



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

EUROPEAN AND EXTERNAL RELATIONS COMMITTEE

Thursday 15 January 2015

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EUROPEAN AND EXTERNAL RELATIONS COMMITTEE

1st Meeting 2015, Session 4

CONVENER

*Christina McKelvie (Hamilton, Larkhall and Stonehouse) (SNP)

DEPUTY CONVENER

*Hanzala Malik (Glasgow) (Lab)

COMMITTEE MEMBERS

*Roderick Campbell (North East Fife) (SNP)

*Willie Coffey (Kilmarnock and Irvine Valley) (SNP)

*Adam Ingram (Carrick, Cumnock and Doon Valley) (SNP)

*Jamie McGrigor (Highlands and Islands) (Con)

*Anne McTaggart (Glasgow) (Lab)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Hiddo Houben (European Commission)

Jean Urquhart (Highlands and Islands) (Ind)

CLERK TO THE COMMITTEE

Katy Orr

LOCATION

The Robert Burns Room (CR1)

Scottish Parliament

European and External Relations Committee

Thursday 15 January 2015

[The Convener opened the meeting at 09:30]

Interests

The Convener (Christina McKelvie): Good morning and welcome to the first meeting in 2015 of the European and External Relations Committee. I make the usual request that mobile phones be switched off.

Our first agenda item is to welcome Anne McTaggart to the committee. Welcome, Anne—I hope that you enjoy your time on the committee. We are certainly doing a lot of interesting work and I am sure that you will find it interesting.

I take this opportunity to thank Alex Rowley for his contributions to the committee. I am sure that Alex's legacy of looking at ferries and other infrastructure projects in relation to Europe through the committee will carry on into the coming year.

I invite Anne to make any necessary declaration of interests in relation to this committee.

Anne McTaggart (Glasgow) (Lab): Thank you, convener—I am pleased to be here. I refer people to my entry in the register of members' interests.

The Convener: Thank you. Jean Urquhart is attending the meeting today as she has a long-standing interest in our main topic. Welcome, Jean—you are more than welcome to contribute if you so wish.

Transatlantic Trade and Investment Partnership

09:31

The Convener: Agenda item 2 is the purpose of our meeting this morning: our inquiry on the transatlantic trade and investment partnership. I am delighted to extend a warm welcome—actually, it is a bit of a cold and blowy welcome—from Edinburgh to Mr Hiddo Houben, who is the deputy chief negotiator for TTIP at the European Commission. He is joining us by videoconference from Brussels.

Good morning, Mr Houben. To get the deputy chief negotiator on this topic is a real win for our committee, so we are delighted to have you here this morning and very interested in what you have to say. I believe that you would like to make an opening statement.

Hiddo Houben (European Commission): Thank you very much, Ms McKelvie. I would have preferred to be with you in Edinburgh. I think that most of us still see a trip to Edinburgh as combining a lot of things that we like, so if I had been able to, I would have come. I apologise for having to do this by videoconference.

I will introduce myself briefly. My name is Hiddo Houben, I am a Dutch national and I have been working in the European Commission for about 25 years, mainly on international trade policy. I was the head of our economic department in the European embassy in Washington for five years, and I just returned to Europe in September. I lead a small department that works on the TTIP negotiations. It is a great pleasure to be with you, even if it is just by videoconference.

I will make a few brief points and then leave space for you and your colleagues to put your questions to me. I will try as best I can to respond to them and we can take it from there.

Of course, we have a new Commission as of November. We have a new leadership and a new Commissioner for Trade—Cecilia Malmström, who is a Swedish national. One of the first things that Cecilia Malmström has done is increase the transparency—*[Interruption.]*

The Convener: Sorry—we are losing the sound from your end. We will suspend the meeting to allow our technical people to address the issue.

09:34

Meeting suspended.

09:36

On resuming—

Hiddo Houben: We have each other again. I was briefly trying to highlight a few points in which I thought the committee might have a specific interest.

On the transparency of the negotiations, I flag up to you that, two weeks ago, we launched a transparency initiative, as a result of which all the negotiating texts are now available on the internet. Therefore, if any of you wants to see the actual texts that we are negotiating, they are available and are accompanied by fact sheets, ordered by subject. That should help you to interact on the substance of the issues. Of course, we are in your hands, as are my colleagues working in London at the Department for Business, Innovation and Skills, and we will help you with any specific requests that you have.

