



OFFICIAL REPORT
AITHISG OIFIGEIL

DRAFT

Constitution, Europe, External Affairs and Culture Committee

Thursday 23 May 2024

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CONSTITUTION, EUROPE, EXTERNAL AFFAIRS AND CULTURE COMMITTEE
13th Meeting 2024, Session 6

CONVENER

*Clare Adamson (Motherwell and Wishaw) (SNP)

DEPUTY CONVENER

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

COMMITTEE MEMBERS

*Neil Bibby (West Scotland) (Lab)

*Keith Brown (Clackmannanshire and Dunblane) (SNP)

*Meghan Gallacher (Central Scotland) (Con)

*Mark Ruskell (Mid Scotland and Fife) (Green)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Mike Buckley (Independent Commission on UK-EU Relations)

David Hamilton (University of Edinburgh)

Peter Holmes (University of Sussex)

Kevin Stewart (Aberdeen Central) (SNP) (Committee Substitute)

CLERK TO THE COMMITTEE

James Johnston

LOCATION

The Robert Burns Room (CR1)

Scottish Parliament

Constitution, Europe, External Affairs and Culture Committee

Thursday 23 May 2024

[The Convener opened the meeting at 09:03]

Decision on Taking Business in Private

The Convener (Clare Adamson): Good morning, and a warm welcome to the 13th meeting in 2024 of the Constitution, Europe and External Affairs Committee.

Our first agenda item is a decision on taking business in private. Are members content to take items 3 and 4 in private?

Members indicated agreement.

Review of the EU-UK Trade and Co-operation Agreement

09:04

The Convener: Our second agenda item is to continue to take evidence on the committee's inquiry into the review of the European Union-United Kingdom trade and co-operation agreement—the TCA.

We are joined remotely by Mike Buckley, director of the Independent Commission on UK-EU Relations; Peter Holmes, emeritus fellow of the UK Trade Policy Observatory at the University of Sussex; and David Hamilton, student in bioeconomy, innovation and governance at the University of Edinburgh. We are also hoping to be joined by Anna Jerzewska, who is the director of Trade and Borders. Everyone on the panel is a member of the Independent Commission on UK-EU Relations think tank. I extend a warm welcome to you all.

I will ask a question to start us off. In your report, "Brexit and Goods: trade strategy for unlocking UK-EU growth and opportunities", you said:

"An effective way to ensure a smooth and affordable flow of goods trade would be via mutual recognition schemes, although it is likely that the UK would have to make standards concessions to achieve this."

You also suggested that "regulatory divergence" would present challenges for exporting businesses. Will you elaborate on those thoughts, and on what is meant by "standards concessions", so that we are absolutely clear on that?

I will go to Mike Buckley first.

Mike Buckley (Independent Commission on UK-EU Relations): Peter Holmes and David Hamilton are more expert in the trade area than I am, but I will give an overview.

In terms of mutual recognition, we all want to see trade flow more freely. All of the committee members, like all of us on the panel, will be aware that trade barriers have inhibited the UK economy and the Scottish economy and our ability to trade with our closest trading partners. That is a significant inhibitor for the economy, which of course has a consequent impact on businesses, employment and wages, and on our ability to grow the Scottish economy and the UK economy more broadly.

Because of the way that the trade and co-operation agreement was put together, taking down those trade barriers or doing anything to reduce them is a big ask. Recognition of standards is one thing that can help to make that happen, but

it would mean the UK deciding to follow EU rules so that our standards meet their standards.

That is less of a big ask than it would first appear because, in reality, businesses in the UK that want to export to the EU already have to produce to EU standards. However, the great difficulty is that producing to EU standards does not, in and of itself, take down those trade barriers. In the single market, trade and goods flow freely and, when they approach national borders, evidence that they have been produced to EU standards does not need to be shown because everyone in the EU has agreed to produce to those standards. They have that trust, if you like. Because we are no longer part of that system, however, even if we in the UK or Scotland produced to those standards, we would still have to show a piece of paper at the border to say that we have done so, so those trade barriers remain.

Divergence means that we do something different in the UK to what happens in the EU. In some ways, it has been only a short amount of time—four years—since we left the European Union. Nonetheless, divergence is happening: partly because of decisions made by the UK Government, but also because the EU is not a static body and has also been making changes to how it operates and to its own standards and procedures. Even if we stay static, it will be making changes.

The only way to ensure that trade barriers can be minimised to the greatest possible extent, therefore, is for us to have what is called “dynamic alignment”. In essence, that means that we need to take note of the changes that the EU is making—the new rules, regulations and standards that it is bringing in for products, for example—and then choose to follow those. In the end, that almost brings us back round to the old Brexit debates about whether we want to be a rule taker as a country, which is politically unpalatable, but may be economically necessary.

The Convener: I will go to Mr Holmes.

Peter Holmes (University of Sussex): Thank you very much indeed. It is a great pleasure to be with you.

Mike Buckley is really the person who can talk to the committee about the report. I am a bit of a standards nerd, though, so I will go into a little bit more detail on what he said in order to elaborate on some of the difficulties that lie behind the issue.

The first thing that we have to do is distinguish between standards, regulations, conformity assessment and accreditation. We frequently talk about “standards” to cover the whole range of those things, but the UK formally agreed, a couple of years ago, to continue its membership of the European standards bodies.

Standards are definitions, in a sense; it is about what an inch or a kilogram is. Somewhere in Paris, there is a block of platinum that weighs exactly 1 kilogram. There is no legal basis, but it is about the question, “What is a kilogram?”. That is what this thing is. Now it is done more electronically, but standards are just standards, and we are legally obliged under the membership of the standards organisations to use the same standards as the rest of continental Europe. However, as Mike stressed, that does not actually do anything to eliminate trade barriers because, in order to get transit across the border without difficulty, you have to comply with the regulations.

World Trade Organization rules say that regulations should, where possible, be based on standards. However, there is a gap; there is a little edge between the standard and the regulation, and we have to align our regulations and statutes, not only our standards.

Then, as Mike also pointed out, it is not enough simply to have a law that says, “We are going to align our rules with EU rules”. We also have to have an enforcement mechanism that guarantees that. Imagine, after the Grenfell fire disaster, a British manufacturer of building materials bringing their truck to Calais and saying, “These have met British standards and comply with British regulations and have been inspected by the finest British inspectors that we have”. The French customs guy would say, “Well, yeah, hang on, monsieur. I think I’d just like to look at one or two of these bricks to make sure that they aren’t falling apart.”

Something that really ties the EU standards ecosystem together is that, in addition to every country having to have the same conformity assessment testing rules, there is also an accreditation regime whereby the EU has legally binding rules that force countries to get their conformity assessment testing accredited by an EU-recognised body. That is the problem. At the moment, if you want to sell anything into the EU, you have to get a certificate that is issued by an EU-accredited conformity assessment body. That could be the British Standards Institution’s Netherlands office, the German Technischer Überwachungsverein—TÜV—office, or the French standards agency, but bodies registered in Britain are not authorised to issue certificates that guarantee conformity with the EU.

That is where the sovereignty issue comes in. It is no good simply promising dynamic alignment and passing a law. A colleague on the commission, George Peretz, has pointed out that, practically, it is quite a difficult matter. You have to replicate the regulations and, when you are not actually involved in their design process, mimicking what the EU has done involves a bit of

work. The EU frequently has regulations imposed through the system of a directive, whereby an EU-level directive requires certain conditions on national regulations. We are not in that system.

I have been talking to people in the Department for Business and Trade and the Office for Product Safety and Standards about how difficult it is for them to check exactly how the EU works when they are not part of the regulatory system. They are in the standards system, which we should take advantage of. However, the EU has historically been very reluctant to extend the principle of mutual recognition to countries that do not bind themselves to accepting the whole EU package, including conformity assessment rules being the same and an accreditation system that guarantees the value of the conformity assessment—subject, of course, to the European Court of Justice.

That is what the European Economic Area regime does and it is messily implicated in Northern Ireland. Some of what goes on in Northern Ireland could give us a clue as to how we can make it work in the rest of the UK. I hate to say that we should perhaps go back to Theresa May's strange hybrid backstop model. However, how you make this work in detail is complicated.

