of the agreement that the UK Government sought. However, we are where we are, and, more recently, we have called on the UK Government to re-enter negotiations with the EU Commission, to seek solutions to the problems that are being experienced in the trade of goods between the UK

and the EU and, possibly, an extension to the existing grace period.

Are there any issues that EU member states are already experiencing in trading with the UK? Do you consider that there is any potential for the European Commission to re-enter dialogue with the UK Government to see whether there is the potential to reduce barriers to trade that exist now and seem set to intensify as more checks are introduced in the coming months?

David McAllister: Just as in the UK, businesses and citizens in Europe are being confronted with problems due to Brexit, but we have to name the reasons for those problems. The problem is, and remains, Brexit and especially the kind of Brexit the UK decided to implement. Leaving the European Union, the single market and the customs union has consequences, because, as a matter of fact, the UK and the EU are now totally separate legal systems and two totally separate markets.

My impression is that, at least in my home country, Germany, businesses were informed at an early stage about what they could expect and what they have to expect. Through the German trade ministry and local regional chambers of commerce, there was a big information campaign for all companies, especially targeting small and medium-sized companies operating in the UK market. It seems that perhaps not all businesses in the UK dealing with the single market on the continent were informed and prepared to the same level. I do not like lecturing the UK, but we are reading that there have been many surprises since 1 January 2021 because, obviously, not everyone was 100 per cent prepared.

What we need to do now is find practical solutions, but, to quote the former UK Prime Minister, "Brexit means Brexit." We have heard this over and over again. We did not ask for this Brexit. Now, we are receiving requests to prolong grace periods from the same side that totally refused to extend the transition period during the negotiations. The trade co-operation agreement was negotiated in record time and under enormous time pressure, but we got it done at the very last minute, on Christmas eve, because of the pressure from London. Now, you hear voices in London saying, "We need more time." I can only say that we cannot deny the United Kingdom's third-country status.

09:00

It was the voluntary choice of a majority in the House of Commons and of the UK Government. We need now to find flexible and pragmatic solutions, and I have confidence in Maroš Šefčovič, who will chair the EU-UK Partnership

Council. He is very experienced, a Slovak and vice-president of the European Commission. He will be handling these issues with David Frost. We will try to find a solution, but “Brexit means Brexit” is something that should at least resonate for the UK Government.

The Convener: Thank you. That is helpful. We will now move on to questions from the deputy convener, Claire Baker.

Claire Baker (Mid Scotland and Fife) (Lab): Good morning, Mr McAllister. In your opening statement, you described the TCA as a living agreement. My question connects with your answers to the convener. As the convener said, we have taken evidence over a number of weeks from various stakeholders and businesses, including people who work in the seafood and food and drink sectors or in engineering, which relies on imports, and manufacturing. They have all described the pressures they are facing. Where do you think there is scope to smooth some of the barriers and make trade easier? In response to the convener, you spoke about the possibility of looking again at the agreements, but where is the space within the agreements? It is not a question of renegotiation—we are not entering that phase again—but where can agreement be reached? What areas—*[Inaudible.]*

David McAllister: Thank you for your question. We all know that we are facing an unprecedented situation. This is the first time that we have had to implement an agreement that will worsen the terms of our trade and co-operation. That has never happened before in the history of the European Union. We have to accept that the implementation will be complex at times and that it will not be frictionless. Brexit may have happened, but Brexit has not gone away, and Brexit will keep us busy for the next years and decades, unfortunately.

Still, we all have a duty to implement the agreement in good faith and with a constructive spirit. Let me mention novelties such as the level playing field provisions, the rules regarding state aid and the possibility of rebalancing measures or cross-sectoral sanctions under the dispute settlement mechanism. There is a wonderful proverb in your language, which even Chancellor Merkel likes to use on occasion: the proof of the pudding is in the eating. Of course, what we have now, written down on 1,300 pages, is one thing, but it will be another thing for both sides to stick to what has been written down and for us to implement the rules and make sure that they are strictly implemented on both sides of the Channel.

I am very much for flexible and pragmatic solutions at the beginning of our new co-operation phase, but we need to be firm on our principles. At the moment—perhaps we will discuss this later

on—we are heavily discussing the implementation protocol on Ireland/Northern Ireland, and the European Union—the European Parliament—is very clear on that. We will be as flexible and as pragmatic as possible, but we need to be firm on our principles and to implement the agreement.

Let me put it this way. We cannot get into what I would call a permanent waiver mindset. I know that there are people on both sides of the Channel who are experts at kicking a can down the road. We have had a lot of kicking a can down the road, but now we are at a different stage. We need to implement exactly what has been negotiated, painstakingly, over the past months and years.

Let me also underline that this is different from the political declaration of October 2019, which we were told was a political declaration but which was not legally binding. This agreement is legally binding, and I would advise both sides—in Brussels and in London—to exactly fulfil the promises that were made and to fulfil the obligations sooner rather than later.

A lot of fields have not been discussed at all—for instance, the issue of financial services. Here, we are awaiting the memorandum of understanding, which both sides have promised to present in March. That will be another field to be discussed.

I have mentioned the issue of foreign affairs, security and defence, and we deeply regret that not a single line was negotiated on that. Perhaps, at a later stage, we might contribute another pillar to our co-operation agreement. That will also depend on the review of the foreign affairs, security and defence strategy that the UK Government has announced will be presented in 2021.

On Erasmus+ and other similar EU programmes, there is a kind of standing invitation for the third country, the UK, to resume participation in them if the political will is there.

All in all, this is a living agreement and we will be in a permanent mode of identifying new problems. I have to be diplomatic, so I will not use the word “mess”, but this whole Brexit has caused so many problems. It is unfortunate, because there are so many other things in the world that we could be dealing with. However, we respect every decision that is taken in London, even though we are still very sad.

Claire Baker: Thank you. Although you say that we must implement the agreement, you have identified areas that are not yet agreed. You mentioned defence and the financial sector, and there are other areas, such as data adequacy, that are still to be agreed. The evidence that we have heard over the past few weeks has mentioned the difficulties for British exporters—the paperwork

and bureaucracy involved—but there is not yet the same application, through agreement, on importers. Do you feel that the European member states appreciate the preparation that is required for the changes to border checks and those types of processes, which will come in in April, and that people and businesses are prepared for how imports and exports will operate?

I have a final question, just for clarification. In your first answer to the convener, you talked about political agreement and said that, as well as the trade work, both sides were looking at the political agreement. What does that refer to?

David McAllister: Is that a question for the convener?

Claire Baker: No, it is for you.

David McAllister: I was referring to the political declaration in 2019, which for us was the basis for the future trade and co-operation agreement. During the negotiations in 2020, we noticed, to our surprise, that some parts of the political declaration were, all of a sudden, being questioned.

Claire Baker: It is a fairly redundant document now. We have had this discussion in the committee before. It provided a reasonable basis on which to start, but, with the change of Government, its relevance was certainly in question. It no longer seemed to be the basis of the agreement that was implied and that there was supposed to be.

David McAllister: We learned that the political declaration was not legally binding, but this trade and co-operation agreement is legally binding. As I mentioned, both sides need to implement 100 per cent what has been agreed.

The customs formalities, the paperwork and the red tape are the consequences of a British decision about what kind of Brexit the UK wanted. The UK wanted a hard Brexit, which included leaving the single market and the customs union. If you do that, you will have to accept the checks, controls and formalities, because we have a duty to protect the integrity of our single market in the interest of 430 million consumers in the EU27 and other countries. That is what happens if you decide to take back control.

Claire Baker: Convener, do I have time for another question?

The Convener: We have to move on, but I will try to bring you in again at the end, if there is time.

Stewart Stevenson (Banffshire and Buchan Coast) (SNP): Good morning, David. I will make an observation, since you mentioned fishing and I represent the biggest fishing area in the UK—and, in particular, in Scotland. I note that the front page

of the *Frankfurter Allgemeine Zeitung* newspaper quoted Douglas Adams in saying,

“So long, and thanks for all the fish”.

Fishing is not reached until page 902 in the agreement. I will not pursue that line, however; it is just an observation that you kind of fed to me.

I think that I know the answer to this question, but I would like to get it on the record. Can you say, briefly, whether the European Parliament process is an avenue for changing or reopening the trade and co-operation agreement? Is the approval of the Parliament a necessary legal part of the process, from an EU point of view?

David McAllister: Thank you for the question. I represent the fishing district of northern Germany, which includes Cuxhaven and Bremerhaven, but we are not going to discuss fisheries now.

The European parliamentary process is twofold. As I mentioned, the concept recommendation is being prepared by the two lead committees: the Committee on International Trade and the Committee on Foreign Affairs. The other process involves the accompanying resolution. I am pretty sure that the TCA will get a majority in the European Parliament, but it is a legal requirement. The accompanying resolution, which is ready in a draft text, will be quite detailed, and I guess it will be two dozen pages long. There will be a thorough political analysis of what we welcome, where we see room for improvement and where we will be critical. The accompanying resolution will also be a first kind of parliamentary guidance for the EU representatives in the Partnership Council and in the specialised committees, where we believe we need to improve what has been agreed at a later stage.

I will make a final point, as you are talking about parliamentary co-operation. As you all know, as MSPs, the trade and co-operation agreement foresees the possibility of creating a partnership assembly, which would be composed of members of the European Parliament, on the one hand, and representatives of the UK side, on the other hand. The President of the European Parliament, David Sassoli, is now in contact with the Speaker of the House of Commons about that. A few days ago, they exchanged letters with a view to starting the process. I would very much welcome also having a parliamentary dimension to our future co-operation.

09:15

Stewart Stevenson: Thank you. It was useful to get that on the record, and it is pretty much in line with what I expected you to say.