We are of course conscious that many of the products that Scotland exports or is competitive in have strong interaction with trade policy. For example, historically, spirits have faced very high trade barriers in international trade. At European level, we have been successful in the past 30 years in opening the markets to exports of spirits. In most markets in the world, exports are now free of duties for whisky producers and other spirits producers. The same applies to other high-quality products from Scotland, such as textiles.

Our view is that TTIP takes that approach to the next level. It also has an ambitious services component. International trade commitments to open services sectors are not as developed as those for manufactured goods, so TTIP intends to move the needle and open those markets. Historically, the energy sector has been less open than other sectors, and that is an area where TTIP wants to provide significant market opening.

In all those respects, as trade negotiators working on behalf of the European member states, regions and economies, we are working to open markets to serve high-paid jobs in the regions and member states across Europe. Generally speaking, jobs that depend on exports are better paid than those in the domestic economy. Trade-related jobs are usually high-quality ones and they often require a well-qualified workforce. The sector is usually a good stimulus for the economy. The important thing about market opening is that there is no fiscal weight when you take a trade liberalisation initiative—you are creating jobs without increasing Government spending.

There are a few other things that I should say and then you should feel free to try on me any question that you may have. I am not sure that I will be able to answer everything, but I will do my very best.

We are aware in Brussels of the healthcare situation in Scotland, Wales and other parts of the United Kingdom and the specific responsibilities that you have. I would be happy to respond to any questions about that.

My final point is on what is perhaps the most controversial issue in TTIP at this time—the often cited investment dispute settlement mechanism. That allows an investor to take a Government not to a formal court but to an arbitration tribunal in cases where they feel that they have been discriminated against in relation to a domestic investor. All that I can say in that regard is that, yesterday, we published the outcome of our consultation on that instrument, which makes the timing of today's meeting fortuitous. That is available on the web, although we would be happy to send it to you if you want. It is a 150-page document full of legalisms, but it includes a number of recommendations on three or four pages in which we have identified the core issues and problems.

The Commission intends to interact with the European Parliament, the 28 member states and stakeholders writ large on the basis of those issues. We envisage the process will take about three months. We hope, by around April or May, to be able to condense that into a policy recommendation on whether there should be an investment dispute settlement mechanism and, if so, what kind would be appropriate to negotiate with our American friends.

All the issues are hugely important but they do not take place in a vacuum. Whatever we decide with our complex process in Brussels—we try to take account of different states, the European Parliament, the Council and civil society—we must subsequently negotiate the position with our American counterparts. As you can imagine, they have a lot of advantages that we do not have. They have a very strong federal system of Government, so they have one voice and one negotiator. It is also much more centralised than our European system.

Whatever outcome we take to our interaction with the United States, the final outcome will subsequently depend on the feedback that we receive from the Americans and how they define their priorities for their negotiation with Europe. Broadly speaking, we have similar interests. We both need growth—America needs growth as much as we do. We both need competitiveness because we are facing huge competitive challenge

from Asia and that will remain in the next 10 to 15 years.

This is an agreement in which we can help each other to become more competitive. However, like all large trade negotiations, there are aspects in which we have offensive interests, where the Americans are defensive, and vice versa. We also have areas in which we will not wish to change European policy, in the same way as there are areas on the American side where they will not want to change American policy.

09:45

The negotiations are far from concluded—we are about to get into the real meat of them. We hope that we may be able to conclude the negotiations with the Obama Administration, which still has two years to go. It is not a certainty that we will be able to do that but we will try. We have a commissioner, Cecilia Malmström, who is very free-trade oriented. She will put her best foot forward and try.

We can envisage this only if the outcome is balanced, though, and if it finds support among broad categories of the European population. Currently, the general feeling at the political level is that there is still too much controversy. We need to work through some of the more controversial elements so that we can build broader support and consensus among people who feel that this is the right thing to do.

The Convener: Thank you. That was a very extensive introduction. You answered some of my questions, which were about progress and timetabling and so on.

On Saturday, I had the pleasure of meeting a representative of the Canadian Government, Greg Houlahan, who was involved in the Canadian agreement. The Commission acknowledges that the TTIP negotiations are surrounded by controversy—I understand that hundreds of thousands of people have contributed their ideas and expressed their concerns to the consultation. I know that the Canadian agreement has been signed. According to Mr Houlahan, they managed to resolve all of the issues and controversies that are now faced by TTIP. What lessons have been learned from that? How would you envisage using those lessons to resolve the issues and controversies around the current TTIP arrangements?