09:15

I know that I have been talking for a long time, but I do not often get a chance to talk to people who are interested in this. I will just mention one last thing. At the time that the Windsor agreement was signed, I had an email from an old friend who is a very senior negotiator in the European Commission. He said, "Peter, now that things are moving closer, the one thing we really need to pay attention to is accidental divergence."

If the UK simply fails to spot that the EU has slightly changed the way that airbags for cars are tested or what pressure they have to have and does not require the UK car industry to make them in exactly the same way and enforce that, that will completely block all car sales to the EU. The UK has to keep chasing, it has to keep track and it has to keep watching. If it accidentally fails to align something with what the EU is doing, it runs the risk of blocking a flow of exports.

I am sorry—I could go on for a long time, but I will shut up now. Thank you.

David Hamilton (University of Edinburgh): Good morning. It is quite something to be here.

I will provide the committee with a little more background information on myself. Officially, I am a student, but I am a senior student. I am a trade economist; I have worked in Canada, which is my home, as well as with the World Trade

Organization, so I am not a stranger to any of the things that we are discussing.

I was trying to figure out what to add after Peter Holmes's wonderful testimony. My work at the WTO mainly focused on small and medium-sized enterprises. When it comes to standards and regulations, the issue is not just how they get made, but how we ensure that companies of any size—the real test is the smaller ones—comply with those regulations, or standards that are based on them, and are able to export and pursue available opportunities. Instead of reiterating what has been said, I will add some points that I think will be highly beneficial.

The first issue that is always a problem is, of course, access to information. If there is a regulation, the companies need to be informed and notified somehow. It is about having not just the right dialogue with the EU but the right dissemination tools to ensure that businesses can find that information, understand it and know what they need to do. That is the first step.

When I was at the WTO, one of my many projects was, for lack of a better term, a Google Maps of trade that was meant to resolve that problem. It is free, but this is probably the first time that you guys will have heard about it—it is at globaltradehelpdesk.org. If you type in where you are, where you want to sell, which can be anywhere in the world, and what you are selling, you will get all the information—the market assessment, the tariffs, the regulations and all the regulatory authorities—all ready to go.

That leads to the next problem, which is capacity development. It is not sufficient to have the right tools. The problem with our wonderful little tool at the WTO is that we did not have the marketing budget to go around with the other organisations that we had partnered with to produce it and tell the right associations, schools and Government departments about this wonderful tool that we had developed.

There are two sides to the issue, the first of which is having, somehow, a better dialogue with the European Union, and the other, dealing with what is called the Brussels effect. If Brussels creates a regulation that is based on a standard, there will have to be some degree of compliance and there are issues with sovereignty in that.

Beyond that, there is also the process of getting that information to the company and the managers—that is, the people who affect the decisions about how a product is made. It is not just about doing that after the product is being produced in the factory; the issue comes from the planning. You have to remember that one of the other issues is that we live in a world of global value chains, which are something that, as a trade

economist, I really know. Companies exist in chains that might be dependent not only on export opportunities in another country but on sourcing inputs—say, raw materials, parts, components or services—that come in from abroad. They, too, have to be planned to meet the regulatory compliance requirements of the final destination market. My mind has always been on what happens on the ground, but that gives you a good picture of the entire dynamic of the situation.

I will make one additional point: my home province in Canada is Nova Scotia, and my home town hosts the oldest Highland games outside Scotland. It is an honour to be here as a Nova Scotian.

The Convener: You are very welcome at our committee, albeit virtually.

Alexander Stewart (Mid Scotland and Fife) (Con): Good morning, panel. You have already touched on some of the report. We have talked about alignment and conformity, and we have also touched on rules of origin and how things can be progressed. We know the challenges that we face: the differences, the standards that we have and the key standards that need to be agreed. Are there any opportunities for the UK and the EU to negotiate changes to the TCA? How effective might any such negotiations be?

Mike Buckley: Thank you for having us.

I speak to people from the EU regularly. Obviously, I speak to many who are based in the UK—the EU delegations in the UK and people in embassies—but I also speak to people in Brussels and member state capitals. The debate on the future of the UK-EU relationship has been going on in the UK, but it is often UK person talking to UK person. Indeed, when I speak to people from the EU about the possibilities for future relationships, they regularly say to me that they will have read an article or interview from a UK politician positing some future for the UK-EU relationship, but nobody ever comes and talks to them about that.

Therefore, one of our guiding principles as a commission has been to build that relationship, partly so that we can continuously take the temperature of views within the EU towards the UK but also because, if change is going to happen, it will do so, because there is a desire for it on the EU side, too. Change will also happen only in a context in which trust is rebuilt. Certainly, at this point, trust from the EU towards the UK is still very low. I will not mention any individuals' names but, a few months ago, I was talking to somebody fairly senior from Brussels who made the point that, for them, the Windsor framework was the end of a seven or eight-year negotiation process. It began when David Cameron first went

across to negotiate a new deal with the EU even before the referendum, so we are looking back towards 2015.

After that, they were in an on-going negotiation with the UK, which, for the most part, they did not enjoy. Even after the TCA came into force, because of the way in which the UK Government at the time was handling matters, they were concerned that the UK might renege on the agreement, open a backdoor into the single market through the land border between Northern Ireland and Ireland and unilaterally change the sea crossing over the Irish Sea. They had concerns about the relationship until the Windsor framework was signed; it was only at that point that they decided that they could relax and trust the UK to fulfil its obligations, so, from their perspective, they have only just finished negotiating with the UK.

For us, however, it feels as if the TCA has been there for some time. We know the impact that it is having on the UK economy, and we know that that impact is, broadly speaking, negative compared to the arrangements that we had when we were members of the European Union. Therefore, to us as the UK, it seems reasonable to think that we could renegotiate the agreement and get a deal that, from our perspective, would be better and enable our economy to thrive more in the future.

However, pretty much everybody in the EU to whom I have spoken is of the view that the TCA is still a very new agreement, and they have no interest in reopening or renegotiating it. From their perspective, they have everything that they wanted out of the negotiations. They have the level playing field that they wanted, which essentially means that we have to play by their rules; otherwise, we trigger greater trade barriers. We are essentially in a bind, which is really not ideal, but that is the outcome that we have.

The other point that they regularly make—as well as pointing out that the TCA is a new agreement and they do not want to go back into negotiations that, from their perspective, they have only just finished—is that they have other priorities. Clearly, the war in Ukraine is foremost in people's minds, and for much of Europe, it is a much more present part of people's daily lives than it is in the UK. It is also much more present in the political circumstances in most European nations, most importantly and most obviously those that are proximate to Ukraine, but also in the major capitals of France, Germany and Spain. The war is much more present there, it is much more of a priority, and the Russian threat feels much more present, because there is no sea in the way.

There is also the energy crisis, which is partly related to the war in Ukraine, as well as the climate crisis. For the past couple of summers or couple of years, there have been major flooding

and wildfire incidents, and that situation is concentrating a lot of people's minds. The UK is out of sight and out of mind. We were a problem that the EU dealt with—quite successfully from its perspective—so we are not really present.

We are now almost 24 hours into a UK general election campaign and, if the polls are correct, we will almost certainly get a change of Government. I think that that will have some impact on the UK-EU relationship, but stakeholders in the EU say to me that it will not transform the relationship overnight. It is not as if those in the EU will switch from viewing the Conservatives as the problem Government that is gone when a Labour Government comes in. They will not say, "We like the Labour Party, so our red lines no longer pertain. What would you like? Come and pick and choose from the single market." That is simply not going to happen—not by any stretch of the imagination—partly because that is just not the way in which the EU operates.

It is often forgotten in the UK that we are not the only third-country relationship that the EU has. Even if the EU were minded to bend the rules for the UK—which it is not—it would not do so, because, if it did, it would have to bend the rules not only for us; it would have Turkey knocking on the door, or Ukraine, Switzerland or New Zealand. I could go on, but the point is clear: the EU has to keep the rules as they are, because there have to be significant advantages to membership, just as there are clearly costs to membership. If the EU wants to maintain the integrity of the single market and the EU itself, the rules have to be the rules, so the EU cannot and will not bend them.

