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Culture, Tourism, Europe and External Affairs Committee

Thursday 11 June 2020

Session 5



The Scottish Parliament
Pàrlamaid na h-Alba

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CULTURE, TOURISM, EUROPE AND EXTERNAL AFFAIRS COMMITTEE
14th Meeting 2020, Session 5

CONVENER

*Joan McAlpine (South Scotland) (SNP)

DEPUTY CONVENER

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

COMMITTEE MEMBERS

*Annabelle Ewing (Cowdenbeath) (SNP)

Kenneth Gibson (Cunninghame North) (SNP)

Ross Greer (West Scotland) (Green)

*Gordon Lindhurst (Lothian) (Con)

*Stuart McMillan (Greenock and Inverclyde) (SNP)

*Oliver Mundell (Dumfriesshire) (Con)

*Beatrice Wishart (Shetland Islands) (LD)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Professor Sarah Hall (University of Nottingham)

Patrick Harvie (Glasgow) (Green) (Committee Substitute)

Elsbeth Macdonald (Scottish Fishermen's Federation)

Allie Renison (Institute of Directors)

CLERK TO THE COMMITTEE

Stephen Herbert

LOCATION

Virtual Meeting

Scottish Parliament

Culture, Tourism, Europe and External Affairs Committee

Thursday 11 June 2020

[The Convener opened the meeting at 09:00]

Negotiation of the Future Relationship between the European Union and the United Kingdom Government

The Convener (Joan McAlpine): Good morning, and welcome to the 14th meeting in 2020 of the Culture, Tourism, Europe and External Affairs Committee. It is our fifth remote meeting. We have apologies from Ross Greer MSP and I am pleased to welcome Patrick Harvie MSP as his substitute.

Our main item of business is an evidence session on the negotiation of the future relationship between the European Union and the United Kingdom Government. The session will focus on three key areas of the negotiations: fisheries, level playing field conditions, and financial services.

I welcome our expert panel of witnesses, and I thank them for taking the time to give evidence. Professor Sarah Hall is professor of economic geography in the faculty of social sciences at the University of Nottingham, Elspeth Macdonald is chief executive officer of the Scottish Fishermen's Federation, and Allie Renison is head of EU and trade policy at the Institute of Directors.

Before we move to questions, I remind everyone that, because of the challenges of managing a virtual meeting, we will take questions in a prearranged order. I understand that Elspeth Macdonald needs to leave the meeting early, so the committee has agreed to start with questions about fisheries, if possible. As always, I will be grateful if questions and answers are kept as succinct as possible, and I remind you to give broadcasting staff a few seconds to operate your microphone before beginning to ask your question or to provide an answer.

I will begin with the first question and will be followed by the deputy convener, Claire Baker. My question, about financial services, is addressed to Professor Hall and to Allie Renison, if she wishes to answer it.

I understand from Professor Hall's submission that the UK has more or less accepted that it will

be treated as a third country for financial services and has moved away from automatic equivalence demands. Professor Hall, you mentioned a recent estimate of 320 financial services companies in the UK that have already begun to move staff and assets to European countries. You mentioned Dublin, Frankfurt, Luxembourg, Amsterdam and Paris as cities that have benefited to date from relocations.

Will you outline the main drivers that are forcing UK financial services to relocate out of the UK, and the main areas of financial services that are moving people and assets out of the UK? Is it possible to estimate the financial scale of assets that are being moved out of the UK?

Professor Sarah Hall (University of Nottingham): The main driver for financial firms relocating out of the UK is the ending of passporting arrangements, which financial firms in the UK currently use to access EU markets, as the UK is a member of the single market during transition. Basically, those mean that a bank that is based in Edinburgh can service clients in Frankfurt from its Edinburgh base without needing additional regulatory clearance. It also allows for the construction of a banking network across the EU from a UK base. That is important because, typically, a client of a financial firm will want to use a range of financial services, such as advice on access to capital or foreign exchange expertise.

When the transition period ends at the end of this year, the UK will be reliant on equivalence arrangements, which do not allow that automatic recognition of regulatory equivalence between the UK and the EU. Because of the risks around equivalence—I can speak about those later, if you like—it makes sense from a corporate point of view for parts of banking firms in particular to be relocated to EU member states, so as to continue single market access.

The Convener: Thank you. I would appreciate it if you said a little about the risks of equivalence and the UK being treated as a third country in that respect.

In your written submission, you have given examples of Scottish financial services firms that have moved—namely, Standard Life Aberdeen, which has opened a portfolio management and distribution service in Dublin, and the Royal Bank of Scotland, which has begun operating a banking entity in the Netherlands. Can you say any more about what impact there could be on the financial services sector in Scotland? Are any particular areas of financial services that are strong in Scotland likely to be affected if the UK is treated as a third country?

Professor Hall: The critical thing about how the end of passporting and the move to equivalence

works is that it affects different parts of financial services differently. In particular, banking benefits significantly from passporting, but equivalence does not go nearly so far on access to EU markets. Edinburgh has particular strengths in banking, which is one of the examples that I gave in my written evidence. For the institutions involved, it would make sense from a corporate strategy point of view to relocate. We are seeing a concentration of those relocations in Frankfurt.

The other area where I understand Scotland has particular strengths is the asset management industry in Edinburgh. We have seen some moves of asset management firms to the EU. However, some parts of asset management have been concerned about additional regulatory costs in the EU and, in regulatory divergence from the EU, they see a potential opportunity to stimulate asset management businesses in Scotland and the rest of the UK.

The Convener: That is interesting and, indeed, worrying. I hope that I will be able to explore the issue more later, but the challenges of a virtual committee meeting mean that I will stick to my two questions and we will move on to the deputy convener, Claire Baker.

Claire Baker (Mid Scotland and Fife) (Lab): I am interested in the panel's views on the need for an extension. Obviously, we are around six months away from the point at which the deal is meant to be concluded and we move on to the next phase. Concerns have been expressed about that very short timescale and there have been increasing calls for an extension. What are the advantages or disadvantages of an extension?

Allie Renison (Institute of Directors): It is important to clarify what the need for more time is from a business perspective. To be honest, a lot of businesses see the discussion on transition extension very much as an extension of the Brexit discussion itself. Most businesses do not want to get pulled into the politics of whether there is a need for more time in the context of negotiations—it is important to distinguish that as a political element.

From a business perspective, the biggest concern is about making sure that there is enough time left to adjust, once there is clarity over what the changes are or are not. There has been much talk about having a standard trade agreement. It is important to reflect on the fact that, when we look at other standard trade agreements, even ones that the EU has, there is inevitably an implementation phase or adjustment period, even if it is not specifically referred to as that. There is a status quo to rely on, if the negotiations do not go well. The biggest concern for businesses is about when we will have the text and clarity on what the changes will be. We can either have a deal or not

have a deal. Although there is some clarity in the withdrawal agreement to fall back on, there is quite a big series of moving targets to plan for, particularly this far out. It is important to distinguish between the way in which the process gets done and what firms require from an implementation perspective.

At the moment, in the agri-foods space, things are changing on a day-to-day basis. Since March, the way in which supply chains work has been perhaps not overhauled but significantly impacted day in and day out. In the midst of all those changes, it is difficult for businesses to know what state of play they will be in with their suppliers and customers, particularly as, from the trade perspective, countries in the EU are already starting to lift lockdowns. The more that lockdowns are lifted, the easier it will perhaps become to plan six months in advance.