Hiddo Houben: You raise what is, at least in political terms, the most sensitive issue, which is what we should do with this investment mechanism and whether it belongs in an agreement with the United States. People have lots of legitimate questions. Americans have a more litigious societal structure—they litigate more

than we do. There are legitimate questions. Europe and America are very established legal jurisdictions. [*Interruption.*]

I am a trade specialist. I look at macroeconomics. My main job is to contribute to jobs and growth.

The Convener: Sorry, Mr Houben. We will have to suspend—we are losing you again.

09:48

Meeting suspended.

09:50

On resuming—

The Convener: You are coming through nice and clear now. We will restart the committee and you can finish your response.

Hiddo Houben: I was responding to your question on the investment instrument. I think that the questions are legitimate. The issue is political. People who are more on the left wing are slightly more critical and people who are more on the right wing are slightly more favourable.

I am a trade policy specialist and, of course, if I consider the European interest over the longer term, I note that we have to look at the investment instruments in a larger context. If we do not have an instrument of this kind with the United States, it will be more difficult to request something similar of the Indians, Chinese, Russians and so on. The agreement between Europe and American is really a standard-setting agreement, which will be seen as such by other partners in the world. That is an important component. It is not the decisive component, but it is an important one.

On investment, it is fair to say that most of the investment instruments around the world belong to European member states. It is one of those paradoxes of politics that you come across every now and then. There is huge controversy around the investment instrument but, if you look around the world, you will see that most of the countries that have these instruments are European member states, including the United Kingdom, France and smaller European Union member states, such as Holland, where I come from.

We are the largest users across the world of investment dispute settlement. That involves not only big business but also small and medium-sized enterprises—about one quarter of the cases that we launch are launched by SMEs. The important thing to bear in mind is that, if an SME has a problem in a third-country market, it can activate an instrument such as the ones that we are talking about, but it is less likely that a

Government-to-Government dispute settlement will work to solve that SME's problem. The public perception that this investment instrument only helps big business is not completely on target. That is the first point.

The second point that I would make is that the Canada agreement, to which you have referred, tries to overcome a lot of the criticism that exists in relation to the investment instruments that member states have in their bilateral agreements with third countries. We have already made a huge qualitative step to improve the instrument in order to do away with some of the things that civil society has such difficulty with. In other words, under the Canada agreement, the proceedings have to be transparent; they cannot be done in secret. There is no longer a secret tribunal; the arbitration has to be done in public. The competence of the arbitrators is better and the qualitative criteria that are applied are more rigorous.

That is not to say that the Canada agreement, in and of itself, is the answer for the EU-US agreement. The first reason why I say that is that a number of people in the European Parliament have said, quite correctly, that we can still improve on the Canada model. The point that the Canadian diplomat made to you is true, but—[*Interruption.*]

The Convener: I am sorry—we have lost you again.

Hiddo Houben: I am very sorry.

The Convener: It is fine now.

Hiddo Houben: Is it? Whenever somebody lifts up their hand I will press this button here, because every time I press it the sound seems to improve.

The Convener: Okay. Let us resume.

Hiddo Houben: In a nutshell, in the coming months we want to identify whether further improvements to the Canada model can be envisaged. One might be an appeals mechanism—the Canadian investment instrument does not include an appeals mechanism—and we are looking at a number of other tweaks. We envisage that subsequently we will need to put the question to the politicians. I am a civil servant, so I will defer to maybe not you but the Governments of our 28 member states and the members of the European Parliament, and they will defer to you. That is how our democracies work.

In a sense, the conversation in which we are engaged after the consultation report was made public yesterday is of a technical nature. People such as me will have to come with technical improvements and politicians such as you, who might have different views depending on your party, will ultimately say, "This belongs in an agreement with the US"—or maybe you will not.

As a technician, I only ask you please to look at the instrument in the context of not only transatlantic relations but the globalising world in which we operate. We have every interest in having an instrument of this kind for many third-country markets, because we are a net exporter of capital. The European economy is high value added and knowledge intensive, so when we operate in third-country markets, whether through investments or sales, we have every interest—for our own workers in Europe—in protecting the assets that we have in those markets and the access that we get to those markets through trade agreements. When that access is nullified, instruments such as the investment mechanism have their place.

The legitimate question for politicians is: how can we think this through in the context of the EU-US relationship, in which we have very developed legal systems that are independent and trustworthy and have stood the test of time? We can all, in America and Europe, be extremely proud of our judicial systems.