Even beyond that—and beyond the borders of the EU—the EU effectively needs to treat third countries the same, mostly. We will be doing a piece of work over the summer on the EU's third-country relationships, because there are differences there. One example is financial services, where we have three points of equivalence with the EU, while the United States has 20. There is no reason for that, and it would help financial services here if they could get what the US gets. As I have said, there is no reason for that, other than that the EU just decided to take a different decision. It might help the UK Government to understand such anomalies, so that it could then put such points forward.

Going back to the original question, however, there is a near-zero chance that the EU will be willing to reopen the TCA in the short to medium term, based on my understanding and all the conversations that I have had. However, there is a high chance that the EU will make additions to the TCA or put new agreements in place.

One thing that was helpful happened only two or three weeks ago, when the EU put forward the

idea of a youth mobility scheme. Essentially, the UK was almost not relevant to that conversation, because although the current Conservative Government wanted such a scheme, it wanted it to consist of bilateral arrangements between the UK and Germany, the UK and France and the UK and Spain. Essentially, we wanted to go to the big western nations that we like—so to speak—rather than to the eastern European nations. However, all of those nations said no, and that that sort of thing needed to be done at EU level. The EU made its offer to the UK, not because it thought that the UK would be interested in it at this point in our political history, but because it wanted to state, clearly and publicly, to the EU 27, "This is an EU competence. It will be done at EU-wide level. Do not entertain any bilateral agreements with the UK." In other words, it was making a point of saying, "Get in line, member states," instead of extending a serious offer to the UK that it expected to be reciprocated.

That said, the move is helpful to the UK, as it establishes the principle that the EU is interested in significant change to the UK-EU relationship. That should give us a lot of hope for the future of that relationship, and it also means that we can build on it in the future.

Alexander Stewart: Thank you. Mr Holmes, do you have any comments on that?

Peter Holmes: I want to build on the more optimistic elements at the end of Mike Buckley's remarks.

First, I completely agree with Mike's fundamental point that this is about trust. There will be a period in which we will have to establish trust in the eyes of the EU. Just after the Windsor framework was introduced, I met a fairly senior Irish diplomat, who said, "We like what has been agreed here. We do not want to cause trouble in Northern Ireland, but we are a little bit concerned about whether the British are still absolutely sticking to what they promised in the first place." There is an element of anxiety about that.

Secondly, we have to think about what we can offer. If we go into discussions thinking, "What do we want the EU to give us? It will do it because we are not the Conservatives," that will not work. We have to say, "It wants a youth mobility programme, so let us see what we can build from that." It would be interested in a sanitary and phytosanitary food safety agreement, for example.

I will step back a little, though, to examine the different ways in which we could approach this. Mike Buckley spoke about the line coming from the Commission. I also had a direct message from someone at the Commission about how it works. It will not change the trade and co-operation agreement—that is fixed. It got a very good deal

that it will not want to alter. However, there is a lot of, shall we say, flexibility in the TCA. For example, the chapter on rules of origin covers which goods are covered by the free trade agreement and which are not because they are considered third-country goods. Those rules can be amended by the so-called Partnership Council, which is just a meeting of the politicians and officials from all sides, including the member states and the Commission, without it having to go through a treaty renegotiation process.

The rules of origin on electric vehicles, which cover electric cars that have Chinese batteries in them, were amended within the ordinary procedures of the trade and co-operation agreement. There are other areas where the agreement says that there shall be, or can be, negotiations about certain matters, so there are avenues built in there.

However, I completely agree with Mike. The message that I had from the Commission was that it does not want to change the TCA but that it is willing, at any point, to negotiate additional agreements. Some of those might involve a more complicated process than the amendments with the Partnership Council. However, the youth mobility programme has been proposed, as have the sanitary and phytosanitary agreements, and there is talk of security arrangements, so there is scope for adding a whole series of things to the existing arrangement. As for how we could get those things, clearly, a procedure for talking about such matters is set out in the TCA. I do not think that the committees are meeting as often as they should. However, we are members of the European standards bodies, and European standards are developed with British input.

I read that, in the 1930s, the British and the French were very close on foreign policy because, when British diplomats travelled to Geneva, they always used to get off the train in Paris and meet their French counterparts for little chats. The lack of connection between officials now has been a serious problem. They do not get off the train in Brussels—they fly over it. They ought to be stopping there, talking and taking part in informal negotiations. That is the case in standards. We need to do more in the workings of the committees of the TCA. The minutes of the TCA committees show that they do not get on to any matters of substance. There should be constant discussions. There are all kinds of things going on around where the border controls with France are taking place, for example. That is all going on, but there is no regular dialogue.

Above all, the British, in this context, have to ask, "What can the UK offer to members of the EU?" We probably exaggerate how important we are in defence co-operation but, nevertheless,

there is something in there and it extends beyond security, which in a very loose sense goes beyond NATO. In this world of economic insecurity, we need to be talking about all kinds of things. On the downside, if we do not do that, not only do we run the risk of being cut out of the security dialogue with the United States, such as it is if the Biden Administration stays in place, we run the risk of being excluded from the discussions that take place in Europe.

The European Political Community conference in July, which is not my area of expertise, could be very important. There are many ways in which those limited possibilities can be built on. One of the fundamental things that we do not want to do is say, "Here's our shopping list—let's wait for the EU to come and follow us up."

I will throw a line to David Hamilton here. People always say that the WTO is completely paralysed, but many informal things take place at the WTO that can make life a bit better. I am asking David a question, which I should not. That is not my job, but he might have thoughts on what you can do in the absence of formal agreement. I am sorry to ramble a bit.

Alexander Stewart: Mr Hamilton, would you like to pick up on that?

David Hamilton: That was a great segue. I am very much thinking along that line. It is important to remember that just because something does not work at the WTO, it does not mean that it is a complete failure. There is dialogue going on. A multilateral negotiation should be thought of like a rocket. It might not get off the ground the first few times, but you learn something, and eventually it will happen. It is a very slow process, but a lot of that is about learning where the problem areas are.

As I was listening to Peter Holmes, I was reminded of Canada's response to the Trump presidency wanting to renegotiate the North American free trade agreement, which eventually became what they call the United States-Mexico-Canada agreement and I call CUSMA—the Canada-United States-Mexico agreement—because I am Canadian. Everything that Peter says is right. The one thing that I will add is not to neglect the different levels. You have the EU level, then you have the national level and then you have companies and corporations.

During the Trump presidency, Canada got very aggressive, saying to the state Governments of Michigan and such places, whose competitiveness and whose trade outcomes or domestic outcomes were highly dependent on access to the Canadian market receiving their imports, "Look, if we get blocked out, you're going to lose a lot of jobs." On the corporate level and the state level, Canada

was able to garner a lot of support and justify its position.

You need to go and find the people in the European Union, whether it is the countries or the companies, who would also benefit from the laundry list of what you want. You need an internal voice in those countries saying, “This makes sense. Having a smoother sanitary and phytosanitary regime between the two countries might help.” When those arguments get made on both sides is when that will eventually happen, but if it is just the UK saying “This is what we want. What do you want? Can we agree?” you will be in the very slow process of the WTO.

Speaking of WTO resources, I am in the process of preparing a report with Mike Buckley and we are heavily drawing on those. When I was a wee intern once upon a time, I had to work in what was, in effect, the auditing division of the WTO. All members have to be audited, and the UK audit will be coming out soon. It is a five-year cycle for the UK, and that audit will come out some time this year or next—I will have to check the dates. We are looking at all the countries of equivalent size—Canada, Australia and New Zealand. They are in the same situation in that there is one very dominant trade partner and then a bunch of other trade relationships that are important to them. We are already getting a lot of insights.

Right now, we are looking at the national policies and, starting next week, we will look at what can be learned from the free trade agreements. Peter Holmes is right: within the agreements, there are committees established on a variety of files, and it is important to go there with your asks but also to charm and say, “Look—this helps you.” One of the key things to rebuilding trust is to ensure that people understand that they are better off working with the UK, as opposed to having this other relationship in which you say, “Okay, this is what we want and that’s what you want.” In that way, they can begin to see that that is to their benefit.