We had several potential no-deal days last year. If we look back to the run-up to the first, in March, two epic examples stand out that reflect where we do not want to get to this time round and why, regardless of whether it is through the extension of a transition period or a separate implementation phase, there is a need for that time. Last year, only two weeks before 29 March, businesses were getting details of the no-deal tariff schedule and the proposals for the Irish land border in a no-deal situation. I draw on those examples simply to say that we cannot again be in the position of getting so much critical information so close to the end of play. From a business and trade perspective, the lay of the land is fluid and fluctuating, so we are trying to make sure that lawmakers and politicians on all sides understand the need for time to adjust.

There is a three-part step process. The first is the text, if there is an agreement. When most businesses, particularly small and medium-sized enterprises, look at a trade agreement text, they will not be able to make sense of what it means in practice. That is why we have a text and, depending on what is in it, the domestic architecture; for example, our customs authorities and custom authorities across Europe would take that text and say how it will look in practice, how they will implement it and what practical procedures arise from the text and the suite of side agreements, and then businesses adjust to that. It is important to distinguish between the question of whether businesses want the transition extended and what their need is for adjustment time and why. It is up to politicians to discuss how that looks, but we need to focus on the substance behind it, at least from a business perspective. Professor Hall might have views on what—if any—the alternative legal options would be in the absence of a transition period being extended for that purpose.

Claire Baker: Thank you. The impact of the coronavirus pandemic has led some to feel that Governments' focus across the UK and Europe has been on fighting the pandemic and to ask where that has left the priority of agreeing the Brexit deal and whether it puts further pressure on the negotiations. I ask Professor Hall to respond to that and the initial question. I am interested in more expansion on the proposal that has been explained—that the deal is followed by a transition period and then an implementation phase. Given that the legislation that was passed does not allow for an extension, are there any legal barriers to that? Does that present any problems, or do you see it as an agreement between the UK and the EU that that would be the sequence of events that would be supportive for business?

Professor Hall: On the impact of coronavirus and the question of the extension, as Allie Renison said, it needs to be seen as a set of economic and practical questions on how firms and businesses are able to plan for a significant change in trade with our major trading partners. For example, the EU is the largest destination for services exports, and we should not underestimate the significance of changing that relationship and the need to give businesses and individuals time to plan for that.

With regard to Covid, a lot has been made of the challenges of conducting the negotiations online. There is also a business element to that, particularly in the service sectors that I look at, which rely on face-to-face interaction and interpersonal discussions; the practicalities of implementing plans for a marked change in a trading relationship are harder if we cannot meet people face to face. It has impacted on the negotiations, but it also has real and practical implications for how financial services and business services firms are able to implement their own scenario planning, depending on the outcome.

On the legalities of an implementation phase for a new arrangement, I am not a legal scholar, although I work closely with one at UK in a Changing Europe. Legally, if we do not request an extension by the end of June, it gets much harder. Legally, that is the point at which the UK should ask for an extension if it is going to seek one. That said, my reading of the situation is that, if there is a will to implement an extension come autumn—there has been quite a lot of focus on doing that recently—a way to do so could be found. However, it would not be as straightforward as it would be in June. That builds on Allie Renison's point that, as we get closer to the wire in these negotiations, practically speaking, the chance for mistakes and oversights probably increases.

09:15

Facing uncertainty is one of the drivers for firms to begin to implement parts of their post-Brexit corporate strategies for relocations, as I mentioned. That is certainly the case in the financial services industry.

Elsbeth Macdonald (Scottish Fishermen's Federation): From the perspective of fisheries, we certainly do not want to see an extension to the transition period, because of the annual cycle of negotiations on fisheries between coastal states. That annual process, by which neighbouring coastal states that share fish stocks get together to negotiate fishing opportunities and access for the year ahead, will start with the publication of scientific advice at the beginning of July. It will then move into a series of negotiations that will commence in October and run through towards the end of the year. For that reason, the fishing sector does not want to see an extension to the transition period. In essence, it would mean that we would go into 2021 still as part of the common fisheries policy with all the constraints and disadvantages that that has for our sector.

I appreciate that there are, of course, different views in other sectors. However, our perspective is that we do not want to see any extension to the transition period.

The Convener: That is very clear.

Beatrice Wishart (Shetland Islands) (LD): Good morning, colleagues and panel. My questions are for Elspeth Macdonald, so her answer was well timed.

There is an abundance of fish in Scottish waters, and some EU and third countries have a significant dependence on those waters for their catch; 34 per cent of all fish landed by UK fishing boats are caught within 50 miles of Shetland. What is the view of the Scottish Fishermen's Federation on access to UK waters by EU boats after the end of the transition period? I want to understand what the implications might be.

Elsbeth Macdonald: In future—through a fisheries framework agreement between the EU and the UK—we want to see a very different arrangement whereby the UK has control of access to its exclusive economic zone. We also want a very different arrangement on quota shares, which would be based on where fish are in waters and not on historical track records of fishing activity. Most importantly, we want annual negotiations on access and fishing opportunities.

We have always been clear. We have never said that EU vessels should not have access to UK waters in future. We have said that that has to be the subject of annual negotiations, a high-level framework for which should be set out in the

fisheries agreement, and that annual negotiations would negotiate the terms and conditions of access.

We are not seeking anything unusual in that sort of arrangement; we are simply seeking the same sort of arrangement that the EU has with other neighbouring coastal states, such as Norway. It is an important point that our position, and what we are looking to get out of these negotiations, is not bespoke or unusual. Instead, we want a similar relationship to the one that the EU has with Norway. It is similar to the way in which the EU controls access to its waters and resources as a coastal state.

Beatrice Wishart: That relates to fish that are caught, but there is the other side of the market. If those in the UK who sell fish products no longer had universal tariff-free and frictionless access to the EU market, how would the Scottish fishing industry be affected? Which fish products would be most affected? We have seen the effect of Covid on exports of mussels and shellfish, for example.

Elsbeth Macdonald: If the future trading relationship between the UK and the EU involved tariff and non-tariff barriers being put in place, which is not the case now, that would certainly have an impact. That is why it is important that we are clear about separating issues relating to the negotiations on fishing opportunities from the wider trade agreement. It is important to recognise that the trade in seafood products from the UK to the EU is worth about the same as that from the EU to the UK. There is about £1 billion-worth of trade in each direction. The introduction of tariff and non-tariff barriers would apply in both directions, so it is in the interest of both parties to find a good trade agreement. However, it is very much our view that we should not give up our sovereign natural resource—our fishing waters—to achieve that.

Again, a good parallel can be drawn with Norway. Earlier this year—not long before the Covid outbreak—I attended a cross-party group meeting in the Scottish Parliament in which the Norwegian ambassador talked about Brexit and other issues from the Norwegian perspective. He spoke very eloquently about how Norway prioritises control of access to its fisheries resource over issues of access to the market. Norway recognises that it pays for access to the market through its membership of the European Economic Area. It would love there to be no tariffs and other barriers to market access, but it does not consider giving up Norway's fish and its ability to control its exclusive economic zone to be a price worth paying.

Beatrice Wishart: I was at that meeting, and I remember that.

The Convener: Normally, because of the constraints of the technology, we do not allow supplementary questions. However, I know that Elspeth Macdonald has to leave the meeting early, so I will bring in Annabelle Ewing, who has a supplementary on fish.