In your response to my colleague Claire Baker, you described this as respecting a decision that

was made in London. Of course, for the Scottish Parliament—and the Scottish Government, which I no longer speak for—that is a perfect description of what happened, because the Scottish Parliament and the Scottish Government were simply outside the process of coming up with the trade and co-operation agreement.

I want to explore in general the relationship between the EU and what are generally called—I do not like the term, but it is the only useful one—sub-state actors: regional Governments and Parliaments that are below the state level. In particular, picking up on the point that you made about Erasmus+, I want to explore whether there is a prospect of agreements between sub-state actors and Europe in that relationship. For political reasons alone, the UK Government does not want us to be in Erasmus+, yet all the devolved Administrations in the UK would like to be in it and are perfectly prepared to make the financial contributions to make it work. Is there any prospect of relationships between the EU and sub-state actors in the UK—the three devolved Administrations, of which the Scottish Parliament is one?

David McAllister: As I mentioned, I deeply regret the UK Government's decision not to participate in the Erasmus+ programme. I do not even want to be diplomatic about it—I will be very outspoken. It is a total lose-lose situation. I really am disappointed, especially because the UK Government originally indicated that it would be ready to continue to participate in that programme of academic co-operation. It is important to point out that the UK can come back at any time, should it wish to revise its decision. The trade and co-operation agreement provides the possibility of rejoining Erasmus+ as a third country on the basis of the provisions for EU programmes.

The European Parliament attaches a great deal of importance to the Erasmus programme. Parliament has fought with determination to ensure that the programme is sufficiently funded under the next multi-annual financial framework and that students across Europe can benefit from it. In the meantime, the European Commission has indicated that it remains open and ready to negotiate any future request from the UK to associate with Erasmus+ or other EU programmes. I hope that, one day in the future, UK students will be able to benefit from the programme again. In the meantime, and with regard to the multi-annual financial framework, all on-going projects that the UK funded before the end of 2020 in the previous Erasmus+ programme will be honoured in full and will run to completion.

Here, in Brussels, we are aware of the Scottish Government's statement on the UK Government's decision not to associate with Erasmus+.

Members of the Scottish Government have reached out to representatives of the Commission—for example, Richard Lochhead was in contact with Commissioner Mariya Gabriel. A number of MEPs have been contacted, and you are probably aware that a huge number of MEPs—a couple of dozen—supported an initiative to make it possible for universities and other institutions from the devolved regions of the UK, especially Scotland and Wales, to participate in the Erasmus+ programme. As you know, a special solution has been found for Northern Ireland.

Nevertheless, the European Commission takes the clear view, and has made it public, that association with Erasmus+ is not possible for Scotland or Wales separately. The Commission argues that the only possibility would be for the UK to associate as a whole or not at all. Without association, the UK will be able to participate in Erasmus+ only to the extent that that is possible for a non-associated third country, and opportunities under Erasmus until 2027 will now be limited to those international actions that are open to worldwide participation. Those include the Jean Monet actions and the Erasmus Mundus joint masters degrees, which both have strong international outreach, the latter with strong involvement of Scottish and Welsh universities.

I have here a letter to MEPs from my good political friend in my home region of Niedersachsen, Commission President Ursula von der Leyen, which is dated 15 February. She writes:

“The Commission is aware of the Scottish government's statement on the UK decision not to associate to Erasmus+, and my colleague Mariya Gabriel has met Mr Richard Lochhead ... the Scottish Minister for Further Education, Higher Education and Science, who was keen to explore options for Scottish participation. However, as one constituent nation of the UK, association to Erasmus+ is not possible for Scotland separately. The only possibility for the UK is to associate as a whole, or not at all.”

That is the clear position taken by the European commissioner. I imagine that not everyone in the European Parliament will share the view of the Commission's President on the matter, but I think—we are all politicians—that that was a very clear announcement from the Commission's President.

In the meantime, let me commend the excellent work that Scotland House is doing in Brussels. It is very active. I am so often in contact with representatives from your Government that I almost feel that I have a new constituency in the European Parliament. I am happy to support whenever I can. I enjoy talking to Scots and, whenever I can help, I will be ready to get engaged.

Stewart Stevenson: Thank you very much. I will conclude by saying that, 90 years ago, in 1931, my mother, who was a language teacher, studied in Paris and found the international experience immensely valuable in her subsequent career.

Jamie Halcro Johnston (Highlands and Islands) (Con): Good morning, Mr McAllister. There has been a lot of talk about Erasmus, so I will not cover that again. Although I recognise the value of the Erasmus scheme—a number of friends and colleagues have been involved in it—the UK Government is looking at a replacement scheme that we hope will provide a wider opportunity for more young people across the UK and in Scotland. We hope that that scheme will be very successful and will not just focus on the European aspect.

I want to ask about a couple of practical areas. We have taken evidence from, and I have had separate conversations with, a number of sectors that have experienced issues with the borders. I am sure that you will be well aware of that. Some concerns, particularly from those in the seafood and freight sectors, have been about issues arising once goods arrive in Europe, claims of inexperienced border control officers, and different approaches in different countries across the EU causing confusion even over some very simple things when there should be consistency. The wrong coloured ink being used has come up a number of times. These things mean that export goods are not able to travel, are sometimes delayed and are sometimes sent back.

Do you recognise that as an issue? If it is, what role can you or the European Parliament play in making sure that there is consistency across the EU about the information and paperwork that is required? You said earlier that these are the consequences of Brexit, but they are individual policies for our exports that should not be happening. What role does the European Parliament play in making sure that the agreement as reached is honoured?

David McAllister: Thank you for the question. I could give you just one simple answer: scrutiny, scrutiny, scrutiny. That is exactly what it is about, and it will be the role for the parliamentarians on the British side and in the European Parliament who—if not us—are responsible for addressing exactly those issues. We are collecting all the comments that we receive. Just as in the UK, problems are popping up that nobody had expected. Nobody ever reckoned that these kinds of things would happen. For instance, I come from north Germany, where we have a lot of ports dealing with UK services, and I have surgeries once a month at which I collect this kind of information and then pass it on to the UK task

force, or the former team Barnier, which is now being reorganised. I would advise you to do exactly the same thing. That is one offer. If you ever get information from your own constituency about difficulties, please feel free to email me and I will try to address them at the EU level.

Jamie Halcro Johnston: Thank you. I am grateful for that offer, and I will certainly do that. The concerns have come up repeatedly, and other issues will come up. You are absolutely right that there are issues that were not foreseen by either side. It is sometimes very small, technical issues that cause concern.

A situation arose at the end of January this year with the brief threat of the triggering of article 16 of the Northern Ireland protocol. Obviously, it was quickly withdrawn, but I think that we all agree that it was damaging and unfortunate. Given the impact that it might have had on the relationship between the EU and the UK, what scrutiny has there been in the European Parliament? Given what an unfortunate and widely concerning incident it was, what concerns do you have about how it might impact on the need to work together in the future?

David McAllister: The UK co-ordination group in the European Parliament, which I still chair, meets about once a week with Maroš Šefčovič, our new point of contact between the UK and the European Commission. We are meeting this afternoon at 2.00 pm, and Maroš Šefčovič will debrief us about yesterday's joint committee meeting, which was the final one with Michael Gove before David Frost takes over.

When the—let us call it—article 16 mistake, incident or whatever happened, Vice-President Šefčovič was immediately summoned to the European Parliament. Ursula von der Leyen herself described the triggering as a mistake. In an interview with *Süddeutsche Zeitung*, she said:

“The Commission should not even have thought about triggering article 16.”

It was acknowledged in the Commission and in the Parliament as a mistake. We are all in politics, and I guess that folk do make mistakes—certainly, even our own political parties sometimes make mistakes. This was a mistake. The worst thing, if you make a mistake and you know that you have made a mistake, is to stick to the mistake. As you mentioned, this mistake was rectified quickly, within three and a half hours. Three and a half hours, and the mistake was corrected.

09:30

Some people were finger pointing at the Commission for days and weeks. Some of those who were finger pointing at the Commission were the same people in the House of Commons who

tabled and discussed the UK's Internal Market Bill, which was a clear violation of the withdrawal agreement and also endangered the Good Friday or Belfast agreement for weeks. You do not have to study maths to be of the opinion that there is a difference between three and a half hours and a couple of weeks. Anyhow, a mistake was made and we understand that, in dealing with certain political actors in the UK, the slightest mistake is immediately used. You also have a tough media landscape, which we know about of course, and this mistake was used politically.

Jamie Halcro Johnston: I appreciate that. These things are political, but that issue also raised concerns among your own member states. Can I move on? I do appreciate that mistakes are made, and we are all delighted that it has been rectified.

I have a practical question. This is not related to the agreement itself but is on the current EU vaccination programme. Clearly, the programme is not where you would like it to be. Will there be consequences for trade and movement between the UK and the EU if the vaccination programme in EU member states is not sped up? The programme has been working very well in the UK and in Scotland, but do you think it might cause problems for trade and things like personal travel if large parts of Europe are not at the same level and there is much rejection of the vaccine?

David McAllister: No. Vaccination is a joint effort for all countries, not only in Europe, but, in the end, since this is a global pandemic, around the world. I am pleased that the vaccination programme in the UK is going well. The UK is ahead in numbers compared to many member states of the European Union, but that is simply because you started vaccinating people earlier. In the end, we all know that the vaccination process will be a marathon and a huge challenge for us all. It was also good to see that there has been support between European states, not only among EU member states.

Let me also point out that, whatever has happened, the UK will never be a normal third state for us, because the United Kingdom is the United Kingdom and we know that you are not only our neighbour and an important trading partner but also a political partner in the G7, the G20, the Organisation for Economic Co-operation and Development and the Council of Europe, as well as a very reliable NATO ally. It was good to hear the Prime Minister speak at the Munich security conference last Friday about the continued unwavering British commitment to European security and defence.