There are a lot of resources, and part of my job has always been to go through all those documents that no one reads. Whether that is a trade audit or some committee document set up by a trade agreement, yes, I know how to find those. I can tell you that not a lot of people do that work but that, if that work is done and if it is put together with a proper charm strategy, for lack of a better term, you will see the results.

The Convener: I will just mention that, in Scotland, in October, BSI will also host the International Electrotechnical Commission conference, which will give us an opportunity to engage. As a former International Organization for Standardization 9001 standard auditor for my

company, I am quite excited about that, but I hope that other politicians will be interested in engaging with the international organisations that will be in attendance.

Kevin Stewart (Aberdeen Central) (SNP): Good morning, panel. What you are describing is a guddle, basically—a guddle of the UK’s own making.

I will turn to your report and some of your conclusions. You say:

“Brexit has had a negative impact on UK-EU goods trade.”

I would say that that is probably an understatement. You then go into more depth and say:

“Costs and administration have increased, goods trade is down and there are concerns”

about newly negotiated FTAs. You say:

“If left unresolved, UK goods trade will continue to suffer, with wider impacts on livelihoods, economic growth and job creation, in already difficult”

times. You have also stated this morning that it looks unlikely that EU partners are willing to open up agreements again, and Peter Holmes said that we need to ask what the UK can offer.

How do we get out of this situation, gentlemen? In my opinion, we should never have left the EU in the first place, but how do we get back in there to a degree to protect industry and jobs here in Scotland and elsewhere in these islands?

Mike Buckley: We find that the UK is in a difficult position. On what we can offer, the obvious point to make is that the go-to sector, if you like, is security and defence. Obviously, the war in Ukraine is horrific and, beyond this conversation, the fact that Ukraine is not currently receiving the support that it needs to win that war is also horrific—but that is a whole other conversation. However, one thing that the war in Ukraine has done is concentrate minds in the UK and the EU. The potential election of Donald Trump in the US later this year is also concentrating minds, along the lines of the idea that we need to work out and recognise who our friends are—and indeed who our enemies are. I think that, if there is—

09:45

Kevin Stewart: Mr Buckley, can I stop you there? We all recognise the security concerns, and we have other international agreements on security, including our NATO obligations. Some folk still think that the UK is a much greater military power than it actually is. Do you really think that that is a major way in, considering that many of

the partners in the EU are in NATO, which is a separate organisation?

Mike Buckley: I do think that it is potentially a major way in for the UK. Peter Holmes is right that we need to have something to offer. Indeed, people in the EU have said to me something like, "Please don't come to us with your shopping lists about things that you do not like about the TCA"—they have used language as blunt as that—"because we are not interested. We had a negotiation; we came to an agreement; you signed it; and there it is, set in stone for the foreseeable future." However, the same gentleman said to me something like, "We are interested if you come and have a conversation and say what you can offer." That cannot be only in security and defence, but security and defence will be a central part of it.

You are right—the UK's military capability has been eroded. To a degree, that is because there has been complacency over decades about the peace and security of the world and the idea that we would stay in that period of lesser need for military capability. Sadly, the war in Ukraine has changed that in a heartbeat, overnight.

In addition, our military capability has been eroded over the past 14 years because of Government cuts. Nonetheless, in the context of the EU, our capability is not just military but includes intelligence. We should not forget our significant intelligence ability. Combined, those are still very significant within the European context and are rivalled only by French military and intelligence ability.

Obviously, Europe is pivoting. It is responding to the war in Ukraine and stepping up its game, in developing military capability and investing more in security and defence. To a degree, that is tied to NATO spending. Nonetheless, given Labour's clearly stated wish for a security and defence agreement with the EU, an offer of such an agreement would be warmly welcomed were the UK to have a Labour Government in a few weeks. However, it is not the case that we could then say, "Oh, would you please reduce the presence of trade barriers in the TCA?"—because those are separate concerns.

You will have seen lots of speculation about the fact that Labour would want a broadly conceived security and defence agreement, in which we would also put energy security, climate collaboration, collaboration on cybersecurity and data, and so on. That may be possible—who knows? We do not know, because it will be changed according to political circumstances. There will be a new European Commission later this year, potentially, and a new European Parliament. Only political things will stop it from happening. However, certainly, from conversations

that I have had with people who are currently in Brussels, that is not going to happen. They will look at security and defence in isolation and, essentially, they will not want the UK to try to circumvent the TCA through things in the security and defence agreement that would work around it or undermine it.

Kevin Stewart: So, we can have all those other agreements on security and cyberattacks, for example, but that does not mean that the EU will be willing to look at trade again. That is what we are looking at today. I am interested in jobs, the economy and money in people's pockets, all of which have gone to pot since Brexit.

I will throw back some of the words that you guys have used this morning. You said that the UK is out of sight and out of mind. In addition, one of you said that, when it came to certain things, the UK is not relevant. Will the UK continue to be out of sight and not relevant when it comes to renegotiating trade agreements?

Mike Buckley: I do not think so, but it will take time. One problem is that the UK is just not present. We are not in the room. Again, one of the things that people in the EU say to me regularly is that, when Brexit happened—when we left the EU—they were shocked at the degree to which the UK just decamped from Brussels. We did not maintain a significant presence, and we did not ensure that there was a UK representative on committees or at discussion fora. We did not maintain a strong UK mission. There was a reasonable business presence, to a degree, but that was because businesses have chosen to do that. That aside, the people I talked to were shocked at the extent to which we just upped sticks and left.

Assuming that a change of Government happens, a new Government is likely to change that, although that will of course take time. I would imagine that new ministers will deliberately go to Brussels pretty quickly to have private conversations and also to do things in public that clearly say to the EU, "We are here. We are interested in co-operation. We are interested in a conversation." All of that will take time, however. That is partly about rebuilding relationships and partly about negotiating the opportunity for UK ministers or UK representatives to take part in discussions, so that we are at least aware of what is going on. There is no short cut to that relationship building and trust building.

You are right to point out that this is a conversation about trade. As a commission, we have been working as closely as we can with different sectors. We have had a lot of one-to-one conversations, and we have working groups set up in a lot of different sectors, such as financial services, energy and the creative sector. We want

to talk to people in those sectors about the specifics of why the current arrangements are so difficult for them and why they inhibit their ability to trade, to grow, to produce, to employ people, to pay wages and to improve people's lives and livelihoods in the UK. We also ask them what specific changes to the current arrangements would make things better. We are looking for things that are relatively small, incremental and specific, so that we can go to people in the UK Government and tell them that, if they ask the EU for some specific things, which are not that major in the context of the TCA, or even outside of the TCA, that would make a specific difference for the sector concerned. That is very piecemeal, but that is where we are. We are not going to get that big change—the EU is not going to say, "Let's reopen the TCA"—but we might get some piecemeal changes to arrangements, which could make a significant difference from sector to sector, so there is some hope there.

Kevin Stewart: Piecemeal and, some would say, chaotic.

I wonder if we could move to Mr Holmes on some of those questions. I am interested in what Mr Buckley said about new ministers possibly going to Brussels and other places in Europe, and perhaps getting the UK back in sight; however, I would suggest that the UK will still not be relevant.

Peter Holmes: I agree with what Mike Buckley said. I try to be optimistic about these things. Britain is a big object floating offshore. I will not liken it to too many other environmental things, but it is something out in the sea that is of relevance to the EU. A failed state in the UK is a problem for the EU, the *raison d'être* of which is regional co-operation—it wants to have good relations with its neighbours.

One lesson from recent history is the accession negotiations for the countries in central and eastern Europe and the history of the Turkish negotiations. One of the things that the EU considers in making decisions about how to respond to partners who want a closer relationship is what those partners are doing. One of the first things that the UK should do is stop making performative refusals to co-operate. An easy goal for the next Government would be to say that it will get rid of the ridiculous UK conformity assessed marking. The current Government nearly got rid of it. The next Government should do things that are obviously in the interests of the UK and that indicate a willingness to co-operate.