Annabelle Ewing (Cowdenbeath) (SNP): Thank you, convener. I think that I am down to be the last person to ask a question, so I would have probably missed the boat, so to speak, if I had waited until then.

In previous evidence sessions, we have heard concerns that the UK Government will trade away fishing interests in order to get a deal in other areas—perhaps on financial services, in particular. Does the SFF membership hold the view that there is a risk that that could happen?

Elsbeth Macdonald: The SFF membership would always be concerned that such a thing could happen. People in the industry have long memories that go back to when the UK joined the EU, and many of them are still involved through family businesses and so on. The settlement that emerged through the common fisheries policy was certainly not to the advantage of the UK fishing industry. Indeed, since then, there has been commentary about how fisheries were considered to be expendable.

There are, absolutely, concerns that pressures will come from other sectors, given that the value of the fishing industry is relatively small in overall terms. However, my members have been reassured by the UK Government's messages about its recognition of the importance of controlling access to our sovereign natural resources.

Mr Frost, who is the lead negotiator, recently gave evidence to the Westminster Committee on the Future Relationship with the European Union. When he was asked the same question, he was clear that he did not regard fisheries as something that could be traded away for anything else.

The Government is clear in its messaging and signalling that it does not intend to trade fisheries for something else, but, naturally, my members will be sceptical until they see the ink dry. It is my job to make sure that we keep pressure on the Government not to trade away a hugely valuable national resource.

Patrick Harvie (Glasgow) (Green): In a host of areas, including fishing, there is a tension between the interests of industry and the wider public interest with regard to regulation, sustainability and so on. I am looking for a broader overview of the two negotiating positions from the witnesses. It seems that there is still a media narrative that the EU would prefer a closer relationship with lots of market access and regulatory alignment, and is

putting a choice to the UK by asking whether the UK wants to go high or low—by having either a close relationship or one with a lot less market access and regulatory alignment—but the UK is unwilling to choose, and wants lots of market access and very little regulatory alignment. Is that overview of the two positions still accurate? How realistic is it for the UK to maintain a position of having its cake and eating it?

Professor Hall: I agree with the assessment that the key question on which the negotiations pivot is the extent to which the UK is prepared to accept a degree of regulatory alignment in order to secure single market access.

If we look at the documents as they relate to financial services, the UK is asking for more market access than would be typical in a free trade agreement. In the draft negotiating position that the UK published, there are some elements that are exactly the same as the deal that the EU has with Canada. The UK negotiating team has made quite a lot of the UK not asking for anything that is particularly special, and following the terms of the comprehensive economic and trade agreement deal or the UK-Japan deal. I looked quite closely to see whether there is evidence of that being the case, and there is. Some parts of the draft text that the UK published in May are exactly the same as the Canada deal. However, it is a bit more complicated than that, because in some areas, the UK is asking for more. One such area is the mobility of individuals who hold professional qualifications, and making it easier for people such as lawyers and architects to service EU markets. On that issue, the UK is asking to go further than the provisions of CETA, for example.

In some ways, the UK is asking for more market access in financial services generally than exists in CETA. That can be seen in the structure of the deal. In its published draft, the UK has a distinct chapter on financial services, but the EU does not have a chapter that is specifically on financial services in its published draft.

It is a key issue, because a lot of the political debate on the support for Brexit was around taking back regulatory control, and it is difficult to reconcile delivering the degree of market access that the UK appears to be seeking in some areas with the taking back of regulatory control.

Patrick Harvie: Do any of the other witnesses want to comment?

09:30

Allie Renison: I think that Professor Hall has done a pretty good job of outlining the situation. It is difficult to reconcile the narrative or the message that is being delivered by any one side with the substance. It is hard to ignore the UK's

history of economic and political integration with the European block, because, although I would not say that some people's jobs are linked to that, there is certainly an industry that has built up around that. It is hard to completely jettison that and say that we are only going to look for a standard arrangement because, inevitably, to mitigate the impact you are going to be looking for something that other countries simply do not require.

One interesting example that provides a way to look at the issue is customs. We were somewhat surprised that the UK Government did not choose to retain the option of aligning just on an individual piece of customs legislation. After 9/11, when lots of countries, including the EU as an entity, were bringing in safety and security measures, one particular piece of legislation in that area that would have complicated the fairly poorly functioning customs and trade relationship that Norway had with the EU, so Norway opted to align with that part of the EU customs code.

We thought that that would be an obvious way to try to mitigate the impact of the Northern Ireland protocol on the potential for increase in costs and paperwork in the trade between Great Britain and Northern Ireland. There is some surprise that that option was not considered. As far as I can tell, although I cannot guarantee it, the arrangement that Norway adopted does not necessarily open up Norway to rulings of the European Court of Justice on customs. Of course, Norway is implementing a lot of the single market rules by way of the EFTA court, but the arrangement on customs is not in that area.

That is an example of where alignment might have made sense. It is probably important to remember that the Government's position now is that it does not want to have any alignment, so, although we were slightly disappointed that there was not more of a halfway house approach to looking at where alignment made sense and where it did not, we have to look at the situation through that context and framework—what is standard and what is not standard, and when it makes sense, regardless of people's starting positions, to try to go beyond what other countries have done. I think that you will see more of that as the negotiations progress. I know that there is a question down the line about what could be done to mitigate the effect of any disruption that arises at the end of negotiations.

A lot of the technical facilitation that could be delivered by customs co-operation, for example, will not kick in until we know what—*[Inaudible.]* The UK is asking for increased border co-operation, and I think that that competence is actually split between the European Commission and the member states, but the Commission is

negotiating. That became relevant last year in and around the question of the Northern Ireland backstop, which involved an agreement between the UK and Ireland, as individual member states. As we understand it, customs authorities were not able to really engage with the UK because of the blanket focus on the—[Inaudible.] It will be interesting to see how we can find a common way to cut down on that.

It is important to say that, from the start of negotiations, both sides have had a focus on their own sovereignty and their own legal orders. It seems that—[Inaudible.]—and trade protection were down the totem pole for both sides. There is a perception that prioritising sovereignty, flexibility and control is just a UK ask, but I would say that that is very much an EU ask, in the same sense.

At the end of the day, UK and European businesses are going to be looking at the situation as it comes down to the wire and saying, “How do we get through this in a way that does not exacerbate the problems that we already face?” I think that we will see, as the negotiations go on, a little bit more balance in that respect.

Patrick Harvie: Okay—I think that I, like other members, got most of the gist of what you have said, but your sound broke up a couple of times. If anybody wants to supplement their understanding of what you have said, I am sure that the committee would be willing to receive anything further in writing.

I wonder whether the UK is painting itself into a corner on both sides of the equation—market access and regulation. It does not want full access to the single market, because from the EU’s perspective, the single market includes the free movement of people, and it does not want close regulatory alignment, either. It seems that, on both sides of the equation, the UK is painting itself into a corner in which it has a much less close economic relationship with the EU. Would it not be more honest for the UK to say that it wants the most damaging Brexit?

Professor Hall: It is hard to accurately estimate what the Brexit hit to the economy will be. In 2018, the UK Government ran analyses that showed decreases in services output of 6 per cent with what might be seen as a standard free trade agreement, or of around 8 per cent should we end up trading on World Trade Organization terms.