The Convener: Thank you very much. I will open out the session to colleagues, whom I ask to introduce themselves for the sake of the *Official Report* and our guest.

Roderick Campbell (North East Fife) (SNP): Good morning, Mr Houben. I am the MSP for North East Fife. I would like to home in on the investor-state dispute settlement. I think that you said that you hope that by April or May you will have taken a view as to whether it would be appropriate to have ISDS in TTIP. Can you put a bit more flesh on what you hope to achieve over the next three months? I am disadvantaged: I have not yet seen the document that you put on the web yesterday, which outlines the consultation response, so a little more information on what you are hoping to achieve in the next three months will be helpful.

Hiddo Houben: I am very happy to do that. I have been told that you are a lawyer, so no doubt you will enjoy reading the consultation report. It is quite a lengthy document, but it includes an executive summary. It shows in what I think is a very objective way the subtlety of the challenges and difficulties in navigating our way through the conundrum of the ISDS instrument.

What is true, of course, is that it is an instrument that provides private access to remedies that do not yet exist for other stakeholders in trade agreements. For example, if there was a violation of labour law in a third country, a labour movement would not have a private right of access on that but would have to go through a Government-to-Government dispute settlement. Therefore, the political criticism that people on the left make of ISDS is well founded in that it provides a privileged

legal avenue for business that is not available to other stakeholders in society.

My reply to that is that the better should not be the enemy of the good, because if you have a labour problem—[*Interruption.*] Sorry, but you seem to be losing the sound again.

The Convener: I suspend the meeting briefly to see whether we can reconnect.

10:01

Meeting suspended.

10:03

On resuming—

The Convener: We have the sound again, so we can continue.

Hiddo Houben: I have asked one of our secretaries to come up in case we have any further technical problems. I will just finish my reply to Mr Campbell. [*Interruption.*]

The Convener: I am sorry, but we have completely lost Mr Houben again. I will suspend the meeting to see whether he can get some technical support so that we can reconnect.

10:04

Meeting suspended.

10:17

On resuming—

The Convener: We will resume the meeting.

Hiddo Houben: Yes. I am ready to refer back to Roderick Campbell's question.

Roderick Campbell: I was trying to get a flavour of who will be involved in the three months up to April or May before a decision is reached on whether it is appropriate to have an ISDS mechanism in the treaty. A bit more information on what is planned would be helpful.

Hiddo Houben: I will set out the sequence that we envisage. In normal trade negotiations of this kind, we negotiate on behalf of the EU, but we do it in consultation, mainly with two parties. The first is the European Council of member states. We engage at technical level—my level—and at political level, which is the level of the commissioner and the trade secretary in London. In that discussion, each member state expresses its national position, which reflects Government policy, and that then comes together. The usual approach in Europe is that decisions are guided by qualified majority.

Since the latest EU treaty, investment has been a European competence, which means that the European Parliament will be fully part and parcel of any deliberative process that we have regarding the negotiations on TTIP. Because that is at the political level, our commissioner will interact with the European Parliament and, notably, its Committee on International Trade. She will also engage with David Martin and other MEPs. If I am not mistaken, David is on that committee. There again, political parties will express different priorities and emphases.

The purpose of all that is to find a balance that is broadly acceptable to a majority of member states and a majority in the Parliament. That requires quite a lot of engagement between the Commission and those two institutions.

Lastly, another part of our outreach is with civil society. We have formal and informal processes through which we engage with civil society. We have a formal advisory group on TTIP in which civil society is represented. I believe that the group will meet the commissioner tomorrow. On average, it meets every month or every six weeks. We also have stakeholder sessions for much larger groups, because the advisory committee is made up of only about 20 people.

My job is to be open to anybody who wants to meet on an issue, whether that is a non-governmental organisation, a company or a law firm. We try to distil the best possible approaches to ISDS in such a way that the politicians can take decisions. In a nutshell, through the consultation, we have identified four questions on which the politicians will have to guide the Commission. The first is on the protection of the right to regulate. Investor-state dispute settlement should not undermine the right of Governments to regulate, and the question is how that should be defined legally.

The second question is on the establishment and functioning of arbitral tribunals. That is about issues such as the competence of the arbiters, the public nature of the proceedings and the right of third parties to submit position papers.

The third question, which is possibly the most complicated, is on the relationship between domestic judicial systems and ISDS, which, as you know, is an arbitral proceeding. The most complex legal question is how those two processes interact with each other so that they do not undermine the judicial process in your country, in the United States or elsewhere in Europe.