I was at meetings with German and Polish officials during the accession talks, and the Poles would say, "Tell us what we should be doing next." The German officials—former diplomats, in that case—would say, "You choose what your priorities are, and we will judge you by what you do."

I recall visiting Kosovo in December 2008. My host told me that next month there was going to be a ban on smoking in all cafes in Pristina. I thought that was a bit weird, but that was one of their ways of indicating that they were moving in the right direction.

In concrete terms, such an approach would include doing things that are in our interests, taking part in any discussions that are on offer, building up the discussions on standards and extending the conversations in the security field into other areas where there are useful conversations going on.

I think that Mike Buckley mentioned, carbon border adjustment mechanisms. We are committed to having a similar sort of carbon pricing—a similar regime to that of the EU. There might be some conceivable advantage about some tiny difference. There is an idea that we might do a little bit better if we are independent, but we are not independent. The British intend to introduce the CBAM system one year after the EU does, and it will not necessarily be identical. One of the first things that we should do is talk to the EU and emphasise that it is in all our interests to minimise the frictions at the border. It is EU importers that bear the direct administrative cost of monitoring carbon border adjustments and the border emissions data.

We need to go along and say, "Let's talk," wherever we can. Where we can do something unilaterally that will improve the situation, let us just do it unilaterally without asking whether we can get something for it. Then, we can see areas where the EU has indicated that there is an opportunity for conversation. We are not quite there yet on CBAMs, but the treaty says that there shall be discussions about alignment of carbon emission controls. CBAMs were not mentioned in the treaty, but there is an opening in there. Let us open the dialogue wherever there is an indication—even if it is just an amber light. We can then build on other things. Any substantial changes in the relationship would be for the Parliament after the next one, or for the very end of the forthcoming one. There are areas that we could move on unilaterally, however, and see what the responses are.

Kevin Stewart: I will not take the opportunity to crack a joke about CBAMs.

All the things that you are talking about are peripheral things in what I would expect to be normal relationships where countries are trying to get co-operation. None of the things that you said should happen—I do not disagree with many of them—is likely to lead to a change in the trade and co-operation agreement in the near future. That concerns me, and it concerns many people,

because it affects the general public through the economy, jobs and livelihoods.

Would you like to comment, Mr Hamilton?

David Hamilton: My approach is similar to, or in line with, what you are thinking. My colleagues' responses to your questions have addressed what dialogue there should be to improve performance. As I understand it, you are asking what the performance should be to improve the dialogue. As has been mentioned, I am conducting a research paper with Mr Buckley, and that is very much the approach. What things could be done to improve the UK's performance such that, when it goes into dialogue, it has a better argument as to why the European Union needs to work with the UK? It is a very extensive process, and we are only at the very beginning of it but, in my opinion, the answer is a combination of speed and ideas.

By virtue of coming out of the EU market, the UK can no longer rely on economic mass, which, to me, is its main competitive strength. What does it then do? In boxing, for example, the answer would be speed.

We are examining a lot of the solutions from New Zealand and Australia that make things more efficient for companies so that they can get ahead and be competitive—make the sales and employ the people. Some of those things might exist, or they might have been thought of or have some status in the EU pipeline.

10:00

The UK has to start thinking about how doing their own intellectual property management helps small companies. We have identified examples of solutions from New Zealand. All the things that help businesses get ahead of the curve are going to put the UK in a position in which its dialogue will be reinforced by its performance. Is there a silver bullet for that? No. If we imagine that wonderful diagram of high effort, low effort and high yield, low yield, here are a lot of solutions, but they are in the low effort, low yield category; they are all economical, but they require a lot of diligence.

A lot of it is up to the people of Scotland, as well as those in the United Kingdom—they need to ask themselves if they are going to do this. It is one thing for me—someone from a foreign country—to write a paper, but if no one reads it or looks at the ideas that are identified, it is not an exercise of the greatest value.

Is the UK going to sit down tomorrow and renegotiate the TCA, and if that renegotiation happens, can the UK position itself to get better results through its performance, whether that is through its trade relationships with the European Union or with third parties or with a combination of

the two? That is largely how I approached the report. It is not that dialogue about performance is not important, but we also have to think about what changes in performance could be made now to improve future dialogue.

Kevin Stewart: To use the boxing analogy, the UK is on the canvas at the moment.

Mark Ruskell: Mike Buckley, your report contains a number of recommendations, and I want to focus on two of them. On chemical regulations, we have two systems working in parallel, at the moment. There is the UK's system, and there is the EU's registration, evaluation, authorisation and restriction of chemicals—REACH—scheme. Then there is the EU emissions trading scheme, in which we have two systems that relate to each other but are not part of a single market in emissions trading. There are some issues with that because of market size, efficiency and everything else. Could you unpack what specific changes you think are achievable through a TCA renegotiation on those two areas? If David Hamilton and Peter Holmes are interested in chipping in on that, I will take their views as well.

Mike Buckley: Sorry, is it CBAM and REACH that you are interested in?

Mark Ruskell: Yes, and also ETS alignment more broadly—and potentially integration.

Mike Buckley: To look back to when we left the EU, at the time of Brexit there was a lot of talk about taking down EU red tape and taking advantage of divergence.

There was the bill that would rip out lots of EU laws and regulations, possibly with a catastrophic impact on the UK; we could have lost things such as seatbelt regulations overnight, which would have been ludicrous. That bill has gone. The current Government rowed back from it, and there is no chance that an incoming Labour Government—should that be the result of the general election—would pursue such a course.

However, that meant that we were left with some copy-and-paste bodies and structures, such as REACH, ETS and the CBAM. Some of those systems will make trade more onerous, complex and expensive, but some of them—REACH, for example—pose huge extra costs for businesses; we are talking millions of pounds. That money cannot go on investments, wages or business growth. It is money down the drain, and there is already a lot of money down the drain.

I have spoken to many businesses that have found that they are able to continue operating and trading in Europe by establishing a subsidiary. However, all of that has already happened, and even if we were to miraculously rejoin the EU six

or eight weeks from now—which we will not—all of that money is still gone.

There will be instances in future where we would, for example, be able to rejoin the EU equivalent of something that we have created but is unnecessary, and I hope that an incoming Government would choose to do that in as many areas as possible. I certainly think that those two examples would be possible.

Some of those things would entail EU agreement, but some would not—some are just business related. I was talking to somebody in manufacturing yesterday who said that we are still members of a couple of manufacturing-related fora that are just business related. We did not have to leave them because it was not a Government decision that we would do so. There may be other similar things.

Anything that is just a needless copy and paste that was done, in essence, performatively to make it look like we have regained sovereignty and are operating differently, but are actually just imposing costs on ourselves and our industries, should be undone in the short term. I imagine that business and other sectors will be making that point to Government, and we as a commission will be making that point to Government in the coming months.

Mark Ruskell: Does that require a TCA renegotiation of issues around alignment or negotiation of, say, a Europe-wide ETS, or can that happen separately if both parties are willing to enter into that process?

Mike Buckley: I think that most can just happen separately. For example, we left the horizon programme and then, thankfully, chose to rejoin it, but we did not at the same time rejoin the European Atomic Energy Community, which is a problem for our nuclear industry. We could in future seek to rejoin Euratom. Those things would entail EU agreement, but as much as we have said that we are out of sight, out of mind in this conversation, and as much as we have said that the EU is not interested in wholesale change, it is interested in drawing the UK back into the EU orbit over the longer term in what it would view as a safe manner. It formed the TCA in such a way that it would constrict our ability to operate as an independent actor, and we allowed it to do that. There is a degree to which it will still want that, because we are still quite a big economy and it does not want us operating as a Singapore-on-Thames or aligning too closely to the US model rather than the EU model, which would not particularly benefit us anyway.

The EU does not want us as a significant competitor, and it has us where it wants us. We cannot operate as a significant competitor

because if we diverged too much from EU standards regulations or reneged on the TCA, it would just impose trade barriers, which would harm our economy, so we cannot do that—it is just not an option, and it probably never was an option. Nonetheless, there is a desire to draw us back in.