We need to be clear that the services sector, on which I work, will look different with or without a deal. That point can sometimes get lost in some of the discussions around the other important implications of the end of the transition period. For example, I hear a lot about supply chain and goods issues, which clearly are important, but it is also important to be clear about the potential

impacts across the breadth of the economy. We could, and probably should, have made more of that, particularly with regard to the fact that services are unevenly distributed across the UK, for example. A lot of focus is placed on London with regard to financial services but Scotland is a significant source of service exports to the EU—a fact that is particularly relevant for the committee’s work. The figures on that point are in the “Services and Brexit” report, which was circulated with the paperwork. Places such as Edinburgh have strength in particular types of financial services and we possibly need to take them more into account than we have to date.

Oliver Mundell (Dumfriesshire) (Con): I want to come back to the matter of fisheries. We have heard a bit about the political history of that sector. Does the Scottish Fishermen’s Federation have a view on Scottish politicians who are in effect now pushing to keep Scottish fishermen trapped in the CFP for longer than is necessary?

Elsbeth Macdonald: My members are certainly not keen to be trapped in the CFP for a moment longer than is necessary, for a number of reasons—not least the fact that, under the CFP, the industry in Scotland is only entitled to catch less than 40 per cent of the fish that are in our waters. The CFP creates an injustice with regard to our ability to make use of our own natural resources. The basing of shares of fish stocks on historical track records, and on 1960s or 1970s fishing patterns that have no basis in the reality of where fish are today, is the biggest dissatisfaction that the industry has with the CFP.

That point, coupled with the CFP’s inflexible and difficult-to-change regulations, made life difficult for the industry. After exit, we will certainly have many of the same objectives—to have sustainable fish stocks for the future, to be able to manage our fisheries well and to ensure that we manage our shared stocks with our neighbours. However, we can have better, more agile ways of achieving them—ways that are more rooted in the management of the sea areas that we particularly deal with, rather than ones that try to cater for the whole of the EU.

There are a lot of things in the CFP that the industry finds very difficult to live with and will not be sorry to leave behind. We are certainly keen for political support to help us to move to a situation in which we have control over access to our waters, in which we can determine who else can fish in our waters, what they can catch and when they can fish, and in which we have agile and well-designed management and regulatory controls in our waters that are appropriate to our fisheries.

Oliver Mundell: I fully support that. I want us to be out of the CFP and to be an independent coastal state as soon as possible. Over recent

weeks, there has been a lot of speculation in the media about fisheries, which have become key to the negotiations. Do you have an inside track or any wider knowledge on how likely it is that we will be able to achieve a standalone agreement that will allow us to do the things that you are talking about?

Elsbeth Macdonald: It is clear from the read-outs from the negotiations that there are many sticking points. The key areas on which there is disagreement between the UK and EU sides are the critical issues of controlling access to waters and having a system of quota shares that is based on zonal attachment—that is, where fish are—rather than the historical track record, on which the EU shares are based. Those are big and difficult issues to deal with when the two sides are so far apart. In addition, the UK Government's position that there should be a separate standalone fisheries agreement is some way from the EU's position that the fisheries agreement should be linked to the wider trade agreement.

The political declaration sets out that both sides should use their “best endeavours” to reach a fisheries agreement by July. I do not think that that is likely to happen, but there certainly appears to be a willingness for the negotiations to continue.

However, if both sides cannot reach an agreement on a fisheries framework, that will not be a barrier to our taking part in the end-year independent coastal state negotiations. There is already a legal basis for those negotiations through the United Nations Convention on the Law of the Sea. There is an existing legal infrastructure and an existing practical infrastructure, in the form of the coastal state negotiations.

Obviously, it would be good to have a fisheries agreement between the EU and the UK, but it has to be the right one. If there is no fisheries agreement, that does not prevent the UK from operating as an independent coastal state as we go into the end-year negotiations for next year.

Stuart McMillan (Greenock and Inverclyde) (SNP): My first question is directed to Professor Hall. Why is the EU pursuing one deal that covers all the different sectors, whereas the UK Government is proposing 10 different sectoral deals? That will clearly have an impact on the level playing field discussions.

Professor Hall: I am not an expert on the level playing field. Allie Renison might be able to pick up on that specific point.

There is an example relating to financial services that might explain why the UK is looking at separate agreements whereas the EU wants greater bundling. The UK has concerns about decisions on issues such as equivalence. The UK thinks that such decisions need to, and should, be

made on an economic basis and that, whenever possible, wider political concerns should be taken out of them. It looks as though we will be moving towards equivalence decisions at the end of passporting. Such decisions are about the extent to which regulations between the two parties are equivalent, as the name suggests.

The critical thing is that those decisions can currently be revoked within 30 days by the EU, which leaves a degree of uncertainty for businesses. The EU has undertaken such revocations in the past; there was a notable example relatively recently in relation to Switzerland and I think that the UK is hoping that, by keeping the agreements separate, it can take out some of the politics from such decisions, which have significant economic ramifications.

09:45

Stuart McMillan: Do the other witnesses want to comment?

Allie Renison: Please let me know if you cannot hear me, as my video is going in and out.

On the level playing field, it is important to distinguish what the argument is and what both sides are after. Although the issue has the capacity to wreck the negotiations, it really should not, because it is hard to conceive that the UK Government, whatever its stripe, would want to completely move away from the subsidy rules in the single market, which the UK has helped to develop.

I do not wish to go too much in a different direction, but that is an important issue for Scotland and the other devolved Administrations, because we get a lot of our non-discrimination and level playing field law from the internal market. I will not go down the path of the debate on where we will derive the level playing field from within the UK when those competences come back—will we continue with the EU obligations, which have provided that basis until now, or will it come from the UK, but still upholding those EU obligations? People talk about the potential for an anti-subsidy treaty, but I do not think that we will get to that stage.

It is a very big ask from the EU Commission to ask the UK to keep adopting EU state-aid rules in perpetuity and, in effect, to be subject to the European Court of Justice. The amended political declaration, which the UK Government agreed to, regardless of the issue of whether it is absolutely binding—it is not—says that the level of those commitments should be commensurate with the scale and depth of co-operation between the UK and the EU. Even in the political declaration, it is envisaged that there will be flexibility and it will

depend on how close the UK and the EU want to be.

In other negotiations, the EU sometimes wants other countries to sign up to International Labour Organization accords, which is a politically sensitive issue in many countries. That is not necessarily the issue here, but I can understand the UK's concerns about state aid, particularly given a recent example in relation to the coronavirus pandemic.

I will not go into too much detail, but suffice it to say that the ability to access the UK Government's flagship loan scheme has been significantly constrained by a particular type of rule that the EU introduced in the temporary state aid legislative framework. That rule, which is called the undertakings in difficulty rule, tries to distinguish by way of a date in December those businesses that really needed the help and those for which it was not justified. Banks have relied on that and have said, "You were in difficulty based on that ratio and therefore you don't qualify for the aid."

That is not a particular issue in other countries but, regardless of that, from that example, we can see that there could be a scenario of UK disquiet. Where there is a UK-specific issue, how does the UK Government get the EU to recognise the particularities and sensitivities that may exist because the way in which our financial system or businesses are structured differs from that in other countries?

That is a legitimate concern. If the UK accedes to the EU's request to keep adopting EU state-aid rules in order to come to an agreement on a level playing field, the particularities of the UK's approach will not necessarily be captured in that. The flipside is that, if the UK is willing to have that as a starting point, the EU would be much more willing to discuss the UK's participation and recognition of its unique issues when the rules that it has to continue adopting are being developed. The EU would be minded to change the way that it looks at how the UK's influence would be taken into account as regulations are developed. However, as the UK Government does not want that, it is not even having that discussion.