Let me make a final point on Northern Ireland and Ireland, because this is important. The Commission admitted to the mistake that we

made, but, in the past few weeks, we have seen how quickly tensions can escalate. It is now very important for all sides—for the British side, the European Commission and the Irish and Northern Irish actors—to calm the tensions, protect the gains of the peace process and try to find solutions that will impact as little as possible on the daily lives of the communities in Ireland and Northern Ireland. Let me be very clear: we are fully committed to implementing the protocol. We know how sensitive the issue is. I welcome the fact that Vice-President Šefčovič immediately started to engage with businesses and civic society in Northern Ireland; it was a useful initiative. The joint committee meeting that took place yesterday did not bring a breakthrough, but both sides are now talking, and, as I have mentioned, we have to be firm on our principles on the one hand but be ready to find practical solutions on the other hand. There is some hard work in front of Maroš Šefčovič and David Frost on these issues in the next few weeks.

Jamie Halcro Johnston: Thank you very much. We wish them both well. I agree with you about the need for a strong global vaccination programme. It is vital. Thank you for answering my questions.

The Convener: I put on the record that we have received apologies from Ross Greer.

Kenneth Gibson (Cunninghame North) (SNP): Good morning, David. In your opening statement, you talked about the fact that the trade and co-operation agreement does not include foreign policy or security matters. You have just touched on the fact that the UK Government has made a commitment to NATO and Europe, but what are the implications of the lack of inclusion of security in the agreement? I am thinking not so much about military matters, but more about tackling organised crime, smuggling and so on.

David McAllister: Although there is no co-operation on external security and defence, there is a broad pillar of co-operation on police and judicial matters, especially on fighting cross-border crime, international terrorism and so on. The trade and co-operation agreement contains provisions on cybersecurity and security procedures for exchanging and protecting classified information.

I believe that, in the next few years, we will have some kind of framework for co-operation on foreign affairs, security and defence but, of course, it takes two to tango, and, at the moment, the UK Government is very clear that it is not interested in that. We will wait and see what the revised foreign affairs, security and defence strategy of the UK Government comes up with.

Where do I see options? Theoretically, all possibilities that are offered to third countries as

regards foreign policy and security co-operation are open to the United Kingdom if there is a wish on both sides to carry that forward. There has been a clear proposal from the European Union that we are open to British participation in framework participation agreements, EU battlegroups, EU military and civilian missions, administrative arrangements that are signed through the European Defence Agency, the European defence fund, Galileo and permanent structured co-operation. The offer is there but, of course, it is up to the British side to decide. At the moment, no particular structures of co-operation with the UK are planned, but the European External Action Service is in a process of consultation with the member states.

Where else do I see common ground? From my point of view, it would make sense if the European Union, as the largest donor of development aid, co-ordinated with the UK. The UK is also—and has always been—very active on the development front. It would make sense for us to co-ordinate our approaches in places such as Africa and certain parts of Asia and to co-operate closely on protecting human rights and on sanctions against human rights violations. That is another field where we have similar views. There are a lot of political fields where we can co-operate.

In the end, it will be for Britain to decide whether it wants to co-ordinate with the EU27 as the EU or whether it would prefer to have bilateral agreements with certain member states. My understanding is that, when it comes to defence co-operation, the UK Government is not particularly interested in dealing directly with the European Union but is interested in co-operating closely with member states, especially France and Germany. We will see where we go.

Kenneth Gibson: The UK is committed to NATO, but, if we think about diplomatic issues in relation to eastern Europe, it seems that the European Union carries most of the weight on relations with Russia, Belarus, Ukraine and so on, as well as in relation to the instability that is developing there.

Services are another issue in economic relations between the European Union and the UK. We talk a lot about trade in goods, the moving of goods and services and so on, but a lot of what the UK exports to the European Union and vice versa is invisible financial services. How do you see things developing in that field? What are the particular difficulties at this time?

David McAllister: Thank you for the question. First, I will make an additional remark on diplomatic relations. I am talking to members of the Scottish Parliament, who are not directly responsible for this, but I still have to convey this message. At the moment, the UK is still showing

some signs of unwillingness to grant full diplomatic status to the EU head of mission—Mr de Almeida, who is a very experienced diplomat—and the EU delegation in London. That is regrettable.

The European Union, as one of the major diplomatic actors in the world, entertains diplomatic relations with more than 100 third countries and organisations that ensure full diplomatic status, and it is hard to see how we can build trustful relations with the UK on the basis of the current position. Ambassadors of the EU have full diplomatic status in every country—more than 100—where we are represented. It would be great if the UK was not the only exception in the world. I had to make that case. If you meet people in London who are responsible for these decisions, please convey the message.

On your question about trade in services and investment, we know that services are of huge importance to you as they comprise up to 80 per cent of the economic strength of your great country. Where are we on that? For as long as your country was a member that participated in the single market, you benefited from the free movement of persons and services. Businesses could supply services freely across the EU and you benefited from the EU single market ecosystem, which is based on common rules, a single supervising framework and a common jurisdictional system.

09:45

Since 1 January, the UK has no longer benefited from the free movement of persons, the free provision of services or the freedom of establishment. That is your political choice. It means that, of course, UK service suppliers have lost their automatic right to offer services across the EU. They may need to establish themselves in the EU in order to continue operating.

In any event, UK service suppliers must comply with the often varying host country rules of each member state, as they will no longer benefit from the country of origin approach or the passporting concept, according to which authorisations that are issued by one member state under EU rules enable access throughout the single market. I have said this a couple of times today and I do not want to repeat myself, but I will. That is the result not only of Brexit, but of the form of Brexit that the UK Government chose.

I quote:

“As of 1 January, as a general rule, UK nationals, irrespective of where they acquired their qualifications, and EU citizens with qualifications acquired in the UK, will need to have their qualifications recognised in the relevant EU member state on the basis of each country’s existing individual rules applicable to the qualifications of the third-country nationals as of the end of the transition period.

The Trade and Co-operation Agreement nevertheless foresees a mechanism whereby the EU and the UK may later agree, case-by-case and for specific professions, on additional arrangements for the mutual recognition of certain professional qualifications."

"The Agreement does not include any elements pertaining to equivalence frameworks for financial services. These are unilateral decisions of each party and are not subject to negotiation."

There are undoubtedly difficulties and challenges ahead of us, but I am confident that, in the end, we will find ways, because we also benefit in the EU27 from high-quality services coming from the United Kingdom. We have benefited from them for so many decades and we would like to continue to see your skilled operators being successful in our EU single market.

Kenneth Gibson: It is ironic that many of the opponents of the European Union talked about bureaucracy, yet what we are going to see, because of the need to have individual rules agreed to and the lack of passporting, is more bureaucracy, higher costs and, therefore, a reduction in the competitiveness of companies in the service sector.

I was quite astonished to hear what you told us about Mr de Almeida. I was not aware of that. I will certainly raise it with my colleagues and I am sure that others will do so, too. My wife happens to be an MP and I am sure that she or her colleagues would be happy to raise the issue at Westminster.

Thank you for your responses this morning, Mr McAllister. It is always good to chat.

Dean Lockhart (Mid Scotland and Fife) (Con): Good morning, Mr McAllister. I want to follow up on the requirement for good faith in the implementation of the TCA. That is absolutely right: good faith on all sides is required.

In response to a question from Jamie Halcro Johnston, you mentioned that the invoking of article 16 was a mistake. What can we—the UK, the European Commission and the European Parliament—learn from that? What are the main takeaway lessons from that episode for any future concern over the operation of the TCA or the Northern Ireland protocol?

David McAllister: We learn lessons every day, and I would say that we should learn from the developments of the past few weeks. It is better to talk with each other than talk about each other. If both sides have messages to convey, there are many different options for doing that—it does not have to be done through newspaper, radio or television interviews. Especially on the highly sensitive issue of Northern Ireland, as soon as a problem pops up we need to get on the phone and talk to each other. That is what I would always recommend. In the meantime, every single person

involved has a duty to calm tensions and not to fuel them.

Many people in Brussels are doing a crash course on Northern Irish politics, including me. This afternoon, I am invited to discuss, in an internal meeting of a German think-tank, the different aspects of Northern Irish politics, which are just as interesting and challenging as politics in Scotland.

We are also learning a lot. Just as the UK now deals with probably more political processes in the EU than it dealt with as a member state, we are following the debates in your great country every day just to understand why people sometimes say things. We need understanding on both sides.

I will quote my party leader, Chancellor Angela Merkel—I have been her loyal supporter for 20 years. Right after the decision in 2016, she said that, as much as we deeply regret the British decision to leave the EU, there is no need to be nasty. We will try our best to have the closest possible relationship. Your country will never be a simple third country for us—you will always be something very, very special.

Dean Lockhart: Thank you very much. The ongoing dialogue that you mention will be central to all of this. It is always good to have somebody's direct telephone number if you need to talk to them in an emergency.

I have a separate issue about European parliamentary scrutiny of the TCA. How does that process compare with parliamentary scrutiny of other free trade agreements, such as the association agreement with Ukraine? Is the European Parliament undertaking the same scrutiny process for the TCA, or has a special procedure had to be adopted?

David McAllister: The trade and co-operation agreement is unprecedented in many ways, and so is parliamentary scrutiny of it. We have never had such depth to our level of involvement during the negotiating process.

I had a look at the statistics. The UK co-ordination group, which is the cross-party point of contact in the European Parliament, met Michel Barnier more than 40 times in 2020. We have now agreed with Maroš Šefčovič that the UK co-ordination group, or whatever our new name will be—we are still looking for a structure and how to get the main actors on the committees and in the political groups that are involved on board—will be briefed before every meeting of the Partnership Council and debriefed after every meeting of the Partnership Council. When the different specialised committees meet, representatives of the Commission will attend meetings of the European Parliament's expert committees—transport, fisheries or whatever.