The last question is on the issue of an appellate mechanism, which does not exist in current investment mechanisms. That is about the possibility of an ability to appeal, as exists in legal proceedings in most systems.

Those four questions are the key ones on which we will now engage with stakeholders. We hope, by April or May, to have distilled something from that that takes us forward.

Roderick Campbell: Thank you. A couple of points arise from that. Obviously, we have a separate legal system in Scotland. For the record, I ought to refer to my entry in the register of interests as a member of the Faculty of Advocates. I take it that you will invite a response from representatives of the separate legal system in Scotland on that third issue before May.

Hiddo Houben: Yes—absolutely.

Roderick Campbell: Mr Martin's stated position is that he regards ISDS as

"entirely unnecessary between trading partners".

It will be interesting to see how he responds to the four questions that have been posed. *[Interruption.]*

The Convener: I am so sorry, Mr Houben, but we are getting interference over the line again, so perhaps we could use the conference call facility. I suspend the meeting briefly to allow that to be arranged.

10:24

Meeting suspended.

10:27

On resuming—

The Convener: Okay. Let us get back to the questioning. Mr Houben, I know that we were scheduled to finish with you at 10.30—11.30 your time. How much more time do you have?

Hiddo Houben: I am in your hands. You are the elected officials, so I will stay as long as you wish me to stay.

The Convener: Okay. We will resume with a question from Jamie McGrigor.

Jamie McGrigor (Highlands and Islands) (Con): Thank you. I am an MSP for the Highlands and Islands. I am sorry if my questions cross-cut some of your previous answers, but because of the confusion that may be the case.

My first question is whether there will be a role for national Parliaments in the ratification of TTIP. My second question is to do with ISDS. What measures exist in TTIP to ensure that member states will retain their right to set policy without the threat of litigation from US companies?

10:30

Hiddo Houben: Those are very good questions—thank you. As regards your first question, which was on the potential mixity—that is the legal term that we use here in Brussels—of the TTIP agreement, the line that we take is that we are currently negotiating, but we do not yet know what will be in the final agreement. ISDS is a good example, because we cannot say at this point in time whether it will be inside the agreement or outside it.

Our general *modus operandi* is that we engage in the negotiations on the basis of a mandate that we have received from member states via the Council. At the end, when we have a product, we submit that for approval to the European Parliament and to our member states in the Council. The lawyers then look at what is in the agreement and determine whether European law provides that it needs to be adopted only at the European level or whether it needs to be adopted by the individual Parliaments of the 28 member states. If the latter is the case, it must go through all the Parliaments. An example is visas. If anything were included in the agreement on visas or the movement of people or workers, that would make it a mixed agreement.

At this stage, the politicians—those at a pay grade above mine—have said that the decision will be made only at the end of the road, but that the scope and the importance of the agreement probably imply that we can anticipate that it will pass through individual national Parliaments as well as the European Parliament and the Council.

On ISDS and the right to regulate, you may want to look at the text of the Canada agreement to which Ms McKelvie referred. You will see that there are explicit provisions to protect the right of Governments to regulate. I add that nearly all ISDS procedures oppose implementing measures of state rather than legislation that countries have adopted. Even if that is the case, were it to include an ISDS instrument, the TTIP agreement would explicitly protect the right of states and the EU to regulate. That would mean that what was adopted through a democratic process could not be overturned by an ISDS judgment. Damages for a company that has been negatively affected are the only thing that an ISDS procedure can lead to; it cannot lead to an overturning of the legislation of the United States or a country in Europe.

Jamie McGrigor: I have one more question. There has been a lot of media coverage and speculation in the UK that TTIP could lead to the privatisation of the national health service. In a letter to my colleague Ian Duncan MEP, the director general states that the EU's approach would not lead to that. Do you anticipate that there

will be a specific exemption for health services in TTIP?

Hiddo Houben: In legal speak, we call an exemption a reservation. We will incorporate in TTIP a reservation that basically does two things. First, it will provide that the TTIP agreement could never impose an obligation to privatise or liberalise a sector that is under public funding. In addition, TTIP would provide that, if a Government wanted to reverse a privatisation, it would be free to do that. Therefore, it is not just that it will not be possible for a country to be obliged to privatise; countries will be given the additional latitude to reintroduce public funding and public provision of a service if they want to.