On state aid as a whole, there are ways to square the circle. I do not think that we will get there until much later in the negotiations because, as we found out during the withdrawal agreement process, nothing is agreed until everything is agreed.

There have been suggestions about looking at the work and proposals on a joint committee. The previous Government proposed that, if the UK and the EU aligned, they could have an arbitration committee or, rather, not so much an arbitration committee as a way in which, if they think that they

might align, disputes over interpretation of that alignment could work. There was a proposal—I think that it was from the UK side—that issues could be discussed in a joint committee and, if there was an argument, it could potentially be sent to the European Court of Justice for a ruling, but only at that point. Those are some of the ways in which we could potentially square the circle.

Ultimately, the EU's ask is much more ambitious. The focus on the issue and the reason for its contentiousness is because the UK Government is not trying to get out of the process the ability to subsidise its industry beyond what it currently does—I do not see the UK making that argument. Therefore, the question that arises—and the reason why the issue is contentious—is about exactly what the purpose of the EU's request is. Is it truly only about ensuring that we uphold the same type of standards, or is it about ensuring that those standards come from the EU? What are its concerns?

It is important to remember that we are in a period in which countries will be desperate to hold on to their domestic market shares. Therefore, although the issue would always have been at the fore, it will be of particular importance now, because EU countries want to ensure that their companies are not unfairly discriminated against or that the UK does not have a leg-up that EU countries might not have. From an economic point of view, that is an issue, particularly for a sector such as steel in relation to anti-dumping, for example.

Stuart McMillan: The point regarding market share is interesting, particularly given what we heard earlier about the UK appearing to haemorrhage parts of the financial sector to EU nations, which I am sure we would all agree is understandable.

On the issue of the level playing field, there has clearly been a level of convergence regarding the environmental and labour situations, but there are obviously still challenges regarding state aid and the financial sector. David Frost told a committee in Westminster:

"To recall, we are not saying that there can be no level playing field provisions. We are simply saying that there must be provisions that are appropriate to a free trade agreement".

From the EU's perspective, Canada and Japan are further away geographically in comparison to the UK. Do the witnesses agree that geographical closeness is the driving element in the current situation and discussions, and that the EU wants to protect its 27 member states?

Professor Hall: We know from research that geography matters in trade. Canada is thousands of miles away, so it is very different from Calais,

which is about 26 miles away from the UK. On that basis, it is understandable that the EU is concerned about protecting itself from what it perceives as a risk of regulatory undercutting from a large geographically proximate trading partner. That is different from the risks that it might perceive from places such as Japan, Canada or Australia. Therefore, that makes sense.

On the financial services sector in particular, it is unusual for a large trading bloc to have the financial centre that serves its financial needs outside that bloc. New York is the US's large international finance centre, and Tokyo performs a similar role in Japan. I can understand why it would be seen to be unusual for the EU's largest financial centre, which is currently London, to be outside the single market. To my mind, it makes sense that there is interest in exploring what parts of London's financial services sector might end up being, in essence, onshored to places such as Frankfurt or Paris.

Allie Renison: I agree with some of that. I do not want to say that it is naive, but I have not seen the EU make that argument in previous negotiations. However, the context is very different, because the EU is seeking access and the Government has been very clear that it wants the ability to diverge.

It is also important to remember the context and to look at what has happened with the EU and Switzerland. That goes back to another relevant question about a sweeping institutional framework versus bilateral treaties, as in Switzerland's case. It is important to remember that the EU is seeking to fix Switzerland's relationship with the EU, or to ensure that that does not happen again, because it is too unwieldy. For many people, it has been a struggle over sovereignty—a power struggle, in a sense.

Switzerland is not a party to the EEA agreement, so it is an example of a country that has not accepted the visions of a level playing field. That is probably a different kind of circumstance to piecemeal integration into the single market, which is effectively what Switzerland has done but not within a specific time. It is hard to compare apples and oranges, but I draw attention to that context, because it very much informs the EU's approach, as well as there being a valid argument about whether geographical proximity increases the need for level playing field commitments generally as opposed to how they are implemented and enforced. It is important to remember that both sides are not arguing about the substance here; is about the method for upholding the commitments.

The Convener: Elspeth Macdonald has had to leave the meeting, so I thank her for her

contribution and for offering to provide more information in writing if any members need that.

Gordon Lindhurst (Lothian) (Con): Professor Hall, you talked about the importance of financial services to Scotland, particularly Edinburgh banking and asset management firms. Given that we are leaving the EU, and given the negotiating positions of the parties as we are aware of them so far, I think that this is actually an opportunity for both sides to try something new that will be to both sides' advantage. I do not think that one side has to lose out. What three key points, or however many there are, do you think should be included in whatever is agreed for financial services arrangements in whatever deal is struck between the UK and the EU, particularly with regard to the position of Scotland and Edinburgh as a financial centre?

Professor Hall: The first point in my summary position goes back to some of the points that Allie Renison made at the start about clarity and certainty on what will replace passporting. It is clear that there will be some form of equivalence, but exactly how it is implemented and, in particular, what the terms are for the potential ending of equivalence will be critical in helping firms to plan. Clarity and certainty on what the equivalence regime will be and how it will be administered will be central.

10:00

The second area, on which the UK negotiating position rightly makes a big ask, is the ability for individuals to travel to deliver financial services and related services. That comes back to the question of the mutual recognition of professional qualifications. It is important to note—because I have not noted it so far—that the financial services sector is closely related to a set of other business and professional services. That close relationship has increasingly become a feature of financial services in recent years, particularly the close links with legal services. In that area, the UK draft negotiating position is more ambitious than the EU's current agreement with Canada, and rightly so, because when we think about the practicalities of how services are delivered and how client and service provider relationships develop, we see that those are about close working relationships. The UK is asking for the automatic recognition of those qualifications rather than the more deliberative process that is in the CETA deal.

The third area where it would be prudent to focus attention is co-operation on prudential and regulatory matters. In that regard, there is a useful example that could be drawn on in the EU-Japan agreement, under which there is a regulatory forum between the EU and Japan. That approach

seems sensible in terms of regulatory stability, alignment, sharing information and so on.

Those are the three areas that I would like to draw attention to.

Gordon Lindhurst: Given the negotiating positions of the parties thus far, realistically, are those three key objectives achievable?

Professor Hall: It is fair to say that there is still a gap in the negotiating positions between the EU and the UK, but it is also fair to say that it is narrower than it was before. In some ways, that leads me to a degree of optimism that agreement could be reached. I do not think that it will be reached by July, as was initially envisaged; we will be looking towards the autumn for that. We need to remember that, in trade negotiations, the parties understandably put out their almost maximalist demands at the start and then there is a negotiation. For example, the UK has pulled back a little on demanding fast-track equivalence treatment.

There are examples from what the EU already does on some of those questions of regulatory alignment, particularly in relation to Japan, that might be helpful in addressing the question that I raised earlier of regulatory co-ordination.

Allie Renison: I will come in on that briefly. With financial services, there is a much more balanced set of views in the industry about the priority. For example, if we compare financial services with manufacturing, we find that, in manufacturing, there is a much bigger share in favour of alignment among our members than is the case with financial services. That is linked to the fact that, among our membership, not all financial services companies are internationally oriented. Actually, a lower share of our members in financial services trade internationally when compared to our members in manufacturing.