The European Parliament is also waiting for a clear commitment from the European Commission. Until we get that commitment in the form of a written declaration—a letter—we will not give our consent to the TCA. We want a clear commitment from the Commission not only on its plans for parliamentary scrutiny but on a guarantee of parliamentary scrutiny and involvement. The European Parliament has the expectation that, in the medium term, that will lead into an interinstitutional agreement, and so we will set mechanisms and structures. No other co-operation agreement has had that level of parliamentary involvement. Once again, that shows how unique you are in every detail.

Dean Lockhart: That is a fascinating response. Thank you.

What timing are you looking for in relation to the commitment on scrutiny that the Parliament wants from the European Commission? When do you need that commitment from the European Commission?

David McAllister: The written commitment in the form of a letter would be an additional commitment by the Commission President or by Vice-President Šefčovič in the plenary. We expect that that will happen before we vote on the consent recommendation. The group leaders have been very clear about their expectation. If the vote happens at the end of March or in April, ideally we would see it at least a couple of hours—it would be better if we saw it way before that—before the vote, so that we can analyse carefully what the commission has promised. Again, the proof of the pudding will be in the eating. We want to scrutinise the European Commission, too.

Dean Lockhart: Best of luck with that. Thank you for the update, Mr McAllister.

Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP): Good morning, Mr McAllister. You keep mentioning puddings. Do you remember what a cloutie dumpling is? You will need to think about that one, given your Scottish heritage.

Although 62 per cent of people in Scotland voted remain, we are where we are, whether we like it or not. The examples we have had of the impacts of Brexit from the likes of the Road Hauliers Association and the Scottish Fishermen's Federation show that the impact on their trade and businesses has been pretty devastating. Everything that I have heard so far appears to be about mitigation of Brexit. Can you give an example of any benefits to Scotland from Brexit?

David McAllister: Unfortunately, I am not able to name anything positive about Brexit—I am sorry. I have been thinking about that for the past few years. It is a lose-lose situation. Brexit knows

only losers; there are no winners at all. However, it is over and done with, and we have to make the best of it. Throughout the whole process of negotiating the withdrawal agreement and the new TCA, the priority of the European Commission was always to try to mitigate the consequences for businesses and citizens.

We have negotiated many TCAs, always with the intention of improving relations. Here, for the first time, we have negotiated something under the condition that the level of co-operation will decrease and things will get worse. It has been very challenging, but it is a political decision of the UK Government and the UK Parliament, and, of course, we have to respect that.

Christine Grahame: Are there benefits or disbenefits to the remaining nations in the EU of our leaving?

10:00

David McAllister: No, I believe that the EU with 28 member states was stronger and better off with the UK than it is without the UK. The UK was the third largest member state by population, the second strongest economy and, together with France, the leading diplomatic and military power in our family of nations. We have lost a lot. We have also lost the voice of British pragmatism in Brussels.

I said a few weeks ago that we miss most of our British colleagues in the European Parliament. With one exception—a party that was not interested in engaging at all in Europe—looking across MEPs from the Conservatives, Labour, the Lib Dems, the Scottish National Party and the Greens and my colleagues from Wales and Northern Ireland, you saw very hard-working women and men who knew exactly what they were talking about. We have lost a lot since 1 February last year.

Who has benefited from Brexit? Perhaps the city of Amsterdam and its stock exchange have benefited, because lots of companies have left London to go to Amsterdam. However, these are things that we would have been glad to avoid. That is all that I can tell you.

We always thought that there were 3 million or 3.5 million EU citizens living in the UK, but the numbers released by the UK Government show that that figure is up to 5 million people. I know that, in Scotland, you have been very inclusive of EU citizens living in Scotland and very friendly and warm to them. I would like to fully express my wish for those people to have a good future for themselves and their families in your country. You are hosting 5 million EU citizens in the UK, which means that there are more EU citizens living in the UK than there are in quite a number of member

states. The 5 million EU citizens who live in your country and the more than 1 million UK citizens who live in the EU27 will also work as a bridge. I believe that personal ties are stronger than political decisions.

Christine Grahame: I do not want to put words in your mouth but, to put it bluntly, you are saying that Brexit was a big mistake .

David McAllister: I quote the four former living UK Prime Ministers, who have all described Brexit not only as a mistake but as an historic mistake. I am quoting David Cameron, Gordon Brown and Tony Blair, so I think that I am safe.

Christine Grahame: On a lighter note, I will send you a link to a recipe for cloutie dumpling and you can reacquaint yourself with it. Thank you very much.

The Convener: Mr McAllister, you mentioned the EU citizens who live in Scotland. If I recollect correctly, there was quite a lot of disquiet in the European Parliament about the original withdrawal agreement and the rights of EU citizens in the UK after Brexit. What is the feeling in the European Parliament now, as you scrutinise the final co-operation agreement? Is there more satisfaction that EU citizens' rights are protected, or is there still disquiet?

David McAllister: I would say that it is going well. The European Parliament was very concerned about the rights of EU citizens living in the UK. What we observe is that it is going well and that both sides are fulfilling their obligations.

As I said, the numbers were surprising. We used to talk about 3.5 million EU citizens living in the UK, but the figure is 5 million. If my understanding is correct, permanent status has been granted to 4.8 million or 4.7 million of the 5 million. That is going well from our point of view, but we have to remain vigilant. We also have to grant equivalent rights to UK citizens who are living in our countries. For example, there are more than 100,000 British citizens in my home country of Germany. I hope that all member states are fulfilling their commitments.

The Convener: There has not been much encouragement in our conversation today, but that is one point of encouragement, and I am glad to hear it.

I want to ask you about the parliamentary partnership assembly, which you touched on earlier and which was established to scrutinise the operation of the TCA. Can you update the committee on what discussions have taken place to date between the European Parliament and the UK Parliament on the remit and composition of the assembly? What is the view of the European Parliament on the role of the assembly? Do you

think that it would be appropriate to have sub-state legislators, such as members of the devolved Governments and Parliaments of the UK, represented on that assembly?

David McAllister: We agree that parliamentary co-operation is key and that it should be a key element of the EU-UK agreement. Article Inst 5 of agreement foresees that

"The European Parliament and the Parliament of the United Kingdom may establish a Parliamentary Partnership Assembly".

The European Parliament has expressed our support for the establishment of formal interparliamentary relations in a number of resolutions in January, February and June last year. That was also the position of the committee scrutinising future relations in both the House of Commons and the House of Lords.

I have been in contact with my counterpart in the House of Commons, Hilary Benn, a couple of times, but his committee now no longer exists. I also have a very good working relationship with the chair of the House of Lords European Union Committee, Lord Kinnoull, who I understand is from Scotland.

As I mentioned, the President of the European Parliament, David Sassoli, has reached out to his counterpart in the House of Commons and received a short but encouraging letter saying that there is also interest on the British side.

We are not there yet. First, we need to give our consent to the agreement, and the TCA needs to be applied totally and not only provisionally. However, I believe that the sooner we organise the parliamentary partnership assembly, the better.

The European Parliament has a lot of experience of organising relations with national Parliaments. We have very different formats in the European Parliament, so, given our expertise, we could provide a solid foundation for future dialogue. I know that our behind-the-scenes services in the secretariat are also reaching out to the House of Commons and the House of Lords. However, the composition on the British side is an internal UK issue, which we cannot decide. It would be up to London to discuss that with Edinburgh.

At the moment, we understand that the idea in the UK is that the British side of the parliamentary partnership assembly would be composed of members of the House of Commons and the House of Lords. If the Parliaments in devolved parts of the UK should be involved, you would have to discuss that with the British side. That is not up to us to decide.

The Convener: Our committee and the equivalent committee in the Senedd have requested that we participate. I take it that you are saying that if the UK agreed, you would not have any objections but that it is up to the UK.

David McAllister: You can put it like that.

The Convener: Thank you very much for giving evidence today. As you know, we will have an election soon in Scotland, so this is probably the last time that this committee will have the pleasure of hearing your evidence. Thank you for the help that you have given the committee over the years, through very difficult times. Your insight has always been greatly appreciated. Thank you very much and best wishes.

David McAllister: Thank you, convener, and thank you, dear colleagues, for inviting me. It was, once again, a great pleasure. It is also a very special honour for me to address the Scottish Parliament, given my Scottish roots. Let me wish you all good luck for the 6 May elections. The people of Scotland will speak—they will decide—and we are looking forward to good co-operation with the next Scottish Government and the next Scottish Parliament. Thank you so much. Whatever happens, let us remain friends across the Channel. I deliberately talk about a UK-EU partnership—a partnership is more than just a simple relationship.

The Convener: Thank you very much. It is nice to end on that optimistic note.

The committee will shortly hear from a further panel of witnesses. I suspend the meeting for a few moments to allow those witnesses to join us.

10:11

Meeting suspended.

10:15

On resuming—

The Convener: We continue on agenda item 1, with further evidence on the EU-UK trade and co-operation agreement. I welcome our second panel of witnesses this morning, who are Dr Richard Torbett, chief executive of the Association of the British Pharmaceutical Industry; and Dr Darren Budd, managing director for the UK and Ireland of BASF Ltd. Thank you for attending.

We will move straight to questions. Thank you both for your written submissions, which have been helpful. Dr Torbett, in your written submission you say:

“The lack of a MRA on batch testing regulatory standards between the EU and the UK presents a significant future risk to the availability of medicines to UK

patients and the attractiveness of the UK as a global life sciences hub.”

That is concerning. I will not read out all your evidence, but will you brief us on what the implications of that are and what you would like to happen?

Dr Richard Torbett (Association of the British Pharmaceutical Industry): Good morning, convener and committee members. It is a pleasure to be back with you.