The EU is sceptical of closer engagement or swift re-engagement with the UK for all the reasons that we have given. One other point to make, which I do not think anybody has made yet, is that another reason why the EU is nervous of closer engagement is that it looks at British politics over the past seven or eight years and sees chaos. Many people over there have expressed to me that they see a Conservative Party and Government that is, if not far right, certainly verging towards the populist. That is obviously present in the EU as well, but they are nervous of closer engagement with that.

We obviously do not know what the impact of the UK election will be, but people over there have said to me, “You might get a Labour Government, and that Labour Government might be more sensible and more competent and British politics might calm down,” but that Government will not stay in power forever. Those people want the Conservative Party to come back to being more standard centre-right and sensible. Otherwise they will think, “We could re-engage with the Labour Party but then the Conservative Party might win an election five years from now and rip up anything we do with the Labour Party. It will be a sovereign Government, so it will be able to do that.” They do not want to repeat that cycle.

Perhaps Labour will get a 200-seat majority and people over there will think, “They will probably be there for 10 years, so we can do a bit more.” They will be thinking that stuff through, but, of course, it is all out of our hands. That is beyond the question that you asked.

Mark Ruskell: To bring it back to the question, the point that you are making is that there is a question about the extent to which it is worth investing in further alignment when the fundamental uncertainty exists that a new Government could come in and just rip it up or there could be a change in thinking.

Peter Holmes or David Hamilton, does either of you want to come in on my initial question?

Peter Holmes: It is a good point. In the summer of 2016, I visited the Food Standards Agency, which said that it was not worried about how the process would happen. The people there expected that the agency would just be an associate member of the relevant EU body, which, of course, it never became.

That possibility still exists within the framework of the TCA. Commissioners said that they do not

want to go far, but there are provisions in the TCA on regulatory co-operation. We do not know what that means but there are ways that it could be explored. It is not about changing the treaty. For example, how will the UK aerospace industry survive? We can be members of the European Union Aviation Safety Agency—EASA. There is a provision for non-member states. We can join such bodies.

On CBAMs and the ETS, when the TCA was signed, CBAMs were not yet on the agenda, but the agreement makes provision for co-operation on carbon regimes. Therefore, there can be discussions under the TCA without signing anything like a new treaty. However, in an interview at a webinar not long ago, Stefan Fuehring, one of the EU negotiating team dealing with the UK, said that any mutual recognition on CBAMs would require a separate agreement rather than something within the TCA.

There are lots of things that we just have not explored. The performative “we do not want anything to do with the Europeans” stance means that there is a series of areas where that is the case. A lot can be done on regulatory co-operation, even if that means being only in the room next door, rather than the room where the decision is taken. That will not make a lot of difference in the first instance, but we have created so many Brexit problems that give us zero value. Our separate REACH policy brings us absolutely nothing. Purely mimicking the EU policy and dynamically upgrading ours will not give cheap, instant access to our chemical producers but it will simplify the process.

There are lots of small things that we can do. The connection between those small things and the big picture goes back to what I said about the negotiations between the east Europeans and the EU. The more that you are seen to demonstrate your willingness to do the same thing, the more that opens up the movement in the next phase, which we are not at yet.

Mark Ruskell: That came across well in your previous answer on the willingness to get in the room, come with an agenda and open up to that dialogue. Is the door open? If there is a willingness to talk about alignment with the ETS or any other detailed policy area, can the right people from the UK get into the room at European level—even if it is a room next door, as you say—start to bring an agenda into those conversations and build up that trust informally?

Peter Holmes: I think that we can. There is one small technical point, which is that alignment itself does not get you free access because it has to be backed up by conformity and accreditation. However, the more that we are seen to be aligned de facto, the less the EU considers us a risk. To

put it crudely, the EU will stop fewer lorries at Calais if it believes that the UK is actually doing the right things. The way to guarantee that is to be engaged in the dialogue. The EU will not get rid of all the border controls until we have a full EEA-type relationship. Trust brings a lot in relations with the EU.

10:15

David Hamilton: I will elaborate on what my colleague has just said, because I very much agree with it. When you read free trade agreements, which most people do not, you see that a lot of little policy tools—those low-effort, low-yield options—are, indeed, available, but are currently underutilised.

Free trade agreements are not the same thing that they were 20 years ago, and there has been a huge expansion of them. Whether it is around environment or small and medium-sized enterprises, you will see all sorts of new articles. I cannot immediately think of the relevant TCA articles, so I will use the comprehensive and progressive agreement for trans-Pacific partnership—CPTPP—which has a bunch of co-operation articles, such as article 15 and article 18 in chapter 20 on the environment, which encourage work not only at the Government level, but also at the business, association and university levels. One of the reasons I have returned to universities is to become the trade expert who becomes useful in relation to the use of those articles for biotechnology—that is the goal in my case. The reality is that no one knows how to do those things, and no one uses them. It is something new without a lot of solutions.

As Peter Holmes has said, it is about a lot of those small things—what I described as the low-effort and low-yield options. I reiterate my previous point about diligence: you have to go through the agreement and see what policy tools are available, and then say, “Okay, what does this mean? What can we use to get this?” It might just mean that a bunch of professors at the University of Edinburgh go to talk to those at the Haute École de Commerce in Paris, but the question is whether the UK can use that tool to facilitate those dialogues.

As I already mentioned, in Canada, the solution was not to go directly bilateral but to start at the lower level—the state level—and work our way up. It was about getting people from the lower levels to advocate to their own Government that working with the Canadians is not about stealing jobs but helps them to create jobs and get ahead on innovation and on environmental goals. That has to happen in the EU. People will really have to think about how to use those agreements’ new articles and levers that no one is using yet. The

Scottish and British people are fully capable of doing so, but to begin to go through those will require diligence.

The Convener: Are there any further questions from members? In invite Keith Brown to come in.

Keith Brown (Clackmannanshire and Dunblane) (SNP): First, I am looking to hear about the actions that you think might be possible for Scotland specifically to take to address some of the issues that you have raised. I am thinking in particular about Mr Hamilton's comment that Canadians looked over the border to Michigan to deal with state level—sub-sovereign state level, but state level in that case—actions that could make plain the benefit of working with Canada in relation to the North American free trade agreement, or whatever the term is that Canadians use, which I should know. I should say to Mr Hamilton that I know Nova Scotia very well—I have relatives in Bridgetown and Digby, and spent time in Prince Edward Island at university.

I am thinking about what actions Scotland could take, independent of UK relations. I completely agree with Mr Buckley's analysis of the prospect of any real, meaningful change, and the references that we have heard to a failed state and the far-right or populist nature of the Conservative Party are illuminating.

The point about trust is crucial: if you enter into trade negotiations in a trade agreement that you later admit you had no intention of standing by, that is, of course, corrosive of trust. However, Michael Heseltine made a statement today, in which he said that there is no prospect of Brexit being discussed by the two major parties during the current election campaign, because it is not in their interests to do so. That, again, limits the ability to have a realistic look at the damage that Brexit has done. I do not have the exact quote in front of me, but he said that it is such an act of self-harm and that it is patently obvious that it has to be addressed if we are to improve things.

One of the most telling points is that, if the UK gets a new Labour Government, the EU will still say, "Well, what happens in the future? If the UK then reverts to another far-right Government, that will unravel things. If there is so little prospect of change, why would our reaching out to change some things be worth the candle?"

There is also the underlying point about the unlikelihood of a major change to the TCA. It is a pretty grim scenario—I should say that I agree on that. It is worth pointing out that it did not have to be that way, even after the vote on Brexit, but a choice was made to go for the hardest possible Brexit and to throw out the single market.

What scope for action, if any, do you believe Scotland would have—whether its companies,

organisations, Government or Parliament—to try to ameliorate some of the effects of that situation? We, at least anecdotally, believe that we have a more receptive audience in the EU, because, as a country, we voted against Brexit pretty massively. In addition to what Mr Hamilton has said, what else could Scotland do to ensure that the loss of companies, jobs and exports that we have suffered so far can be turned around?