Also, whereas, for other sectors, market access and relocation are predicated on waiting to see where the UK and the EU get to, the financial service sector has not been in that position. I think that it was in 2017 that the Bank of England and the UK regulatory authorities were demanding to know the financial contingency plans of listed companies at least. On that basis, the financial services sector is further ahead on relocation. Knowing the outcome of the negotiations would be a nice-to-have, but the decision on whether to relocate is not predicated on that—I think that that is a much more existential question for a lot of firms.

However, that speaks interestingly to another dynamic. The International Regulatory Strategy Group came up with proposals for what would almost be a managed divergence. The EU said, in effect, “Absolutely not,” and the group has come

back with another blueprint. The Chancellor of the Exchequer and the outgoing Bank of England governor, Mark Carney, said that they wanted to see rapid agreements on financial services. Valdis Dombrovskis, who was the European Commission’s vice-president for economic and financial affairs, said no, there was no deadline.

It would be a mistake to link the outcome of all that to what is going to happen in the negotiation. That is very unusual, in the sense that, although it would be nice to have agreement now on arrangements to stop the 30-day access from being withdrawn—because that would be very disruptive—not all of that will be put into the free trade agreement. It will be a dynamic process of co-operation. My prediction is that we will see more substantive engagement on that after the negotiations end, because, for financial services and other types of services, free trade agreements often set a framework for co-operation, rather than necessarily granting sweeping market access.

In the EU-US transatlantic trade and investment partnership negotiations, it was the EU that pushed hard on better improved regulatory co-operation—not so much on the market access side, because both sides were fairly open. The US Administration, under President Obama, did not want to talk about regulatory co-operation in the forum of a trade agreement.

Although those negotiations were never completed, they had started to get to a common point of view on regulatory co-operation. That is different from predicated market access on regulatory co-operation. There is co-operation for its own sake, to try to minimise differences in implementation—at the end of the day, the UK and the EU will still be implementing the Basel accords III, IV and V at international level, but there may be some differences in implementation.

A forum is needed to make sure that unnecessary differences do not result in extraterritorial application of domestic laws, whereby, perhaps unwittingly, we push out third country suppliers because of their domestic regulations. Creating a forum for that kind of co-operation is very important, but that is not necessarily always the same as being linked to the market access side. When it comes to the opportunity side, there will be a lot more progress for financial services after the negotiations are over, simply because it is dynamic. The framework will not say, “These are our market access arrangements for equivalence across the board,” because that is not how equivalence works—it works almost directive by directive by directive.

It is important to monitor how the EU evolves its own legislation on third countries when it comes to equivalence, because there has been some concern that, having in mind the UK’s asks on

equivalence outside the single market, some of the EU's on-going legislation may be looking at third countries in a very different way.

We may get to a better outcome on financial services after the negotiations are over.

Professor Hall: It is important to note that the financial service sector is not fixed; it changes quite rapidly. For example, even since the Brexit referendum result, important new parts of the financial services sector have emerged, such as fintech—financial technology firms—which have played quite an important role in some of the financing around the coronavirus response.

I make that point because, when we look at the history of the UK as a financial services centre as a whole, we can see that it has done quite a good job of innovating its way out of different economic shocks and developing new types of financial products. The eurobond market in the 1960s, developments around green finance and fintech are examples of that. In that sense, I support Allie Renison's point that that is an area in which negotiations and talks are likely to go on after any agreement on a free trade agreement, particularly because of the dynamic nature of the sector.

The Convener: I understand that the UK is particularly strong in fintech. Will that cause problems? I understand from your paper that the UK was pushing quite hard in that area.

Professor Hall: Yes. The UK has done very well in fintech, and it has continued to do well in that area since the Brexit referendum. I understand that the main concern for that sector is access to highly skilled individuals to work in it. In the UK, the sector is quite heavily reliant on EU nationals, and those nationals are not likely to be restricted in their movement to the UK at the end of the transition by the proposed changing immigration policy—that is, the salary threshold is not likely to be a problem for that group.

However, there are concerns about the talent pipeline. If that were interrupted, would we be able to substitute that with domestically trained people with the technical expertise that fintech requires? That relates to a much broader question about the extent to which the UK education system is producing enough domestically skilled people in the very technical areas of science, technology, engineering and mathematics, for example, whom the sector needs. I know that the fintech sector is concerned about that and that it is interested in thinking about how it might increase the domestic supply of such individuals.

The Convener: That is interesting.

We will proceed to Annabelle Ewing. We have a little time in hand, so it will be all right if you ask an extra question.

Annabelle Ewing: Okay. Good morning to colleagues and our remaining panel members.

I want to pick up on some of the issues that have been discussed thus far. Professor Hall, you stated in your submission that around

"67% of UK financial services (not including insurance) supplied to the EU are delivered ... from a UK base."

Notwithstanding our interesting discussion about fintech and some asset management companies perhaps seeing opportunities in what they might hope is a reduction in regulation—that is not entirely clear from any EU rules that would be directly applicable—it still seems that the vast body of financial services at this time are provided from the UK and that that will probably be the case for a considerable number of years to come. Obviously, taking away the single banking licence, the single investment services licence and the undertakings for collective investment in transferable securities—UCITS—rules, for example, must have a considerable impact, notwithstanding whatever equivalence agreement is ultimately reached, because equivalence is not the same as the single banking licence. Will you expand on that?

Professor Hall: Yes. I cited that figure in my written evidence. Currently, some parts of corporate banking and private banking in particular rely heavily on the passport to use their UK base to service EU markets. Even if equivalence were granted in around 40 areas that it covers, that would not be the same as passporting. In aspects of corporate banking and private banking in particular, equivalence does not go as far as passporting. To my mind, that is why we have seen financial services firms, particularly banks, starting to relocate parts of their business to the rest of the EU single market.

It is hard to get an accurate sense of what the scale of that could be. That is partly for understandable reasons. For example, individual businesses probably do not want to talk about their corporate strategy publicly.

10:15

It is also important to note that the change has started to happen, and will continue to happen, in a gradual way. I do not think that we will see a cliff-edge shift in the nature of financial services in the UK. Therefore, it is important to try to track the changes in real time, because they will not be immediate—there will be no overnight decline in the UK's role in the EU as a financial sector. The gradual change has started, and it is likely to continue.

Annabelle Ewing: You raised an interesting issue at the end of your response to do with where we are in the negotiations. Judging by the

language that the UK Government is using, it seems that it does not want an extension. If there is no extension, will there be a deal? If there is going to be a deal, what kind will it be?

You said that there would not necessarily be any changes in the shorter term. However, the fact of the matter is that, come a certain point—it could be by the end of the year—UK banks or, perhaps more particularly for us, investment services that are currently based in London will not be able to operate on a services basis or even set up a branch under the banking or investment services licence in any of the other 27 EU member states. If there is no deal, that will be the end of that, so there will be a cliff edge. There will be a key moment where, for example, they cannot do on 1 January 2021 what they did on 31 December 2020.

Professor Hall: There will be a cliff edge in terms of what they can and cannot do. I was trying to emphasise that, given the current uncertainties, they are already implementing plans to get round that uncertainty. We have seen that things have already started to change on the ground

Annabelle Ewing: Yes. As you rightly said, we have seen a vast number of financial institutions move to other European capitals, with all that that entails for the workforce, the contribution to the tax system and the generation of other business down the line. Of course they are making preparations, but my point is that there could come a steep cliff-edge moment for those that have not done so.