That is also an American interest. It is not the case that just Europeans are asking for that and that the Americans want us to privatise. The Americans have similar interests in a significant number of areas. They use a different term—I think that “provision in the exercise of a Government monopoly” is the term that they use—but they have similar interests in it being possible to provide a service publicly in areas in which that is defined as being wanted and in the treaty not being able to impose an obligation that would limit that in any way.

Jamie McGrigor: I am grateful for those clear answers. Thank you.

Adam Ingram (Carrick, Cumnock and Doon Valley) (SNP): Good morning, Mr Houben. I am the MSP for Carrick, Cumnock and Doon Valley, which is in Ayrshire in the west of Scotland.

I want to ask a nitty-gritty question about TTIP's economic impact. Much is claimed for TTIP in respect of economic growth and jobs benefits but, if truth be told, it is a bit hit and miss, is it not? For every job that is gained in Scotland from, for example, lower tariffs on knitwear, we could lose several others in financial services or in food and drink as a result of increased competition from the USA. There will be winners and losers across economic sectors, will there not? Predicting outcomes from complex trade negotiations and agreements is a guessing game, is it not? We cannot guarantee anything by way of economic benefits.

Hiddo Houben: That is a good question. As trade specialists, when we look at liberalisation, which is, at heart, what we are trying to do, we know that the Americans will liberalise sectors that benefit from some protection; we will do the same, and those sectors may not be the same. The usual economic assessment is that the costs are concentrated and the benefits are spread out. Sectors will lose out in international competition—many have done so in the past decades. There are always losers when there is liberalisation,

which is why it is rightly for politicians to decide for or against such an agreement.

In our policies in Europe, of course, we try to have mitigating mechanisms that will allow the economy to adjust because our long-term philosophy is that, overall, we benefit from openness. It could be said, of course, that Europe as a continent and its individual member states invented international trade over the past centuries. Whether we are talking about the Spanish, the Venetians, the United Kingdom or the Dutch, international trade is in our veins, even though the Americans may claim that they have taken on the mantle of competitiveness.

There are always costs to liberalisation, but it helps people to compete and protects them over the longer term, because it enables them to have a very strong knowledge base and a competitive economy, which we have in Europe. Liberalisation in and of itself does not need to lead to long-term unemployment. The American economy, for example, is very open and its unemployment rate is below 6 per cent. If we have unacceptably high unemployment in Europe—I think that everybody agrees that it is too high; that is certainly our analysis in Brussels—it is not trade policy that is at the source of that unemployment. We have to implement other measures that will help to reduce unemployment. That is not to say that there will not be losers in a process of liberalisation. I would not be telling you the truth if I suggested otherwise.

Adam Ingram: We are talking about not just trade flows, but capital flows. In the case of the North American free trade agreement, for example, there was a flow of capital from the United States to Mexico, which is a low-wage economy.

There are concerns here. We want a high-wage economy and we are not looking for the kind of investment that has taken place under NAFTA, but we are concerned. We have a lot of US investment in Scotland. Could we actually lose some of it as a consequence of the agreement?

Hiddo Houben: Your questions are legitimate. The economic modelling suggests that there would be an increase in both trade and reciprocal foreign investment.

Two things distinguish the relationship between Europe and America from those in all other parts of the world. First, historically, our trade has been more or less balanced. We import as much from each other as we export to each other. That is very different from our trade with China, Russia and India, in which we have large imbalances. In the longer term, there is a deep perception of fairness and mutual benefit in the relationship with the United States.

The second point—I am sorry: I have lost my train of thought. I have to apologise—I am just past 50. *[Laughter.]*

The second point is about investment stock. Compared with any other regions of the world, what defines the transatlantic relationship is the depth of our reciprocal investment stock. We invest more in each other's economies than anywhere else in the world. Our relationship with China, for example, is much more of a trading relationship than an investment relationship. The relationship with America is more of an investment relationship, arguably, than a trading relationship. It is a very deep relationship that, until now, has provided mutual benefits.

It is through the perception of a shared interest that we think TTIP can help us to compete better against the rest of the world. Four billion people have joined the market economy since 1990, all in Asia. They have lots of standards of protection that are lower than ours. If we and the United States can help each other to increase the competitiveness of our economies, we will be better able to face the competition challenge from Asia that we are facing together.

Adam Ingram: Thank you very much—although I am not entirely convinced by your answers. Also, wait until you hit 60—then you will have something to complain about.

Willie Coffey (Kilmarnock and Irvine Valley) (SNP): Good morning, Mr Houben. I am the MSP for the constituency of Kilmarnock and Irvine Valley, which is in Ayrshire.