I will come to Mr Hamilton first, since I mentioned his example.

David Hamilton: It is great to hear about Prince Edward Island's Bridgetown. My town is Antigonish, which is a native word—I do not know whether you went there. It is also known as the Highland heart of Nova Scotia, so it is a very important Scottish town.

Right now, as I said, I am preparing a report that tries to answer those questions for the UK and specifically for Scotland. It is, once again, really a question of sitting down with the new tools that are available.

One of the things that are coming up in the report that I am writing is the constant conflict between EU performance and third-market performance. I have had to establish with people that, if it were a rugby game, the EU performance would be the tries and the third-party performance the kick goals. Scotland could consider the many things that could be done in the realm of global value chains. As I already mentioned, it is not just about where you are selling, it is also about what you are bringing in.

In the statistics that I am looking at, as well as the objectives of all those third-party countries, we are beginning to notice, first, that all of them—with the exception of Australia—have an objective around trade diversification and all of them identify Europe as a place that they want to do more business with.

Secondly, they all have an objective regarding technology and innovation, which is heavily dependent on trade and services. The analysis will be in the report, so I will just have to tease you for the moment, but the reality is that the UK and Scotland are dominant on trade and services, so it is about starting to look at how those policies align with theirs and perhaps bring in their companies to facilitate those countries' objectives. For example, the United Kingdom sold Argentina agricultural genetically modified organism technology on soy, which the Argentinians grow to produce animal feed for the European Union market. From the UK, there is a services export to Argentina; from Argentina, there is a goods export to the European Union. As I have said, it is about speed and identifying those options and ways to enhance it.

There will be a greater need to have dialogue with your people here, such as associations and so on. It is true that the Government could indeed change tomorrow, but that is less important if you also have an association of engineers or businesses exporting to Europe that gets up and says, “We do not care who the Government is, we have priorities and we need them met,” and you ensure that that association is well informed with the proper analysis and the tools that are available. As I have said, the approach involves a lot of diligence work on many different files. I could talk about that all day, but I am trying to give you the best examples.

I hope that we will have the report ready in about two months’ time, and it will help you to identify those opportunities. From what we are looking at right now, we are able to identify three categories of opportunities. The first is what the UK or Scotland could do to enhance performance outcomes, regardless of who they are trading with. The second is for the UK or Scotland to consider solutions that Canada has deployed with the United States, or Australia with some other country, which might be worthy of replication in order to enhance the relationship with the European Union. The third is, of course, the trade opportunities that are available with those third countries that either immediately improve exports or possibly enhance the UK’s or Scotland’s position in global value chains and that, therefore, enhance their position with the European Union. As I said, I am approaching the issue as one of performance affecting dialogue, not dialogue affecting performance. However, both are important to consider.

Mike Buckley: That was very helpful from David Hamilton, and it is a very good question. I would say at least three things. The first is that you should have—you may have it already—a clear understanding of how the Scottish economy, as opposed to the UK-wide economy, has been affected. What specific sectors that are important to Scotland’s economy have been impacted, and how have they been impacted? Agriculture and financial services have been heavily impacted, and there will be others as well. I cannot give you an estimated time of arrival for when it will be finished but, as an organisation, we are doing a piece of work on the different regional impacts of our departure from the EU. Obviously, the London economy, for example, has been impacted, but less heavily than other regions, such as the north-west. As is fairly common knowledge, the regions of the UK that were poorer prior to our departure from the EU have been worst affected, whereas the regions of the UK, such as London, that were better off, have been less badly affected. As we do that work, we will come to conclusions and we will make those available to you. That work will

indicate to us which particular sectors of the Scottish economy have been more badly affected, and having that information will help you to prosecute an argument to the UK Government about what is important for Scotland and Scotland’s economy. It will also help you to prosecute an argument to the EU.

That takes me on to my second point, which is that Scotland and the Scottish Government should be as present as you possibly can be, not only in London, which you will be because you have SNP MPs in Westminster, but in the EU. You may do this already, but I recommend that you make the point to the UK Government that you want a Scottish Government representative present when there is a UK Government representative present in a particular meeting, forum or on-going structure. The UK Government might say no, but it might say yes. You will not know until you ask.

The third thing is that, if I were you, I would engage as closely as you can with the Governments in Northern Ireland and Wales because, to a degree, you have shared interests as devolved Administrations in three constituent parts of the UK. I have discussions with colleagues in Northern Ireland, which is in the unique position of being present in the UK market and in the EU single market. Because Stormont was not sitting for such a long period, the people to whom I speak over there—generally the business community, but also politicians—have not fully worked out how to take advantage of their unique status.

That is not to say that such a status would be possible for Scotland because, in my view, it is incredibly unlikely, simply because there is no likelihood of a land border on the island of Great Britain. However, were the Scottish Government, and maybe the Welsh as well, to work with Stormont and the people and businesses of Northern Ireland to enable them to maximise their presence in both markets, it could benefit Scottish businesses and the Scottish economy to have a closer partnership with Northern Ireland. Obviously, the geographical proximity of your two nations would help that.

I would recommend those three things: clarity towards the UK Government about how the Scottish economy and different sectors within it have been affected and, therefore, what changes you want to see in the UK-EU relationship; being present in the EU; and engaging with Northern Ireland and the Irish Government.

Keith Brown: That is really helpful. Pete, did you want to respond?

Peter Holmes: I was going to suggest that you ask David Hamilton a few more questions about Canada, because one of the things that I have

learned is that, in Canada, the provinces are directly or indirectly involved in trade policy. I once had a meeting on Canadian trade policy at Canada house and there was a representative from the Government of Quebec there. They were talking quite happily.

You should ask the next Government, as Mike Buckley was saying, for participation from regional Governments, particularly in the areas where you have jurisdictional concerns. Although we are no longer involved as a member state in the EU, when a matter of regional responsibility or competence comes up at the Council of Ministers, it is a representative of, for example, the German Land who goes to Brussels. It is important to think about how you could do something like that.

10:30

Something that might not be relevant, but is worth looking at in the Canadian context, is the mutual recognition agreements on emissions trading systems between California and some Canadian provinces. I cannot remember which—it was to be British Columbia, Ontario and Quebec, I think. It may just be California—maybe David Hamilton can clarify.

David Hamilton: Yes, I can speak on that, because my last job was as one of the trade representatives for Nova Scotia. I had a lot of responsibilities. For example, when the UK left the European Union, we copy-pasted the text of the comprehensive economic and trade agreement as the provisional agreement. Then there was a decision to sit down and renegotiate a new agreement. Initially, before I left, I was the number 2 for Nova Scotia on that negotiation. Now that the UK has joined the comprehensive and progressive agreement for trans-Pacific partnership, a pause has been put on the bilateral negotiations and I do not exactly know the outcome.

It is important to remember that Canada, like the United States, is a federation. Free trade agreements are about not just tariffs but, as you are hearing, regulations and standards. A lot of that crosses into the provincial jurisdiction.

To let you understand what happens, when you negotiate with Canada, you have to talk to what is now Global Affairs Canada, which is its foreign affairs department; however, what you do not realise is that, the moment that your counterparties in that foreign affairs department stop talking to you, they immediately have to go into a meeting with all the provinces. There is a weird, four-dimensional negotiation, because it is about what we want from the other party but also about trying to figure out the positions of the other provinces.

My files were environment, government procurement, e-commerce and a bunch of other things. I also had the Asia-Pacific lead, so I was responsible for the initial negotiations with Indonesia, for example, for the same departments. On the UK side, because I had responsibility for government procurement, I had to sit in the first government procurement meeting of the committee on the provisional agreement. I do not know if there were follow-ups, but we were required to do such things.

The other end of the structure of the Canadian federation is set up by the constitution. It is very clear that the provinces have jurisdictional authority. The devolution approach is a little more difficult, but the Scottish Government could argue for similar authority and might spend some time learning more about that, because the Scottish Government probably does something like government procurement—it spends its own money. The reality is that its rules for government procurement are affected by the agreements. There are whole chapters on government procurement—in fact, there is a whole body of knowledge on positive and negative lists, which I will not bother to explain to you.