On equivalence, I think that the 30-day withdrawal issue is still live—I do not think that it has been sorted yet. As I understand it, the normal position with EU international agreements is that there is equivalence but it can be withdrawn with 30 days' notice. Has that been resolved yet or is it still a live issue?

Professor Hall: My understanding is that it is a live issue. You are right that, on a standard basis, equivalence can be withdrawn with 30 days' notice. That has been the subject of a lot of interest on the UK side. Allie Renison mentioned that different chancellors have mooted different versions of equivalence, one of which is enhanced equivalence.

A lot of the discussion on the 30 days' notice issue is around two sets of questions. One is about whether the notice period will be 30 days or whether there is a case for having a longer period, and the second set is about the basis on which equivalence could be withdrawn and what the governance of that decision would be. Earlier, I raised the example of the EU and Japan agreement, which has a slightly different governance set-up. I think that the UK Government is keen to explore and get clarity on

what the basis of a withdrawal of an equivalence assessment could be from the EU side.

Annabelle Ewing: I have a brief question for Allie Renison about the level playing field, which picks up on the point about governance in general. As I understand it, at this stage, the EU is insisting on a governance structure that could result in sanctions being imposed, and the UK is resisting that proposition. Is there any intelligence on where things stand with that issue and what the resolution might be?

Allie Renison: I do not have any absolutely up-to-date intelligence. I will tie in my response with Professor Hall's. In March, the chancellor wrote to the EU asking for those matters to be settled, because of the 30-day issue, to give some clarity ahead of time. The response that the UK wanted from the EU was not forthcoming. There were, I think, four paragraphs in the EU's response that said, in effect, "We look forward to taking account of the UK's intended divergences."

It is tempting to focus only on what is going on in the negotiation room, but we should keep in mind that announcements such as the one that the previous chancellor made at his party's conference on drawing up a list of EU rules and consulting on whether to keep them have an impact on the negotiations. That tells the EU that there are plans afoot. We do not know whether there is substance to those plans or whether that Government initiative is being taken forward, because it was the previous chancellor who made that commitment. However, such announcements reinforce the EU's view that, for as long as the UK Government creates mood music—whether it is inside or outside the negotiation room—about plans to diverge without getting clarity, it should continue to show political robustness on the issue.

It is important to go back to what Professor Hall said. There is still a potential cliff edge for companies, but last year—I am happy to send this information to the committee—about 63 per cent of our members said that they had no intention of relocating and almost 30 per cent said that they were engaging in relocation in some form. They might have been looking at relocating, have been in the process of relocating or have already done so. We then need to look at the type of relocation activity. Transferring a small back office is very different from transferring staff, so we need to look at what we mean by relocation.

We also need to distinguish between how domestic financial institutions are looking at the issue and how overseas institutions are looking at it. The position for the UK's financial services is different from that for the automotive industry. Access to the single market, in relation to overseas investors, is a much bigger consideration for the manufacturing industry than it is for

financial services, because of the UK's starting expertise and the number of different sub-sectors in financial services.

A lot of overseas investment banks, whether they are Japanese or American, say that, to some extent, they already had an investment strategy for the UK that differed from that for the rest of the EU, because the UK is not in the eurozone. Some people have made that argument, and the current situation has accelerated the differing approach to investment strategy. It is right to say that the effect will not be immediate.

Professor Hall alluded to the fact that the biggest thing that unites financial services and services across the board is the view that what will make or break the issue is how disruptive or smooth the arrangements to replace freedom of movement are. By far the single biggest issue that unites all our members is what will replace freedom of movement and how easy or difficult it will make things afterwards. A lot will turn on that—although not immediately—as much as on what the equivalence arrangements are.

Annabelle Ewing: You will be aware that, as far as financial services are concerned, a back office will not be sufficient to get the passport. It will need to be a proper corporation and the full monty, not a boilerplate entity. That is quite clear from EU law.

I entirely agree that free movement is fundamental, but the key issue for our economy is free movement for all workers, not just bankers.

The Convener: I want to ask about another aspects of Professor Hall's submission. You talk about services other than financial services and you say:

"An important aspect of the negotiations for services relates to the rules governing who is able to travel between the UK and the EU to provide services."

You say that

"it is relatively easy to ... do business in another member state"

because professional qualifications are recognised, and you give lawyers, accountants and architects as examples of professions that are covered. However, I was interested to see you say that the UK's negotiating document is very ambitious in that area because it goes beyond other FTAs and CETA. The EU's position is rather different from the UK's. Will you say a little more about that?

Professor Hall: That is one of the most interesting parts of the UK Government's document. As I say in my written submission, it tries to go further. The UK appears to be asking for the "automatic" recognition of those professional qualifications, which determine who is

able to practice as a lawyer, an architect and so on. The idea of automatic recognition is important because it could be a way in which any disruption at the end of the transition period could be smoothed. If there was certainty about automatic recognition of those qualifications, it would allow a greater degree of certainty in general.

The automatic recognition of qualifications is not how it works in CETA. As I understand, in CETA, a group meets to consider the process of granting recognition of qualifications. This is a really important issue for the UK in the negotiations because of the practicalities of how such services are delivered. Again, it is different from what happens in the cases of Canada or Japan, which are often drawn as parallels.

It comes down to practical questions about strengths in so-called fly-in, fly-out services where a management consultant might travel to Brussels for one day to deliver a service. It is important for people to be able to travel easily and flexibly, particularly for services in which the work is largely project based and is often transnational in nature. The architecture sector speaks about that a lot. It might be that an architectural project in Madrid uses architects from the UK, and the ability to travel on a flexible and short-term basis is important for them.

To my mind, any additional paperwork or uncertainty around trips of that kind could lead to additional uncertainty for businesses and, potentially, additional costs for things such as meeting requirements on visas. If we relied on a more nationally based set of bilateral relationships with such agreements, it would be difficult because things are different for each EU member state. If a UK-based business wanted to send people to a number of different EU countries, it would have to be familiar with the requirements for each of them. The additional costs and administrative burdens would affect smaller firms in particular.

The Convener: That is worrying. You say in your submission:

"The audio visual sector (including film ... and TV related businesses) is one of the services sectors where the EU and the UK appear farthest apart."

As well as being the committee on Europe, we are the culture committee and we are very interested in that area of the economy. Will you tell us why they are so far apart and whether there is any opportunity to bridge the divide?

Professor Hall: They are far apart in a very stark way in that the UK wants to include audiovisual in a future trade agreement and the EU has not typically included that in agreements that it already has. The difference in whether it is even included is therefore incredibly stark. For the

EU, it comes down to rules of origin about where television programmes and films are made. That is probably linked to concerns about the dominance of English-language broadcasting, although the specifics of that go beyond my focus. It is a complicated regulatory area.

At present, programmes that are made in the UK have a broadcast licence that is issued by Ofcom, which is recognised in the EU single market. If the UK becomes a third country, Ofcom will not be recognised in one of the two main regulatory areas in the field. There is another regulation that came into force in the early 1990s, which would still stand, but the issue with that is that it does not cover all EU member states and it is much more limited on on-demand services such as iPlayer. That is partly because it came into force in 1993, when those services were not in operation.

10:30

The Convener: That is extremely worrying given that the audiovisual sector is such an important sector of the UK economy. You alluded to the fact that there is a lot of protectionism in that area. Some countries closely guard their film and TV industries, and the committee knows from its screen sector inquiry that there is a lot of competition between countries.