When I gave evidence to you last December, I explained that there were two aspects of mutual recognition of regulations that were very important for our industry to come out of the agreement. The short version is that we have one aspect, which is the recognition of good manufacturing practices and which involves the inspection of manufacturing sites. We have mutual recognition on that, which is pleasing.

Batch testing means that, for every batch of medicines or vaccines that is manufactured, a portion of doses has to undergo a variety of tests in a laboratory before the batch can be released on to the market. The EU and the UK have been recognising each other's batch testing for many years, and we hoped to get a mutual recognition agreement on that. The EU was not willing to enter into such an agreement, although the British Government tried to secure one. I put on record that officials and ministers in Whitehall have had a very good understanding of our needs on the issue, and they have tried to secure a deal. However, one was not reached.

The implications of that are that, after the beginning of 2023, any medicine or vaccine coming from the EU to the UK will have to undergo a duplicative set of tests. The UK Government has chosen to unilaterally recognise EU batch testing for two years, but it has, in essence, put us on notice that, after 1 January 2023, there will be an expectation that UK batch-testing facilities will be in place. We are concerned about that, because anything like that takes time and involves a huge amount of cost, complexity and environmental impact, as many of the tests involve the use of solvents that are unnecessary and duplicative.

Duplicating regulation that adds cost, complexity and ultimately delay in the supply chain is disappointing, so we are calling on the Government to reflect on that. We suggest that it is within the UK Government's gift to recognise batch testing in the interest of not duplicating the regulation, and that is what we would like in an ideal world.

The Convener: Thank you. That is clear. Your written submission also raises concerns about the supply of medicines to Northern Ireland. Can you tell us more about that?

Dr Torbett: Yes. We are one of the most highly regulated industries anywhere in the world, for very good reason. A lot of the Brexit process has been very complicated for us. As we discussed when I was at the committee previously, Northern Ireland has been particularly complicated, because it is part of the UK but there is an obligation to be compliant with EU regulations and to ensure the security of the EU single market. Quite a pragmatic phase-in period was agreed so, as things stand, there is no particular issue with supply in Northern Ireland, because we have a year's grace period to implement the rules.

However, uncertainties remain. There are differences of interpretation of the rules between the EU regulators and the UK regulators on a number of issues that relate to the licensing of medicines. Those are quite technical issues on the location of marketing authorisation holders and aspects of the fortified medicines directive.

Right from the word go, after the Brexit referendum, the singular focus of the pharmaceutical industry has been to do everything that we possibly can to ensure that a patient in any geography does not notice any difference in the supply of their medicines. We will always do whatever we need to do to be compliant and to ensure that supply continues. The one thing that we cannot plan for and cannot adjust is when the rules are not clear. If there is a difference of view between the two sides on how to interpret the rules, we literally do not know what to do, so we cannot make best use of that one-year grace period until some of those issues are clarified.

Along with colleagues from across the wider life sciences community, I have written to the Chancellor of the Duchy of Lancaster to raise those points as clearly as possible and to suggest practical solutions that could be put in place. There has been a lot of talk, for example, of technology solutions for the Northern Irish border. Medicines is one area in which we already have the technology that we believe could give rise to pragmatic solutions. We have a sophisticated coding and serialisation system for every pack of medicines, which we believe can offer a control that could allow Great Britain packs to be in circulation in Northern Ireland while giving assurance that the EU single market is protected. There are solutions out there, but it requires both sides to understand those potential solutions and come back to us with a pragmatic way forward.

The Convener: I am sure that the committee would be interested in seeing the letter that you refer to.

Dr Torbett: I am happy to share a copy.

The Convener: Thank you.

Dr Budd, you represent our largest chemical manufacturer. In your written evidence, you say:

"we have experienced few hold-ups at the EU-UK border and the customs systems are running smoothly but the UK-EU border has had substantial friction for our businesses."

You go on:

"Overloading in the UK groupage network hubs results in delays",

which are

"caused primarily by the issue of goods not moving 'normally'",

because of "problems around customs clearances".

You also mention that your biopesticide businesses have not been exporting successfully from the UK. You say that the Department for Environment, Food and Rural Affairs

"seem unable to bottom the phytosanitary standard questions they were warned about over two years ago!"

What impact is that having on the bottom line in your business?

Dr Darren Budd (BASF): As we said in our written evidence, we have noticed issues particularly on the UK to EU border, especially with getting the paperwork right for material that comes out of our plants in the UK, and most of our plants are in the UK. We had only a short number of days after the TCA was published to get that understanding. The issue is at the border and is about making sure that all the paperwork is right and that the hauliers understand the requirements.

The nematode business involves importing, and nematodes are classed as live animals. When going from the UK to EU, the inspection facilities are not available at the veterinary border controls on the continent. We are working with DEFRA and other regulatory authorities to ensure that we can move those. As with other materials from our plants, the issue is about paperwork.

We have seen slight delays in bringing material from the EU into the UK, but not as many as we thought that there might be. It is exporting from the UK to EU to supply our customers that is causing us big problems. It is all about making sure that we can make materials on time, ship them, whether that is from the EU into the UK or vice versa. Shipping into the EU has been a big problem for us over the past eight weeks. It has caused a lot of stress in the system in making sure that we contact our customers.

With hauliers, it has been difficult to get enough trailers and containers into the country to be able to ship back out. Because of the paperwork difficulties that we and other companies have had, trailers are leaving empty, as it is easier for hauliers not to take material out of the country.

The Convener: You talk about your polyurethane business and

“hauliers sleeping in their cabs for days”.

What is it particularly about the polyurethane business that is causing that?

Dr Budd: It is not particularly about polyurethane; it is about making sure that the paperwork is right. If the paperwork is not done, the goods will not move and therefore the trucks and trailers will stand. That is what I talked about earlier. Hauliers are asking themselves whether they want to export to the continent because of the paperwork requirements. They did not anticipate the amount of paperwork and being stopped at the borders. It is about their livelihood. They have to ship when they are moving materials. Even though people work for companies, a lot of them are owner-managed vehicles, so the people are paid only when they deliver goods. If they are sat at a border because the paperwork is not right, they are not being paid. It is about getting the paperwork and the export certification right.

We had a lack of time between seeing the agreement and 1 January. We are working through the processes closely with the hauliers and our customers to make sure that we can get through the problems, but we will then have to pick up a backlog of work.

The Convener: One paragraph of your submission notes that

“mixed loads seem to flummox port officials”,

and that there is particular paperwork for them. The issue of mixed loads has come up time and again in the evidence that we have taken. We are told that it is a particular issue for small and medium-sized enterprises, who do not tend to fill a whole container, but you are a big company and you are saying that it is an issue for you, too.

Dr Budd: Yes. A lot of haulage companies have what is called groupage—they will group loads. It also depends on what international commercial terms—Incoterms—you are transporting with. For what we call delivered duty paid, we have a broker in place to do that. If you have a broker that does the end-to-end transition, that is one thing and the paperwork is right. However, if somebody is doing their own paperwork and the customer is importing, and they get one bit of the paperwork wrong—you could have two or three different Incoterms on one groupage container—the whole load will be stopped. Even though the paperwork is correct for most of the container, if one bit of paperwork is wrong for one small load on that groupage delivery, the whole truck will be stopped. Until the paperwork is right for the one shipment in the container, everything stops and you get a knock-on delay.

10:30

The Convener: That is what we have been told by other exporters and hauliers. In your submission, you talk about hold-ups at the port damaging loads. We are well aware of the difficulties for exporters of things such as shellfish, which have been ruined because of hold-ups. However, people do not tend to think that chemicals have a shelf life, too. Will you tell us more about that?

Dr Budd: They have a shelf life, and they have a temperature requirement, too, and we saw quite low temperatures in January. If the baseload of a material goes below a certain temperature, that causes a knock-on problem, because a lot of the chemicals are process chemicals that need to be transported at a set temperature so that they can be used. Whether you are shipping live animals, chemicals or pharmaceuticals, it is critical that they are shipped in a way that meets their requirements and in time. If a load is left at a port in a cold situation, that can damage the material.

The Convener: Has that been a significant issue? Has it happened quite a bit?

Dr Budd: It happens with some of the materials that we ship. Part of the delay is because we have to make sure that the paperwork is right so that we do not get stopping and damaging of material. The last thing that we want is for a material to turn up with a customer who cannot use it because it is out of specification. That means that the customer cannot produce the materials that they need for their end customer and we have to take back the material. There is then an issue about how to dispose of that material. There is a knock-on effect in the whole value chain.

The Convener: Thank you.

We will move on to questions from the deputy convener, Claire Baker.

Claire Baker: In the previous discussion, the proof of the pudding being in the eating was mentioned quite a few times. From the witnesses' comments on tariffs and rules of origin, that seems to be appropriate. You have said that the “Initial optimism ... largely disappeared” once the preferential rules of origin became clear. What difficulties have there been with tariffs and rules of origin?

Dr Torbett: For the pharmaceutical industry, the proof of the pudding is in the eating, as you said. It will take quite a long time to do all the eating that is required for us to have a good view of that because there are many thousands of products. Only when companies have worked through each individual product can they understand the practical implications of the rules. We are monitoring the situation very closely; I would be

happy to get back to the committee with written evidence when it is available from the companies. That is all still being worked through, which is the nature of our supply chain.

Claire Baker: It sounds like it will be an extremely slow process, given the variation and the amount there is to deal with.

Dr Torbett: The process of understanding the overall picture, whether it is positive or negative, is slow. It takes time. I want to make sure that I am being interpreted correctly. At this stage we are trying to take a view across all companies with many different products. Many companies have not been through the process of importing products into this country yet because, for example, they had stock already. It will take time to form a view as to whether the rules of origin arrangements that have been agreed as part of the deal are working as intended.