There are those examples. I am sorry: I do not have the same degree of familiarity with the constitutional set-up of devolution as I have with the Canadian constitution—which is a very clear system—so I am a little apprehensive about advising too much. However, I do advise that a lot could be learned, particularly when the jurisdictional area of the Scottish Government is affected by agreements, because that creates an argument for it to have the equivalent situation to the Canadian provinces in those negotiations.

A good example is government procurement. If you spend money and are confined to rules on which you had no input during negotiations, there might be a jurisdictional issue that might very well legitimate the Scottish Government's having its own negotiators—equivalent to Nova Scotia sending people such as me, when I was doing it, into those strange meetings of which you are not aware. It is a very interesting environment.

In addition to that, Canada has an internal trade agreement, with an internal trade secretariat. I had to represent the province of Nova Scotia on government procurement in those meetings.

There is a lot that you can learn, but it has to be done within the context of devolution law, in which, unfortunately, I do not have the same competency as I have in the Canadian constitution, so I am reluctant to advise more.

Peter Holmes: I will add one small point. I know even less about these details than David Hamilton does but, even if the UK does not become a

federation, there are lots of areas that the UK Office for the Internal Market covers that are areas of leverage where you can have a direct input. The only thing that I can really add is that you should look at all the contexts in which there is need and opportunity to get into the negotiating process and say, “We have some competence and jurisdiction in this area.”

Certain things are conceivable. This is a complete outlier, but we have free movement with one member state of the EU, which we usually forget. We have complete free movement of people with the Republic of Ireland under GATS—the general agreement on trade in services—mode 4. People can move and get jobs and, if you want to recruit people from the Republic of Ireland to work in Scotland, you can do so. You cannot do that with people from other countries.

That is a way of exploring these issues. However, my main point is that there are lots of odd little things around that. Even if you cannot do what Canada does, you can see whether there are any near equivalents.

Anyway, it is a really important question, and I am sorry that we have not been able to go into more detail.

Keith Brown: Thanks very much for that. I do not have any further questions. The question maybe caught all three members of the panel off guard but, if you have any further thoughts as to what Scotland could do, that would be interesting.

In relation to the examples of Canada and Germany, for context, I will just say that the Scottish Parliament—the so-called most powerful devolved Parliament in the world—does not have anything like the input that the provinces of Canada have with the federal Government there, or anything like the input that the Länder have in Germany.

On Mike Buckley’s point about asking the UK Government whether Scottish Government representatives could sit in with UK representatives, we actually have the reverse of that just now, in that the UK Government has insisted that, when the Scottish Government talks to other Governments, a UK Government representative must be there. On the issue of Brexit, Scotland, along with Wales and Northern Ireland, was completely excluded from the discussions and negotiations. We have a very highly centralised and controlling unitary state here, which is worth bearing in mind. However, if you have any further thoughts on what Scotland could do, that would be useful.

The point about Ireland is interesting, but I have to say that, if someone enjoys the standard of living in Ireland, which has raced past the standard of living in the UK, why would they want to come

to the UK? The opportunities and the standard of living in Ireland are so much better than those in the UK now.

Thanks very much for those interesting responses.

The Convener: I am conscious that we have run over our expected finish time, but I have one final question, to which I am looking for succinct answers. It is actually two questions rolled into one, just to make it easier.

There has been a lot of talk about engagement and being in the right room. What rooms are EFTA countries in, or are they achieving access to the free market purely through dynamic alignment?

On the point about the room that the Scottish Parliament is in, my deputy convener and I represent the Scottish Parliament as observers at the UK-EU Parliamentary Partnership Assembly, although we also have the opportunity to take part. It was through the work of the PPA that the willingness that Peter Holmes mentioned in relation to youth mobility became a priority and something that we would work on. Of course, the European Commission made an approach on that to the UK Government on 18 April, but my understanding is that the UK Government rejected it. I also understand that the leader of the possible incoming new Administration has also rejected that. Does that lead to further engagement and negotiation fatigue in Europe in terms of the UK’s priorities going forward? I know that those are big questions, but I ask for succinct answers.

Peter Holmes: Oh my goodness—I do not think that I can really answer that latter question; I think that you know the answers better than me.

On the question about EFTA or, strictly, the European Economic Area, which is not just a free trade agreement but a regulatory union, there are people who say that Britain should join EFTA and the EEA, which obviously the other members might not agree with. However, EFTA members have influence in many ways. They are in the room before the final decision is made on a regulation.

On a purely regulatory basis, the starting point is the standards infrastructure. You know a lot about that, so I do not need to say any more. Through the European Committee for Standardization and the European Committee for Electrotechnical Standardization—CEN and CENELEC—we are in the room. The regulations are eventually based on standards so, from a purely technical point of view, we are in that room and should use it. There is no way that Scottish representatives can officially be excluded, because it is a pan-UK thing. The Government does not decide.

I am sorry that I am not very helpful, but that is the best that I can do.

The Convener: That is okay.

Mike Buckley, do you want to comment?

Mike Buckley: [*Inaudible.*—expert on what rooms EFTA members are in, but as Pete Holmes said, they have a great degree of access and influence, although that influence goes only so far. We should find out that information, because it would not be unreasonable for the UK to have it as an opening position when it goes to the EU to say what rooms it would like to be in.

It is incredibly unlikely that the UK would join EFTA or the EEA, because that would be a very hard political sell to the British public. It would mean that we were signing up to take everything without having any say, which is one of the things that made the situation problematic in the first place, so I do not really see that as an outcome for the UK. Nonetheless, Pete Holmes is right that EFTA members have access. I will look into that. David Hamilton might know more.

I do not think that the UK Government and the Labour Party rejecting the offer of youth mobility has any bearing on the future. Certainly, that was simply the Labour Party saying that it did not want to talk about the matter now, rather than that it has no interest in youth mobility. I would be very surprised if, five years from now, there was no youth mobility scheme in place. It might be along the lines of what the EU offered or it might be something slightly reduced. I think that the EU offered four years, which you could start up to the age of 30—I apologise to any 35-year-olds in the room, but it is arguable whether somebody who is 35 is a youth—and it might be something reduced from that.

I have no inside knowledge on Labour policy on youth mobility, but I would be surprised if no scheme was put in place. I certainly would not read anything into the rejection that was made a few weeks ago.

David Hamilton: I agree with everything that has been said. There are many meetings. It is important to be diligent and to look at the agreements and at what tools are available. It is not just about the UK Government or the Scottish Government. You have to begin to consider the levels that are below you, whether universities or business associations. You have to understand that it is far preferable to get them to go to the dialogues with their European counterparts and start to advocate that co-operation is far better than passive-aggressive non-co-operation.

The most important room to be in beyond that is with yourselves. My province, Nova Scotia, was a latecomer to the trade game. If you know anything

about Canada or the United States, you will know that we have a big fight about every five years over a softwood lumber subsidy that is used in almost all the provinces with the exception of four, one of which is Nova Scotia. When we started doing the diligence homework, we realized that we were being penalized for a subsidy that we did not use. Therefore, we have begun to apply for an exemption to the American tariff when they apply it, and we get it.

That is an example of sitting down and doing the work. It meant that, instead of losing our jobs, we became extremely competitive. It is a perfect dynamic. The federal Government got really angry at us and we pointed out that we do not use or benefit from that system. We told the federal Government that, if it wanted to pay us money to handle the unemployment and the other issues that would happen in our communities, that would be fine but, if it was not ready to do that, there was the body of the law.

That is what I mean by diligence. You have to sit down and look at the hard and soft tools that are available. That starts with meeting with yourselves. The Nova Scotian softwood lumber example is a very good one. We were small, came from behind and realised that it was an option to ask the Americans for the exemptions. We did all the legal paperwork and the Americans said, “Yes, here you go. Here are your exemptions. Access for you.”

The Convener: That is an interesting thought, given where we are with exemptions in Scotland.

I thank the witnesses for attending. That was interesting evidence. I also thank them for the report. We all received a copy of it before the meeting and it was interesting reading.

We move into private.

10:44

Meeting continued in private until 11:09.

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