Professor Hall: That is true. I should also say that one of the EU regulations that I mentioned is due to be transposed into UK law in September 2020 and it makes some provision for video on-demand services. It is an area where the regulations on the EU side are changing.

The audiovisual sector is an area where the UK does well economically and relies heavily on exports to the EU, but it is also an area about which the EU is concerned. In addition, it is quite a technical area from the point of view of the regulations that are in play.

The Convener: That is interesting.

Claire Baker: It has been a broad-ranging discussion. We are six or seven months away from the point at which we are supposed to leave the EU, and people have talked about how difficult it is to reach agreement on some key areas where the EU and the UK still seem to be quite far apart.

Is it possible that we will leave the EU without a trade deal, which will mean that we crash out of the EU and have to resort to WTO rules? Are businesses preparing for that? Do they believe that it is a realistic possibility?

Professor Hall: There is clearly a risk of a no-deal outcome, particularly given the short amount of time that is left. I am possibly at the more optimistic end of the spectrum in that I think that a

deal will be agreed come the autumn. I say that because the UK's negotiating position is such that it is asking for quite a lot in relation to services, which is the area that I work on, and I struggle to understand why, if there was a genuine appetite for a no-deal exit, the draft would contain a whole chapter on financial services. To my mind, the draft recognises some areas where the impacts could be significant if we were to leave on a no-deal basis.

The issue for me is that it looks increasingly likely that the process will go on into the autumn. The closer it gets to December, the greater the risk is that, with the clock ticking, the deal might not be as thoroughly scrutinised or as fully thought through as it could have been if the full amount of time had been used.

Allie Renison: I caveat my answer by saying that a large survey is under way that asks about levels of preparedness. I will be happy to write to the committee with the results of that when it comes back.

The experience that we have had in the run-up to each and every potential no-deal date is that, throughout it all, a solid 30 to 40 per cent of our members have been in a space where they have thought, "We can't adjust until we know what's in front of us, and we're not going to waste any time doing that, because how long is a piece of string?" That is why—one of the committee members might be able to correct me on this either way—it was good to see some devolved Administrations moving towards providing financial support to help companies to prepare.

One of the biggest issues for companies is their ability to access the specialist advice that they need. There is only one of me in my organisation and I cannot be a consultant for 30,000 people who have technical asks for each sector. We have therefore been very keen on trying to make sure that the UK Government puts sufficient financial resource behind the commitment on preparation, but in a targeted way, looking to see what other countries have done. The Irish, Dutch and French Governments have all put money in to help businesses to access specialist advice. That links into the issue of where we will find ourselves at the end of the year.

On your broader question about how likely a no-deal outcome is, we have said from the beginning that there are two types of no deal: one in which there is no withdrawal agreement and one in which there is no trade deal. At the moment, apart from the areas that we know can be prepared for in advance, it is easier to know what the outcome will be when it comes to tariffs, unless you are involved with Northern Ireland. That is the big issue that is sometimes missing from some of the discussion. About 40 per cent of our members in

GB trade in goods with Northern Ireland, directly or indirectly. The outcome of the negotiations, even on tariffs, might be slightly more difficult for some businesses to prepare for if they are in that space.

However, on tariffs in general, we at least know what the UK would face with the EU and vice versa if we are in a no-deal setting versus the position in a deal setting. That is about as much clarity as we have, and it is still a big moving target of different outcomes for businesses to prepare for, particularly when they are trying to put money and resource into this.

Generally speaking, the profit margins are much lower for goods than they are for financial services. We need to bear that in mind when it comes to relocation. Not every business relies on passporting, and the margins are so much bigger in financial services that they can absorb some of the cost and decide to relocate as an alternative to having to wait and see what the agreement is. I think that that is why the financial services sector is a bit further ahead than other sectors, whereas in manufacturing, particularly right now, no one wants to part with any financial resource unnecessarily if they do not know where it will be plugged into.

You will have to wait and see what the outcome of the summit is in order to have a clear idea of whether we are really headed for a no deal. There has been some discussion in the past few days about whether the EU will amend its mandate—I am not sure that it will—because the Commission supposedly feels that it is reaching the limits of the flexibility that it is afforded within the existing mandate.

Professor Hall might have a view on this, but I am not sure whether that mandate will be amended at the summit. On the one hand, we know that the Government does not want to extend the transition period, but on the other, we do not yet have a narrative coming from the Government saying, “This is what we need to prepare for come the end of the year.” We do not have that clarity. We do not have a clear border operating model to rely on.

We need a message from the Government, which will depend on the outcome of the summit. It is being seen as the last opportunity for a big political push. Sometimes an injection of political stimulus is needed, which technical negotiators cannot provide, in order to get things over the line in terms of substance.

We do not expect a huge outcome, such as that the current part of the negotiations will be sorted and closed by the end of June. However, we are hoping to see a clear narrative message from either side that says what we will need to prepare

for depending on where we get to at the end of the year. I do not think that we have that message yet from either side, although I have started to see it from the Commission. It helps that a lot of businesses—not the majority, but a lot—were already starting to prepare for the hardest potential Brexit last year.

The more regulated sectors such as pharmaceuticals and chemicals, where there is really no alternative but to have a physical presence or a qualified representative to access and place bids in the market, are much further ahead because they are sectors where having a physical presence in the EU has been the default way to prepare. For a lot of the other sectors, it is much more touch and go.

It really depends on where we get to with the summit. I am not surprised that we have not seen much progress in the negotiating round over the past few weeks. My focus is very much on what happens at the summit, because that will tell us how likely a no deal is. I hope that we will then get a message about what will change either way.

Claire Baker: Allie Renison said that businesses have prepared plans, but they must be impacted by the current situation. We do not go a day without companies announcing redundancies; retail and restaurant closures are announced daily at the moment. The coronavirus situation must have an impact on how prepared businesses feel for what they might have to go through, and Allie is right that the level of uncertainty that they are experiencing in relation to the trade negotiations must be difficult.

Allie Renison: Businesses’ views on the negotiations are not always as up to speed and up to date as people might think. There has been an increase in the level of requests from our members in the past month that is commensurate with the level of news coverage, if I am honest, particularly with the coronavirus. I mentioned agrifood as an example.

Until businesses that trade with the EU—particularly from an export perspective, but also from an import perspective—are able to see what the lay of the land will be in Europe, it will be difficult for them to know what position they will be in and stockpile. That is why we need confidence-boosting messages from both sides, regardless of whether the transition period is to be extended. For example, businesses need such messages when there is progress on a particular file in the negotiations.

There could be a commitment that, regardless of what happens, businesses in specific sectors will be guaranteed time to adjust. It would not be particularly helpful for an adjustment and implementation period to be announced five days

before negotiations are due to end. It has to come much earlier in the process for it to be of any use to business.

Professor Hall: A potential way forward would be for an agreement to be reached in the autumn with a transition built in so that it did not come in on 1 January for all sectors. That would address the points that Allie Renison rightly raises about the need to plan for different scenarios and the lack of information that is available on that.

The Convener: I thank the panel for their evidence. It has been an extremely useful and helpful session as the committee continues its scrutiny of the future trading relationship.

The committee will continue its scrutiny next week. On Thursday 18 June, we will take evidence from the Cabinet Secretary for the Constitution, Europe and External Affairs, Michael Russell. The time of that meeting will be confirmed as soon as possible. That concludes the public part of this morning's meeting.

10:43

Meeting continued in private until 11:18.

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

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