I return to the question asked by my colleague Jamie McGrigor, about access to Scotland's healthcare services. I will ask the question in a different manner. What are the circumstances that might allow access to Scotland's publicly funded healthcare services? I know you said that TTIP cannot impose that, but are there any circumstances in which that could happen?

10:45

Hiddo Houben: I am told by my colleague Miranda Dawkins, who is a seconded UK official working in the Commission, that you have a specific situation in Scotland in which any decision to tender out certain activities would have to be taken by the Scottish Parliament. None of that would be changed by TTIP, in either direction—both in terms of a decision that you as a Parliament may take to contract out, and in terms of any subsequent decision that a later Government may take to contract in, if you want to turn back any privatisation measure that you have put in place previously. If there are market experiments that a Government anywhere in Europe wants to make, they can be made.

However, if a Government that wishes to reverse a privatisation is elected, that will also be possible.

The only point on which you can have a discussion between trade policy experts is whether, if you decide to open up a market, there should be non-discrimination between an American bidder and a European bidder. That is trade policy business. However, the choice of whether you wish to exercise a monopoly in public policy is and will remain yours as a national Parliament or as a Government.

Willie Coffey: Will you clarify that? Are you telling me that the Scottish Government could prevent access to our publicly funded health services even if the United Kingdom Government decided to open them up through TTIP?

Hiddo Houben: Yes—at least as far as TTIP is concerned. I do not know the specificities of your constitutional relationship with the UK, but TTIP will not in any way affect the relationship between Scotland and the UK. If you can do it, within your constitutional relationship, TTIP will not in any way be a hurdle to that.

Willie Coffey: But the competence here lies with the United Kingdom Government, does it not? Should that Government decide otherwise, that is where the decision would rest. Is that not the case?

Hiddo Houben: The only point that I am able to make to you is that TTIP would not impact that.

Hanzala Malik (Glasgow) (Lab): Good morning, Mr Houben. Thank you for being so patient. I have really appreciated your input this morning.

I want to ask about education, which we are very passionate about in Scotland. We have an historic tradition of education and we have always encouraged people to come to Scotland for education, particularly from the US. We enjoy a warm and friendly relationship in that respect.

With TTIP, will there be any additional burdens or restrictions on that relationship in respect of the number of students who come to Scotland, the value of fees, and whether students would be entitled to engage in other activities while they are here? Will TTIP have any such impact?

Hiddo Houben: The short answer to that is no. The longer answer is that we would try, through TTIP, to facilitate measures that would foster such exchange, for example by encouraging a mutual recognition of diplomas, so that if you study in America but you want to practice in Scotland, your American diploma would be recognised in Europe and vice versa. It is not yet clear whether we will be successful in that, but TTIP will try to encourage the recognition of diplomas. For workers, we may also try to improve mobility. If

you want to work on the American market currently, it is very difficult to get a visa. If the Americans agreed, we would be very interested in having measures that facilitated the exchange of workers because we think that that would appeal to people—notably to young people. Again, we are still at the beginning of this negotiation and we do not know whether there will be an appetite for that.

On fees and charges, I do not think that TTIP impacts in any way either on your system in Scotland or on the very diverse system of private and public education that they have in the United States.

Hanzala Malik: That sounds helpful—I use the cautionary word “sounds”—in relation to visas that allow students the freedom to exercise the right to come and go. Also, allowing students to work in the host country is helpful not only financially but in giving them a better understanding of the culture in Europe or America. I am just trying to tease out whether there will be any restrictions on that. Will it be open to national members to make those decisions or will they be made centrally in Europe? If they are to be made centrally in Europe, what would the process of lobbying be to try to ensure that we have a satisfactory outcome on the issue?

Hiddo Houben: I can offer only this: if any progress is made on those issues, it will have to fully involve members at a national level, because it is not a European competence. If member states and the European Parliament see promise in trying to improve the mobility of students or workers and the rapidity with which they can access each other's markets, so that a European person who is qualified can work in America—and possibly also the partner of that person; all of these attendant conditions are also very important—we can move forward on that only if we get a green light from member states, because it is a national competence. We will be looking very carefully for guidance because we are very attentive to what is a European competence and to what is at a member state level.

Hanzala Malik: Thank you very much, that is very helpful.

Anne McTaggart: Good morning, Mr Houben, and thank you for your patience. I am not quite sure whether I am an unlucky omen for the committee, as this is my first day. My name is Anne McTaggart; I am an MSP from Glasgow. As I said, this is my first day on the committee, as I have just been selected to be the shadow minister for Europe and international development, so I have been keen to hear all that you have had to say this morning.