Claire Baker: My second question is about the changes once we get to April and July, when the checks will happen on imports to a greater degree. Do you have concerns about the impact that that will have, or do you think that it will go quite smoothly?

Dr Torbett: There is no doubt that managing the border requirements is more complicated for everybody and requires a lot of things to be right. I have reasonable confidence, because there has been enormous effort on the part of pharmaceutical companies to make sure that they are adequately prepared to deal with the border arrangements that have been put in place. There has been a huge amount of discussion between companies and the Government about taking a multilayered approach to securing supply to make sure that we can, ultimately, get products to patients. It is a feature of medicines supply that we cannot have an 80 per cent or 90 per cent solution. We knew that we would have to have a 100 per cent solution because there are patients at the end of our supply chain who require medicines in order to stay alive or to be treated.

It is, I hope, unlikely that there will be a significant issue, but that does not mean that it has been an easy or cheap process, or that it has not been complicated. It has been complicated, but we believe that we are as ready as we can reasonably expect to be.

Claire Baker: We heard from Richard Torbett previously that the pharmaceutical sector seemed to be the one that was best prepared for the change that was about to come, which reflects the importance of the sector.

I will go back to the original question. I read out a quotation from Darren Budd's organisation about initial optimism disappearing once it became apparent what was involved with rules and

preferential rules of origin. Could you expand on that?

Dr Budd: Yes. We did a lot of work with customers and the Government to try to anticipate what the agreement would bring. As I said earlier, we had only four working days' notice of the agreement. We then had to scramble to understand what it meant. Obviously, tariffs drop away, but we have the preferential rules of origin and what they mean for us when we are bringing in materials. We are still working through that.

A lot of our customers had brought in materials before 1 January. Usually, when we are working through a free trade agreement we have six to 12 months of implementation time to develop understanding and put that into our on-going systems. This time, we had only four days and everything has had to be done manually. A lot of the work of our company is manual at the moment. We must, to make sure that things run smoothly, understand the preferential rules of origin and check everything manually while we implement the digital electronic system. We know from the industry that everybody else is having the same problem.

We have been talking to the Government and the Department for Business, Energy and Industrial Strategy to get them to understand what that means for us, our customers and the supply chain. We are bringing in material and we understand the products that we are bringing in to our customers, but products are supplied by other suppliers—maybe from SMEs that do not have the facilities and the manpower to meet and understand the requirements.

Last week, we brought in the Department for Food, Environment and Rural Affairs and held an open forum with our customers to put the matter out more widely through a webinar on preferential rules of origin, so that we could share the information. If our customers can get material from us but not from other companies, they cannot make their products, which does not benefit anybody in the supply chain.

We are working through this; it will take a number of months to ensure that we understand everything on preferential rules of origin. Most of our material comes into the UK from our European sites, but we import raw materials from all around the world. We have to understand the preferential rules of origin and what they mean for our customers so that we can make the right declarations.

Claire Baker: What you describe is common across other sectors, and what has been described as implementation in real time means that there was no time to prepare. As you said, you would usually have a six to 12-month run-in

for a trade arrangement. What supply issues do you anticipate when we get to April and then to the date in July when there will be a change in how EU imports are treated? Do you have concerns about the impact?

Dr Budd: We have been working very hard to understand the impacts for the company, and we are putting in place resources to make sure that our customers are not impacted. However, do SMEs have the resources to do that when it comes to what will happen in April and July and they have to put in declarations?

We worked very hard last year to understand what that would mean, in relation to the incoterms, when we are transporting for our customers. We are working with a broker in the UK who will do all the import declarations for us and our customers, if our customers want that in order to smooth the transition. We have done that from day 1, in January. We need to anticipate where the pinch points will be in April and July so that we have a smooth transition for our materials coming into the country—whether that is for our customers or for our production sites in the UK—to make sure that they can continue running.

Claire Baker: You might not want to say in a public arena, but have you estimated the cost to your business? Previously, you would not have had to employ brokers or to use other methods. You have also acknowledged that it will be more difficult for SMEs to respond in the way that companies such as yours have been able to respond. There must be a significant additional cost attached to the changes.

Dr Budd: There is a significant cost. I would not like to say how much it is, because we need to run through what will happen when we get to April and July, for the full cost. We are looking internally at the additional cost, what it means for our business and where it can be absorbed along the value chain. The cost is passed down—ultimately, the end consumer pays the price. We cannot absorb all of the cost as we run through, so it gets passed down through what hauliers charge us and the cost of raw materials. The cost is gradually pushed down into the products that we supply to the market and to what the end consumer pays.

Stewart Stevenson: I have some limited knowledge of pharma, so I want to direct my initial questions to Richard Torbett. One of my nieces manages a pharma lab in Sweden and now, because of Brexit, she has got a Swedish passport, having lived there for nearly 20 years.

What options exist for mutual testing, if not necessarily mutual recognition? Is it envisaged that it might be possible for conformance to UK standards to be done in parallel in labs in the EU? Reciprocally, can conformance to EU standards

be demonstrated in UK labs for products that are moving in the other direction? How are we placed for getting to that point? If that were available it would address the issue of double testing that Richard Torbett referred to in his opening comments.

We know there are plenty of international examples of that general approach. One that has been around for several decades is people being able to clear American immigration and customs at Dublin airport when flying out. Even a relatively insular country like the United States can do that sort of thing. Is there a prospect of that happening? Is the industry promoting that as a way of resolving the issue?

Dr Torbett: We certainly are. From hearing you articulate the question, it sounds as though it is obvious to you; it is obvious to us, too. We are bemused as to why such pragmatism has not been applied in the agreement. It was clearly among the objectives of the UK to achieve such pragmatism but, for one reason or another, the EU has chosen not to do that. We do not understand the reasons behind it. Now that the deal and the bigger political difficulties of securing it are out of the way, surely it makes sense for both sides to sit down and have a side agreement to take that pragmatic approach. That would definitely be the best-case scenario.

10:45

At the moment, however, I am not seeing signs that that is likely to happen. If it does not happen, the next best scenario is that the UK takes the unilateral decision to recognise batch testing in the EU, simply because a lot of imports come from the EU and that is not likely to change any time soon. It does not make any sense to duplicate what is widely agreed is exactly the same process. That would be wasteful; we would prefer to spend the resource on much more productive things.

Stewart Stevenson: My niece gained her degree in pharmacology at the University of Sheffield. It is a UK qualification that is the base point for her professional skills, which have been developed over several decades, so that approach seems to make sense.

I will move on to Darren Budd and ask about a similar issue—pre-clearance. Over the years, I have had to be involved with constituents who export things by ship to distant parts of the globe, for which the paperwork is not necessarily complete when the product leaves the UK but is pre-cleared before it arrives in the port at the distant destination. If you can pre-clear your paperwork you have a window within which, if there are errors, you can fix them, albeit that that would not necessarily relieve the receiving officials

of doing the final check that what is in the truck is what the paperwork says is in it. Is that option being pursued? If not, why is there failure to pursue it?

Dr Budd: Pre-clearance of deep-sea shipments is a tried and trusted method. We are looking at whether we can do a lot of pre-clearance of our materials. From 1 January, we had a very short time after the agreement to get everything in place. As we work through the system in the coming months, we will understand the paperwork requirements better. As we move to a fully electronic system, it will get easier; there will be pre-clearance and brokers will be on board and providing their understanding.

The real pinch points have been in hauliers having to understand what is required. They have said they want every bit of required paperwork in case they get stopped. That adds time and processes; rather than having the paperwork electronically, they want every bit of it in their hands in case border controls between the UK and the EU want to see it.

There will be more understanding of what is needed, going forward, for pre-clearance. We are starting to understand the right way of working. As we go through 2021, we will see smoother transitions because people will understand what is required for moving material that is manufactured at a UK site into the EU. The process being more electronic will also speed it up. At the moment, however, everybody wants belt and braces and is going back to full paperwork.

We hope in the next couple of months to see the system starting to ease, with people understanding the process, and the pre-clearance process for deep-sea shipments will move into cross-channel shipments.

Stewart Stevenson: I will ask a slightly naive question. Other data interchange standards govern exchange of data that are produced in one country and delivered to another, which is particularly relevant, given that we are no longer dealing with the EU but with individual member states that use slightly different interpretations. It strikes me that something that you lose with a manual system is the opportunity on an electronic system to reject clearly invalid inputs, as you hit the keyboard to enter material. The manual system does not provide that. Is the technical standard in place that will mean that after six months the process will have become relatively seamless, albeit that it will be more expensive than it was in the free market of which we used to be a member?

Dr Budd: I think that the data standards will be fine. Both sides must understand the paperwork, so that we understand what the EU wants. Each

member state might want something slightly different; although the EU 27 is a bloc, each country has slight variations. I think we will see easing once we get the processes running and both sides understand them. I do not see data standards as a real issue. It is about making sure that there is common understanding and that everybody is happy.

Everybody wants to take the belt-and-braces approach; they do not want the authorities coming back to them. They would rather have everything in place in the form of hard paperwork, at the moment, so that they can move things. That delays everything. We will improve as everyone gets used to the system. We see that now with some easing of processes as we understand better what is required. As the hauliers understand better what is required, we are starting to see goods moving slightly more easily.

Dean Lockhart: Good morning, and thank you for joining us.

I want to follow up on the discussion about the practical issues at the borders. It has been interesting to hear at first hand what you are seeing. Will you give us some practical examples of what the main barriers have been to date? In other evidence, we have heard about the inconsistent application of the new rules by EU customs officers and issues such as different coloured ink being required. What are you seeing when it comes to the detail of practical issues? Is the situation improving? Touching on the previous point, will we soon, or at some point, get to a position where all or most of the new rules can be automated, and therefore be part of normal business and not cause too much disruption?

Darren Budd, as you discussed that in response to the previous question, I will start with you.

Dr Budd: The practical issue is having the right paperwork—the right export certification, the right stamp and the right EU document. If you are transiting through France or Belgium to Poland, say, you need to have the right documents for the countries that you are going through. It is a question of making sure that the point of entry is right for what you are transmitting. I mentioned the issue of groupage. When it comes to the groupage of materials, it is much easier from the point of view of paperwork if you have, say, only one inco term on a truck.

There also needs to be understanding on the part of the people who are shipping. An SME that is shipping out material must understand what is needed as regards the information that the haulier must provide. We are seeing that. Businesses also need to understand whether they have the right haulier and whether their haulier understands what is going on. People may look at the cost of doing

that. We have seen an increase—sometimes a doubling—of the haulage cost because hauliers are getting stuck at the port. They are saying, “If we want to deliver material into the UK, either we leave with nothing, because it’s easier for us to go out with an empty truck, or it will cost you more to transport it,” and that has an impact on the paperwork.

We will work through the situation. As the hauliers also work through the inconsistencies that we have at the moment, we will start to have a new normal. We will wait to see whether the cost increase stays, but it has an impact on UK businesses. Across the value chain, from food to animals to chemicals, the transport cost has gone up significantly.

I see an easing in the paperwork situation, and a better understanding. However, we are having to put in more resources to meet our customers’ needs because, ultimately, they expect us to deliver when they want their product. They do not really care about the issues that we are experiencing. If we give them a delivery date, they expect us to meet that delivery date. Therefore, we have to make sure that our processes run smoothly, that we work with our hauliers and that the communication lines are clear.

As I said, we are working through the situation slowly. It takes time, but I foresee that things will get smoother.

Dean Lockhart: Richard Torbett, what are your thoughts on this area?

Dr Torbett: Darren Budd’s answer was very good and very complete on the nature of the challenges. Complying with the new ways of working has imposed costs and complexity for everybody. As a membership organisation, the ABPI is in close contact with a wide range of companies on exactly such issues. At the moment, for the vast majority of medicines and vaccines, significant issues and problems are not being reported to us. However, the issues that have been outlined by Darren Budd have been felt by our companies. The one exception that I draw the committee’s attention to is that, in some cases, the importation of medicines for clinical trials has been a bit of a challenge—the problem has been in ensuring that the right paperwork has been understood by the organisations importing them—but, generally speaking, for the bulk of supply, it has been a case of so far, so good.

Dean Lockhart: I want to quantify where we are on the move towards the “new normal”. It might be a slightly unfair question, but I will ask it anyway. In percentage terms, where are we in getting fully up to speed on the new trading arrangements and getting towards the new normal? Are we 40 per cent down the track, or are we more like 60 to 70

per cent down the track in getting there? That might be difficult to answer, but I would like to get a perspective on that. Richard Torbett, do you have a sense of that?

Dr Torbett: I am afraid that the sound was going in and out as you were speaking, but I think that you were asking me to give a sense of how far through the process of adjusting to the new normal we are. I am not sure that I can give you a percentage. As I mentioned in response to a previous question, it will take some time to understand what business as usual looks like, particularly because in the first few months of the year we have seen a far lower flow of goods generally through the Dover-Calais short straits. That is one of the issues that need to be understood. Traditionally, a huge proportion of imports have come through those routes. The fact that we have not seen problems there might have been partly due to the lower flow right from the beginning. That is one issue.

On the paperwork side of things, my sense is that that is reasonably well understood and that the right arrangements are in place with customs agents in the majority of places where the volume comes in, although there will be a learning exercise for specialist groups, particularly in the clinical trials area. I am not sure whether that gives you a figure of 70, 80 or 90 per cent, but that is the sentiment that I am getting from my members.

11:00

Dean Lockhart: That was very helpful.

Darren Budd, do you have a ballpark figure that would give us a sense of where we are?

Dr Budd: I would separate it into two sides, one of which is the imports from the EU to the UK. In the past few years, the chemical industry has spent a lot of time seeing where the pinch point would be and has worked hard to make sure that all the regulations work. We could have done better when it comes to the opposite direction, from the UK to the EU. With imports, things are running relatively well and fairly smoothly. To put a ballpark figure on it, I would say that we are probably at around 80 per cent on the imports side and 50 to 60 per cent on the exports side, but the situation is getting better.

Will we see a blip in April and July? We might do, as the new conditions come into place. However, things are getting better. We saw a huge spike in work in January, as people sought to get an understanding, but there has been a smoothing off of the curves. I think that we will see a small blip in April and another one in July.

Imports are running relatively smoothly. We have some issues with the UK groupage network

and where that is impacting. We are working on the exports as an industry, and I think that the Government understands that. We are in a new world. We are outside the EU27, and we have to work to a new norm. Part of our work involves thinking about how we solve those problems, as a company and as an industry, because our customers want their materials at their factories so that they can manufacture goods for the public.

Dean Lockhart: Many thanks. You have both given us very useful feedback.

The Convener: We will move on to questions from Christine Grahame.

Christine Grahame: I have no additional questions.

The Convener: In that case, we will move on to Kenneth Gibson.

Kenneth Gibson: My question to both witnesses is about the impact on your businesses with regard to investment. We heard from Dr Torbett that 40 per cent of exports go to the EU and 80 per cent of imports come from the EU. What change do you envisage in the years ahead? How is Brexit impacting on inward investment decisions, both as regards BASF and the industry as a whole?

Dr Budd: We import a number of raw materials for our production sites in the UK. From a BASF point of view, we are looking at where the right place is to produce those materials. The UK is still a very valuable market for BASF. We are associated with a number of industries, including the automotive, agriculture, construction, food and healthcare industries.

We look at the UK positively. We see it as a market that is growing. Part of my role is to make sure that the UK stays that way. That involves working with the UK Government on where the opportunities are for BASF in the future, whether that is on innovation, potential research and development or making sure that our production sites are the best sites for BASF to make those materials in Europe. Our philosophy has not changed on that. Our production sites are world beating. As well as producing materials that we need for our UK customers, we export a lot of materials from those sites, and we will continue to do that. We look at whether they are economically viable and whether they supply the markets that we need them to, and we invest in them accordingly.

Kenneth Gibson: So, you feel that Brexit has not had any impact on the company's competitiveness or its investment decisions—in other words, it has not had that much effect on you. Would you say that it has been beneficial, or has it been negative?

Dr Budd: We look at what the market opportunity is for us. The UK market has not shrunk because of Brexit. We still have the same customers who manufacture here, so we will continue to import directly to our production sites. We make investment decisions on a global basis. We look at where the industries are that we want to serve and where the production sites are that would best serve that, and we make investment decisions based on market conditions.

Dr Torbett: In some respects, my answer is similar. The UK has been one of the key global homes of the pharmaceutical industry for many decades, and we want to continue to grow that. The debate on whether Brexit was a good or a bad thing will rage on for ever but, fundamentally, the approach of the business community, even in those industries in which Brexit has been complicated—it has been extremely complicated for us to deal with, and we still have issues that we need to resolve, as we have discussed this morning—will always be to work with whatever the political landscape has given us in an effort to make the best of it for the UK and for Scotland.

We have consistently been the largest investor in R and D in this country for many years. We have put in more than £4.5 billion, which goes beyond what any other sector has done. As a life science industry as a whole, we export £30 billion—incidentally, almost £600 million of those exports come straight from Scotland—and we have £2.5 billion of industrial output, with a gross value added of £1.8 billion just for Scotland. We want to grow that.

What will that footprint look like in the future? What will the pattern of trade look like in the future? It is clear that it will shift. With respect to the EU, we need to resolve the outstanding issues from Brexit but then rapidly evolve a new vision for what UK-EU co-operation and partnership will look like. It is very encouraging that we are still able to collaborate on science, which is critical for us. As we go into a global trade agenda, it is the right thing for the business community to look at that trade agenda and at the very least be honest with all concerned about what would put the UK and Scotland in the strongest possible position to keep attracting investment in the future, and that is what we are doing.

Kenneth Gibson: That last point is absolutely key. Obviously, you have to operate regardless of the political and economic circumstances. That is true whether there is a booming economy or a retracting economy—at the moment, we have Covid in the background—and it will depend on the politics of the Governments and their attitude towards the industry.

In the current situation, what do you think the overall impact has been on the industry as regards

its competitiveness and investment? Is it going up or down? How do we resolve that? For example, if competitiveness has not been affected, there are not many issues to be concerned about. If it has been affected, how do we restore the industry's competitiveness and ensure that the UK continues to grow its global market share?

Dr Torbett: At the risk of giving a frustrating answer that is not black and white—I think that it is too early to give a black-and-white answer as to whether we have gone up or down net net—there are some aspects of the agreement, such as the duplication of batch testing, that will undoubtedly be a negative drag on UK competitiveness, but there are other things that we are doing in this country, such as investing in genomics, investing in health data and looking at the fiscal environment for investment, that stand a good chance of being very positive.

In the past few years, we have seen new investment in this country. We have seen more finance coming into the biotech industry generally. We have seen two of my largest members make multi-annual investments that approach \$1 billion each, which is fantastic. We are in the process of making proposals on how you could reform the R and D tax credit, for example, that we believe would provide an opportunity for the levelling-up agenda throughout the UK, including Scotland. I hope that building the bridge between R and D and manufacturing will improve competitiveness further.

It is a mixed picture, and we are trying our very best to support all Governments to make sure that we are net positive.

Jamie Halcro Johnston: I hope that this question was not asked by Stewart Stevenson. He cut out slightly on my connection, so I am not sure whether it was covered. Richard Torbett, is there any suggestion that either the UK or the EU is looking to diverge on standard testing, or would you expect there to be relative alignment going forward? That is one of the concerns.

Dr Torbett: If you are referring to the batch testing that we have been talking about, no, I have not seen any suggestion of that. We are talking about the duplication of an identical process, which adds no value for anybody.