I have some questions about standards. How can the EU's higher agricultural and food

standards, which impose extra costs on European farmers, be protected under TTIP?

Hiddo Houben: You ask a hugely difficult question because, next to the investment instrument, the question of food standards is the most controversial one in TTIP. Our position, as we have articulated it, is that we are not going to change through TTIP our legislation on, for example, genetically modified food or organisms. We are not going to change our ban on injecting cattle with hormones in order to make them grow more quickly, which is a current practice in the US. None of those practices in the food chain will be up for negotiation in TTIP. However, TTIP will provide greater access to products that we are allowed to share on each other's markets. Border protection will be reduced and that will allow more exports from European farmers to the US market and vice versa.

I add that, in agricultural trade, we have had a net surplus with the United States for a number of years. We think that, in the end, there are significant export interests for Europe in relation to the negotiation, not just defensive interests.

Anne McTaggart: What discussions have there been and what decisions have been made regarding the setting of standards in industries other than the agriculture industry in trade agreements?

Hiddo Houben: That question is difficult to answer. In the field of standards, there are certain things that we are not doing and certain things that we want to do. When our standards are fundamentally different, as they are on how we treat chemicals, for example, TTIP will not bring about change. However, when standards lead to redundancies and to higher costs for our industry, we are trying to find common outcomes. For example, car safety standards in America differ from those in Europe. That leads to a huge and unnecessary burden on car manufacturers because, if they produce a car that is exported to the US, it has to respect safety requirements that lead in practice to the same level of safety but which require the car to be built completely differently. In that regard, we are trying to find mechanisms for mutual recognition.

In the field of chemicals, Europe has the registration, evaluation, authorisation and restriction of chemicals—REACH—regulation, which provides for the registration of hazardous chemicals, whereas the United States does not. That will not change; the US will not adopt our system and we will not adopt its one.

Anne McTaggart: So that is still a thorny issue that needs to be negotiated and ironed out.

Hiddo Houben: That is correct. In the end, the negotiation is not a mathematical thing; it is more

of an art in which, on both sides, we have to identify the areas in which we can make our standards more compatible. In some cases we will succeed and in some cases we will not.

Anne McTaggart: So standards could reduce thereafter.

Hiddo Houben: No. Both sides have said clearly that standards will never be lowered. Through the sharing of information, we can have standards that are more intelligent and more compatible, but the only direction is up.

Anne McTaggart: That is super. Thank you very much—that is what I hoped to hear.

Jamie McGrigor: In written evidence to the committee, Ian Duncan MEP referred to comments that were made by the German Minister of Food and Agriculture, Christian Schmidt, suggesting that the protected food name schemes will be removed under TTIP. That would be bad for Scotland, given our Scotch lamb, Stornoway black pudding and other important products. Do you have any comments on that?

11:00

Hiddo Houben: That is a good question. I have to say that I am impressed by the level of your questions.

In the meantime, the German minister has qualified those comments. The issue concerns difficulties that your products—and others that have what we in our technical speak in Brussels call geographic indications, such as Parma ham and certain cheeses—have because they are insufficiently protected in America. They are protected there only by the trademark system, whereas, in Europe, we have specific geographic indication protection, which is a higher level of protection. Through TTIP, we are trying to export some of that extra protection. We will not get everything, because the Americans do not like it, but we will certainly get an improvement on the situation in the American market compared with the current situation.

The Convener: Thanks very much, Mr Houben. It has just turned 11 o'clock. Given our technical difficulties this morning, would you mind if the committee sent you further questions in the hope that you could answer them in more detail and deal with some things that we might not have managed to cover today? Would that be acceptable?

Hiddo Houben: Absolutely. This unfortunate experience with the videolink suggests that, next time, one of my colleagues or I should go to Edinburgh or you should come here, and we should speak in person.

The Convener: That might be the best way to do things. We are sorry for the technical challenges this morning. We appreciate your giving us your time, and your candour and openness. I hope that we will continue the conversation as we go through our deliberations on TTIP and its implications for Scotland. We look forward to hearing from you again and, I hope, seeing you in Edinburgh soon.

Hiddo Houben: I thank you, too. It was a pleasure to talk to you.

The Convener: That finishes our deliberations. I remind members that our next meeting is on 22 January, when we will take evidence from Jackie Minor on the European Commission's work programme.

Meeting closed at 11:02.

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