Your question hints at a debate that there undoubtedly will be about the broader regulatory environment and where we do and do not diverge. It is possible to lead and even compete while not diverging from international standards. It would be very unfortunate if we totally did our own thing; it would not be very good for this part of the world. However, if we were at the cutting edge, as we are in some technology areas, such as artificial intelligence and cell and gene therapy, we have

the potential to do some interesting things as long as we are doing them in partnership and our colleagues in the EU, the Food and Drug Administration and elsewhere follow us. That would be a good thing and would enhance our competitiveness.

Jamie Halcro Johnston: The concern has been brought up on a number of occasions, and it is important for various sectors that we can compete on that and that there is not the duplication.

If the situation continues and there is no resolution on batch testing, could that mean opportunities to produce more within the UK or will you just have to deal with the current situation of duplicated tests? In the past few months, we have seen investment going into, for example, vaccine production facilities. Might there have to be more UK-focused facilities for some of your international members, or is that unlikely?

Dr Torbett: If we have to duplicate testing, we will have to duplicate facilities here, in the UK. You can look at that as meaning that there will be more jobs, and that might well be how the EU has been looking at it, but it is not a huge number of jobs, although it is a huge amount of resource, effort and complexity. Critically, all the resources could have been put to better use. I would much rather that the industry put those resources into new manufacturing facilities, new research and development and new partnerships with UK universities and the national health service than that it put them into something that will duplicate bureaucracy, increase our environmental impact and increase costs and delay in the supply of medicines.

11:15

Jamie Halcro Johnston: I was not suggesting that it would be a good thing, because it would work both ways. The same thing might happen and they might look to invest outwith the UK. I just wanted to make the point, because it is a concern. As you say, resources that could be going on research and development would be diverted away, and that would not be helpful.

The UK has signed a number of FTAs. How beneficial are they and do they impact on your sector positively? I doubt that their effect will be negative, but they might provide different challenges.

Dr Torbett: The majority of agreements that have been announced so far have rolled over previous agreements with the EU. That was important for us, because, for example, some Japanese pharmaceutical companies are critically important for us, and the UK was able to benefit from a similar sort of arrangement—the EU-Japan

trade agreement—that we had when we were in the EU. A few bits of modernisation in the Japanese agreement are positive and welcome. I do not think that it has dramatically revolutionised us, but it is reassuring that we have these rollover agreements.

A second question is about when the UK starts to negotiate genuinely new trade agreements. It is in the middle of conversations with Australia and New Zealand, the USA and other parts of the world. Two things will be important for us. The first is the Government being ambitious enough on regulatory alignment and regulatory leadership.

The second is intellectual property rights, which are critical for our industry. If we do not have intellectual property rights, we simply cannot have investment, and we invest \$200 billion in R and D every year. The UK has been one of the strongest countries on intellectual property rights for many years, and that is one of the reasons why we have the industries that we have today. If nothing else, we need the UK Government to use its trade agenda to ask other countries to come up to our standards. That would not affect anything that we do in the UK with the NHS, but it would be helpful for Scottish and UK exporters. I do not yet know whether that level of ambition is there, and that is something we need to look at.

Jamie Halcro Johnston: Is there a growing problem, challenge or fear around intellectual property?

Dr Torbett: There is, because the pharmaceutical market is global and not every country protects innovative investment as the UK does. In a trade negotiation, it is perfectly legitimate for the UK to say that we have an industry here that invests at risk billions and billions of pounds and that these are successful businesses that are exporting; therefore, if their intellectual property rights are not protected in the countries that we are trading with, other competitors could unfairly come in and erode the export value of UK and Scottish businesses. That is an area of opportunity for a UK independent trade policy, and we should grab it.

Jamie Halcro Johnston: Darren Budd, can you comment on that point about the FTAs and the opportunities and challenges for you?

Dr Budd: From our sites in the UK, we look at whether the FTA agreements are an opportunity or whether they hinder where we export our materials, and we need a wide timescale in which to understand that. I talked earlier about the agreement we currently have with the EU. We had only four days to read the documentation, understand it and implement it.

We want fairness on where we are already exporting, no detrimental effect on the FTA and a

timeline that will allow us to implement the changes when we are exporting materials. Most of our goods are exported into EU27 countries from the UK, so I do not think the new FTAs will have a big effect. If we need to look at resources on the export management side, we need enough time to make sure that we put the resources in place to do that.

Jamie Halcro Johnston: The devil is in the detail, and you need time to look at it.

Dr Budd: It is, yes—always.

Jamie Halcro Johnston: Thank you for your answers.

The Convener: We have a little bit of time in hand. Dr Budd, could you go into more detail about the implications for your business in the UK of complying with UK registration, evaluation, authorisation and restriction of chemicals? Are the fatty acids that are produced by your company at the Callanish site affected by that? What difference has been made by the UK's extended deadline for providing full safety data?

Dr Budd: It is no secret that we now have to register under UK REACH whereas we had EU REACH previously, and that will cause an issue for the whole industry. When we import materials or have to re-register materials under UK REACH, there will be a cost implication for our businesses. We are working through that under data sharing.

We have stated that we are not looking to remove any products from the UK product range that we import or what we produce here. We have to work with the UK Government to get it to understand that UK REACH is a duplication of EU REACH—it does not add anything to EU REACH. A lot of the raw materials are already under EU REACH, and there needs to be data sharing. We have said that to the Government. It will cost BASF around £70 million to re-register all our products under UK REACH, and there will be no additional benefit regarding safety or anything else to the UK public from that, because it is a one-to-one transition.

If we can have that data sharing, it will also make things easier for consumers. As I said previously, all of that adds costs on to our product, and those costs get added to the material prices and are forwarded on to our customers. The bottom line comes to the consumer, who pays a higher price for the materials but receives no added benefit. If we can get data sharing with EU REACH, it will make it easier for everybody on that timeline.

We are working with the UK Government to get it to understand that. It would have been better if we could have had a data-sharing agreement, but it was not in the trade and co-operation

agreement. We are working through that. We will have to re-register all our products in the UK under UK REACH to make sure that we can supply them to our customers.

The Convener: How are your products at Callanish, on the Isle of Lewis, affected?

Dr Budd: We do not see any effect of re-registering those products. We will continue to manufacture and register the products that are manufactured there and will continue supplying them.

The Convener: That is great.

How has Brexit affected your workforce planning? You employ a lot of highly skilled people, so how has it affected your workforce planning and your ability to access skills and labour? Dr Torbett, do you want to go first?

Dr Torbett: I am happy to go first, but, before getting into that, I just want to say—at the risk of stating the obvious—that the chemical sector is a critical part of the pharmaceutical industry, and I want to express our strong support for what you have just heard from Darren Budd about a sensible resolution to the REACH issue.

Skills and workforce will take time to understand. So far, we are encouraged by some of the global talent visa aspiration. It is the right sort of thing to put in place, but we will have to get more detail about how it will work in practice. As you rightly say, talent is critical to our sector, and we need to develop home-grown talent. We are clear with ministers and the Department for Education about the skills gaps in this country, particularly in clinical pharmacology and a number of areas, and I would be happy to submit evidence on those if the committee is interested.

The international movement of people, at all skill levels and at many different levels of seniority, needs to be as seamless as possible. We have seen the intent behind policies such as the global talent visa, and we will have to look at that very closely to see whether it works in practice.

The Convener: Thank you very much for that. Dr Budd, do you want to talk about the talent in your industry and whether Brexit has affected recruitment?

Dr Budd: Yes. As a global company, we delegate employees—whether they are key employees or whether it is key for their development—around the world, into and out of the UK. We develop our people locally and internationally to give them the widest possible experience. You do not necessarily want a production manager in only one site; you want to give them the widest possible experience, so we delegate people in and out. We have to look at where the talent will go and where it will come

from in the future; at how we develop home-grown talent; and at whether it will be restricted. Our human resources processes are looking at that issue very closely, to see whether it will cause us a problem in the future.

On the movement of people, I do not have an answer at the moment, because we are looking into it, but it is important to all aspects of our business, whether on the economic side, in personnel or in engineering—not just on the scientific side. It is important, and we are looking very closely at whether there could be an impact.

The Convener: You have both talked a lot about how critically important regulatory co-operation between the UK and the EU is for your industries. Are the co-operation structures envisaged in the TCA fit for purpose for your industries? A yes or no answer would be fine.

Dr Budd: That is a difficult one to answer. At the moment, I would have to say that, for it to be fit for purpose, data sharing would be good, or even being an associate member of the European Chemicals Agency, because of the likely potential divergence on regulatory issues. Europe is the UK's biggest market for chemical materials—and vice versa—and any divergence could have an impact on that. We would like to see the UK Government and the EU authorities get together and come to an agreement on data sharing, to make sure that we do not have any divergence in chemical legislation.

The Convener: Dr Torbett, do you think that the co-operation structures in the TCA are fit for purpose for chemicals?

Dr Torbett: You asked for a yes or no answer. If you are going to hold me to that, I would have to say no. If I could expand a little bit, I would say that it is because we just do not know what the structures look like. There are good words in the agreement about intent for regulatory co-operation, but we have no way of knowing exactly what the structures will be. We are seeing some very good work at the Medicines and Healthcare products Regulatory Agency, which is rethinking its role in the world after Brexit, and that is very encouraging. We would like to see that leading international standards in regulation. To do that, you need a good structure for co-operation, and we hope that those details will get fleshed out as soon as possible.

The Convener: That is very diplomatic. Thank you, Dr Torbett and Dr Budd, for attending and for your evidence today. That concludes the public part of this meeting. I will allow a couple of minutes for members to take a comfort break and to move on to Microsoft Teams before we resume our committee meeting in private session.

11:29

Meeting continued in private until 12:04.

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